
GLENN HEGAR
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Request for Proposals (RFP No. 909-24-1690KW)
for
Texas Broadband Equity Access and Development (BEAD)
Program Management

Anticipated Schedule of Events

RFP Issuance:

Written Questions Due:

Response to Questions Post:

Proposals Due:

Contract Execution:

Commencement of Work:

Date

February 2, 2024

February 12, 2024

February 19, 2024

March 4, 2024

April 1, 2024

April 1, 2024

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PART I INTRODUCTION AND BACKGROUND

1.1 Introduction

The Texas Comptroller of Public Accounts (Comptroller) invites proposals from qualified persons or entities interested in providing Broadband Equity Access and Development Grant Program (“Texas BEAD Program”) Management services to comply with Section 490I of the Texas Government Code and related state or Federal laws, rules and regulations (Services). Responses to this RFP (Proposals) may be submitted by any qualified person or entity (Respondent) able to provide the Services under the terms and conditions of this RFP. Respondent’s Proposal is a legal offer to contract based upon the terms, conditions, and specifications set forth in this RFP, including the Sample Contract (Exhibit A).

As a result of this RFP, Comptroller intends to award and execute a contract with one Respondent (Successful Respondent) to perform the Services (Contract). However, Comptroller may issue solicitations for the same or similar services at any time. The time and number of Contracts and all procedures relating to such Contracts are within the discretion of Comptroller. Successful Respondent, as an independent contractor, shall provide Services, at its facilities and with its own personnel.

1.2 Background

The Services will comprise extensive and qualified hands-on planning, development, implementation, reporting and monitoring a competitive grant process for the Texas BEAD Program. Texas was allocated \$3.3 billion to support the Texas BEAD Program. This amount of funding has created significant public interest and will require substantial work by Successful Respondent to successfully implement the Services. All interested Respondents should ensure that they read the state of Texas’ BEAD Initial Proposal, posted simultaneously to the *Electronic State Business Daily* (ESBD) as Attachment #1. The Initial Proposal provides detailed information about the Texas BEAD Program.

The BEAD Program aims to achieve universal access to Broadband Services in each state where currently Unserved and Underserved Locations lack reliable Broadband Service with internet speeds able to deliver real-time web applications, multimedia streaming, education, entertainment, telemedicine and emergency services compatible notifications.

To fairly determine Unserved, Underserved and Served Locations in Texas, the BEAD Challenge Process will need to be conducted, entailing the presentation of data on Served, Unserved and Underserved Locations, both residential and business, and CAIs (along with other data), including Served, Unserved and Underserved Locations in applicable Tribal Lands, that will allow permissible challengers to view and have the ability to challenge this determination. In accordance with federal guidelines, Broadband Service providers will be able to refute broadband availability challenges (Availability Challenges) using preapproved types of evidence. The BEAD Challenge Process is based on services offered and is not a challenge against the ISP serving the location.

Concurrent with the BEAD Challenge Process, a State Application Challenge Process will be conducted. Challengers can challenge the application on the grounds of locations not being eligible, applicant not being eligible, or that the application does not meet the mandatory percentages of Unserved/Underserved Locations.

1.3 Definitions

Capitalized terms not defined in this Section 1.3 are found in NTIA guidance.

- **Applicant** –ISP, community or organization applying for Texas BEAD Program funding.
- **Assurance Activities** - Involve bringing in an outside (not part of the CPA or Successful Respondent’s system or process development team) individual or auditor to objectively assess the system or process developed meets all requirements and expectations agreed to by the requesting business area and the

system/process development team. Assurance Activities involve activities to provide an objective assessment where evidence is required to be provided to the assessor against each requirement/success criteria. Examples of Assurance Activities include compliance audits, financial statement audits, and regulatory audits. Compliance audits are meant to ensure that organizational operations are in accordance with regulations and policies. Financial statement audits are to ensure that financial information is valid and accurate.

- **Awardee**– A Subgrantee awarded Texas BEAD Program funds.
- **BDO** – The Texas Comptroller of Public Accounts Broadband Development Office.
- **BEAD Challenge Process** – The Texas BEAD Program broadband availability challenge process. Process will result in a final list of locations eligible for BEAD funding.
- **BEAD Program** – The Federal Broadband Equity, Access, and Deployment (BEAD) Program that provides \$42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs.
- **Broadband Serviceable Location (BSL)** – A business or residential location in the state of Texas at which mass-market fixed Broadband Service is, or can be, installed.
- **Broadband Service** – Internet service at a speed of not less than 25 Megabits per second (Mbps) for downloads; and a speed of not less than 3 Mbps for uploads; and latency less than or equal to 100 milliseconds. Broadband Service may be provided through fiber-optic technology; Cable Modem/ Hybrid fiber-coaxial technology; digital subscriber line (DSL) technology; or terrestrial fixed wireless technology (licensed spectrum, unlicensed spectrum and hybrid), not including geostationary and non-geostationary satellite technology).
- **Challenger** – A Community Anchor Institute, Internet Service Provider, or local government submitting one of the Challenge Types.
- **Challenge Portal** - Platform to administer the BEAD Challenge Process using a pre-built system that is NTIA Challenge and Rebuttal API (Application Programming Interface) compliant.
- **Challenge Types** – The five (5) types include Location Eligibility, CAI Eligibility, CAI Identification, Enforceable Commitments, and Planned Service.
- **Clawback** – A grant provision that requires funds paid by the grantor to be returned due to the failure of the grantee to meet a grant requirement.
- **Collateral** – Marketing and administrative materials that may include, but is not limited to, brochures, fliers, posters; education pieces; forms; and other documents reasonably required for the delivery of Services.
- **Community Anchor Institution (CAI)** – A school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.
- **Copy** – Drafts of written material, including but not limited to marketing, informative or explanatory materials, notices, etc. regardless of distribution method.
- **Designated Area** – An area delineated by county lines.
- **Initial Proposal** – The proposal provided to and approved by NTIA that presents detailed information regarding how BDO will execute and manage the Texas BEAD Program.
- **Final Proposal** – A proposal to be provided to NTIA that presents a proposed list of Texas BEAD Program Awardees for NTIA approval.
- **Gating Criteria**- Subgrantee qualifications for prospective subgrantees to meet to be eligible for funding.
- **Federal Grant Portal** – Platform for BDO to submit all required and requested documentation of the BEAD Program for NTIA review and approval.
- **Logger** – A Challenger using an online BEAD Challenge Process portal.
- **National Telecommunications and Information Administration (NTIA)** – U.S. Department of Commerce agency managing the BEAD Program.
- **NOFA** – Notice of Funding Availability.
- **SME** – Texas BEAD Program and BEAD Program subject matter expert.
- **SOP** – Standard Operating Procedures.

- **State Application Challenge Process** – Challenges open to any interested party on the following basis: (i) the application is ineligible to receive an award; (ii) the application contains broadband-serviceable locations that are not eligible to receive funding because of an existing federal, state or local commitment to deploy qualifying Broadband Service to the location; or (iii) the project is ineligible based on the percentage of Unserved and Underserved Locations in the proposed project.
- **Subgrantee**– An entity that is eligible to apply for Texas BEAD Program grant(s) to deploy Broadband Service to one or more Unserved or Underserved Locations in Texas through construction of approved technology. Funding will not be available for Served Locations.
- **Subgrantee Selection Process** – The process by which BDO will determine Awardees.
- **Subrecipient** – A non-federal entity that receives a portion of the award from a pass-through entity to carry out an awarded project; but does not include an individual that is a beneficiary of such program.
- **Texas BEAD Program** – The BEAD Challenge Process, BEAD Subgrantee Selection Process and related compliance monitoring for the state of Texas.
- **Texas Match Program** – A potential state of Texas program providing state funds to fulfill the required BEAD Program twenty-five percent (25%) match on behalf of eligible projects.
- **Texas Match Program Applicant (“Match Applicant”)** – A Subgrantee applying for Texas Match Program funds.
- **Unserved Location** – A BSL with no access to Broadband Service.
- **Underserved Location** – A BSL that is not an Unserved Location, and that lacks access to internet service offered with a speed of not less than 100 Mbps for downloads and a speed of not less than 20 Mbps for uploads; and latency less than or equal to 100 milliseconds.
- **Served Location** – A BSL with access to Broadband Service.

PART II SCOPE OF WORK

2.0 Services Summary

Successful Respondent will create, develop, and manage the Texas BEAD Program. Anticipated steps include the following and related services, subject to BDO approval:

- a. Create and manage a state and federally compliant Texas BEAD Program.
- b. Provide a Challenge Portal meeting all requirements herein.
- c. Create and manage a competitive Subgrantee Selection Process compliant with the Texas BEAD Program Initial Proposal, Texas legislation, rules, and procedures, and related federal legislation, rules and guidance.
- d. Create and manage assurance activities and risk management processes to ensure a state and NTIA-compliant Final Proposal.
- e. Create and manage a state compliant State Application Challenge Process.
- f. Create and manage a Texas Match Program to award matching funds to Texas BEAD Program Subgrantees applying for Texas Match Program funds on an as-needed basis.
- g. Create and manage an Environmental and Historic Preservation review process compliant with NTIA guidance.
- h. Create and manage an outreach campaign and technical assistance to support potential Applicants.
- i. Create and manage a compliance and monitoring process detailing procedures for Awardee deliverables, oversight, reimbursement and approval, and compliance process to ensure that all Awardees comply with mandated program standards and agreed contractual deliverables.
- j. Develop and draft SOPs.
- k. Write the Final State of Texas BEAD Challenges Report and submit to BDO and the consultant writing the Final Proposal.
- l. Present progress of the development of programs and implementation of programs on a biannual basis to BDO.
- m. Comply with the Initial Proposal.
- n. Write any reports related to the Challenge Process and Subgrantee Selection and assist in submitting any documents needed to NTIA.
- o. Share all information needed with BDO and its consultant as requested.

The chart in Attachment F to the Sample Contract (Exhibit A) summarizes related responsibilities of Successful Respondent and BDO and provides information on needed templates.

2.1 Program Management Services

The Initial Proposal provides more information about the Texas BEAD Program. Successful Respondent will manage all aspects of the Texas BEAD Program and, if funded by the state of Texas, a Texas Match Program. This includes Texas BEAD Program creation, development and management including but not limited to all aspects of the Initial Proposal, except specific deliverables detailed in Section 2.2 (Written Deliverables). Texas BEAD Program management includes, but is not limited to, attending BDO meetings, reporting, presentations, acting as the Texas BEAD Program SME, and active participation in BDO meetings, including those to develop functional Salesforce programs. Additionally, Successful Respondent will draft Collateral and Copy and act as the sole point of contact for all inquiries and technical assistance including but not limited to by BDO, the public, Applicants, Awardees, Challengers and Subgrantees related to the Texas BEAD Program and the State Application Challenge Process.

This Section 2.1 more fully describes required program management services. See Mandatory Price Sheet 1 – Program Management.

2.1.1. BEAD Challenge Process

Successful Respondent will manage the Challenge Process. This includes providing a Challenge Portal. Successful Respondent will plan, execute, report, assess and adjudicate challenges and rebuttals. Successful Respondent will provide training and a call line with one (1) to two (2) staff to assist and answer questions from Challengers, ISPs, etc. BDO and Successful Respondent will make final decisions on the status of Availability Challenges. The following chart lists deliverables to be provided by Successful Respondent and BDO. Related written deliverables to be paid separately from program management fees are described in Section 2.2. The Challenge Portal will be paid separately from program management fees upon acceptance by CPA.

2.1.1	Successful Respondent Service BEAD Challenge Process	Successful Respondent Deliverable	BDO Responsibility
1	Provide Challenge Portal.	<p>The Challenge Portal must:</p> <ol style="list-style-type: none"> 1. Offer a secure and user-friendly Challenge Portal for eligible Challengers, including nonprofit organizations, local and tribal governments, and broadband service providers to submit individual and bulk challenges and rebuttals. 2. Have a registration page for potential Loggers to apply for access to the Challenge Portal. 3. Allow Loggers to access the Challenge Portal by signing into a secure account. 4. Be customizable for BDO and CPA marketing, including the Challenge Portal, and all landing pages, forms and websites developed for the BEAD Challenge Process. 5. Accept multiple and/or individual challenges for each Challenge Type. 6. Allow Challengers to upload supporting evidence with their challenge. 7. Accept multiple and/or individual rebuttals. 8. Be NTIA Challenge and Rebuttal API Compliant. See here (https://broadbandusa.ntia.doc.gov/sites/default/files/2023-09/BEAD_Challenge_and_Rebuttal_API.pdf). 9. Show locations through a user friendly map or dashboard with locations individually represented using data provided by BDO. Locations can be identified by FCC Location ID and mailing address and represented as an individual dot. 10. Include a visual map created by Successful Respondent with location points representing data from the FCC Broadband Data Collection (BDC) starting December 2023. Successful Respondent must update the map to reflect any updated versions of the BDC released before the start of the BEAD Challenge Process. 11. Allow reviewers to document justifications directly within the Challenge Portal, promoting transparency and maintaining a fair and consistent review process. 12. Have workflow triggers that ensure automated communication with Logger for the challenge and rebuttal phases of the BEAD Challenge Process communicating challenge has been logged and rebuttal has been logged. 13. Store documents submitted by Logger as evidence in the forms of PDF, jpeg, .png and/or Word document. 14. Export data reported in user-friendly formats to ensure BDO meets the NTIA reporting requirements. Specific format will be determined when NTIA guidance is published. 15. Have an audit trail by logging and tracking user activity to ensure accountability and compliance. 16. Have reporting and analytics capabilities to provide BDO with a Final State of Texas BEAD Challenges Report. 17. Be TX-Ramp and/or Fed-Ramp certified, as required. 	<p>BDO will:</p> <ol style="list-style-type: none"> 1. Provide a list of eligible Challengers. 2. Provide all necessary location data for the broadband serviceable locations to be challenged. 3. Have final approval of all public engagement including but not limited to, automated emails sent to loggers, training materials prepared by Successful Respondent, and colors/logos/marketing features used on the Challenge Portal.

2.1.1 Cont'd	Successful Respondent Service BEAD Challenge Process	Successful Respondent Deliverable	BDO Responsibility
1 Cont'd		<p>The Successful Respondent must:</p> <ol style="list-style-type: none"> 1. Ensure data security and privacy for Loggers and challenged entities. 2. Provide training sessions for potential Loggers. 3. Provide resources for challenge evaluators as guidance to review and adjudicate challenges and rebuttals received. 4. Provide BDO all records pertinent to the BEAD Challenge Process Including but not limited to: all challenges submitted, all rebuttals submitted, all final adjudications and final list of Served, Underserved and Unserved Locations. 5. Record a Challenge Portal training session for BDO's use. 	
2	<p>Receive and report on Bead Challenge Process submissions as well respond (where applicable) to Challengers' inquiries.</p> <p>Create required documentation.</p>	<ul style="list-style-type: none"> • Communications and responses to Challengers during open challenge/rebuttal periods and after, where applicable. • Bead Challenge Process data reporting • Working with BDO and CPA to ensure BDO meets the compliance and transparency requirements for the entire BEAD Challenge Process period. • BEAD Challenge Process adjudication reports. • Assisting BDO to submit proposed adjudications to the NTIA by inputting information into the Federal Grant Portal for BDO to submit for federal approval, where applicable. • Challenge Assessments. • Reports • Adjudication Activities. • List of updated broadband availability for all locations in Texas. • Eligibility status of all CAls in Texas. • Status of all Enforceable Commitments in Texas. • Vetting any proposed Planned Service Broadband Deployments in Texas <p>SOP is a separately paid deliverable under Section 2.2; see Price Sheet 3-Written deliverables</p>	<p>BEAD Challenge Process software system will be developed by BDO.</p> <p>Review and approval of all deliverables and all communications to Challengers (including approved email/outreach Copy), is required prior to execution.</p>

2.1.1 Cont'd	Successful Respondent Service BEAD Challenge Process	Successful Respondent Deliverable	BDO Responsibility
3	<p>Receiving and reporting on Challenge Rebuttal submissions as well responding (where applicable) to Challenger Rebuttal Loggers' enquiries.</p> <p>Create required documentation.</p>	<ul style="list-style-type: none"> Communications and responses to Challenge Rebuttal Loggers during open challenge/rebuttal periods and after, where applicable. Challenge rebuttal data reporting Working with BDO and CPA communications team to ensure BDO meets the compliance and transparency requirements for the entire challenge rebuttal process period. Challenge rebuttal adjudication reports to present to BDO. <p>Assisting BDO to submit proposed adjudications to the NTIA by inputting data into NTIA portals, where applicable.</p>	<p>Review and approval of all deliverables and all communications to Challenge Rebuttal Loggers (including approved email/outreach Copy, at each step is required prior to execution.</p>
4	<p>Evaluate all challenges received in accordance with the BEAD Challenge Process Policy (available at: https://www.internet4all.gov/bead-challenge-process-policy documents:</p> <ul style="list-style-type: none"> BEAD Challenge Process Policy Notice BEAD Model Challenge Process All BEAD Challenge and Model Updates that NTIA may post on this site <p>Report to BDO all challenges received.</p> <p>Provide recommendations to BDO on all challenges received.</p>	<ul style="list-style-type: none"> Review and vet all Challenge evidence Assess compliance with all NTIA policy guidance to all Challenges received. Contact Challenge Loggers to obtain missing information. 	<p>Review and approval of all deliverables and all communications and proposed assessment methodologies and adjudications.</p>
5	<p>Notify each ISP of a challenge received to their service availability and provide guidance on how to submit a rebuttal.</p>	<ul style="list-style-type: none"> Report and ensure compliance with all NTIA policy guidance. Email templates. Communicate directly with ISPs to inform them of challenges to their stated service availability in their area(s) of service. 	<p>Review and approval of all communications Copy.</p>
6	<p>Evaluate all challenge rebuttals received in accordance with the BEAD Challenge Process Policy documents:</p> <ul style="list-style-type: none"> BEAD Challenge Process Policy Notice BEAD Model Challenge Process All BEAD Challenge and Model Updates that NTIA may post on this site <p>Report to BDO all challenge rebuttals received.</p> <p>Provide recommendations to BDO on all challenge rebuttals received.</p>	<ul style="list-style-type: none"> Review and vet all Challenge Rebuttal evidence Assess on compliance with all NTIA policy guidance to all Challenge Rebuttals received. Contact Challenge Rebuttal Loggers to obtain missing information. 	<p>Review and approval of all deliverables and all communications and proposed assessment methodologies and adjudications.</p>

2.1.1 Cont'd	Successful Respondent Service BEAD Challenge Process	Successful Respondent Deliverable	BDO Responsibility
7	<p>Determine through quantitative analysis necessary outreach to Challengers and Challenge Rebuttal Loggers, as well as evidence review for the Challenge Types and any rebuttals received:</p> <ol style="list-style-type: none"> 1. Broadband Availability challenges: whether any locations that have turned Served, Unserved or Underserved following the availability challenge process 2. Enforceable Commitment Status: whether any locations are proven by evidence as currently covered by enforceable federal, state and local funding commitments 3. CAI identification: where an institution is/is not qualified by the BDO's BEAD Challenge Process Rules as a CAI and whether that CAI is eligible for any BEAD funding left over after allocation to Unserved and Underserved Locations. 4. CAI broadband availability of 1 GB/1 GB broadband service: where an institution is/is not eligible for any BEAD funding left over after allocation to Unserved and Underserved Locations <p>Planned service: if a planned deployment of reliable Broadband Service that meets the BDO's BEAD Challenge Process rules is / is not compliant to the required deployment deadline to be considered as a sustained or rejected challenge.</p>	<ul style="list-style-type: none"> • Perform required data analysis on all challenges (successful or unsuccessful) and derive data-driven conclusion. • Perform required data analysis on all challenge rebuttals (successful or unsuccessful) and derive data-driven conclusion. • List of updated broadband availability for all locations in Texas, eligibility status of all CAIs in Texas, CAI broadband serviceability status for Texas, status of all enforceable commitments in Texas, and vetted listing of all ISP planned service broadband deployments in Texas. • Reports on all findings and recommendations summary 	<p>Review and approval of all deliverables as well as any communications to any stakeholders including Challengers and challenge rebuttal Loggers.</p>
8	<p>Present as a report: the final assessment reporting of both challenges and challenge rebuttals of the Challenge Types to BDO with data-driven, evidence-based reasoning for declaring each individual challenge as "sustained" or "rejected."</p>	<ul style="list-style-type: none"> • Sustained Challenges Report • Rejected Challenges Report • Sustained Challenge Rebuttals Report • Rejected Challenge Rebuttals Report • Reports will take the place of a SOP but the Successful Respondent must be able to describe how to run each report and from where the data for each report is derived. 	<p>Review and approval of all deliverables.</p>

2.1.1 Cont'd	Successful Respondent Service BEAD Challenge Process	Successful Respondent Deliverable	BDO Responsibility
9	Create the final State of Texas BEAD Challenges Report - determinations to NTIA for approval.	<ul style="list-style-type: none"> Ensure systemic and / or process formal NTIA results submission requirements are met for the Texas BEAD Challenge Results submission. Final State of Texas BEAD Challenges Report Cure and update Texas BEAD Challenges Report when requested to ensure that eligibility determinations are approved. Reports will take the place of SOP but Successful Respondent must be able to describe / substantiate proposed determinations for each of the Challenge Types (Challenges and any associated Challenge Rebuttals received). 	Review and approval of all deliverables.
10	Create the public notice of the final determinations for each location and CAI at least sixty (60) days prior to allocating grant funds.	<ul style="list-style-type: none"> Creation of Public Notice Working with BDO as required SOP is N/A for this activity 	Review and approval of all deliverables.
11	Provide a phone number and 1-2 staff for technical support throughout BEAD Challenge Process	<ul style="list-style-type: none"> Staff or subcontract a telephone line to receive and answer questions regarding challenge submission, data submission, rebuttal submission, gaining access to challenge portal, gaining access to rebuttal portal Develop training materials for any staff or subcontractor assigned to the phone line Phone line will be operational by the first day of the BEAD Challenge Process 	

2.1.2 Subgrantee Selection Process

Successful Respondent will manage the Subgrantee Selection Process. This includes planning, solicitation documentation creation (NOFA, solicitation documentation), executing the solicitation, assisting with communications and providing assistance to prospective applicants, executing the two (2) grant Rounds' Gating Review, evaluation and scoring, award recommendations to BDO, award process management and communications, drafting of contract agreements with CPA legal review, creating all necessary Texas BEAD Program post-award templates, and running the Texas BEAD Program through grant close out, including all reporting for both internal BDO needs and federal reporting requirements and the creation of NTIA documentation. Successful Respondent will develop internal processes for each step of the Texas BEAD Program, including a process for project monitoring. Successful Respondent will be responsible for onsite project monitoring ("field monitoring"), which may be by subcontract. If subcontracting field monitoring, Successful Respondent shall propose to BDO one or more qualified subcontractors to perform field work. Subcontracting is subject to Section IV (Personnel; Subcontractors) of Exhibit A (Sample Contract).

The BEAD Subgrantee Selection Process, including all documentation and SOPs, must be compliant with the BEAD Notice of Funding Opportunity, the Initial Proposal, and state and Federal statutes and administrative rules.

Successful Respondent will also be tasked with managing the Subgrantee Selection Process in its entirety, which consists of the following:

2.1.2	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
1	<p>Create Activity Project Plan of entire end-to-end BEAD Subgrantee Selection Process that Successful Respondent will execute:</p> <p>Executing the (2) Grant Rounds:</p> <ol style="list-style-type: none"> 1. NOFA and any solicitation documentation 2. Gating Review 3. Evaluation and scoring 4. Award recommendations to BDO 5. Award process management and communications 6. Drafting of Subgrantee contracts subject to CPA Legal review and approval 7. Creating all necessary grant program post-award templates 8. Running the Grant Program itself through close out of all grants, including all reporting for both internal BDO needs and federal reporting requirements and the creation of the NTIA documentation. 	<ul style="list-style-type: none"> • Project Plan should map to the original Work Services Plan • Project Timeline for this Activity-updated as required • SOP is N/A for this activity 	Review and approval of all Copy and deliverables.
2	<p>Solicitation Documentation Creation (NOFA, Solicitation documentation)</p> <ul style="list-style-type: none"> • Develop NOFAs in accordance with state and Federal standards in consultation with BDO and CPA legal and publish announcement of the start of the Subgrantee Selection Process and describe the process to apply. • Develop and draft the solicitation document 	<ul style="list-style-type: none"> • Schedule and facilitate reoccurring NOFA development work sessions with BDO and CPA lawyers. • Provide input as this SME for relevant NOFA content inclusion. • Draft NOFA for BDO and CPA legal review. • Final NOFA. • Public Notice. • Assist with other solicitation documentation as required. • SOP is N/A for this activity 	Review and approval of all copy and deliverables.
3	<p>Create a formal evaluation scoring matrix that complies with the Initial Proposal and aligns with the primary and secondary criteria identified in the Initial Proposal.</p>	<ul style="list-style-type: none"> • Schedule and facilitate reoccurring evaluation criterion development work sessions. • Provide input as the SME for BEAD evaluation criterion as per the Initial Proposal and in accordance with the BEAD NOFO. https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf. • SOP with evaluation matrix is a separately paid deliverable under Section 2.2; see Price Sheet 3-Written deliverables. 	Review and approval of all copy and deliverables.
4	<p>Create a compliance checklist to ensure that the planned Texas BEAD Program Subgrantee selection process abides by the principles of the BEAD NOFO, including:</p> <ul style="list-style-type: none"> • Awarding broadband infrastructure projects in a manner that prioritizes Unserved service projects first and then prioritizes Underserved service projects, then followed by prioritization of eligible CAIs. • Prioritizing broadband infrastructure projects that propose end-to-end fiber-optic facilities to each end-user location unless the cost-per-location exceeds the state's cost threshold. • Awarding projects that constitute a single Unserved or Underserved Location, or a grouping of broadband-serviceable locations in which not less than eighty percent (80%) of broadband-serviceable locations served by the project are considered Unserved or Underserved Locations. 	<ul style="list-style-type: none"> • Schedule and facilitate reoccurring Award / Selection Process development work sessions with BDO staff. • Provide input as the SME for BEAD Award criterion and process as per the Texas Initial Proposal and the BEAD NOFO. • Checklist of compliance to demonstrate to BDO that the proposed Subgrantee selection process maps directly to the NTIA BEAD Guidance Documents, the Initial Proposal, and the BEAD NOFO. • SOP is N/A for this activity 	Review and approval of all copy and deliverables.

2.1.2 Cont'd	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
5	<p>Create a compliance checklist to ensure that the planned Texas BEAD subgrantee selection process abides by state statute that does not conflict with federal guidelines, including:</p> <ul style="list-style-type: none"> • Prioritize broadband infrastructure projects that connect each end-user location using end-to-end fiber optic facilities that meet speed, latency, reliability, consistency, scalability, and cost-efficiency standards. • Take into consideration an applicant's prior grants and other financial incentives awarded by the federal government for the deployment of broadband service. • Prioritize broadband infrastructure projects that will expand access to and adoption of broadband service in Designated Areas in which the highest percentage of broadband serviceable locations are unserved or underserved locations. • Prioritize broadband infrastructure projects that will expand access to broadband service to public and private primary and secondary schools and institutions of higher education. • Give preference to an applying broadband service provider that provided the proper mapping information requested by the BDO under Section 4901.0105 or 4901.01061; and, • Take into consideration whether an applicant has forfeited federal funding for defaulting on a project to deploy qualifying broadband service. 	<ul style="list-style-type: none"> • Schedule and facilitate reoccurring Award / Selection Process development work sessions with BDO staff. • Provide input as SME for BEAD Award criterion and process as per the Texas Initial Proposal and the BEAD NOFO. • Provide substantiation to BDO that no state statute will be compromised / in conflict with Successful Respondent's proposed BEAD Subgrantee Selection Process. • SOP is N/A for this activity 	Review and approval of all copy and deliverables.
6	<p>Create formal technical evaluation guidance that aligns with the scoring matrix created for the Initial Proposal that would support the objective rating of each proposal submitted to BDO using an industry best practice technical assessment process of each proposal submitted.</p>	<ul style="list-style-type: none"> • Provide recommendations document of proposed technical evaluation approach. • Once approach is approved, provide a technical assessment report for each proposal evaluated and provide a technical feedback mechanism for proposals submitted. • Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3- Written deliverables. 	Review and approval of all deliverables.
7	<p>Gather process and compliance requirements as well as a framework for business and technical feasibility and viability assessment for the Texas BEAD Grant System application content that incorporates the details contained within the Initial Proposal.</p>	<ul style="list-style-type: none"> • Schedule and facilitate reoccurring Compliance Process development work sessions. • Schedule and facilitate reoccurring business and technical feasibility and viability assessment development work sessions. • Provide recommendations documents x 2 for this deliverable. • SOP is N/A for this activity 	<p>Subgrantee Application software system will be developed by BDO.</p> <p>Review and approval of all deliverables.</p>
8	<p>Create relevant subgrantee application process user/ applicant documentation such as, but not limited to a subgrantee user guide, a subgrantee diagram with timeline; copy/content for public web pages and other communication materials as required (e.g., webinar presentation) working under the BDO and Comptroller's office.</p>	<ul style="list-style-type: none"> • List of recommended user Collateral. • Upon BDO approval: <ul style="list-style-type: none"> ○ Subgrantee user guide ○ Subgrantee process diagram with timeline, ○ Copy/content for public web pages and other communication materials as required. • SOP is N/A for this activity 	Review and approval of all deliverables.

2.1.2 Cont'd	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
9	Create an adaptive automated application evaluation process that incorporates programmatic and technical criterion and streamlines the decision-making process for award making.	<ul style="list-style-type: none"> User guide / SOP for Evaluators, outline to both technical and non-technical evaluators how to evaluate proposals. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables. 	Review and approval of all deliverables.
10	<p>Conduct and manage two (2) rounds of organized intake of applications from prospective subrecipients</p> <p>When approved, create Copy for and work with BDO Outreach Team to publish the accepted applications electronically on the Comptroller's website for thirty (30) days with pertinent information prior to scoring.</p>	<ul style="list-style-type: none"> Successful Respondent will provide application managers to perform all Subgrantee work activities (review B.2.1 #2 - #8) Successful Respondent's evaluators will conduct and manage two rounds of organized intake and evaluation of applications following the preapproved scoring matrix. List of all received applications for posting on the Comptroller's Application Challenge website. SOP is N/A for this activity 	<p>Review and approval of all deliverables.</p> <p>BDO Outreach Team finalizes Collateral with assistance from Successful Respondent.</p>
11	Conducting and managing multiple rounds of internal application gating criteria review.	<ul style="list-style-type: none"> Successful Respondent will provide application evaluators for gating criteria review. Successful Respondent's evaluators will conduct and manage two rounds of gating review within the timeframe provided in the Initial Proposal. Gating report. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables) 	Review and approval of all deliverables.
12	<p>Conducting and managing internal application review and scoring for applications that pass gating review for an award decision. All applications will need to be independently scored using a CPA-approved scoring rubric. Proposed projects will also be assessed for technical feasibility. An automated application process is preferred.</p> <p>Scoring and award decisions must prioritize Unserved Location service projects first. After Successful Respondent certifies it will ensure coverage of all Unserved Locations within the state with applications received, it must prioritize Underserved Location service projects.</p> <p>Review and scoring must incorporate the approved subgrantee selection scoring rubric and must align with the developed NOFA.</p>	<ul style="list-style-type: none"> Successful Respondent will provide application evaluators for any manual process associated with scoring for programmatic criteria and technical feasibility. Develop process for reviewers to follow to review applicants requesting a Build America Buy America waiver. Report of all proposals selected for an award. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables) 	Review and approval of all deliverables.
13	<p>After Application Intake, Application Posting on Challenge Website, and gating, Successful Respondent shall:</p> <ul style="list-style-type: none"> Execute a geospatial deconfliction/overlap process. Collect and maintain documents related to environmental and historic preservation assessments to be submitted to NTIA on behalf of the applicants with the Final Proposal Manage an environmental and historic preservation-related infrastructure activities assessment. 	<ul style="list-style-type: none"> Geospatial deconfliction/overlap process SOP based on process outlined in the Texas Initial Proposal. Overlap Report. Environmental and Historical Preservation Assessment Report. Website Copy. 	Review and approval of all deliverables.

2.1.2 Cont'd	Successful Respondent Service	• Successful Respondent Deliverable	BDO Responsibility
14	Engage with existing providers and/or other prospective subgrantees to find providers willing to expand their existing or proposed service areas if BDO does not receive proposals to serve Unserved or Underserved Locations, or a combination of both. Assist BDO in considering inducements or possible benefits during the grant selection process to incentivize such projects.	<ul style="list-style-type: none"> Perform outreach and negotiations with ISPs after methodology and email templates/other Collateral are approved. SOP is N/A for this activity. 	Review and approval of all Copy, communications, and deliverables. BDO Outreach Team approves Collateral.
15	Perform risk assessments of prospective BEAD program subrecipients to ensure their financial management systems are adequate to administer federal awards.	<ul style="list-style-type: none"> Risk Assessments for all applicants. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables. 	Review and approval of all deliverables.
16	Perform a thorough cost-benefit analysis following the rounds of application submissions and prior to award determination. The analysis will allow for the most efficient use of funds, including but not limited to assisting the BDO and its IJA planning vendor establish an Extremely High Cost Per Location Threshold (either regionally or statewide) for awarding projects.	<ul style="list-style-type: none"> Cost Benefits Analysis Report. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables. 	Review and approval of all deliverables.
17	Determine Awardees and Report on Award Recommendations <ul style="list-style-type: none"> Perform an award analysis encompassing all received applications and taking into consideration the mandated BEAD NOFO and NTIA guidance, ensure the prioritization of projects is compliant with federal guidelines and Texas statute and have been posted for at least thirty (30) days on the Comptroller's website prior to award. 	<ul style="list-style-type: none"> Report recommending awards. Award Process Management and Communications. Award Analysis Report. Draft of Contract Agreements with CPA Legal Review. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables. 	Review and approval of all deliverables.
18	Create a process for potential applicants that have been awarded federal funding directly and have entered an enforceable commitment with a federal agency to deploy Broadband Services in the state of Texas to provide to BDO information BDO may require regarding the existing enforceable commitment and the proposed deployment of broadband.	<ul style="list-style-type: none"> Create a methodology document to assist the BDO determine the form and manner best prescribed for a potential applicant to submit this information. Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables. 	Review and approval of all deliverables.
19	Create Collateral and advise BDO to ensure that the Subgrantee Selection Process, from beginning to end, is transparent and potential Subrecipients are kept informed throughout the process to the extent that confidentiality laws allow.	<ul style="list-style-type: none"> Create a Communications Plan for this deliverable. Create Collateral according to the Communications Plan, after approved by BDO. SOP is N/A for this activity 	Review and approval of all deliverables. BDO Outreach Lead will approve all communications deliverables.

2.1.2 Cont'd	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
20	Create the final list of proposed Awardee projects to NTIA for review and approval, after the completion of the Subgrantee Selection Process and in consultation with BDO and CPA Legal.	Create Final List of Proposed Awardees: <ul style="list-style-type: none"> • Report: Create list of Subgrantees for Final Proposal. The Successful Respondent will provide, as a result of a fully executed Subgrantee Selection Process, a full list of selected Awardees in accordance with NTIA requirements and state statute. • A description of each unsuccessful application that was affected by any state law concerning broadband, utility services, or similar subjects and how those laws impacted the decision to deny each such application. • Any additional requirements for the Final Proposal that may be provided to states after the publications of this solicitation. • SOP is N/A for this activity 	Review and approval of all deliverables.

2.1.3 Subgrantee Outreach and Technical Assistance during Application Rounds

Successful Respondent will assist BDO with communicating information and delivery of technical assistance to potential Texas BEAD Program applicants. This includes writing Copy for websites, webinars, presentations, FAQs, technical task guides, etc. The BEAD Subgrantee Selection Process will be a long process for applicants who are eager to begin work with the support of grant funding. Successful Respondent will develop consistent working relationships with Subgrantee applicants as a crucial step in ensuring the Texas BEAD Program is successful. Successful Respondent will complete the following tasks to ensure success in the final stages of the Texas BEAD Program:

2.1.3	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
1	Developing and providing communications materials for prospective applicants to understand Texas BEAD Program selection process, specifically in line with the required public support scoring criteria.	<ul style="list-style-type: none"> • Create Copy for multiple communications materials under the direction of the BDO Outreach Lead. • SOP is N/A for this activity 	Review and approval of all Copy and deliverables. BDO Outreach Lead will approve all communications deliverables.
2	Create training materials and lead training sessions to those potential awardees that require additional assistance. Training sessions can include, but are not limited to, live webinars, recorded videos, and written manuals. Training sessions can be online and/or in-person. Successful Respondent will consult with BDO on delivery for training sessions.	<ul style="list-style-type: none"> • Create training materials. • Lead training sessions. • Create FAQ. • SOP is N/A for this activity 	Review and approval of all Copy and deliverables. BDO Outreach Team will finalize all training communications and Copy.
3	Provide direct technical support and customer support to potential Applicants throughout the application process.	<ul style="list-style-type: none"> • Create Applicant Support Methodology Plan/SOP (separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables). • Provide resources to conduct applicant support. • Staff and manage a call line available from 8am-5pm Monday through Friday. The call line will be a continuation of the call line available from the BEAD Challenge Process and available until the close of the BEAD Application Portal 	Review and approval of all Copy and deliverables.

2.1.4 State Application Challenge Process

Successful Respondent will assist BDO with communicating information and delivering technical assistance to potential Texas BEAD Program applicants. This includes writing Copy for websites, webinars, presentations, FAQs, technical task guides, customer service support, and Challenge review SOPs to ensure eligible Challengers are able to submit appropriate challenges and evidence. The State Application Challenge is essential for the BEAD Subgrantee Selection Process. To ensure the Texas BEAD Program is successful, the State Challenge Process will require Successful Respondent providing support to stakeholders (BDO's partners throughout the Texas BEAD Program).

2.1.4	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
	Conduct and manage an ongoing Texas BEAD Program Application Challenge process in accordance with Section 4901.0106 of the Texas Government Code, including an organized format of receiving, reviewing and adjudicating challenges from permissible Challengers (units of local and tribal government and broadband service providers who provided mapping data). All accepted applications must be posted online for thirty (30) days prior to being evaluated for an award.	<ul style="list-style-type: none">• Work with BDO Outreach Lead to post all accepted BEAD applications for both grant rounds, on the appropriate BDO website for public review. [Create the Copy, have the accepted application data prepared including removing PII (Personally Identifiable Information) and ensuring 508/Accessibility Compliance].• Run this entire process i.e., end-to-end ownership of a state-mandated application challenge process whereby Permissible Challengers can challenge accepted applications posted on the BDO website for Texas BEAD Program funding, based on BDO approved and communicated challenge criteria:<ul style="list-style-type: none">○ Application Challenge Evidence Review○ Create email templates for any required communications with Permissible Application Challengers and obtain BDO approval of same.○ Communicate directly with Permissible Application Challengers when needed (e.g., for additional evidence).• Communicate directly with Texas BEAD Program applicants whose applications have been successfully challenged to inform them of changes needed.○ Assess all Application Challenges according to BDO-approved SOP○ Create final Application Challenge Adjudication Report and deliver to BDO for review and approval.○ Make revisions as required and finalize deliverable.• Automate the challenge process, if the greatest extent possible and where appropriate, and/or staffing challenge evaluators to review and adjudicate accepted challenges.• Communicate directly with Applicants with upheld challenges to notify them to amend their applications in accordance with state statute.• Create an Application Challenge Process Plan/ SOP (separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables).	Review and approval of all Copy and deliverables

2.1.5 BEAD Environmental and Historic Preservation (EHP) Activity Management

Successful Respondent will develop and foster expertise to manage EHP activities. Throughout construction, BDO will be responsible for ensuring EHP activities are consistent. BDO will not be responsible for completing the EHP review before construction. Successful Respondent will maintain documents provided by applicants will ensure this process is efficiently managed.

Successful Respondent and BDO responsibilities are described in the following chart.

2.1.5	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
1	Consult with the BDO to deliver or solicit assistance in deliverance of required environmental and historic preservation activities in accordance with NTIA requirements.	<ul style="list-style-type: none"> Create Requirements Document to deliver environmental and historic preservation activities in accordance with federal requirements. Create process and procedural monitoring workflows / SOP associated with ensuring compliance with EHP activities, based on researched requirements and federal guidance. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) 	Review and approval of all Copy and deliverables.
2	Create processes for local stakeholders and governments to preserve potentially impacted environmental or historic locations.	<ul style="list-style-type: none"> Create environmental and historic preservation activities Grant Recipient Monitoring Plan /SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) 	Review and approval of all Copy and deliverables.
3	Create contractual, enforceable agreements with Awardees to preemptively protect sensitive environmental and historic locations and submit to BDO and CPA Legal for review and approval.	<ul style="list-style-type: none"> Assist where appropriate (e.g., providing content adhering to NTIA guidance) the drafting of contractual, enforceable agreements with Awardees to preemptively protect sensitive environmental and historic locations. Draft agreements for review and revise where instructed. 	<p>BDO is responsible for finalizing contracts and contracts management.</p> <p>Review and approval of all Copy and deliverables.</p>
4	Directly communicate with and assist Subgrantees to ensure compliance with all applicable environmental laws.	<ul style="list-style-type: none"> Ensure compliance with any environmental and historic preservation activities identified in the approved Grant Recipient Monitoring Plan/SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) Submit compliance report. 	Review and approval of all Copy and deliverables.
5	Review and assess submitted material to ensure it is complete before submitting it to NTIA for NEPA review.	<ul style="list-style-type: none"> Enact environmental and historic preservation activities Grant Recipient Monitoring Plan/SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) Draft NEPA Review Report on Grant Recipient Compliance to protect sensitive environmental and historic locations and comply with all applicable environmental laws. 	Review and approval of all Copy and deliverables.

2.1.6 Texas Match Program

The Successful Respondent will ideate and construct a competitive match award process with available state revenue. At the time of posting, funding for this program has not been confirmed. BDO reserves the right to not move forward with the Texas Match Program.

Successful Respondent and BDO responsibilities are detailed in the following chart.

2.1.6	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
1	Create an intake and evaluation process for potential awardees to request state support with any available matching funds.	Create Match Award Process Plan/SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.)	Review and approval of all Copy and deliverables.
2	Create a distribution method for eligible funds in accordance with state statute and create process for determining an exceptional financial need from potential subgrantees.	Create Match Award Funds Distribution Plan/SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.)	Review and approval of all Copy and deliverables.
3	Identify broadband infrastructure projects chosen through the Texas subgrantee selection process for BEAD funding that would benefit from additional state funds and create a report.	Create Match Award Applications Recommendations List: <ul style="list-style-type: none"> List of Match-Eligible Projects with Corresponding Criteria and Reasoning. Successful Respondent will compile a list of projects that are match eligible in accordance with state statute and still-to-be written BDO policy. 	Review and approval of all Copy and deliverables.
4	Run activities and communications with appropriate stakeholders and potential awardees with the BDO to ensure universal coverage for the state of Texas.	Enact Match Award Process Plan/SOP.	Review and approval of all Copy and deliverables.

2.1.7 BEAD Grant Program Management

Successful Respondent will run the entire Texas BEAD Program, including but not limited to obtaining Awardee Status Reports, reviewing Awardee deliverables to approve disbursements, identifying risks and enacting risk mitigations, escalation management in case of Awardee contract breaches, and monitoring and compliance reporting through close out of the Texas Bead Program including all reporting for both internal BDO needs and for federal reporting requirements and the creation of the NTIA documentation.

Activities include:

2.1.7	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
1	Create standardized reports, forms, checklists, toolkits and/or templates for finance and non-finance staff use.	<ul style="list-style-type: none"> Create Recipient Compliance and Monitoring <u>User Guide</u> for BDO including guidance on best practices for tracking and documenting expenditures. Create Recipient Funding / Disbursement Report. Create Compliance Documents. Create allowable expenditures guidelines. Create Recipient Compliance Checklist. Create Recipient Compliance Report. Create Clawback Provisions Plan: The Successful Respondent will develop, in concert with the BDO, appropriate Clawback provisions procedures (in the event of subgrantee noncompliance). 	Review and approval of all Copy and deliverables.
2	Create guidance for cost categorization determinations based on programmatic, governmental accounting requirements, and/or Uniform Guidance developed by NTIA and the BDO.	<ul style="list-style-type: none"> Create Recipient Cost Categorization and Compliance User Guide for BDO Staff. Create a detailed SOP for this activity. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) 	Review and approval of all Copy and deliverables.

2.1.7 Cont'd	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
3	Create procedures to ensure subrecipients are following through on various legal obligations, including domestic procurement preferences ("Buy American" requirements) or fulfilling requirements set by the Build America, Buy America waiver.	<ul style="list-style-type: none"> Create Recipient Build America, Buy American guidelines. Create a detailed SOP for this activity. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) 	Review and approval of all Copy and deliverables.
4	Create financial and programmatic tracking mechanisms.	Create Recipient Compliance Tracker/ SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.)	Review and approval of all Copy and deliverables.
5	Create programmatic and policy advice on federal programs.	Maintain Subject Matter Expertise: Remain up to date on all NTIA guidance and policy/process updates.	Review and approval of all Copy and deliverables.
6	Create processes and documentation requirements around Subrecipient risk assessment, monitoring and management, including training materials for subrecipient use on funding and programmatic requirements.	<ul style="list-style-type: none"> Create Risk Management Plan/ SOP. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) Create Recipient Risk Register. 	Review and approval of all Copy and deliverables.
7	Review proposed contracts and purchasing documentation for compliance with programmatic rules, Uniform Guidance, and governmental accounting standards.	Contract reviewer role when requested by BDO for compliance, monitoring and risk mitigation by Recipients.	Review and approval of all Copy and deliverables.
8	Assist with standardizing internal program files and submitting required information to the federal government.	<ul style="list-style-type: none"> Document management File management 	Review and approval of all Copy and deliverables.
9	Streamline the reporting process to ensure continued compliance and implement post-award procedures.	<ul style="list-style-type: none"> Create Recipient Compliance Report. Create a detailed SOP for this activity. (Part of separately paid SOP deliverable under Section 2.2; see Price Sheet 3-Written deliverables.) 	Review and approval of all Copy and deliverables.
10	Consult with BDO to ensure applicable contractual provisions exist with Subgrantees in the event of a potential failure to deliver.	<ul style="list-style-type: none"> Execute Risk Management and Reporting SOP is N/A for this activity 	Review and approval of all Copy and deliverables.

2.1.8 BEAD Final Proposal

Successful Respondent will assist BDO's consultant with development and timely delivery of the Texas BEAD Program Final Proposal to NTIA.

The activities associated with this task include:

2.1.8	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
1	Collaborate with BDO staff and relevant vendors as they develop and complete a Final Proposal in accordance with NTIA guidelines.	<ul style="list-style-type: none"> Attend Final Proposal development meetings Provide Copy, content, and research for relevant sections of the Final Proposal (tasks as assigned). 	Review and approval of all deliverables. Assign tasks as needed.
2	Maintain documentation of the public engagement processes, major milestones, and relevant modifications for future funding programs developed by BDO.	<ul style="list-style-type: none"> Monitor and Report on public engagement processes during the production of the Final Proposal. Track milestones in the production of the Final Proposal. 	Review and approval of all deliverables.

2.2 Written Deliverables

Successful Respondent will provide specific deliverables based on a set fee paid upon completion within defined timelines. See Mandatory Pricing Sheet 2 – Written Deliverables.

2.2.1 BEAD Challenge Process SOP

Successful Respondent will draft a Challenge Process SOP for all aspects of the BEAD Challenge Process. Templates will be included in an appendix to the SOP. Sections of the SOP include but are not limited to the following:

1. Table of Contents;
2. Overview;
3. Evidentiary Review;
4. Challenge assessments, review, and management process for each Challenge Type;
5. ISP communication and guidance process;
6. Challenge assessment rebuttals, review, and management process for each Challenge Type;
7. Description of SOP compliance with NTIA BEAD Challenge Process Policy documents; and
8. Appendix of necessary templates including but not limited to ISP outreach and guidance emails, challenge form, challenge assessment form, rebuttal form, rebuttal assessment form, reports, etc.

2.2.2 Subgrantee Selection Process SOP

Successful Respondent will draft a Subgrantee Selection Process SOP that includes all necessary forms and templates. The evaluation scoring matrix will (1) comply with the Initial Proposal and (2) align with the primary and secondary criteria identified in the Initial Proposal. Templates will be included in an appendix to the SOP. Sections of the SOP include but are not limited to the following:

1. Table of Contents;
2. Overview;
3. Subgrantee outreach and technical assistance;
4. Evaluation scoring matrix use; and
5. Appendix of necessary templates including but not limited to an evaluation scoring matrix, email, telephone scripts, reports, etc.

2.2.3 State Application Challenge Process SOP

Successful Respondent will draft a State Application Challenge Process SOP that includes all necessary forms and templates.

2.2.4 EHP SOP

Successful Respondent will draft an EHP SOP that includes all necessary forms and templates.

2.2.5 Texas Match Program SOP

Successful Respondent will draft a Texas Match Program SOP that includes all necessary forms and templates.

2.2.6 Applicant Support Methodology Plan/SOP

Successful Respondent will draft an Applicant Support SOP, including call line staff instructions and any necessary templates.

2.2.7 NTIA-required Documents

Successful Respondent will draft all required NTIA documents. Successful Respondent will work with BDO to revise the documents as needed. Each NTIA document is subject to BDO's final approval. Successful Respondent will keep executed sub-award documents, including statements of work, executed change orders, and paid Subrecipient invoices readily available for review during the NTIA site visit. Successful respondent will need to be available during the site visit unless stated otherwise by the BDO. More detail about each document can be found at: <https://broadbandusa.ntia.doc.gov/> when details are released by NTIA. Each document is to be priced separately. The documents include:

1. Written project management plan.
2. Written policies, procedures, and/or processes to ensure timely and accurate submission of project performance and financial reports.

3. Written property management policies, procedures, or processes.
4. List of inventories of all equipment purchased with grant funds.
5. Written Subrecipient management policies, procedures, or processes.
6. List of subrecipients funded by the grant, including their roles in executing the grant/subaward agreements.
7. Written subrecipient risk assessment and monitoring plan; documentation/artifacts from Subrecipient monitoring visits.

2.2.8 Final State of Texas BEAD Challenges Report

Successful Respondent will draft the Final State of Texas BEAD Challenges Report to be submitted to NTIA and will provide a written list of Subgrantees.

2.3 Challenge Portal

Successful Respondent will provide a Challenge Portal meeting the requirements of Section 2.1.1, Item 1 that is accepted by CPA under Section 15.63.

2.4 Optional Services

Describe in Respondent's Proposal any optional features, products or services that would benefit CPA, but are not part of the minimum requirements of this RFP. Respondent will price optional features, products or services on Price Sheet 4 in Section 5.5, but optional features, products or services are not considered in the evaluation process described in Section 5.1 and 5.2.

PART III GENERAL PROVISIONS

3.1 Authority

This RFP is issued pursuant to the authority granted in Chapters 2155, 409I and 403 of the Texas Government Code.

3.2 Comptroller Rights

In the best interest of Comptroller and the State, Comptroller, in its sole discretion, may amend or modify any provisions of this RFP or the Sample Contract (Exhibit A), or withdraw this RFP at any time prior to award of a Contract. Comptroller reserves the right, in its sole discretion, to reject any or all submitted Proposals or to select one or more qualified Respondents to this RFP without discussion of Proposals with the respective Respondents.

The decision of Comptroller, or its designee, with regard to the above, shall be administratively final. Comptroller, in its sole discretion, may waive administrative deficiencies and/or minor technicalities in Proposals received. All Proposals shall become a part of Comptroller's official procurement files and may be available for public inspection upon execution of a Contract.

3.3 Respondent Obligations

Respondents are responsible for any expense related to the preparation and submission of a Proposal. Comptroller shall not pay for any cost that is incurred by Successful Respondent prior to the effective date of the Contract. Qualified persons with the requisite experience are invited to submit Proposals in accordance with this RFP. Proposals must address all specifications.

3.4 Successful Respondent Obligations

Comptroller shall look solely to Successful Respondent for performance of the Contract. Successful Respondent shall provide the requested Services under the direction of Comptroller. Successful Respondent shall be the sole

point of Contract responsibility. Successful Respondent shall be liable, both individually and severally, for the performance of all obligations under the Contract and shall not be relieved of the non-performance of any subcontractor.

3.5 Schedule of Events

Comptroller anticipates that the selection of Successful Respondent and execution of the Contract, if any, will proceed according to the following approximate schedule:

February 2, 2024	-	Issuance of RFP (after 10:00 a.m. CT)
February 12, 2024	-	Deadline for Submission of Questions (2:00 p.m. CT)
February 19, 2024	-	Electronic Posting of Official Responses to Questions
March 4, 2024	-	Deadline for Submission of Proposals (2:00 p.m. CT) (Late proposals will not be considered)
March 15, 2024	-	Presentations by Top Scoring Respondents
April 1, 2024	-	Contract Execution (or as soon thereafter as practical)
April 1, 2024	-	Services Begin

The times stated in this document refer to Central Time (CT) in Austin, Texas, where appropriate. Comptroller's regular office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday except national and official State of Texas holidays. All deadlines are subject to change at Comptroller's sole discretion.

Notices of changes to items directly impacting the original RFP or proposal process will be posted on the ESBID located at: <http://www.txsmartbuy.com/esbd>. Any amendment to this solicitation will be posted as an addendum on the ESBID. It is the responsibility of interested parties to periodically check the ESBID for updates to the procurement prior to submitting a proposal. Respondent's failure to periodically check the ESBID for updates will in no way release Successful Respondent from compliance with any requirements in the "addenda or additional information," even if such compliance results in additional costs to meet the requirements.

3.6 Issuing Office

Comptroller, through its Contracts Section, is the Issuing Office and the sole point of contact for this RFP. The Procurement Section is the only office authorized to clarify, modify, amend, alter, or withdraw the specifications, terms, and conditions of this RFP. Upon issuance of this RFP, other employees of Comptroller shall not answer questions or otherwise discuss the contents of this RFP with any Respondents or their representatives. Failure to observe this restriction may result in disqualification of any pending or subsequent Proposal. This restriction does not preclude discussions unrelated to this RFP or assistance completing the required Historically Underutilized Business (HUB) Subcontracting Plan (HSP). **Except as otherwise indicated, all communications concerning this procurement must be in writing and addressed to the Issuing Office as follows:**

Kristy Willis, Kristy.Willis@cpa.texas.gov, (512) 463-4951
E-mail: Bidcpa@cpa.texas.gov

3.7 Submission of Questions

Respondents may submit questions by email to the Issuing Office no later than 2:00 p.m. by the deadline set forth in the Schedule of Events. Questions concerning this RFP must be in writing and addressed to the Issuing Office

at the above email address. On or about the date set forth in the Schedule of Events, Comptroller expects to electronically post answers to the written questions on the ESD located at: <http://www.txsmartbuy.com/esbd>.

3.8 Deadline for Submission of Proposals

An electronic copy must be received in the Issuing Office no later than 2:00 p.m. on the deadline set forth in the Schedule of Events. The email must be labeled with "RFP No. 909-24-1690KW" and include the name and address of Respondent in the body of the email. Late proposals will not be considered under any circumstances.

Respondents are solely responsible for verifying Comptroller's receipt of all Proposals by the deadline specified above. Comptroller shall not be liable or responsible for any costs whatsoever incurred in submission of a Proposal. Faxed or mailed Proposals are not acceptable and will not be considered.

For purposes of meeting the 2:00 p.m. delivery deadline, the Issuing Office's electronic receipt date and time will be considered conclusive in all respects.

Under Section 322.020 of the Texas Government Code, the Legislative Budget Board (LBB) has implemented a database of state agency contracts. See the LBB website at <https://www.lbb.texas.gov/>. Comptroller shall upload to the LBB's contract database the text of the complete Contract, including Successful Respondent's Proposal (with limited redaction and appendix) after the date of Contract award. In submitting a Proposal, Respondent acknowledges that it understands and accepts this requirement.

3.9 Confidential Information; Nondisclosure; Open Records

All information gathered, produced, derived, obtained, analyzed, controlled or accessed by Respondent in connection with a Contract (Confidential Information), shall be and remain Confidential Information and shall not be released or disclosed by Respondent without the prior written consent of Comptroller, which consent must specifically identify the Confidential Information to be disclosed by Respondent and the nature of the disclosure for which consent is sought. Relatedly, Respondent must execute and return with its Proposal a Nondisclosure Agreement with Comptroller, in the form of Exhibit D attached hereto.

Following the award of a Contract, Proposals are subject to release as public information unless the response or specific parts of the Proposal can be shown to be exempt from the Texas Public Information Act, Chapter 552 of the Texas Government Code. All Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. Comptroller assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Respondents.

Respondent must complete and return with its Proposal the Certification Regarding Public Nature of the Proposal (Exhibit F). In accordance with Exhibit F, Respondent must specifically identify any parts of its Proposal it believes are confidential. Respondent must stamp in bold red letters the term "CONFIDENTIAL" on that specific part or page of the Proposal that Respondent believes to be confidential. Respondent must submit in writing specific, detailed reasons, including any relevant legal authority, stating why Respondent believes the material to be confidential. Vague and general claims of confidentiality will not be accepted. Comptroller will be the sole judge of whether a claim is general and/or vague in nature. All Proposals and parts of Proposals that are not marked as confidential will be automatically considered public information after the Contract is awarded. A Proposal resulting in an award may be considered public information even though parts are marked confidential.

In the event Comptroller receives a request under the Texas Public Information Act for portions of a Proposal marked as "CONFIDENTIAL" as specified above, Comptroller shall forward such request to the Office of the Attorney General of the State of Texas (Attorney General) for an opinion on whether such information may be withheld from disclosure under the Texas Public Information Act. Comptroller will notify Respondent whose Proposal is the subject of the request when the information is forwarded to the Attorney General. Comptroller assumes no obligation for asserting legal arguments on behalf of Respondent. Respondents are advised that

Comptroller is obligated to comply with the decision of the Attorney General, including any such decision calling for the release of information marked “CONFIDENTIAL” by a Respondent.

Copyrighted Proposals are unacceptable and are subject to disqualification as non-responsive.

3.10 Media Releases

Comptroller does not endorse any vendor, commodity, or service. Media releases pertaining to this RFP, the Contract or the Services shall not be made without the prior written consent of Comptroller and then only in accordance with explicit written instructions from Comptroller. The disclosure of the contents of Proposals prior to the award of the Contract or any other violation of this section may result in disqualification.

3.11 Non-exclusivity

This RFP is not exclusive, and Comptroller reserves the right to issue additional solicitations regarding the Services or similar services at any time.

3.12 Term of Contract; Sample Contract

The initial term of the Contract shall begin on the Effective Date and terminate August 31, 2025 (“Initial Term”). In accordance with the terms of the Contract, Comptroller has the option, in its sole discretion, to extend the Contract for three (3) additional periods, one year at a time, as follows: September 1, 2026, through August 31, 2027; September 1, 2027, through August 31, 2028; and September 1, 2028 through August 31, 2029. Comptroller, in its sole discretion, may extend the Contract for six (6) months or for such additional time following the last period of renewal as Comptroller deems necessary to secure and transition to a new contract. “Contract Term” means the Initial Term plus any renewal periods or extensions following the last period of renewal.

A Contract shall be based on the Sample Contract included as Exhibit A and shall incorporate this entire RFP. The Sample Contract includes boilerplate provisions, and Comptroller reserves the right, in its sole discretion, to make a contract award without negotiation of these provisions. In the event Comptroller requires negotiations with Successful Respondent, any modifications or clarifications agreed to with Successful Respondent during contract negotiations shall also be incorporated into the final executed Contract. Each Respondent must review these terms and conditions in Exhibit A and otherwise in this RFP and address any concerns or issues in its transmittal letter. **Terms and conditions of this RFP and the Sample Contract not specifically objected to in the transmittal letter will be deemed to be accepted by Respondent.** Comptroller has final approval of any Contract.

Comptroller reserves the right, in its sole discretion, to modify the terms and conditions of the Sample Contract in the best interests of the State prior to signature by the parties. Notwithstanding any exceptions or any other provision of Respondent’s Proposal to the contrary, Successful Respondent shall indemnify Comptroller and the State of Texas, as specified in the Sample Contract. The State of Texas, Comptroller, and their respective employees, officers, agents, and representatives, will not indemnify Successful Respondent for any amount for any purpose, and any provisions to the contrary are void.

3.13 Incorporation of Exhibits

Exhibits A, B, C, D, E, F, G, and H are attached hereto and incorporated as part of this RFP for all purposes.

PART IV PROPOSAL FORMAT

4.1 Introduction

Each Proposal shall contain a cover sheet with the following: “RFP No. 909-24-1690KW for Texas Bead Program Management” and the name and address of Respondent.

Proposals must be organized as described in Section 4.2. Proposals not organized in this manner may be subject to disqualification. Conciseness and clarity of content are required; vague and general Proposals may be considered non-responsive and may result in disqualification. Proposals must be complete; failure to provide all required information may result in the disqualification of the Proposal.

ALL EXHIBITS TO THIS RFP ARE PREPARED EXCLUSIVELY FOR THIS RFP. RESPONDENT’S SUBMISSION OF OTHER EXHIBITS OR DOCUMENTS, INCLUDING PRIOR RFP EXHIBITS, MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.

4.2 General Organization of Proposal Contents

Proposals must be organized as follows:

- a) Transmittal Letter;
- b) Executive Summary;
- c) Table of Contents;
- d) Respondent Identifying Information;
- e) Proposed Subcontractor(s) Identifying Information;
- f) Respondent Qualifications and Experience;
- g) Proposed Personnel;
- h) Respondent Narrative;
- i) Mandatory Price Sheets 1, 2 and 3 and Optional Price Sheet 4 (if submitting);
- j) Texas BEAD Program Work Plan;
- k) Insurance;
- l) Financial Statements;
- m) Execution of Proposal;
- n) Historically Underutilized Businesses Subcontracting Plan;
- o) Criminal Conviction Certification;
- p) Nondisclosure Agreement;
- q) Conflict of Interest Statement; and
- r) Proposed Challenge Portal detailed information.

A description of the information required for each of the items listed above is set forth below.

4.2.A Transmittal Letter

Respondent must submit a transmittal letter that identifies the entity submitting the Proposal and includes a commitment by that entity to provide the Services. **The transmittal letter must state that the Proposal is valid for one hundred eighty (180) days from the deadline for delivery of Proposals to Comptroller. Any Proposal containing a term of less than one hundred eighty (180) days for acceptance *from this deadline* will be rejected as non-responsive.**

The transmittal letter must be signed by a person legally authorized to bind Respondent. Respondent also must indicate in its transmittal letter why it believes it is the most qualified to provide the requisite Services and why it believes its proposed services best meet Comptroller’s objectives and RFP requirements.

The transmittal letter must include a statement of acceptance of the terms and conditions of the Sample Contract (Exhibit A). If a Respondent takes exception to any of the proposed terms and conditions provided in the Sample Contract or otherwise in this RFP, then the exception(s) must be specifically and clearly identified in the transmittal letter and an explanation of the requested change along with the proposed alternative language must also be included in the transmittal letter. However, failure to accept those terms and conditions may result in disqualification of the Proposal.

4.2.B Executive Summary

Respondent must provide an executive summary of its Proposal and a representation that the Proposal addresses all of the requirements of this RFP. The executive summary must not exceed three (3) pages and must represent a full and concise summary of the contents of the Proposal. Respondent must identify any Services that are provided beyond those specifically requested. If Respondent is providing Services that do not meet the specific requirements of this RFP but in the opinion of Respondent are equivalent or superior to those specifically requested, any such differences must be noted in the executive summary. However, failure to provide the Services specifically required may result in disqualification of the Proposal.

4.2.C Table of Contents

Each Proposal must be submitted with a table of contents that clearly identifies and denotes by page number each section of the proposal and the location of all enclosures of the Proposal. The table of contents must follow the RFP's structure as much as possible. The table of contents must have hyperlinks corresponding to the sections and pages of the Proposal.

4.2.D Respondent Identifying Information

Respondent must provide the following identifying information:

- (1) name and address of business entity submitting the Proposal;
- (2) names of all principals;
- (3) type of business entity (*e.g.*, corporation, partnership);
- (4) state of incorporation or organization and principal place of business;
- (5) name and location of Texas offices, other major offices, and other facilities that relate to Respondent's performance under this RFP;
- (6) name, address, business telephone number, cell phone number, email address, and fax number of Respondent's principal contact person regarding the Contract;
- (7) Respondent's Federal Employer Identification Number ("FEIN" or "EIN") and Texas Tax Identification/Registration Number, if any;
- (8) all affiliated companies and subsidiaries, or any joint ventures or other affiliations;
- (9) full name and address for each member, partner, and employee of Respondent (and any subcontractors) who will perform Services;
- (10) detail of any firm ownership changes which have occurred in the last five (5) years, including changes pending; and
- (11) indicate whether it is currently a party to litigation in process; if so, identify the parties, jurisdiction, case number, and subject matter.

4.2.E Proposed Subcontractor(s) Identifying Information

The Proposal must identify any subcontractors and outline the contractual relationship between Respondent and each proposed subcontractor. Respondent must provide statements for each of its proposed subcontractors signed by an individual authorized to legally obligate each subcontractor and attesting to the fact that it will provide the Services as represented in Respondent's Proposal. Proposed subcontractors may be required to submit ownership information similar to that required of Respondents in the Section above. Respondent must disclose, at Comptroller's request, any information regarding proposed subcontractors.

4.2.F Respondent Qualifications and Experience

1. Experience

Respondent must include a detailed overview of Respondent's experience providing the Services in its Proposal, with a particular emphasis on serving governmental entities. Respondent must demonstrate its knowledge of and experience with activities relevant to the Services. Respondent must provide a detailed profile that describes the following:

- (1) the size and scope of all operations, including number of Respondent's employees and years in business;
- (2) the general nature of previous similar work performed by Respondent, particularly work in the last three (3) years;
- (3) Respondent's depth and length of experience with public sector entities;
- (4) For each proposed subcontractor:
 - a) the size and scope of all operations, including number of employees and years in business;
 - b) the general nature of previous similar work performed, particularly work in the last three (3) years;
 - c) depth and length of experience with public sector entities; and
- (5) any other information Respondent believes is pertinent to this RFP.

2. Cancellations, Terminations, and Non-renewals

Respondent must list **all** contracts or purchase orders that Respondent executed or accepted within the last five (5) years and which were canceled, terminated, or not renewed prior to completion by any state agency or other entity with which Respondent contracted. For each such contract or purchase order, Respondent must include a detailed explanation for the cancellation or termination and final resolution of the matter as well as the names and telephone numbers of each such agency's or firm's contact person. If none, specify none.

3. Vendor Reference Questionnaire (Questionnaire)

Respondent must send the Questionnaire (Exhibit G) to at least three (3) companies or government agencies (References). Instructions are included on the Questionnaire. Respondents may send the Questionnaire to References via email. Comptroller is not responsible for undeliverable emails or for non-responsive References. Respondents' References will be evaluated in accordance with Part V (Proposal Evaluation and Selection). Vendor must include all requested information in the top portion of the Questionnaire. References must respond to Comptroller on the form provided by the due date provided in the Anticipated Schedule of Events to be considered in Proposal evaluation. The Questionnaire must be submitted directly from the References to Comptroller. Respondents shall not submit the Questionnaire to Comptroller and Comptroller shall not consider such Questionnaires in Proposal evaluation. References may be contacted for clarification at Comptroller's discretion. Comptroller is not obligated to contact Respondent when Questionnaires are received or in the event a Reference submits incomplete information.

4.2.G Proposed Personnel

The Proposal must identify all key personnel, including a project manager for the Contract, who are to be part of the proposed team and detail their experience. Respondent must include in the Proposal résumés of all management, supervisory, and key personnel that will be involved in performing the Services, and must provide for each person:

- (1) a full name (including full middle name);
- (2) a five (5)-year employment history;
- (3) a specific description of relevant experience and skills that person has with this type of services, that must include at least three (3) years of experience performing work similar to the required Services (limit to one page);

- (4) a specific indication of what role the individual will have in this project, and
- (5) any additional pertinent information to indicate the individual's ability to aid Respondent in successfully completing the required Services (limit to one page).

In addition, Respondent must provide an organizational chart indicating lines of authority, names, titles, and functions of individuals responsible for the Services.

Résumés must present the required personnel information in sufficient detail to provide Comptroller with a convincing indication that the personnel involved can successfully provide the required Services. The key personnel, as identified in the Proposal, are considered to be essential to the Services. Comptroller reserves the right, in its sole discretion, to approve each member of the team and to request substitutions. All replacements of personnel must be of equal or superior experience or skill as the person replaced.

4.2.H Respondent Narrative

Respondent must prepare and include a narrative explanation of how the offered services will meet the requirements of this RFP. In its narrative, Respondent may also concisely describe any additional features, aspects, or advantages of its services in any relevant area not covered elsewhere in its Proposal.

4.2.I Mandatory Price Sheets

Respondent must provide line-item pricing for each service or deliverable in a format similar to Price Sheets 1, 2 and 3 of Section 5.5. Respondent must provide line-item pricing for each optional service offered in a format similar to Price Sheet 4 of Section 5.5. All price sheets must be signed and dated by an authorized signatory of Respondent. Optional features, products or services will not be considered in evaluation under Section V.

4.2.J Texas Bead Program Project Work Plan

All Respondents must submit an initial project work plan describing how Respondent will provide the Services in accordance with the requirements set forth in Section II, Scope of Work on this RFP, including a proposed timeline for each task. For specific written deliverables, Respondent must include the expected completion date for each deliverable.

4.2.K Insurance

In its Proposal, Respondent must provide a statement of its intent to obtain and maintain for the Contract Term the minimum insurance and bond coverage specified in Exhibit A (Sample Contract). Respondent should also describe other insurance coverage maintained by Respondent in the ordinary course of business and provide proof of same in its Proposal. Proof of insurance and bond coverage may be provided in the form of current certificates of insurance.

4.2.L Financial Statements

In its Proposal, Respondent and its parent company, if applicable, must provide evidence of financial stability by providing audited financial statements for each of the last two (2) years of Respondent's operations or, in the alternative, financial statements compiled, reviewed and attested by an independent certified public accountant or certified public accounting firm.

In lieu of providing the financial statements described above in its Proposal, a Respondent may provide a statement regarding the Respondent's financial stability and viability to perform under any resulting contract. If Respondent elects this approach rather than audited financial statements, the Respondent must submit a statement, with appropriate supporting documentation, sufficiently detailed to demonstrate financial solvency, and to verify the capacity to fulfill the requirements of this RFP.

4.2.M Execution of Proposal

Exhibit B must be completed and signed by Respondent.

4.2.N Historically Underutilized Businesses Subcontracting Plan (HUB)

The State of Texas and Comptroller are committed to assisting Historically Underutilized Businesses (HUBs) through the procurement process. In accordance with Sections 2161.181 and 2161.182, Texas Government Code, each state agency shall make a good-faith effort to increase the contract awards for the purchase of goods or services to HUBs based on rules adopted to implement the disparity study described by Section 2161.002(c), Texas Government Code. In accordance with Section 2161.252 of the Texas Government Code and 34 Texas Administrative Code §20.285, each state agency that considers entering into a contract with an expected value of \$100,000 or more over the life of the contract (including any renewals) shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. If subcontracting opportunities are probable, each state agency's invitation for bids, requests for proposals, or other purchase solicitation documents with an expected value of \$100,000 or more shall state that probability and require a Historically Underutilized Business (HUB) Subcontracting Plan (HSP).

The HUB goals per 34 Texas Administrative Code §20.284 are: 11.2% for heavy construction other than building contracts; 21.1% for all building construction, including general contractors and operative builders contracts; 32.9% for all special trade construction contracts; 23.7% for professional services contracts; 26.0% for all other services contracts; and 21.1% for commodities contracts.

Comptroller has determined that this procurement falls under the following category:

Special Trade Construction ___ Professional Services _ Other Services X Commodities ___

Comptroller has determined that HUB subcontracting opportunities are probable and requires Respondents to complete the HSP form located at: <https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>. The HSP form is also posted to the ESBD as separate Bid Attachment #2 under this RFP. Comptroller has identified the possible subcontracting opportunities on the "Agency Special Instructions/Additional Requirements" portion of the State of Texas HUB HSP form set forth below, as well as the Commodity class and item codes:

-- Agency Special Instructions/Additional Requirements --

The Texas Comptroller of Public Accounts is committed to increasing contracting opportunities with HUBs by contracting directly with HUBs or indirectly through subcontracting opportunities in compliance with Chapter 2161 of the Texas Government Code, and by requesting a HSP for contracts with an expected value of \$25,000 to \$99,999.

If a bid/proposal/offer to a solicitation with an expected value of \$100,000 or more does not contain a completed HSP and supporting documentation, the bid/proposal/offer will be considered non-responsive and will be disqualified. After contract award, Successful Respondent may be subject to debarment pursuant to Section 2161.253(d) of the Texas Government Code if any modifications are made to the HSP without PRIOR approval from CPA.

For assistance in completing the HSP, Respondent may visit the following website: <https://comptroller.texas.gov/purchasing/vendor/hub/>.

If Respondent is not subcontracting any portion of the Contract, Sections 1, 2(a), 3 and 4 must be completed.

If Respondent is subcontracting some portion of the Contract, the supporting documentation of "Good Faith Effort" must be demonstrated in either Method A (Attachment A) or Method B (Attachment B) of the HSP form.

The Texas Comptroller of Public Accounts requests all Respondents to consider utilizing HUBs in subcontracting areas that are listed below; however, this list should not be considered exhaustive.

	Class	Item	Description	
	958	00	Management and Operation Services	
	958	77	Project Management Services	
	946	49	Financial Services (Not Otherwise Classified)	
	946	52	Grant Writing Services	
<p>In accordance with 34 TAC §20.285(d)(1)(D)(iii), a Respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of Respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a Respondent uses this method to demonstrate good faith effort, the Respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal.</p>				

4.2.O Criminal Conviction Certification

Respondent must complete, sign and date, and return Exhibit C with its Proposal.

4.2.P Nondisclosure Agreement

Respondent must complete, sign and date, and return Exhibit D with its Proposal.

4.2.Q Conflict of Interest Statement

Respondent must prepare, sign and date, and return Exhibit E with its Proposal.

In its Proposal, a Respondent must represent and warrant to Comptroller that it and each of its subcontractors have the requisite resources, qualifications, and independence to conduct the Services free from outside direction, control, or influence, and subject only to the accomplishment of Comptroller's objectives. Respondents that cannot make this representation and warranty should not respond to this RFP.

Respondent must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to the submission of a Proposal from Respondent and its possible selection as Successful Respondent, or its performance or the performance of its proposed subcontractor(s) of the Contract.

As part of this disclosure requirement, each Respondent must include in its Proposal all past and present contractual, business, financial or personal relationships between Respondent and Comptroller and between Respondent's proposed subcontractors, if any, and Comptroller. For purposes of this disclosure requirement, (i) "past" is defined as within the two (2) calendar years prior to the deadline for submission of Proposals; (ii) "Comptroller" is defined as the statewide elected official who heads the agency as well as the agency's employees or recent former employees; and (iii) "recent former employees" are defined as those Comptroller employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of Proposals. For each item, Respondent must provide a detailed explanation of why Respondent does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Respondent's submission of a Proposal, possible selection as Successful Respondent or its performance of the Contract.

For purposes of this RFP, "personal relationship" is defined as a current or past connection other than a clearly contractual, business, financial, or similar relationship and includes family relationships or other connections outside simply providing a Proposal. For this purpose, "family relationship" means a relationship within the third degree of consanguinity or second degree of affinity (see Chapter 573 of the Texas Government Code) which defines these degrees of consanguinity and affinity. Connections other than such family relationships fall within this definition and must be disclosed if a reasonable person could expect the connection to diminish Respondent's independence of judgment or effectiveness in the performance of Respondent's responsibilities to Comptroller or the State under the Contract. Connections also fall within this definition if a reasonable person could expect the

connection, within the overall context of Respondent's submission of a Proposal, possible selection as Successful Respondent, or its performance of the Contract, to create an issue for the agency's consideration relative to a potential appearance of impropriety or conflict of interest. Connections also fall within this definition if the relationship is with Comptroller or other State of Texas employee with authority to make decisions or recommendations on state contracting or procurement or this RFP. For purposes of this provision, those persons with authority to make decisions or recommendations are those persons who fall within the definition of "purchasing personnel" in Section 2262.004(a)(2) of the Texas Government Code.

In submitting a Proposal, a Respondent affirms that it has not given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement.

Respondents must disclose any proposed personnel under the contract who are current or recent former employees of Comptroller or the State. Recent former employees are defined above.

Disclosures under these provisions are information that will be evaluated by Comptroller. However, all information provided will not necessarily lead to a restriction or disqualification. Issues will be considered on a case-by-case basis in the best interests of the State of Texas. If a Respondent is in doubt about whether information should be disclosed, Respondent should consult its legal counsel. Failure to disclose any required information under these provisions may be cause for Proposal disqualification or termination of the Contract. Comptroller reserves the right, in its sole discretion, to determine if an issue should result in Proposal disqualification or termination of the Contract. If circumstances change or additional information is obtained subsequent to submission of Proposals, Respondent's duty to disclose under these provisions continues under the term of the Contract and does not end with submission of a Proposal or receipt of Contract award.

4.2.R Proposed Challenge Portal Detailed Information. Respondent must provide detailed information about its proposed Challenge Portal with its Proposal. Because only top-scoring Respondents will be chosen to provide a presentation prior to Contract award, if any, and must demonstrate the proposed Challenge Portal in their presentations, all Respondents are encouraged to provide sufficient detail about their proposed Challenge Portal for scoring under Section 5.2 (Selection Criteria). Prior to Contract award or payment, as applicable, the Challenge Portal will be subject to inspection and testing by CPA. Respondents will bear all costs of any testing. See Section 5.5 (Mandatory Price Sheets) and Exhibit A (Sample Contract), Section 15.63.

PART V PROPOSAL EVALUATION AND SELECTION

5.1 Evaluation Process

Comptroller shall establish an Evaluation Committee. Copies of those Proposals found to be responsive and compliant with this RFP will be distributed to the members of the Evaluation Committee for their review and evaluation. Clarifications on issues raised in the Proposals may be sought from individual Respondents. Best and Final Offers may be sought from Respondents whose Proposals are ranked most highly by the Evaluation Committee, though Respondents are encouraged to offer their best Proposals and pricing at all times.

Comptroller may request that top-scoring Respondents present an overview of the proposed services. If CPA requests presentations, BDO requires a demonstration of the proposed Challenge Portal. The number of top-scoring Respondents selected to provide presentations will be determined by Comptroller in its sole discretion. Such Respondents will be notified and presentation location (*e.g.*, videoconference, onsite, etc.) and date(s) and time(s) will be arranged. A second round of scoring of presenting Respondents is expected after the presentations.

Upon the selection of Successful Respondent, Comptroller shall proceed with contract negotiations and attempt to finalize a Contract with the apparent Successful Respondent. If a Contract cannot be successfully negotiated within a reasonable period of time, negotiations will be terminated, and negotiations with the next highest-ranking Respondent may commence. The process may continue until a Contract is signed or the RFP is withdrawn. However, Comptroller may at any time, upon failure of negotiations, choose to reissue or withdraw the RFP rather

than continue with negotiations. As soon as possible after the execution of a written Contract with Successful Respondent, all other Respondents shall be provided with formal notification. In Comptroller's sole discretion, Comptroller may enter into Contracts with multiple Successful Respondents.

5.2 Selection Criteria

Only those Proposals that meet the minimum qualifications shall be evaluated and scored. The evaluation of the Proposals will be conducted in accordance with the best value standard set forth in Section 2156.125 of the Texas Government Code. The criteria and relative weights are as follows:

Respondent Qualifications, Experience and Performance:	Weight: 35%
Respondent Individual Personnel Qualifications and Experience:	Weight: 15%
Respondent's Project Work Plan:	Weight: 25%
Proposed Costs/Fees (Using Standard Deviation Formula):	Weight: 10%
Reasonableness of Cost (Assessed after Initial Evaluation):	Weight: 15%

Total Possible Credit for All Evaluation Criteria = 100 Points

Comptroller reserves the right to award to Respondent that best meets Comptroller's needs. Comptroller may elect to award multiple awards and/or partial awards under this RFP based on the type of Services proposed and the specific needs of Comptroller.

5.3 Respondent's Past Performance

Comptroller may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (VPTS) as authorized by 34 Texas Administrative Code §20.115, Comptroller 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. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, Comptroller may initiate such examinations of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of Comptroller, and any negative findings, as determined by Comptroller, may result in a non-award to Respondent. VPTS information is located on Comptroller's website at: <https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>.

5.4 Protest Procedures

Respondents must use the protest procedures adopted by Comptroller at 34 Texas Administrative Code §1.72 in the event of a protest.

5.5 Mandatory Price Sheets

Respondent must include all costs for providing the Services for the items listed on the Mandatory Price Sheets. Unless otherwise noted, CPA requests that Respondents quote costs as an annual fee; however, CPA may, in its sole discretion, authorize payments on a monthly basis. CPA will not prepay any amounts. The Contract not-to-exceed prices associated with the Services shall be inclusive of all travel, meals, lodging or other related expenses. Written deliverables in Price Sheet 3 will be paid individually upon completion and after BDO's acceptance of an item as complete.

This Mandatory Price Sheet consists of four (4) Price Sheets:

- (1) Texas BEAD Program Management Fee.
- (2) Challenge Portal.
- (3) Written Deliverables.
- (4) Optional Features, Products, or Services.

Price Sheet 1				
Texas BEAD Program Management (See Section II)				
Description	Initial Term (Effective Date– 8/31/2025)	Optional Renewal Terms		
		(9/01/2025- 8/31/2026)	(9/01/2026- 8/31/2027)	(9/01/2027- 8/31/2028)
Program Management Fee	\$	\$	\$	\$
Call line and support during BEAD Challenge Process and Subgrantee Selection Process	\$	\$	\$	\$

Price Sheet 2		
Challenge Portal (See Section II)		
Description	No. of Items	*Price
Challenge Portal	1	\$

Price for the Challenge Portal may be invoiced by Successful Respondent upon written acceptance by CPA under Exhibit A, Section 15.63.

THIS FORM MUST BE COMPLETED, SIGNED AND DATED AND SUBMITTED WITH PROPOSAL

Respondent's name: _____ **Date:** _____

Price Sheet 3 Written Deliverables (See Section II)				
Item	Section #	Description	Proposed Completion Date	*Price
1	2.1.1	SOP-BEAD Challenge Process		\$
2	2.1.2	SOP-Subgrantee Selection Process		\$
3	2.1.3	SOP-State Application Challenge Process		\$
4	2.1.4	SOP-EHP		\$
5	2.1.5	SOP-Texas BEAD Program Match		\$
6	2.1.6	SOP-Applicant Support		\$
7	2.1.7	NTIA written project management plan		\$
8		NITA written policies, procedures, and/or processes to ensure timely and accurate submission of project performance and financial reports.		\$
9		NTIA written property management policies, procedures, or processes		\$
10		NTIA list of inventories of all equipment purchased with grant funds		\$
11		NTIA written subrecipient management policies, procedures, or processes		\$
12		NTIA list of subrecipients funded by the grant, including their roles in executing the grant/subaward agreements.		\$
13		NTIA written subrecipient risk assessment and monitoring plan; documentation/artifacts from subrecipient monitoring visits.		\$
14	2.1.8	Final State of Texas BEAD Challenges Report and list of Subgrantees		\$
Total			N/A	\$

*Price Sheet 3 Written Deliverables to be invoiced by Successful Respondent upon completion of each item.

Price Sheet 4 Optional Services (See Section II)				
Item	Section #	Description	Proposed Completion Date	*Price
1				\$
2				\$

THIS FORM MUST BE COMPLETED, SIGNED AND DATED AND SUBMITTED WITH PROPOSAL

Respondent's name: _____ **Date:** _____

EXHIBIT A
SAMPLE CONTRACT

**TEXAS BROADBAND EQUITY ACCESS AND DEVELOPMENT (BEAD)
PROGRAM MANAGEMENT AGREEMENT
BETWEEN
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
AND
[CONTRACTOR]**

This Agreement (Contract) to provide Texas Broadband Equity Access and Development (BEAD) Program (“Texas BEAD Program”) Management is entered into by and between the Texas Comptroller of Public Accounts (“Comptroller” or “CPA”), an agency of the State of Texas, and _____ (Contractor), located at _____ (each a “Party” and together “the Parties”).

I. Recitals

Whereas, Comptroller issued a Request for Proposals No. 909-24-1690KW on [date], its Official Response to Questions from Potential Respondents on [date], and Addendum(s) on [date] (collectively, the “RFP”) from qualified persons or entities interested in providing Texas Bead Program Management as set forth in the RFP;

Whereas, Contractor submitted a proposal on or before [Date], in response to Comptroller’s RFP (Proposal);

Whereas, Contractor was selected as a Successful Respondent;

Whereas, under this Contract, Contractor shall fully comply with all terms, conditions, requirements and other provisions of this Contract, including those set forth in the Attachments attached hereto and incorporated herein for all purposes; and

Whereas, in consideration of Contractor’s compliance with all requirements of this Contract, Comptroller awards this Contract to the Contractor.

Now, therefore, the Parties hereby agree as follows.

II. Authority

This Contract is entered pursuant to the authority granted in Chapter 2155; Chapter 403; and Chapter 490I of the Texas Government Code.

III. Services

Contractor shall provide to Comptroller all of the services and deliverables described in and in the manner required by all of the following documents (Services) as attached hereto and incorporated as part of this Contract for all purposes. All terms and conditions of Comptroller’s RFP shall apply unless otherwise provided in this Contract. In the case of conflicts between this Contract and any of the listed Attachments to this Contract, the documents shall control in the following order of priority:

1. This Contract (without attachments)
2. Attachment A: Comptroller’s RFP
3. Attachment B: Federal Terms and Conditions
4. Attachment C: Standards of Performance

5. Attachment D: Texas BEAD Program Project Work Plan
6. Attachment E: Personnel and Compensation
7. Attachment F: Summary of Services and Templates
8. Attachment G: HUB Subcontracting Plan
9. Attachment H: Contractor's Proposal
10. Attachment I: Confidential Treatment of Information Acknowledgement

Contractor's performance under this Contract is limited to the requirements set forth in this Contract, including services reasonably related to satisfying those requirements. The requirements set forth in this Contract include, but are not limited to, compliance with all Standards of Performance set forth in Attachment C.

Contractor represents and warrants that it has the requisite qualifications, experience, personnel and other resources to provide all of the required Services to Comptroller in the manner required by this Contract. Comptroller shall look solely to Contractor for performance of this Contract. Contractor shall provide the Services under the direction of Comptroller. Contractor shall be the sole point of Contract responsibility. Contractor shall be liable, both individually and severally, for the performance of all obligations under this Contract, and shall not be relieved of the non-performance of any subcontractor.

Contractor understands that this Contract is not exclusive and Comptroller may issue additional solicitations and/or award additional contracts for these or other services at any time.

IV. Personnel; Subcontractors

Contractor shall act as an independent contractor in providing Services. Contractor's employees shall not be construed as employees of Comptroller in providing Services. Contractor shall assign to this Contract only those persons as Key Employees or subcontractors who are approved by BDO ("Authorized Personnel"). "Key Employees" are those essential to providing the Services. Contractor shall assign only qualified personnel to this Contract. Where appropriate, qualified personnel shall be duly licensed and in good standing in their governing jurisdiction and not be subject to any pending disciplinary proceeding, suspension, expulsion, limitation from practice or similar ineligibility determined by any professional self-regulatory, federal, state, or local authority. Comptroller reserves the right, in its sole discretion, to approve each of Contractor's personnel and to request substitution. As of the date of Comptroller's execution of this Contract, BDO has authorized the personnel listed in Attachment E to provide Services.

Contractor shall provide to Comptroller prior written notice of any subcontract or proposed change in Authorized Personnel providing Services. In the event Contractor intends to add, replace, or substitute Authorized Personnel during the Contract Term, Contractor shall provide Comptroller with résumés of the proposed individuals. All proposed substitutions and replacement personnel must be of equal or superior experience or skill as the person replaced. Comptroller will provide Contractor with written notice of approval or rejection of proposed personnel within three (3) business days following receipt of the résumé. No additions, substitutions or replacements of Authorized Personnel will be made without the prior written consent of Comptroller. Authorized Personnel are subject to removal from the Contract by Comptroller. Contractor represents and warrants that each of the Authorized Personnel, and any substitute or replacement personnel assigned after the Effective Date, have the training, qualifications, education and experience to provide the Services.

In no event shall any provision of this Section, including, but not limited to, the requirement that Contractor obtain the prior approval of Comptroller on Contractor's subcontracts, be construed as relieving Contractor of the responsibility for ensuring that all Services rendered under its subcontracts comply with all the terms and provisions of this Contract as if they were rendered by Contractor. Contractor shall furnish Comptroller with copies of all proposed subcontracts and all proposed amendments, assignments, cancellations or terminations of said subcontracts no later than thirty (30) days prior to the proposed effective date of such contracts, amendments,

assignments, cancellations or terminations.

V. Funding; Legislative Action

Comptroller's performance of its obligations under this Contract is contingent upon and subject to the availability of and actual receipt by Comptroller of sufficient and adequate funds from the sources contemplated by this Contract. This Contract is subject to immediate cancellation or termination, without penalty to Comptroller or the State of Texas, subject to the availability and receipt of these funds. In addition, Comptroller is a state agency whose authority, revenue and funding sources and appropriations are subject to the actions of the Texas Legislature. If Comptroller becomes subject to a Federal or state legislative change, revocation of statutory authority or lack of funds that would render the Services impossible or unnecessary, Comptroller may terminate this Contract without penalty to Comptroller or the State of Texas. In the event of a termination or cancellation under this Section, Comptroller shall not be required to give notice and shall not be liable for any damages or losses caused by or associated with such termination or cancellation.

VI. Evaluation and Written Acceptance

Prior to authorizing any compensation under Section VII of this Contract, Comptroller shall evaluate Contractor's performance against the Standards of Performance and all other requirements provided in this Contract. Prior to authorizing any such payments, Comptroller shall evaluate and provide written notice of Comptroller's acceptance or rejection of Contractor's services.

VII. Payments

Contractor's total compensation under this Contract shall not exceed \$xxx (the "Maximum Amount"), as per the rates or amounts set forth in Attachment E. This compensation is all inclusive and shall include all expenses incurred by Contractor, except travel expenses as set forth in Attachment E. Unless expressly allowed elsewhere in this Contract or approved by the Comptroller, Comptroller shall pay no amounts under this Contract for any amount for any purpose to Contractor or any other person or entity.

In submitting its invoices, Contractor acknowledges and by execution of this Contract certifies to the following: all invoices submitted by Contractor have been carefully reviewed for detailed description of the Services performed; that the Services have been performed in compliance with this Contract; the amounts shown on the invoices are based on the agreed upon fees set out forth in Attachment E; the amounts shown on the invoices are reasonable and necessary; and all appropriate and required supporting documentation is attached. Comptroller may, in its sole discretion, require additional documentation to support payment, and Contractor shall respond to any such requests within five (5) business days of receipt. Comptroller does not guarantee any specific amount of compensation under this Contract.

Any payments shall be made in accordance with Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. Comptroller shall not pay any amounts for any purpose to Contractor or any other entity, except as expressly provided for in this Contract. Comptroller reserves the right to make payments only upon receipt of a correct invoice including all of the required supporting documentation. Comptroller also reserves the right to refuse payments for invoices that exceed the rates specified in this Contract.

VIII. Term and Termination

8.1 Term. This Contract shall become effective on the date signed by Comptroller, after having first been signed by the Contractor (the "Effective Date"), and shall terminate on August 31, 2025 (Initial Term), unless otherwise sooner terminated as provided in this Contract. Comptroller shall have the right, in its sole discretion, to renew this Contract for three (3) additional one-year periods through August 31, 2028. These additional one (1) year periods are September 1, 2025 through August 31, 2026; September 1, 2026 through August 31, 2027; and September 1, 2027 through August 31, 2028. The "Contract Term" means the Initial Term plus any additional periods or extensions. Comptroller, in its sole discretion, may extend the Contract for six (6) months or for such additional time following the last period of renewal as Comptroller deems necessary to secure and transition to a

new contract. All terms of the Contract shall apply during the Contract Term. Notwithstanding the termination or expiration of this Contract, all provisions of this Contract that by their nature are intended to survive termination or expiration of the Contract shall survive, included but not limited to provisions regarding confidentiality, transition, indemnification, payments, records retention, property rights, data safeguards and confidentiality, and dispute resolution.

8.2 Termination for Cause. Without limitation on the right of Comptroller to terminate this Contract pursuant to its terms, Comptroller reserves the right, in its sole discretion, to terminate this Contract, in whole or in part, upon any one of the following conditions, any of which constitute an “Event of Default”:

- (i) A receiver, conservator, liquidator, or trustee of Contractor, or of any of its property is appointed by order or decree of any court or agency or supervisory authority having jurisdiction; or an order for relief is entered against Contractor, under Title 11 of the United States Code; or Contractor is adjudicated bankrupt or insolvent; or any portion of the property of Contractor is sequestered by court order and such order remains in effect for more than thirty (30) days after such Party obtains knowledge thereof; or a petition is filed against Contractor under any state, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect, and such petition is not dismissed within thirty (30) days;
- (ii) Contractor files a case under the Title 11 of the United States Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law;
- (iii) Contractor makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of Contractor or of all or any part of its property.
- (iv) Judgment for the payment of money in excess of \$50,000 (which is not covered by insurance) is rendered by any court or governmental body against Contractor, and Contractor does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within thirty (30) days from the date of entry thereof, and within said thirty (30) day period or such longer period during which execution of such judgment shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal while providing such reserves therefor as may be required under generally accepted accounting principles; or a writ or warrant of attachment or any similar process shall be issued by any court against all or any material portion of the property of Contractor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) days after its entry;
- (v) A court of competent jurisdiction finds that Contractor has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction;
- (vi) A license necessary for Contractor to perform its obligations under this contract is revoked or suspended.
- (vii) Contractor fails to communicate with Comptroller as required by the Contract;
- (viii) Contractor breaches an industry standard of confidentiality related to the Contract;
- (ix) Comptroller determines that Contractor or any of its subcontractors have an unacceptable conflict of interest and such conflict is not cured within ten (10) calendar days following notification thereof to Contractor;
- (x) Comptroller determines that Contractor has failed or refused to perform, is negligent in performing, or is unable to perform or it reasonably appears that Contractor will not perform any of the duties or obligations

as provided under this Contract, or fails or refuses to perform consistent with the statements, promises and commitments made by Contractor during the solicitation process, and has not cured such performance defect within thirty (30) days of receipt of written notice from Comptroller of such performance defect or the actual deadline for performing, whichever occurs last;

(xi) If Contractor fails to notify Comptroller in writing of a “material adverse change” experienced by Contractor or any subcontractor during the term of this Contract or any extension thereof, at the time the change occurs or is identified. The term “material adverse change” shall mean: (i) any actual or anticipated change in control, ownership or executive management of Contractor or any subcontractors for which Comptroller has not provided advance written consent; (ii) any actual or anticipated legal or administrative investigations or proceedings initiated against Contractor or subcontractors regardless of the jurisdiction from which such proceedings originate; or (iii) any change or changes that individually or in the aggregate are materially adverse to (1) the net assets in an amount of fifteen percent (15%) or more, properties, business, security, results of operations or financial condition, taken as a whole, of Contractor or any subcontractor, (2) the ability of Contractor or subcontractors to perform its or their obligations under this Contract, or (3) the legality or enforceability against Contractor or subcontractors;

or

(xii) Material non-compliance by Contractor, as determined in Comptroller’s sole discretion, with any of the Standards of Performance of the Contract not cured within thirty (30) days from the date CPA notifies Contractor in writing of the non-compliance.

8.3 Termination for Convenience. As required by 2 Code of Federal Regulations (CFR) 200 relating to federally funded contracts, Comptroller may, in its sole discretion, terminate or cancel the Contract with thirty (30) calendar days’ written notice to Contractor.

8.4 Termination Remedies. Upon an Event of Default, Comptroller, without limiting any other rights or remedies it may have by law, equity, or under this Contract, will have the right to institute an action for actual damages and/or injunctive relief and/or to terminate the Contract immediately. Comptroller’s termination of this Contract shall not limit or waive any remedies Comptroller may have for breach by Contractor of its past, present, or future duties and obligations created by this Contract or otherwise required by applicable law, including 2 CFR 200.

All remedies available to Comptroller for breach or anticipatory breach of this Contract by Contractor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Comptroller will be entitled to liquidated damages, actual damages, cost projections, injunctive relief and/or performance bonds may either separately or combined with any other remedy in accordance with applicable law.

8.5 Transition. Upon termination of the Contract for any reason, Contractor shall assist with and fully cooperate with Comptroller in good faith to ensure a timely and secure transition to a new arrangement and provider with Contractor delivering records to Comptroller or Comptroller’s designee in a commercially usable format. This obligation shall survive the termination or expiration of this Contract and shall be a continuing obligation. Additionally, this transition obligation shall be provided by Contractor without Comptroller or the State of Texas being subject to additional costs or fees of any kind for transition costs. Rather, Comptroller shall continue to pay Contractor the fees in effect when the Contract terminated, prorated as needed, for any transition period. Comptroller, in its sole discretion, may extend the Contract for up to six (6) months after its termination at the same fees in effect on the date of termination. In accordance with Section 15.45 of this Contract, Contractor shall deliver to Comptroller all completed, or partially completed, work and any and all documentation or other products and results of the Services.

8.6 No Liability Upon Termination. If this Contract is terminated for any reason, Comptroller 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. In the event of termination of this Contract, Comptroller's sole and maximum obligation shall be to authorize payment to Contractor for previously authorized services, performed in accordance with all requirements of this Contract, up to the termination date, including any transition period.

IX. Confidentiality and Open Records

Contractor shall comply with the provisions of the Nondisclosure Agreement, Exhibit D, at all times. Contractor shall take all necessary and appropriate action to safeguard all sensitive data and other confidential information from unauthorized disclosure. Whenever the transmission of confidential information is necessary, Contractor shall transmit the information electronically and such electronic transmission shall be secure and the data encrypted, at a minimum, using 128 AES encryption to protect it from unauthorized disclosure.

Notwithstanding any provisions of this Contract to the contrary, Contractor understands that Comptroller will comply with the Texas Public Information Act, Chapter 552 of the Texas Government Code, as interpreted by judicial opinions and opinions of the Attorney General. Within three (3) days of receipt, Contractor shall refer to Comptroller any third-party requests received directly by Contractor for information to which Contractor has access as a result of or in the course of performance under this Contract. Contractor is required to make any information created or exchanged with Comptroller pursuant to this Contract, and not otherwise excepted from disclosure under this Contract or the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to Comptroller. In order to comply with such requirement, any information created or exchanged with Comptroller shall be in Word, Excel, or PDF format, as applicable.

In accordance with Section 552.372 of the Texas Government Code, Contractor agrees to: (1) preserve all contracting information related to this Contract as provided by the records retention requirements applicable to Comptroller for the duration and retention period of this Contract; (2) promptly provide to Comptroller any contracting information related to this Contract that is in the custody or possession of Contractor on request of Comptroller; and, (3) on termination or expiration of this Contract, either provide at no cost to Comptroller all contracting information related to this Contract that is in the custody or possession of Contractor or preserve the contracting information related to this Contract as provided by the records retention requirements applicable to Comptroller.

X. Insurance

Contractor represents and warrants that it shall, within five (5) business days of executing this Contract and annually thereafter, provide Comptroller with current written certificates of insurance or other acceptable proof of the following insurance coverages for Contractor and Contractor's employees:

1. Blanket Employee Dishonesty Bond or Employee Dishonesty Coverage under a liability insurance policy with a minimum \$25,000 for each individual who will provide Services. A rider or endorsement shall name the Texas Comptroller of Public Accounts as loss payee or additional named insured under the respective bond or policy;
2. Standard Workers Compensation Insurance covering all personnel who will provide services under this Contract;
3. Commercial General Liability Insurance: \$3,000,000 minimum each occurrence limit; \$5,000,000 minimum aggregate limit; and
4. Professional Liability Insurance: \$5,000,000 per claim and in the aggregate. Professional Liability Insurance includes cyber liability coverage that addresses Successful Respondent's liability, including indemnification and other obligations, in the performance of Services for: (a) unauthorized access or use of a computer system or network; (b) denial of service attacks; (c) receipt or transmission of malicious code; (d) failure to protect confidential, personal or corporate information; (e) wrongful collection of confidential, personal or corporate information; and (f) violation of privacy laws, statutes or regulations in connection with an event described in (d) or (e).

Contractor represents and warrants that all of the above coverages are with companies licensed in the State of Texas with “A” rating from A.M. Best Company and authorized to provide the corresponding coverages. Contractor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days’ written notice to Comptroller. Contractor represents and warrants that it shall maintain all of the above insurance coverages during the entire term of this Contract. Contractor shall provide proof of required insurance coverage via email referencing the RFP number submitted to the following address: contract.administration@cpa.texas.gov.

XI. INDEMNIFICATION

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE STATE OF TEXAS, AND COMPTROLLER, 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 THIS CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH 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 ATTORNEY GENERAL. CONTRACTOR AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

XII. LIQUIDATED DAMAGES

[The Contract’s liquidated damages provisions shall be subject to negotiation and will, upon agreement of the Parties, be included and incorporated for all purposes into this Contract. The amounts set forth below are subject to final negotiation and may be revised.]

In submitting an Proposal, Contractor agrees that the measure of damages in the event of its default or breach of contract may be difficult or impossible to calculate. In the event Contractor fails to perform Services or complete the obligations under this Contract in a timely manner, CPA may require Contractor to pay, as liquidated damages and not as a penalty, an amount equivalent to two percent (2%) of the total cost for Services or obligations not completed as required by this Contract per calendar day of delay. CPA may impose, but is not obligated to impose, these liquidated damages in lieu of any monetary damages available to CPA under the Contract or applicable law.

The Parties agree and acknowledge that the amounts of liquidated damages set forth in this Section XII are not intended to be in the nature of a penalty, but are intended to be a reasonable estimate of the amount of damages to Comptroller in the event of the nonperformance or underperformance by Contractor, as determined in Comptroller’s sole discretion. Notwithstanding Comptroller’s assessment of liquidated damages pursuant to this Section XII, if Comptroller shall determine, in its sole discretion, that Contractor’s failure to perform is continuing unabated or otherwise is likely to significantly and adversely affect Comptroller, Comptroller may elect to pursue one or more other remedies available hereunder, including but not limited to, the termination of the Contract, filing a claim against Contractor’s appropriate insurance coverage or any other remedies available to Comptroller under this Contract, applicable law, or in equity. Comptroller does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of contract by Contractor.

XIII. Dispute Resolution

Chapter 2260 of the Texas Government Code (“Chapter 2260”) prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. As required by Chapter 2260, Comptroller has adopted rules under Chapter 2260, codified at 34 Texas Administrative Code §§1.360 – 1.387, and may adopt revisions to these rules throughout the term of this Contract, including any extensions. Contractor shall comply with such rules.

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used, as further described herein, by Comptroller and Contractor to attempt to resolve any claim for breach of contract made by Contractor under this Contract:

- (i) Contractor's claim for breach of this Contract that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of Comptroller and Contractor otherwise entitled to notice under this Contract. Compliance by Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- (ii) The contested case process provided in Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller if the Parties are unable to resolve their disputes under subparagraph (i) of this Section.
- (iii) 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 of the Texas Civil Practice and Remedies Code. Neither the execution of this Contract by Comptroller nor any other conduct of any representative of Comptroller relating to this Contract shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Contract not subject to Chapter 2260, the following shall apply:

Should a dispute arise out of this Contract, Comptroller and Contractor shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the Parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by Comptroller and Contractor within fifteen (15) days after written notice by one of them demanding mediation under this Section. Contractor shall pay all costs of the mediation unless Comptroller, in its sole good faith discretion, approves its payment of all or part of such costs. By mutual agreement, Comptroller and Contractor may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that Comptroller and Contractor shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Comptroller's participation in or the results of any mediation or another non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by Comptroller of (i) any rights, privileges, defenses, remedies or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller; (ii) Comptroller's termination rights; or (iii) other termination provisions or expiration dates of this Contract.

Notwithstanding any other provision of the Contract to the contrary, 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, Contractor may suspend performance during the pendency of such claim or dispute if Contractor has complied with all provisions of Section 2251.051 of the Texas Government Code and such suspension of performance is expressly applicable and authorized under that law.

XIV. Property Rights

For purposes of this Contract, the term "Work" is defined as all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the Services. Comptroller and Contractor intend this Contract to be a contract for services and each considers the Work and any and all documentation or other products and results of the services to be rendered by Contractor to be a work made for hire. Contractor acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of Comptroller.

If for any reason the Work would not be considered a work-for-hire under applicable law, Contractor does hereby

sell, assign, and transfer to Comptroller, its successors and assigns, the entire right, title and interest in and to all copyright and other intellectual property rights in and to the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Contractor agrees to execute all papers and to perform such other property rights as Comptroller may deem necessary to secure for Comptroller or its designee the rights herein assigned.

In the event that Contractor has any rights in and to the Work that cannot be assigned to Comptroller, Contractor hereby grants to Comptroller an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, such rights to make, have made, use, sell and offer for sale any products developed by practicing such rights, and to otherwise use such rights, with the right to sublicense such rights through multiple levels of sublicenses.

Contractor and Contractor's employees will have no rights in or ownership of the Work and any and all documentation or other products and results of the services or any other property of Comptroller.

XV. Representations, Warranties, and General Provisions

15.1 Child Support Obligation. Under Section 231.006 of the Texas Family Code regarding child support, Contractor certifies that Contractor is not ineligible to receive the specified payment and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

15.2 Financial Participation Prohibited Affirmation. Under Section 2155.004(b) of the Texas Government Code, Contractor certifies that Contractor is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

15.3 Taxes. Purchases made for State of Texas' use are exempt from the State Sales Tax and Federal Excise Tax. Comptroller will furnish Tax Exemption Certificates upon request. Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. Comptroller shall not be liable for any taxes resulting from this Contract.

15.4 HUBs. Contractor represents and warrants that it shall comply with the Historically Underutilized Business (HUB) requirements of this Contract, including the requirements specified in Contractor's HUB Subcontracting Plan.

15.5 Change in Law and Compliance with Laws. Contractor shall 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. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for Comptroller's or Contractor's compliance with all applicable State and federal laws, regulations, requirements and guidelines.

15.6 Amendment. Except as provided Sections 15.5 and 15.19, this Contract may be amended only by written agreement of the Parties.

15.7 Governing Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit brought for any breach of this Contract is fixed in any court of competent jurisdiction of Travis County, Texas.

15.8 Time Limits. Time is of the essence in the performance of this Contract. Contractor shall strictly comply with all of the deadlines, requirements, and Standards of Performance for this Contract.

15.9 Assignments. Contractor shall not assign its rights under this Contract or delegate the performance of its duties under this Contract without prior written approval from Comptroller. Any attempted assignment in violation of this Section is void and without effect.

15.10 Federal, State and Local Requirements. Contractor 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-2s to common law employees. Contractor is responsible for both Federal and State Unemployment insurance coverage and standard Workers' Compensation Insurance coverage. Contractor shall comply with all Federal and State tax laws and withholding requirements. Comptroller shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or Federal or State withholding requirements. Contractor shall indemnify Comptroller and pay to Comptroller all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

15.11 Provision for Direct Deposit. The electronic funds transfer (EFT) provisions of Texas law were codified in Section 403.016 of the Texas Government Code. Depending on eligibility under the law, certain payments from the State of Texas may be directly deposited into Contractor's bank account or may be made by warrant. If Contractor is eligible for direct deposit and wishes to be paid by direct deposit, Contractor must request from biaap@cpa.texas.gov and complete the form titled "Vendor Direct Deposit Authorization" and return it as soon as possible to: biaap@cpa.texas.com or Comptroller of Public Accounts, Attention: Budget and Internal Accounting Division, Accounts Payable Section, LBJ State Office Building, 111 E. 17th Street, Austin, Texas 78774.

15.12 No Implied Waiver. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Comptroller under this Contract or otherwise available to Comptroller by law will not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Comptroller does not waive any privileges, rights, defenses, remedies, or immunities available to Comptroller as an agency of the State of Texas, or otherwise available to Comptroller, by entering into this Contract or by its conduct prior to or subsequent to entering into this Contract. **The modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller must be in writing, must reference this Section, and must be signed by Comptroller to be effective, and such modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller shall not constitute waiver of any subsequent privileges, rights, defenses, remedies, or immunities under this Contract or under applicable law.**

15.13 Permits, Certifications and Licenses. Contractor represents and warrants that it has determined what licenses, certifications and permits are required under this Contract and has acquired all applicable licenses, certifications and permits.

15.14 Control; Ownership; Legal Proceedings. Contractor shall immediately notify Comptroller in writing of any actual or anticipated change in the control or ownership of Contractor and of any legal or administrative investigations or proceedings initiated against Contractor regardless of the jurisdiction from which such proceedings originate.

15.15 Limitation on Authority. Contractor shall have no authority to act for or on behalf of Comptroller 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 debt, obligation, expense, or liability of any kind on behalf of Comptroller or the State of Texas.

15.16 No Other Benefits. Contractor shall have no exclusive rights or benefits other than those set forth herein.

15.17 INDEMNIFICATION FOR INTELLECTUAL PROPERTY. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS COMPTROLLER AND THE STATE OF TEXAS FROM AND

AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) COMPTROLLER'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO COMPTROLLER BY CONTRACTOR OR OTHERWISE TO WHICH COMPTROLLER HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. IF CONTRACTOR IS NOTIFIED OF ANY CLAIM SUBJECT TO THIS SECTION, CONTRACTOR SHALL NOTIFY COMPTROLLER OF SUCH CLAIM WITHIN FIVE (5) WORKING DAYS OF SUCH NOTICE. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH 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 ATTORNEY GENERAL. IN ADDITION, CONTRACTOR WILL REIMBURSE COMPTROLLER AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF COMPTROLLER DETERMINES A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF COMPTROLLER IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, COMPTROLLER WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF COMPTROLLER'S COUNSEL.

15.18 Records Retention. Successful Respondent shall maintain and retain all records relating to the performance of the Contract, including supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable State of Texas requirements. These records will be maintained and retained by Successful Respondent for a period of seven (7) years (a) after the Contract expiration date or (b) until all audit, claim, Texas Public Information, and litigation matters are resolved, whichever is later. Successful Respondent will make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, and supporting documents kept current by Successful Respondent pertaining to the Contract for purposes of inspecting, monitoring, auditing, or evaluating by CPA or the State of Texas.

15.19 State Auditor's Right to Audit. In addition to and without limitation on the other audit provisions of this Contract, pursuant to Section 2262.154 of the Texas Government Code, the State Auditor's Office ("SAO") may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the State of Texas directly under this Contract or indirectly through a subcontract under this Contract. Contractor understands that acceptance of State funds under this Contract acts as acceptance of the authority of the SAO to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the SAO in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the SAO's authority to audit state funds and the requirement to cooperate fully with the SAO is included in any subcontracts it awards. Additionally, the SAO shall at any time have access to and rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of Contractor relating to this Contract for any purpose.

This Contract may be amended unilaterally by Comptroller to comply with any rules and procedures of the SAO in the implementation and enforcement of Section 2262.154.

15.20 Unfair Business Practices. Contractor represents and warrants that it has not been the subject of a Deceptive Trade Practices violation under Chapter 17 of the Texas business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor 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 allegations of Deceptive Trade Practices violations or allegations of any unfair business administrative hearing or court suit and such officers have not been found to be liable for such practices in such proceedings.

15.21 Immigration. Contractor represents and warrants that it shall comply with the requirements of the Immigration and Nationality Act (8 U.S.C. §1101 *et seq.*) and all subsequent immigration laws and amendments.

15.22 Equal Employment Opportunity. Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

15.23 Antitrust Affirmation. Contractor represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Contractor nor the firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such a firm, corporation or institution has: (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws; or (2) communicated directly or indirectly the contents of its proposal to any competitor or any other person engaged in the same line of business as Contractor.

15.24 No Conflicts of Interest. Contractor represents and warrants that the provision of goods and services or other performance under this Contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety, or Contractor has disclosed in writing to Comptroller any existing or potential conflicts of interest relative to the performance of this Contract.

15.25 Dealings with Public Servants Affirmation. Pursuant to Section 2155.003 of the Texas Government Code, Contractor 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 this Contract..

15.26 Americans with Disabilities Act. Contractor represents and warrants its compliance with the requirements of the Americans with Disabilities Act and its implementing regulations, as each may be amended (“ADA”).

15.27 Buy Texas Affirmation. In accordance with Section 2155.4441 of the Texas Government Code, 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.

15.28 Drug-free Workplace. Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §701 *et seq.*) and its implementing rules, and that it shall maintain a drug-free work environment.

15.29 No Felony Criminal Convictions. Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, has been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised Comptroller of the facts and circumstances surrounding the convictions. Contractor has completed and returned the Criminal Conviction Certification form (Exhibit C to Attachment A (RFP)).

15.30 Notice. Unless noted elsewhere in this Contract, any written notices required under this Contract will be by either hand delivery to Contractor’s office address, as specified on Page 1 of this Contract, or to BDO at Texas Comptroller of Public Accounts, Lyndon B. Johnson Building, Broadband Development Office, 111 East 17th Street, Austin, Texas 78774; by U.S. certified mail with return receipt requested, addressed to the Contractor’s office address provided on Page 1 or to BDO at Texas Comptroller of Public Accounts, Broadband Development Office, P.O. Box 13528, Capitol Station, Austin, Texas 78711-3528; or by electronic mail to BDO at broadband@cpa.texas.gov. Notice will be effective on receipt by the affected Party. Notwithstanding the

foregoing, service of legal process or other similar communications will not be given by electronic mail and will not be deemed duly given under this Contract if delivered by such means. Legal notice must be provided to Comptroller's Legal Counsel, c/o Texas Comptroller of Public Accounts, 111 E. 17th Street, Room 310-C, Austin, Texas, 78774. The Parties agree to provide each other with day-to-day contact information. Either Party may change the designated notice address in this Section by written notification to the other Party.

15.31 False Statements. Contractor represents and warrants that all statements and information prepared and submitted in this document and its Response are current, complete, true and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void this Contract.

15.32 Force Majeure. Except as otherwise provided, neither Contractor nor Comptroller shall be liable to the other for any delay in, or failure of performance, of any requirement included in this 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, war, fires, explosions, hurricanes, floods, failure of transportation, pandemics, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such Party is unable to overcome. Each Party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

15.33 Debts and Delinquencies Affirmation. Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

15.34 Lobbying Prohibition. Contractor represents and warrants that Comptroller's payment to Contractor and Contractor's receipt of appropriated or other funds under this Contract are not prohibited by Sections 556.005 or 556.0055 of the Texas Government Code.

15.35 Texas Bidder Affirmation. Contractor certifies that if a Texas address is shown as the address of Contractor, then Contractor qualifies as a Texas Bidder as defined by Section 2155.444(c) of the Texas Government Code.

15.36 Comptroller's Anti-Fraud Policy. Contractor represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy located on Comptroller's website at <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of this Contract.

15.37 Abandonment or Default. If Contractor defaults on this Contract, Comptroller reserves the right to cancel this Contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible respondent. 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 specifications or scope of work significantly change. The period of suspension will be determined by Comptroller based on the seriousness of the default.

15.38 Suspension and Debarment. Contractor certifies that it 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. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

15.39 Prior Disaster Relief Contract Violation. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from 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 Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and

2261.053 of the Texas Government Code, Contractor certifies that it is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

15.40 Security Incident Notification. Contractor shall have policies and procedures for the effective management of Security Incidents that shall be made available to CPA upon written request. Within twenty-four (24) hours of Contractor's discovery or reasonable belief that there has been an event that results in the accidental or deliberate unauthorized access, loss, disclosure, modification, disruption, or destruction of confidential CPA information ("Security Incident"), Contractor shall provide notice to CPA by calling (800) 531-5441 EXT 34357. Until the investigation is complete, Contractor shall submit on a daily basis, or as otherwise agreed by CPA, a written report via encrypted email to security.alerts@cpa.texas.gov that includes, at a minimum, the following:

- Date and time incident occurred,
- Date and time incident detected,
- Date and time incident contained,
- Address where incident occurred,
- Name of person(s) that discovered incident,
- Description of how Contractor discovered incident,
- Type of CPA information involved,
- Description of the nature of the incident,
- Description of the steps Contractor has taken or will take to investigate incident,
- Description of the steps Contractor has taken or will take to mitigate any negative impacts of incident,
- Information technology involved (e.g., laptop, server, mainframe),
- Description of steps taken to preserve computer evidence and maintain chain of custody, and
- Description of corrective action Contractor has taken or will take to prevent future incidents.

Contractor shall coordinate all media or other breach notifications with CPA in advance of such notification(s), unless expressly prohibited by law. Subject to review and approval of CPA, Contractor shall provide notice at its own cost that satisfies the requirements of applicable law to individuals whose information was compromised or likely compromised as a result of the Security Incident. If CPA, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing the notice shall be reimbursed to CPA by Contractor. If Contractor does not reimburse such costs within thirty (30) days of CPA's written request, then CPA shall have the right to collect such costs. CPA reserves the right to conduct an independent investigation of any Security Incident, and should CPA choose to do so, Contractor shall cooperate fully with CPA and assume responsibility at its own expense for making personnel, resources, and systems access available to CPA and CPA's authorized representative(s).

15.41 CPA Data Safeguard Standards.

- a. Defined Terms. The term "CPA Data" refers to CPA's information as well as other entity information in the possession of CPA that is processed, stored, or transmitted by a computer. CPA Data includes all data that is generated by Successful Respondent in performance of a contract with CPA. The term "CPA Information System" refers to those devices, software, networks and related infrastructure that CPA owns, operates or has obtained for use to conduct CPA business. Devices include, but are not limited to, CPA-owned or managed storage, processing, and communications devices, as well as personally owned devices.
- b. Access to CPA Data. Successful Respondent represents and warrants that it will implement, maintain, and use appropriate administrative, technical, and physical safeguards to preserve the confidentiality, integrity, and availability of CPA Data. Successful Respondent will not collect, access, use, disclose, or retain CPA Data other than as necessary to perform the services specified in a contract resulting from this solicitation or as otherwise authorized in writing by CPA. Successful Respondent will restrict access to CPA Data to only those personnel who must have the information on a "need to know" basis. Successful Respondent will not use CPA Data, or any information derived from CPA Data, for its own benefit or the benefit of any other person or

entity. Successful Respondent will not share CPA Data with its parent company or other affiliate without CPA's express written consent.

- c. Web-Based Remote Access to CPA Information Systems. Successful Respondent may use third-party web-based remote access connections to CPA Information Systems to provide support services under the following conditions:
 - 1. CPA shall affirmatively initiate and accept Successful Respondent's connections to CPA Information Systems.
 - 2. CPA shall monitor Successful Respondent's connections to CPA Information Systems for the duration of the Services.
 - 3. CPA shall terminate Successful Respondent's connections to CPA Information Systems upon completion of the Services.
- d. Remote Access to CPA Information Systems. Successful Respondent shall accept the CPA Remote Access Terms and Conditions and obtain CPA's written approval of Successful Respondent's Remote Access Request Form before CPA will issue Successful Respondent with credentials to remotely access CPA Information Systems (e.g., for continuous access). Successful Respondent may contact the CPA Contract Manager for the applicable forms. Successful Respondent shall only access CPA Information Systems in accordance with CPA's security protocols using CPA-approved remote access technologies, processes, and procedures. CPA reserves the right to immediately terminate any access to a CPA Information System.
- e. CPA-Required Security Awareness Training. As a condition of CPA issuing credentials and Successful Respondent gaining access to a CPA Information System, Successful Respondent shall complete CPA's security awareness training or an equivalent DIR-approved training on an annual basis during the Contract term, including renewal periods. Successful Respondent shall submit to CPA at contract.administration@cpa.texas.gov: (i) the Contractor Cybersecurity Training Attestation (CCTA) form attached as Section XII; and (ii) any other information reasonably requested by CPA to comply with Section 2054.5192 of the Texas Government Code. Successful Respondent must complete, sign, and return the CCTA form to CPA no later than sixty (60) calendar days following contract award and each anniversary thereafter during the term of the Contract, including any renewal periods. Successful Respondent shall maintain records of all individuals who have completed the CPA-required training for the duration of the individual's employment or other business relationship with Successful Respondent, plus five years. CPA, in its sole discretion, may deny network or system access to any individual that does not complete the CPA-required training within thirty (30) calendar days following the date of CPA's grant of access to the CPA Information System(s).
- f. Location of CPA Data. Successful Respondent shall ensure that CPA Data (i.e., primary and backup) remains, at all times, within the continental United States. Successful Respondent shall receive, process, transmit, and store all CPA Data within the continental United States. Successful Respondent's point of access to CPA Data shall be within the continental United States.
- g. Encryption Standards.
 - 1. Successful Respondent shall encrypt CPA Data in transit and at rest. Data in transit means data is moving via email, in applications, or through browsers and other web connections. Data at rest (including data backups) means data is stored in databases, the cloud, removable media, or mobile devices.
 - 2. Successful Respondent shall utilize encryption standards that are FIPS 140-2 compliant or, upon the written approval of CPA's Chief Information Security Officer, shall meet the intent of the standards as described in FIPS 140-2.
 - 3. The minimum cryptographic algorithm used by Successful Respondent must be Advanced Encryption Standard (AES) 128 or higher (256 AES is preferred).
 - 4. Successful Respondent shall encrypt CPA Data transmitted over a public or private network. CPA approved data encryption transmission protocols include the following: (1) SFTP (FTP over SSH), (2) FTPS (FTP over TLS), (3) HTTPS (HTTP over TLS), and (4) virtual private network.

- h. Reserved.
- i. Reserved.
- j. Reserved.
- k. Reserved.
- l. Reserved.
- m. Media Sanitization. Successful Respondent shall sanitize information system media, both digital and non-digital, in accordance with NIST Special Publication 800-88 (Guidelines for Media Sanitization) when CPA Data in the custody of Successful Respondent is no longer required to be retained by contract with CPA. Successful Respondent must maintain a record documenting each sanitization procedure that, at a minimum, includes the following information: (i) date sanitization completed, (ii) description of the item(s), serial number(s), inventory control number(s), if applicable, and (iii) sanitization method used. No later than sixty (60) calendar days from contract expiration or termination or as otherwise specified in the Contract, Successful Respondent must either (i) complete the sanitization and submit via email to the CPA Contract Manager all sanitization documentation or (ii) submit a written statement via email to the CPA Contract Manager explaining the reason that destruction of CPA Data by Successful Respondent is technically impossible or impractical. Successful Respondent's obligations set forth in this clause survive the termination or expiration of the contract as long as Successful Respondent retains CPA Data.
- n. Third-Party Service Providers. It is Successful Respondent's sole responsibility to ensure that its access and the access Successful Respondent grants to its service providers to CPA Data or CPA Information Systems does not result in unauthorized access to CPA Data or CPA Information Systems.
- o. Reserved.
- p. Reserved.
- q. Reserved.
- r. State Authorization and Risk Management Program (TX-RAMP). Successful Respondent shall obtain TX-RAMP certification in accordance with the Department of Information Resources (DIR) Program Manual. CPA requires the following TX-RAMP certification based-on Agency criteria:
 - 1. ☒ X None. Product is out of scope/low impact in accordance with the DIR TX-RAMP Manual.
 - 2. ☐ Level 1 Certification. The product will administer Agency public data.
 - 3. ☐ Level 2 Certification. The product will administer Agency sensitive, confidential, and/or regulated data.

15.42 Information Security Requirements. Contractor represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard sensitive or confidential Comptroller information and to protect it from unauthorized disclosure. If communications with Contractor necessitate the release of confidential Comptroller information, the Confidential Treatment of Information Acknowledgment (CTIA) form (Attachment I) must be signed by each individual who will require access to or may be exposed to Comptroller's confidential information. Contractor shall access Comptroller's systems and sensitive or confidential Comptroller information only for the purposes for which it is authorized.

15.43 Internal Revenue Service Data. See Exhibit 7 (Safeguarding Contract Language) of IRS Publication No. 1075, revised November 2021, as it may be amended from time to time (hereinafter, "Exhibit 7").

- a. Performance. In performance of this Contract, Successful Respondent agrees to comply with and assume responsibility for compliance by officers or employees with the following requirements:
 - (1) All work will be performed under the supervision of Successful Respondent.
 - (2) Successful Respondent and Successful Respondent's officers or employees to be authorized access to Federal Tax Information (FTI) must meet background check requirements defined in IRS Publication 1075.

Successful Respondent will maintain a list of officers or employees authorized access to FTI. Such list will be provided to Comptroller (Agency) and, upon request, to the IRS.

(3) FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of the Contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection or disclosure of FTI to anyone other than Successful Respondent or Successful Respondent's officers or employees authorized is prohibited.

(4) FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.

(5) Successful Respondent will certify that FTI processed during the performance of the Contract will be completely purged from all physical and electronic data storage with no output to be retained by Successful Respondent at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, Successful Respondent will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.

(6) Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to Agency. When this is not possible, Successful Respondent will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide Agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.

(7) All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.

(8) No work involving FTI furnished under the Contract will be subcontracted without the prior written approval of the IRS.

(9) Successful Respondent will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.

(10) To the extent the terms, provisions, duties, requirements, and obligations of the Contract apply to performing services with FTI, Successful Respondent shall assume toward the subcontractor all obligations, duties and responsibilities that Agency assumes toward Successful Respondent, and the subcontractor shall assume toward Successful Respondent all the same obligations, duties and responsibilities which Successful Respondent assumes toward Agency under the Contract.

(11) In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of the Contract apply to the subcontractor, and the subcontractor is bound and obligated to Successful Respondent hereunder by the same terms and conditions by which Successful Respondent is bound and obligated to Agency under the Contract.

(12) For purposes of the Contract, the term "Successful Respondent" includes any officer or employee of Successful Respondent with access to or who uses FTI, and the term "subcontractor" includes any officer or employee of Successful Respondent's subcontractor with access to or who uses FTI.

(13) Agency will have the right to void the Contract if Successful Respondent fails to meet the terms of FTI safeguards described herein.

b. Criminal Sanctions. Successful Respondent acknowledges that this Section (b) serves as written notice of the information provided in this Section (b), as required by Exhibit 7 (Criminal Sanctions).

(1) Each officer or employee of a Successful Respondent to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.

(2) Each officer or employee of a Successful Respondent to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as one (1) year, or both, together with the costs of prosecution.

(3) Each officer or employee of a Successful Respondent to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(4) Additionally, it is incumbent upon the Successful Respondent to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to Agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or Agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(5) Granting a Successful Respondent access to FTI must be preceded by certifying that each officer or employee understands the Agency's security policy and procedures for safeguarding FTI. A Successful Respondent and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the Agency's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the Agency's files for review. As part of the certification and at least annually afterwards, a Successful Respondent and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure*). The training on the Agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For the initial certification and the annual recertifications, the Successful Respondent and each officer or employee must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

c. Inspection. The IRS and Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of Successful Respondent to inspect facilities and operations performing any work with FTI under the Contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where Successful Respondent is found to be noncompliant with FTI safeguard requirements.

15.44 Duty to Disclose. If circumstances change or additional information is obtained regarding any of the representations and warranties, or any other disclosure statements, provided by Contractor subsequent to the date of this Contract, Contractor's duty to disclose continues throughout the term of this Contract.

15.45 Copies of Work; Partially Completed Work. No later than the first calendar day after the termination of this Contract, or at Comptroller's request, Contractor shall deliver to Comptroller all completed, or partially completed, work and any and all documentation or other products and results of these services. Failure to timely deliver such work or any and all documentation or other products and results of the services shall be considered a material breach of this Contract. Contractor shall not make or retain any copies of the Work or any and all documentation or other products and results of the services without the prior written consent of Comptroller.

15.46 Business Attire; Conduct; Comptroller Guidelines. Contractor must ensure that its employees conduct themselves in a professional manner and are in appropriate business attire when on Comptroller's premises. In addition, Contractor must ensure that its employees comply with all guidelines established by Comptroller for independent contractors required to provide services on Comptroller's premises. These guidelines may address issues which include, but are not limited to, the following: building security, IT security, records, safety, professional conduct, use of State owned property, non-disclosure of confidential information, drug and alcohol free workplace rules, and other requirements for on-site independent contractors.

15.47 Use of State Property. Contractor is prohibited from using Comptroller's Equipment, Comptroller's location, or any other resources of Comptroller or the State of Texas for any purpose other than performing services under this Contract. For this purpose, Comptroller Equipment includes, but is not limited to, copy machines, fax machines, information technology resources, and telephones using State of Texas long distance services. Comptroller information technology resources include any Comptroller-issued hardware (e.g., laptops, portable personal printers, cell phones, BlackBerry devices, external hard drives, Universal Serial Bus (USB) data storage devices and data disks); any Comptroller-issued software or media (e.g., CD, DVD, diskette or tape); and Comptroller Virtual Private Network (VPN) client. Contractor shall not remove Comptroller Equipment from the United States. In addition, Contractor may not use any computing device to access Comptroller's network or e-mail while outside of the United States. During the time that Comptroller Equipment is in possession of Contractor, Contractor shall be responsible for reasonable repair or replacement charges for damage beyond normal wear and tear. Any charges incurred because of Contractor's use of Comptroller Equipment for any purpose other than performing services under this Contract must be fully reimbursed by Contractor to Comptroller immediately upon demand by Comptroller; such use shall constitute breach of contract and may result in termination of this Contract and other remedies available to Comptroller under the Contract and applicable law.

15.48 Discounts. If Contractor at any time during the term of this Contract provides a discount on the final negotiated Contract costs, Contractor will notify Comptroller in writing ten (10) business days prior to effective date of discount. Comptroller will generate a Purchase Order (PO) Change Notice (POCN) and send the POCN to the Contractor.

15.49 Excluded Parties. Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the U.S. Treasury, Office of Foreign Assets Control.

15.50 Executive Head of Comptroller Affirmation. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a State agency, Contractor certifies that it is not (1) the executive head of Comptroller, (2) a person who at any time during the four (4) years before the date of execution of this Contract was the executive head of Comptroller, or (3) a person who employs a current or former executive head of Comptroller.

15.51 Foreign Terrorist Organizations. Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

15.52 Entities that Boycott Israel. Contractor represents and warrants that (1) it does not, and shall not for the duration of this Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to this Contract. If circumstances relevant to this provision change during the course of this Contract, Contractor shall promptly notify Comptroller.

15.53 Human Trafficking. Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this 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.

15.54 Energy Company Boycotts. Contractor represents and warrants that: (1) it does not, and will not for the duration of this Contract, boycott energy companies or (2) the verification required by Section 2276.002 of the

Texas Government Code does not apply to this Contract. If circumstances relevant to this provision change during the term this Contract, Contractor shall promptly notify CPA.

15.55 Firearm Entities and Trade Associations Discrimination. Contractor verifies that: (1) it does not, and will not for the duration of this Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Contract. If circumstances relevant to this provision change during the Contract Term, Contractor shall promptly notify CPA.

15.56 COVID-19 Vaccine Passport Prohibition. Under Section 161.0085 of the Texas Health and Safety Code, Contractor certifies that it is not ineligible to receive this Contract.

15.57 No Third-Party Beneficiaries. This Contract is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Contract.

15.58 Recitals. The Recitals in Section I are hereby incorporated into the terms of this Contract.

15.59 Clean Air Act and Federal Water Pollution Control Act. Contractor must 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).

15.60 Procurement of Recovered Materials. Contractor 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.

15.61 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Contractor represents and warrants that it will not expend federal funds as prohibited by 2 C.F.R. § 200.216.

15.62 Compliance with Federal Terms and Conditions. Contractor shall comply with all requirements described in Attachment B (Federal Terms and Conditions).

15.63 Testing; Acceptance; Return; Revocation. Prior to Contract award or payment, as applicable, the Challenge Portal will be subject to inspection and testing by CPA. CPA reserves the right and plans to test the Challenge Portal prior to Contract award. Contractor will bear all costs of any testing. After Contract award and prior to payment for the Challenge Portal, CPA may conduct acceptance testing on the Challenge Portal. If so, CPA will have up to thirty (30) days to conduct such testing. If the Challenge Portal fails to meet or exceed the acceptance criteria or any other requirement of the Contract, CPA may refuse to accept it. If CPA refuses to accept the Challenge Portal, CPA shall return it at Contractor's sole expense. If the Challenge Portal meets or exceeds all conditions and requirements of the Contract, CPA shall notify Contractor in writing no later than thirty (30) days after receiving the Challenge Portal that Contractor may submit an invoice to CPA's Accounts Payable Division for the Challenge Portal at: [to biaap@cpa.texas.gov](mailto:biaap@cpa.texas.gov). CPA reserves the right to revoke prior acceptance and demand correction or replacement of the Challenge Portal by Contractor at Contractor's sole expense for, among other things, latent defects.

XVI. Merger; Severability

This Contract contains the entire agreement between Contractor and Comptroller relating to the rights granted and

the obligations assumed in it. Any oral representations or modifications concerning this Contract shall be of no force or effect unless contained in a subsequent writing, signed by both Parties. In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

XVII. Signatories

The undersigned signatories represent and warrant that they have full authority to enter into this Contract on behalf of the respective counterparts. This Contract may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the Parties.

**TEXAS COMPTROLLER OF PUBLIC
ACCOUNTS**

[CONTRACTOR’S NAME]

By: _____
Lisa Craven
Deputy Comptroller

By: _____
Name:
Title:

Date: _____

Date: _____

**ATTACHMENT A
TO THE SAMPLE CONTRACT**

Comptroller's RFP

Comptroller's RFP No. 909-24-1690KW, issued [date]; its Official Response to Questions from Potential Respondents ("Response to Questions"), issued [date]; and Addendum No. 1 issued [date] (collectively, the "RFP") are hereby incorporated by reference for all purposes into this Contract as Attachment A. In the event of a conflict between these documents, the order of priority shall be: (1) RFP Addendum, (2) Response to Questions and (3) RFP No. 909-24-1690KW.

**ATTACHMENT B
TO THE SAMPLE CONTRACT**

Federal Terms and Conditions

- A. **Flowdown Requirements.** The requirements of this Attachment B shall apply to Contractor and its subcontractors. Contractor shall require and cause any subcontractor used by Contractor in connection with this Contract to agree to and be subject to and bound by such terms and provisions.
- B. **Internal Controls and Single Audit Act, SubPart F.** Funds allocated in connection with the Contract are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332. These audit requirements do not generally apply to for-profit businesses; however, CPA remains responsible for ensuring compliance with the Contract and applicable federal terms and conditions through the implementation of audit and monitoring controls pursuant to 2 C.F.R. 200.501(h). These requirements are addressed in Section XV of the Contract.
- C. **Department of Commerce (DOC) Required Notice.** Contractor is subject to 2 CFR Part 1326, Subpart C "Governmentwide Debarment and Suspension (Nonprocurement)." In addition, Contractor is subject to 15 CFR Part 28, "New Restrictions on Lobbying." Contractor should familiarize themselves with these provisions, including the certification requirement.
- D. **Recovery of Funds.** If a State or federal audit takes exception to the Project(s) provided under the Contract for which federal funds have been paid or reimbursed, or if federal funds are deferred and/or disallowed as a result of any audits (or expended in violation of the laws applicable to the expenditure of such funds), Contractor will be liable to CPA and the State or Texas (or any other applicable governmental entity, including the United States Department of Treasury) for the full amount of any such payment, reimbursement, or any claim disallowed (or the amount of funds expended in violation of Applicable Laws or requirements) and for all related penalties incurred. If CPA or any federal governmental entity concludes that Contractor has been paid for any cost that is unallowable, unallocable, or unreasonable under the Contract, Contractor will be liable to CPA and the State of Texas (or any other applicable governmental entity, including the United States Department of Treasury) for such cost. Contractor shall pay to CPA or State of Texas (or any other applicable governmental entity, including the United States Department of Treasury) all amounts for which the Contractor is liable under this section within ten (10) business days of receiving a written demand or written notice. CPA may withhold any payment under the Contract if Contractor fails to timely make any payment required by this Section. The requirements of this Section shall apply to Contractor and subcontractors. Contractor shall require and cause any subcontractor used by Contractor in connection with the Contract to agree to and be subject to and bound by such terms and provisions.
- E. **Required Certifications.** Each of the following required certifications set forth below is a material representation of fact upon which reliance is placed by CPA prior to distributing federal funds. In addition to any criminal penalties authorized by the Texas Penal Code that may result from any false statements of material fact made herein or any other remedies available at law, equity, or otherwise, a Contractor that is subsequently determined to have made a statement, representation, warranty, certification, or attestation herein that is later proven untrue in any material respect shall be obligated to repay CPA the entire amount of any funds previously distributed by CPA to Contractor under the Contract. By signing the Contract, Contractor's authorized representative who must be expressly authorized to make the below certifications on behalf of Contractor, under penalty of perjury and pursuant to the laws of the State of Texas, certifies and attests to Contractor's compliance with the following. The following certifications shall apply to Contractor and subcontractors. Contractor shall require and cause any subcontractor used by Contractor in the performance of the Contract to certify, agree to, and be subject to and bound by each of the following certifications. Contractor may be required to provide any information identified or required in connection with the below certifications as a precondition to receiving funds under the Contract.
1. *Drug Free Workplace.* This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. § 701 et seq.). These regulations require certification by Contractor (and subcontractors) that they will maintain a drug-free workplace. In accordance with these Applicable Laws, Contractor certifies that it does currently and will continue to provide a drug-free workplace, including by minimally:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - b. Establishing an ongoing drug-free awareness program to inform employees about:
 - i. The dangers of drug abuse in the workplace;
 - ii. Contractor's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by Section E.1.a.
 - d. Notifying the employee in the statement required by E.1.a, as a condition of their continued employment, that the employee will:
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
 - e. Notifying CPA in writing, within ten (10) calendar days after receiving notice under Section E.1.d from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.
 - f. Taking one of the following actions, within thirty (30) calendar days of receiving notice under Section E.1.e, with respect to any employee who is so convicted:
 - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
 - g. Making a good faith effort to continue to maintain a drug-free workplace consistent with Sections E.1.a through E.1.f during the Term.
2. *Lobbying.* This certification is required by the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. § 1352. These regulations require certification by Contractor (and subcontractors) that they have not engaged in prohibited lobbying activities and/or have filed any required disclosures in accordance with these Applicable Laws. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code; any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. In accordance with these Applicable Laws, Contractor certifies the following:
- a. No federal funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of CPA, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of CPA, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal contract, grant, loan, or cooperative agreement, Contractor

must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

3. *Suspension and Debarment.* This certification is required by the provisions of Executive Orders 12549 and 12689 and 31 C.F.R. part 19 regarding Debarment, Suspension, and Other Responsibility. A contract award must not be made to parties listed on the government-wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. 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.
4. *Certification Regarding Environmental Tobacco Smoke.* This certification is required by Public Law 103-227, also known as the Pro-Children Act of 1994 ("**Pro-Children Act**"). The Pro-Children Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The Pro-Children Act also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The Pro-Children Act does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. In accordance with these Applicable Laws, Contractor certifies and agrees to the following with respect to it and its principles, as applicable. Contractor certifies that it will comply with the requirements of the Pro-Children Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act.
5. *Assurance of Compliance Nondiscrimination in Federally Assisted Programs & Equal Opportunity.* This certification requires Contractor to comply with any applicable federal nondiscrimination requirements or laws providing for or requiring equal opportunity in employment. Except as otherwise provided under 41 C.F.R. part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. 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 C.F.R. 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 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." To the extent required by these Applicable Laws, Contractor certifies during the performance of this Contract that:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - c. The Contractor will not discharge or in any other manner discriminate against any employee

or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Contractor will include the portion of the sentence immediately preceding Section E.5.a and the provisions of Sections E.5.a through E.5.h in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- i. The Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the Contractor so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.
- j. The Contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- k. The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor

debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

6. *Americans with Disabilities Act*. Contractor certifies that it shall comply with Subtitle A, title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, and Department of Justice implementing regulation, 28 C.F.R. part 35.
7. *Equal Treatment for Faith Based Organizations*. Contractor shall comply with any applicable requirements of 28 C.F.R. part 38, governing “Equal Treatment for Faith Based Organizations.” The Equal Treatment Regulation provides in part that grant awards may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Grant recipients, including contractors may still engage in inherently religious activities, but such activities must be separate in time or place from the grant funded program, and participation in such activities by individuals receiving services from the Contractor must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs funded through grant funding are not permitted to discriminate in the provision of services on the basis of a beneficiary’s religion. Notwithstanding the foregoing, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocr/equal_fbo.htm.
8. *Immigration and Naturalization Service*. Contractor certifies that it keeps on file, as appropriate, Immigration and Naturalization Service Employment Eligibility Verification Form (I-9) forms for applicable Contractor Personnel. This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States.
9. *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 C.F.R. part 5). To the extent applicable, Contractor must 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.
10. *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). Contractor agrees to comply with these Applicable Laws, violations of which must be reported to CPA and federal awarding agency and the regional office of the Environmental Protection Agency (EPA).
11. *Federal Funding Accountability and Transparency Compliance*. This certification is required by the Federal Funding Accountability and Transparency Act (“FFATA”). FFATA requires recipients of individual federal grants equal to or greater than \$25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of \$25,000 or more. In accordance with 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation

Information), Contractor must complete and submit to CPA the FFATA Form included with this Contract as Attachment B-1.

12. *Davis-Bacon Act/Copeland Act*. 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 C.F.R. 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/grant 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/grants 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 C.F.R. 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.
13. *Prohibition on certain telecommunications and video surveillance services or equipment*. Contractor certifies that it will comply with 2 C.F.R. § 200.216, restricting the use of contract funds to purchase or extend a contract for certain telecommunications and video surveillance services and equipment.
14. *Domestic Preferences*. Contractor certifies that, as appropriate and to the greatest extent practicable consistent with law, it will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States in performance of the Contract.

**ATTACHMENT B-1
TO THE SAMPLE CONTRACT**

Federal Funding Accountability and Transparency Act (FFATA) Form

Federal Funding Accountability and Transparency Act
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This form is required to be completed by the subrecipient for contracts funded wholly or partially with federal funds by the Texas Comptroller of Public Accounts (CPA). In accordance with 2 Code of Federal Regulation (CFR) Part 170 and the Federal Funding Accountability and Transparency Act, as amended, CPA must collect subrecipient information for transactions \$30,000 or greater.

Information completed by CPA Program Area:

CPA Award ID	
--------------	--

Information completed by Subrecipient:

Legal Name of Entity	
Unique Entity Identifier (UEI)	

Exemption from reporting compensation information
* <input type="checkbox"/> Please check box for exemption from reporting if in the preceding fiscal year either of the following bulleted items applied: <ul style="list-style-type: none">• Recipient received less than 80% of its annual gross revenues in Federal awards [federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements]; and the recipient received less than \$25,000,000 in annual gross revenues from Federal awards. OR• the public has access to information about compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

Total Compensation and Names of Top Five Executives (if applicable)	
Name	Compensation Amount

Subrecipient Responsible Party		
Title	Print Name	Signature/Date

Federal Funding Accountability and Transparency Act

This form is required to be completed by the subrecipient for contracts funded wholly or partially with federal funds by the Texas Comptroller of Public Accounts (CPA). In accordance with 2 Code of Federal Regulation (CFR) Part 170 and the Federal Funding Accountability and Transparency Act, as amended, CPA must collect subrecipient information for transactions \$30,000 or greater.

FFATA Form Instructions

Information completed by CPA Program Area:

This field should be completed by CPA area.

- **CPA Contract No.** – Enter the Contract Number

Information completed by Subrecipient:

Each field requires a response by the subrecipient.

- **Legal Name of Entity** – Enter name of the subrecipient organization that corresponds with subrecipient's Unique Entity Identifier (UEI) as it appears in the System for Award Management (SAM) profile, www.sam.gov.
- **UEI** – Enter subrecipient's organization's 12-digit UEI as it appears in its SAM Profile. Effective April 4, 2023, the UEI replaced the DUNS Number for the purpose of completing this form. To find your UEI or request a UEI, visit SAM.gov.
- **Total Compensation and Names of Top Five Executives (if applicable)** – As defined in 2 CFR 170.110, you must report Executive Compensation from your preceding fiscal year unless any of the exemption criteria apply.
- **Subrecipient Responsible Party** – The person completing the form should provide title, printed name, signature, and date the form was signed.

Return completed and signed form to CPA Contract Manager.

**ATTACHMENT B-2
TO THE SAMPLE CONTRACT**

<small>FORM CD-512 (REV 05-17)</small>	<small>U.S. DEPARTMENT OF COMMERCE</small>		
CERTIFICATION REGARDING LOBBYING LOWER TIER COVERED TRANSACTIONS			
<p>Applicants should review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 15 CFR Part 28, "New Restrictions on Lobbying."</p>			
<p>LOBBYING</p> <p>As required by Section 1352, Title 31 of the U.S. Code, and implemented at 15 CFR Part 28, for persons entering into a grant, cooperative agreement or contract over \$100,000 or a loan or loan guarantee over \$150,000 as defined at 15 CFR Part 28, Sections 28.105 and 28.110, the applicant certifies that to the best of his or her knowledge and belief, that:</p> <p>(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.</p> <p>(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.</p> <p>(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.</p> <p>This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.</p>	<p>Statement for Loan Guarantees and Loan Insurance</p> <p>The undersigned states, to the best of his or her knowledge and belief, that:</p> <p>In any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.</p> <p>Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.</p>		
<p>As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.</p>			
<table style="width: 100%;"><tr><td style="width: 50%;">NAME OF APPLICANT</td><td style="width: 50%;">AWARD NUMBER AND/OR PROJECT NAME</td></tr></table>		NAME OF APPLICANT	AWARD NUMBER AND/OR PROJECT NAME
NAME OF APPLICANT	AWARD NUMBER AND/OR PROJECT NAME		
<table style="width: 100%;"><tr><td>PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE</td></tr></table>		PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
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<table style="width: 100%;"><tr><td style="width: 50%;">SIGNATURE</td><td style="width: 50%;">DATE</td></tr></table>		SIGNATURE	DATE
SIGNATURE	DATE		

**ATTACHMENT B-3
TO THE SAMPLE CONTRACT**

1. Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: _____ a. bid/offer/application b. initial award c. post award	3. Report Type: _____ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: Name _____ Address _____ _____ Prime _____ Subawardee Tier, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: _____
6. Federal Department/Agency: _____	7. Federal Program Name/Description CFDA Number, if applicable: _____	
8. Federal Action Number, If known: _____	9. Award Amount, if known: _____	
10.a. Name and Address of Lobbying Entity: (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)	10.b. Individual Performing Services (including address if different from No. 10A) (last name, first name, MI):	
11. Amount of Payment (check all that apply): \$ _____ actual _____ Planned _____	12. Form of Payment (check all that apply): a. cash _____ b. in-kind; specify: nature _____ value _____	
13. Type of Payment (check all that apply): _____ a. retainer _____ c. commission _____ e. deferred _____ b. one-time fee _____ d. contingent fee _____ f. other; specify _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11:		
15. Continuation Sheet(s) SF-LLL-A attached: _____ Yes _____ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annual and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure		Authorized Representative: _____ Title: _____ Signature: _____ Telephone: _____ Date: _____

ATTACHMENT C TO THE SAMPLE CONTRACT

Standards of Performance

Customer service is very important to the Comptroller. This will include the minimum Standards of Performance in the RFP and any additional Standards of Performance proposed by Contractor and agreed to by Comptroller and the following:

1. Contractor shall discharge all duties in accordance in a professional and workman like manner.
2. Contractor shall provide Final State of Texas BEAD Challenges Report to BDO within 112 days after the BEAD Challenge Process start date.
3. Contractor shall meet the following performance standards. “Key Measure” means each subitem in each of the following categories:
 - a. Call center (1-2 persons available to answer questions throughout the BEAD Application Process and Subgrantee Selection Process):
 - i. Available 8 a.m. to 5 p.m. Central Time (CT) Monday through Friday (excluding State of Texas holidays).
 - ii. Spanish-speaking customer service representative available within four (4) business hours of request by customer for such services.
 - iii. Abandonment rate of less than 5% throughout the BEAD Challenge Process.
 - iv. Abandonment rate of less than 2% throughout the BEAD Application Process.
 - b. Challenge Phase Review:
 - i. 50% of challenges reviewed no later than 7 days of receipt, and
 - ii. 100% of challenges reviewed no later than 14 days of receipt.
 - c. Rebuttal Phase Review:
 - i. 50% of rebuttals reviewed no later than 7 days of receipt, and
 - ii. 100% completed no later than 14 days of receipt.
 - d. Challenge Final Determination:
 - i. 35% of challenges determined no later than 17 days after completion of Rebuttal Phase Review,
 - ii. 75% determined no later than 34 days after completion of Rebuttal Phase Review, and
 - iii. 100% determined no later than 56 days after completion of Rebuttal Phase Review.
 - e. Gating Criteria Review Round 1 (“Gating Round 1”):
 - i. 50% of applications reviewed no later than 10 days after Gating Round 1 start date, and
 - ii. 100% reviewed no later than 21 days after Gating Round 1 start date.
 - f. Gating Criteria Review Round 2 (starting after Round 1) (“Gating Round 2”):
 - i. 70% of applications reviewed no later than 7 days after Gating Round 2 start date, and
 - ii. 100% no later than 14 days after Gating Round 2 start date.
 - g. Texas Application Challenge Round 1:
 - i. 50% of challenges reviewed no later than 15 days after receipt, and
 - ii. 100% of challenges reviewed no later than 30 days after Application Challenge Round 1 start date.
 - h. Texas Application Challenge Round 2 (starting on the same date as 3.j. (Application Scoring and Review Round 2)):

- i. 50% of challenges reviewed no later than 15 days after Round 2 start date, and
 - ii. 100% of challenged reviewed no later than 30 days after Round 2 start date.
- i. Application Scoring and Review Round 1 (“Application Round 1”):
 - i. 25% reviewed no later than 43 days after Application Round 1 start date;
 - ii. 50% reviewed no later than 86 days after Application Round 1 start date;
 - iii. 75% reviewed no later than 129 days after Application Round 1 start date; and
 - iv. 100% reviewed no later than 156 days after Application Round 1 start date.
- j. Application Scoring and Review Round 2 (starting 70 days after Application Round 1) (“Application Round 2”):
 - i. 25% reviewed no later than 25 days after Application Round 2 start date,
 - ii. 50% reviewed no later than 50 days after Application Round 2 start date,
 - iii. 75% reviewed no later than 75 days after Application Round 2 start date, and
 - iv. 100% reviewed no later than 100 days after Application Round 2 start date.

**ATTACHMENT D
TO THE SAMPLE CONTRACT**

Project Work Plan

Contractor shall comply with the final Comptroller-approved Project Work Plan, which is incorporated by reference for all purposes into this Contract as part of this Attachment D, as it may be amended in writing from time to time by mutual agreement between the Parties without need of a Contract amendment.

ATTACHMENT E TO THE SAMPLE CONTRACT

Personnel and Compensation

1. Personnel:

Contractor's authorized personnel are those individuals specified in the "Respondent and Proposed Subcontractor(s) Project Personnel and Organizational Information" portion of its Proposal.

2. Compensation:

2.1 General. Contractor's Program Management Fee shall be subject to negotiation and will, upon agreement of the Parties, be included and incorporated for all purposes into this section of this Attachment E for all purposes.

2.2 Program Management Fee. Contract will be paid a quarterly program management fee, paid in arrears, consisting of the annual fee divided by twelve (12) equal payments multiplied by three (3). The first quarter of the Contract will be billed at a prorated amount, determined by dividing the quarterly fee by ninety (90) to obtain a daily fee, then multiplying that daily fee by the number of days from the Effective Date to the end of the first month to obtain the first month's fee, then adding two (2) monthly fee amounts to the first month's fee to obtain the fee for the first quarter.

2.3 Automatic Reduction of Program Management Fee. If Contractor fails to meet two (2) or more Key Measures as detailed in Attachment C (Standards of Performance) in a given quarter, Comptroller may, in its sole discretion, reduce the Program Management Fee by ten percent (10%) for the following quarter, effective on the first day of the quarter. For purposes of tallying the number of failures to meet Key Measures for this Section, each individual instance of failing to meet a Key Measure milestone shall count as one failure to meet a Key Measure. In addition to any other Program Management Fee reduction, if Contractor fails to provide the Final State of Texas BEAD Challenges Report to NTIA within 180 days after the BEAD Challenge Process start date, the annual Program Management fee shall be reduced by ten percent (10%) for the year in which the results were due to NTIA.

2.4 Written Deliverables. Contractor will provide an invoice for each line item listed on Attachment E-1 (Price Sheet 3 – Written Deliverables) no later than ten (10) days after the date of CPA's written acceptance under Section VI of that line item. Contractor may submit invoices to CPA's Accounts Payable Division at biaap@cpa.texas.org. CPA will accept invoices for individual written deliverables only for line items with prices included on Attachment E-1 Price Sheet 2 – Challenge Portal, Price Sheet 3 – Written Deliverables, and, if negotiated between the Parties, Price Sheet 4 – Optional Services.

3. Out-of-State Travel

Travel costs will be invoiced to Comptroller based on actual expenses, and Comptroller shall not be liable for reimbursement of expenses that: (1) were not pre-approved in writing by Comptroller; or (2) exceed the current State of Texas Travel Regulations applicable to state of Texas employees. The current Travel Regulations are found in the Texas General Appropriations Act, available at: https://www.lbb.texas.gov/Documents/GAA/General_Appropriations_Act_2022_2023.pdf (to be updated at www.lbb.texas.gov) and may be amended from time to time. The following website is a guide for compliance with state of Texas travel rules and regulations: <https://fm.xcpa.texas.gov/fmx/travel/texttravel/index.php>. The current reimbursement rates are available at: <https://fm.xcpa.texas.gov/fmx/travel/texttravel/rates/current.php>, which may be amended from time to time.

**ATTACHMENT E-1
TO THE SAMPLE CONTRACT**

Price Sheets

Price Sheets, as negotiated between the Parties, will be incorporated herein as Attachment E-1.

ATTACHMENT F TO THE SAMPLE CONTRACT

Services and Templates Overview

#	Service to be performed	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
A. PROGRAM MANAGEMENT: GENERAL				
A.1	Draft Work Plan	A project plan including timelines, milestone due dates, number of personnel and expected format of documentation for all Services.	Texas BEAD Program Work Plan to be submitted with RFP and revised after meeting with BDO.	Review, revision, and approval of this deliverable prior to any work activity start.
A.2	Draft Progress Reports Manage Meetings	A bi-weekly <u>and</u> monthly progress report describing all deliverables' status compared to the agreed project timeline including highlighting any risks or other relevant information. Schedule and facilitate reoccurring work sessions with BDO staff as agreed upon with BDO.	BEAD Program Status Report. The bi-weekly progress meeting will cover current work in progress, issue identification and mitigation tasks as well as planned work for the next two (2) weeks. The monthly progress meeting will cover all work completed within the previous 30 days, work planned (high level) for the upcoming 30 days, timeline status (e.g., on target, slipping, etc.) and issue management.	Review and approval of this deliverable prior to any work activity issue resolution.
A.3	Attend Meetings Participate in BEAD Challenge Salesforce system creation	Attend and participate in BDO – CPA IT requirement gathering sessions as requested by BDO.	N/A.	CPA IT will develop the Salesforce system.
A.4	Attending Meetings and Direct Participation in BEAD Subgrantee Selection Salesforce System	Attend and participate in BDO – CPA IT requirement-gathering sessions as requested by BDO.	N/A.	CPA IT will develop the Salesforce system.
A.5	Draft Relevant Literature/ Communication Collaterals for Public Engagement across all Texas BEAD Program services	Various Collateral created by BDO will need content / copy creation from Successful Respondent.	Collateral copy will be required from Successful Respondent. The type of copy for each communication channel proposed by BDO will be determined in consultation with Successful Respondent.	CPA will produce Collateral.
A.6	SOP Documents for Each Process Listed in Section B	For every process requirement listed in Section B (Program Management: Execution Services) a SOP document is required.	SOP documents.	Review and approval of all deliverables, at each step, is required prior to execution.
A.7	Texas BEAD Program Final Proposal	Assist BDO and its IJJA consultant by: - Research and engagement with stakeholders to derive 100% compliance with the NTIA guidance for this deliverable - Provide requested research and documentation collected throughout the BEAD Challenge Process and Subgrantee Selection Process to help develop the Final Proposal - Provide any documentation or plans for future processes required for the Final Proposal as requested - Creation of the Final Proposal	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables at each step is required prior to execution.

	Service to be performed	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
A.8	Draft all required NTIA documents	Creation of all required NTIA documents, including: <ol style="list-style-type: none"> 1. Written project management plan. 2. Written policies, procedures, and/or processes to ensure timely and accurate submission of project performance and financial reports. 3. Written property management policies, procedures, or processes. 4. List of inventories of all equipment purchased with grant funds. 5. Written subrecipient management policies, procedures, or processes. 6. List of subrecipients funded by the grant, including their roles in executing the grant/subaward agreements. (Please note that the executed sub-award documents, including statements of work, executed change orders, and paid subrecipient invoices should be readily available for review during the site visit) 7. Written subrecipient risk assessment and monitoring plan; documentation/artifacts from subrecipient monitoring visits. 		Review and approval of all documents.
A.9	Draft Clawback SOP	Work with BDO and CPA to develop appropriate Clawback provisions and internal processes	SOP documents.	Review and approval of all documents. BDO reserves the right to not implement proposed process.
B. PROGRAM MANAGEMENT: EXECUTION SERVICES				
#	Service to be performed	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
B.1	BEAD Challenge Process	<p>End-to-end ownership of this NTIA-regulated process: creation, design, execution, and finalization covering the Challenge Types.</p> <p>Includes creation of: Challenge Assessments, SOP, Reports, Adjudication Activities, List of updated Broadband Service availability for all locations in Texas, eligibility status of all CAIs in Texas, Status of all enforceable commitments in Texas, and vetted listing of all ISP Planned Service Broadband Service deployments in Texas.</p> <p>Data reporting will be required for each Challenge Type and its outcome.</p>	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables, at each step, is required prior to moving forward to execution of this service.
B.2	BEAD Grant Solicitation Process	<p>End-to-end ownership of this NTIA-regulated process: creation, design, execution, and outcome finalization of the entire Subgrantee Selection Process.</p> <p>Includes creation of: NOFA using CPA resources and with approvals from CPA contracts team; solicitation documentation creation, Application Materials, SOP, Public Outreach materials for BDO Communications Team, setting up presentations for potential applicants (e.g., webinars or in-person meetings), and Intake of applications- the Process as well as the Intake Activities. Data reporting as required.</p>	Refer to detailed list of deliverables for this service.	<p>Review and approval of all deliverables, at each step is required prior to execution.</p> <p>BDO Communications Team will execute actual communication activities</p>

	Service to be performed	Successful Respondent Service	Successful Respondent Deliverable	BDO Responsibility
B.3	Subgrantee Outreach and Technical Assistance	<p>End-to-end ownership of communicating required information and the delivery of technical assistance to potential and actual BEAD program applicants.</p> <p>Includes creation of: various communication channel copy, organizing and running of actual engagement activities, creation of any associated plans to carry out outreach (e.g. stakeholder engagement plan, website layout/presentation approach, etc.) and SOP.</p>	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables at each step is required prior to execution.
B.4	Subgrantee Selection Process	<p>End-to-end ownership of this NTIA regulated process: creation, design, execution, and outcome finalization of the entire Subgrantee Selection Process.</p> <p>Includes creation of: Grant goals, Grant Plan(Solicitation/Evaluation/Award/Contract Execution and Grant Program Management planning), SOP, Funding Strategy/Plan, Risk and Fraud Prevention Plan, Application Forms/Attachments, Application Budget Template, Grant Agreement Template, Reimbursement Request Forms, Scoring Regime and associated templates, Application Data Reporting (list of applications received and all associated data throughout the Grant Lifecycle), Final Award Funding List, Individual Grant Agreements, Monthly Funding Status Reports and any Grant Amendments as applicable.</p>	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables at each step is required prior to execution.
B.5	State BEAD Application Challenge Process	<p>End-to-end ownership of this state of Texas regulated process whereby Permissible Challengers can challenge a BEAD Applicant based on approved and communicated challenge criteria.</p> <p>Includes creation of: various communication channel copy, organizing and running of actual engagement activities, creation of associated plans and SOP to deliver these services and participation in the BEAD Challenge Portal IT requirements gathering sessions.</p>	Refer to detailed list of deliverables for this service.	<p>Review and approval of all deliverables,at each step is required prior to execution.</p> <p>CPA IT will create the Portal IT system.</p>
B.6	BEAD Environmental and Historic Preservation (EHP) Activity Management	<p>End-to-end ownership of this NTIA-regulated process.</p> <p>Includes creation of: various communication channel Copy, organizing and running of engagement activities and SOP to deliver these required management activities for the Texas BEAD Program.</p>	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables at each step is required prior to execution.
B.7	Texas Match Program	<p>End-to-end ownership of this state of Texas regulated process.</p> <p>Includes creation of: various communication channel Copy, organizing and running of engagement activities, creation of associated plans and SOP to deliver these required management activities for the Texas BEAD Program including associated matching algorithms.</p>	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables at each step is required prior to execution.
B.8	BEAD Grant Recipient Compliance Monitoring	<p>End-to-end ownership of this NTIA-regulated process.</p>	Refer to detailed list of deliverables for this service.	Review and approval of all deliverables at each step is required prior to execution.

		Includes creation of: creation of Compliance/Monitoring Plan and SOP including associated escalation/mitigation strategies for non-compliant grant recipients.		
B.9	BEAD Grant Recipient Reimbursement Approvals and Funding Status Reporting	<p>End-to-end ownership of this NTIA-regulated process.</p> <p>Includes creation of: creation of Reimbursement Plan, SOP and implementation plan including associated escalation/mitigation strategies for non-compliant grant recipients.</p>	Refer to detailed list of deliverables for this service.	<p>Review and approval of all deliverables at each step is required prior to execution.</p> <p>BDO will be responsible for all fiduciary approvals/release of funding to grant recipients.</p>

Templates

#	Deliverable	Explanation	Template
A.1	Texas BEAD Program Work Plan	A project plan including timelines, milestone due dates, assignees and expected format, for all Services.	To be developed.
A.2	Progress Reports & Meetings	Bi-weekly and monthly progress reports describing all deliverables’ status against the agreed project timeline including highlighting any risks or other relevant information.	To be developed.
A.3	Assistance/Participation in defining BEAD Challenge System Requirements	Attending BDO – CPA IT requirements gathering sessions where applicable and direct participation as requested by BDO.	N/A – BDO IT will create the functional requirements specification document
A.4	Assistance/Participation in BEAD Subgrantee Selection System Requirements Definition	Attending BDO – CPA IT requirements gathering sessions where applicable and direct participation as requested by BDO.	N/A – BDO IT will create the functional requirements specification document
A.5	Creation and assistance with relevant Collateral for Public Engagement across all Services where applicable	Various Collateral created by BDO Outreach team will need content / copy participation from Successful Respondent	N/A – BDO Outreach will advise specific template as required; main deliverable here is content/copy vs template usage
A.6	Creation and delivery of all required NTIA documents	Creation of all required NTIA documents:	Successful Respondent must present a proposed format to BDO for review and approval prior to commencing work on each document. Documents are subject to change if guidance is provided by NTIA.
#		Requested Document(s)	
1		Written project management plan.	
2		Written policies, procedures, and/or processes to ensure timely and accurate submission of project performance and financial reports.	
3		Written property management policies, procedures, or processes.	
4		List of inventories of all equipment purchased with grant funds.	
5		Written subrecipient management policies, procedures, or processes.	
6		List of subrecipients funded by the grant, including their roles in executing the grant/subaward agreements. (Please note that the executed sub-award documents, including statements of work, executed change orders, and paid subrecipient invoices should be readily available for review during the NTIA-required site visit)	
7		Written subrecipient risk assessment and monitoring plan; documentation/artifacts from subrecipient monitoring visits	

**ATTACHMENT G
TO THE SAMPLE CONTRACT**

HUB Subcontracting Plan

Contractor shall comply with the final executed HUB Subcontracting Plan, which is incorporated by reference for all purposes into this Contract as part of this Attachment F.

**ATTACHMENT H
TO THE SAMPLE CONTRACT**

Contractor's Proposal

Contractor's Proposal dated [insert date], is incorporated by reference for all purposes into this Contract as Attachment H.

**ATTACHMENT I
TO THE SAMPLE CONTRACT**



Comptroller
of Public
Accounts
FORM
70-223
(Rev. 8-22/23)

**Texas Comptroller of Public Accounts
Confidential Treatment of Information Acknowledgment (CTIA)**

I have read and understand the Comptroller's Summary Public Information Disclosure Manual, a copy of which has been made available to me. I understand that confidential information made available to me by the Comptroller's office may include the Comptroller's own information and information held by the Comptroller's office from other entities. I understand that confidential information is to be held in strictest confidence, and I will act in accordance with applicable federal and state laws, regulations and Comptroller policy with regard to the safekeeping and disclosure of confidential information. I understand that I am not to use such information to the detriment of the Comptroller's office or the State of Texas.

I understand that it is my responsibility to consult with the Comptroller's office and obtain approval to disclose confidential information made available to me, and to ensure that any and all disclosures I make are made to people or entities authorized to receive such information.

I understand that I shall either return to the Comptroller's office or destroy any confidential information in my possession according to Comptroller guidelines, when I no longer require such information for authorized purposes.

I understand that computer system password(s) I receive or devise to access computer systems, which may be made available to me for my use by the Comptroller's office, are confidential. I will not disclose to any unauthorized person any password(s) which I am given or devise, and I will not write such password(s) or post them where they may be viewed by unauthorized people. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of my password(s). I understand that use of a password not issued specifically to me, or to a group of which I am a member, is expressly prohibited.

I understand that criminal and/or civil penalties and/or civil damages may apply if I obtain unauthorized access to, or make an unauthorized disclosure or inspection of, certain types of confidential information (e.g., IRS Federal Taxpayer Information, Protected Health Information, Sensitive Personal Information). Such penalties and/or damages may include, but are not limited to, the following:

- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$4,000 fine (Texas Labor Code §301.085);
- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (Texas Tax Code §171.361);
- a misdemeanor, punishable by up to 180 days in jail and/or up to a \$2,000 fine (Texas Tax Code §22.27(c));
- a felony, punishable by up to 5 years in prison and/or a fine of up to \$5,000 (26 USC. §7213);
- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (26 USC §7213A);
- civil damages equal to sum of the greater of \$1,000 for each unauthorized inspection/disclosure or sum of actual damages sustained plus punitive damages for gross negligence, and the cost of action (26 USC §7431); and
- civil and criminal penalties related to criminal justice information (28 CFR §20.25).

I understand that an attempt to circumvent any computer security system or other security control by any means is a violation of Comptroller policy. I also understand that failure to observe these restrictions may constitute a "Breach of Computer Security" as defined in Texas Penal Code, Section 33.02(b), and that such an offense constitutes a Class B misdemeanor, a state jail felony, or a felony of the first, second or third degree.

I understand that any copyrighted material including, but not limited to, commercial computer software, which may be made available to me for my use by the Comptroller's office, is protected by copyright laws and is not to be copied for any reason without permission from the copyright owner. I understand that the violation of copyright laws, including computer software, may result in fines and/or imprisonment.

By my signature hereon, I acknowledge my understanding of the contents of this form and the continued applicability of these provisions after my access to confidential information and computer systems has been terminated.

Printed name of person requesting access	Name of employer
sign ➤ here	Date
Work phone (<i>Area code and number</i>)	Work email address

For general questions regarding this form, contact the Comptroller's Information Security Office by calling 512-936-5671.

Under Ch. 559, Government Code, you are entitled to review, request and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at 1-800-531-5441, ext. 6-6057.

EXHIBIT B
EXECUTION OF PROPOSAL

1. By signature hereon, Respondent represents and warrants that the provisions in this Execution of Proposal apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this RFP or any contract resulting from it.
2. By signature hereon, Respondent represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy, located on Comptroller's website at <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of any resulting contract.
3. By signature hereon, Respondent represents and warrants that each employee, including "replacement employees", will possess the qualifications, education, training, experience and certifications necessary to perform the services in the manner required by this RFP.
4. By signature hereon, Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to Comptroller under the RFP and any resulting contract, if any, and that Respondent's provision of the requested items under the RFP and any resulting contract, if any, would not reasonably create an appearance of impropriety.
5. By signature hereon, pursuant to Section 2155.003 of the Texas Government Code, Respondent represents and warrants that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Proposal.
6. By signature hereon, Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
7. By signature hereon, Respondent hereby represents and warrants that, pursuant to 15 U.S.C. Sec. 1, *et seq.* and Tex. Bus. & Comm. Code Sec. 15.01, *et seq.*, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, nor anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws or communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business.
8. By signature hereon, Respondent represents and warrants that all statements and information prepared and submitted in response to this RFP are current, complete, and accurate.
9. By signature hereon, Respondent represents and warrants that the individual signing this document and the documents made part of this RFP is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of Respondent's Proposal.
10. By signature hereon, Respondent represents and warrants that if a Texas address is shown as the address of Respondent, Respondent qualifies as a Texas Bidder as defined by 34 Texas Administrative Code §2155.444(c).
11. Check below if preference claimed under 34 Texas Administrative Code §20.306 or Chapter 2155, Subchapter H of the Texas Government Code:
 - ☐ Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - ☐ Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - ☐ Agricultural products grown in Texas
 - ☐ Agricultural products offered by a Texas bidder
 - ☐ Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - ☐ Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
 - ☐ Texas Vegetation Native to the Region
 - ☐ USA produced supplies, materials or equipment
 - ☐ Products of persons with mental or physical disabilities

- ☐ Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
- ☐ Energy Efficient Products
- ☐ Rubberized asphalt paving material
- ☐ Recycled motor oil and lubricants
- ☐ Products produced at facilities located on formerly contaminated property
- ☐ Products and services from economically depressed or blighted areas
- ☐ Vendors that meet or exceed air quality standards
- ☐ Recycled or Reused Computer Equipment of Other Manufacturers
- ☐ Foods of Higher Nutritional Value
- ☐ Commercial production company or advertising agency located in Texas

12. By signature hereon, under Section 231.006, Texas Family Code, regarding child support, Respondent certifies that the individual or business named in the Proposal is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Respondent subject to Section 231.006, Texas Family Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the Proposal. This information must be provided prior to award. Enter the Name and Social Security Number for each person below:

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

13. By signature hereon, Respondent represents and warrants that no relationship, whether by relative, business associate, capital funding contract or by any other such kinship exists between Respondent and an employee of any Comptroller component, and Respondent has not been an employee of any Comptroller component within the immediate twelve (12) months prior to Respondent's Proposal. By signature hereon, Respondent certifies that it is in compliance with Section 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency. Enter the name of any current or former executive head of a Texas State Agency that is currently employed by Respondent below:

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Position with Respondent: _____

Date of Employment with Respondent: _____

All such disclosures will be subject to administrative review and approval prior to Comptroller entering into any contract with Respondent. Respondent acknowledges that any contract resulting from this RFP may be terminated at any time, and payments withheld, if this information is false.

14. By signature hereon, pursuant to Section 2155.004(a) of the Texas Government Code, Respondent represents and warrants that neither it nor any person or entity which will participate financially in any contract resulting from this RFP has received compensation for participation in the preparation of specifications for this RFP. Further, under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Proposal or any contract resulting from this RFP is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
15. By signature hereon, Respondent represents and warrants that all articles and services quoted in response to this RFP meet or exceed the safety standards established and promulgated under the *Federal Occupational Safety and Health Law* and its regulations in effect or proposed as of the date of this solicitation.

16. By signature hereon, Respondent represents and warrants its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
17. By signature hereon, in accordance with Section 2155.4441 of the Texas Government Code, Respondent agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
18. By signature hereon, Respondent represents and warrants that Comptroller's payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this RFP are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.
19. By signature hereon, Respondent represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
20. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any 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 Texas Government Code occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Respondent certifies that the individual or business entity named in its Proposal is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.
21. By signature hereon, Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Respondent or any of the individuals or entities included in Part 1 of this document within the five (5) calendar years immediately preceding the submission of Respondent's Proposal in response to this RFP that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to Comptroller's consideration of Respondent's Proposal. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its Proposal a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to Comptroller's consideration of Respondent's Proposal. In addition, Respondent represents and warrants that it shall notify Comptroller in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update Comptroller shall constitute breach of contract and may result in immediate termination of any agreement resulting from this RFP.
22. By signature hereon, Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Section 2252.152 of the Texas Government Code.
23. By signature hereon, Respondent represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, (1) it does not, and shall not for the duration of this Agreement, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Respondent shall promptly notify CPA.
24. By signature hereon, Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Section 2252.152 of the Texas Government Code.
25. Under Section 2155.0061 of the Texas Government Code, regarding human trafficking, Respondent certifies that the individual or business entity named in this Proposal is not ineligible to receive the specified contract

and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.

26. Pursuant to Section 2275.0102 of the Texas Government Code, if required, Respondent certifies that neither it nor its parent company, nor any affiliate of Respondent or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2275.0103, or (2) headquartered in any of those countries.
27. If Respondent is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Respondent verifies that Respondent does not boycott energy companies and will not boycott energy companies during the term of any Contract. If Respondent does not make that verification, Respondent must so indicate in its Proposal and state why the verification is not required.
28. If Respondent is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Respondent verifies that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of any Contract against a firearm entity or firearm trade association. If Respondent does not make that verification, Respondent must so indicate in its Proposal and state why the verification is not required.
29. Pursuant to Section 161.0085 of the Texas Health and Safety Code, Respondent certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Respondent's business. Respondent acknowledges that such a vaccine or recovery requirement would make Respondent ineligible for a state-funded contract.
30. By signature hereon, Respondent represents and warrants that it has read and agrees to all terms and conditions of this RFP, including all requirements in the Sample Contract (Exhibit A), unless Respondent specifically takes an exception and offers an alternative provision in Respondent's Proposal as provided in Section IV, Part 4.2.A (Transmittal Letter).
31. By signature hereon, Respondent represents and warrants that all statements and information prepared and submitted in response to this RFP are current, complete, and accurate

Authorized representative on behalf of Respondent must complete and sign the following:

_____ Signature of Authorized Representative	_____ Date Signed
_____ Printed Name and Title of Authorized Representative	_____ Phone Number
_____ Organization Name ("Respondent")	_____ Fax Number
_____ Federal Employer Identification Number	_____ Email Address
_____ Physical Street Address	_____ City, State, Zip Code
_____ Mailing Address, if different	_____ City, State, Zip Code

EXHIBIT C
CRIMINAL CONVICTION CERTIFICATION

This Criminal Conviction Certification Form is incorporated as part of Respondent's proposal and any resulting Agreement for all purposes.

Respondent represents and warrants that it shall comply with all of the following requirements:

Respondent must take appropriate steps and perform due diligence — at a minimum, as described in this Exhibit C -- to become informed as to each assigned employee's felony criminal convictions, if any, and must promptly inform Comptroller's Contract Administrator of any such felony criminal convictions for any assigned employee. At a minimum, Respondent must take these appropriate steps and perform due diligence at each of these three (3) intervals: (1) within the seven (7) business days immediately prior to submission of Respondent's proposal; (2) within the seven (7) business days prior to the proposed effective date of any renewal or extension of this Agreement; and (3) within the seven (7) business days prior to requesting approval for assignment of a new employee (such as a substitute employee). Respondent must inform Comptroller in writing within three (3) business days of Respondent's receipt of any information on any felony convictions of assigned employees obtained from any of these steps at any of these intervals.

At each of the above three (3) intervals, Respondent must take minimum steps to review and perform due diligence of every assigned employee's criminal history. Respondent's minimum steps shall include, at a minimum, (1) Respondent's compliance with Respondent's published employee policies and procedures for background and criminal checks of Respondent's employees and (2) Respondent's comprehensive search of the public information portion of an online criminal conviction database, such as the DPS criminal conviction database at: <https://publicsite.dps.texas.gov/ConvictionNameSearch/>. If such DPS criminal conviction database is not appropriate for a particular assigned employee, Respondent must submit with its proposal, its renewal or extension, or with its request for assignment, as appropriate, sufficient documentation that an equivalent or more extensive search was conducted and that the alternative is appropriate for that assigned employee.

Upon request by Comptroller's Criminal Investigations Division, Respondent must provide to Comptroller's Criminal Investigations Division, no later than five (5) business days after receiving such request, the written results of these minimum steps for all assigned employees.

For purposes of this Exhibit C, "assigned employees" includes, without limitation, all employees or personnel, for example, who will or may (1) be assigned as lead or key employees or personnel under this Agreement; (2) interact on site at Comptroller's premises with any Comptroller personnel, assets, records or resources in connection with this Agreement; or (3) otherwise access or interact with any assets, records or resources of Comptroller in connection with this Agreement.

By signing this form and initialing the appropriate space, Respondent represents and warrants that it took the above minimum steps and performed due diligence as required by this Exhibit C to become informed as to each assigned employee's felony convictions. If one or more proposed individuals have felony convictions, Respondent must describe the nature and timing of each conviction in a separate letter as part of Respondent's proposal (and in its renewal or extension, request for assignment, etc., as appropriate).

If Comptroller becomes aware that the completed certification form is false, or if Respondent fails to promptly advise Comptroller of a felony criminal conviction occurring after the certification becomes effective, Respondent shall be in breach of this Agreement and Comptroller shall have the option to terminate the Agreement without further obligation to Respondent and may pursue all other remedies and rights available to Comptroller under this Agreement, at law, or in equity.

Respondent must have an authorized company representative initial and sign this document in the blanks provided below, and must return the initialed and signed form along with the other required paperwork with its proposal (and as appropriate, its renewal or extension, or with its request for assignment).

Respondent shall indicate, by initialing in the space provided to the left of Items 1-2 below, its intent to comply with these provisions. Respondent **shall initial below EITHER Item 1 or Item 2 as applicable. DO NOT INITIAL BOTH ITEMS.** Additionally, Respondent shall sign, date, and provide the title of the person executing this Criminal Conviction Certification on its behalf in the space provided below at the end of this document.

1. _____ Respondent represents and warrants that it performed all minimum steps and due diligence described in this Exhibit C and that all currently assigned employees and all employees proposed for assignment have no felony criminal convictions. (If Respondent cannot make this unqualified representation and warranty, Respondent must initial Item 2 below and provide detailed information requested in Item 2 as a separate attachment to this Exhibit C, detailing and explaining any such convictions.) Further, Respondent represents and warrants that it shall notify Comptroller's Contract Administrator in writing if any future proposed employee (for example, a substitute or other newly assigned employee) has any felony criminal conviction or if any information for any previously assigned employee has changed, no later than three (3) business days prior to such proposed employee's proposed assignment starting date or no later than three (3) business days after Respondent's receipt of such changed information, whichever is applicable.

OR

2. _____ Respondent represents and warrants that the attached detailed information describes the nature and timing of each felony conviction for each employee listed. Respondent represents and warrants that it shall notify Comptroller's Contract Administrator in writing of any changes or updates to the information provided with this Exhibit C or subsequently provided no later than three (3) business days after Respondent's receipt of such changed or updated information. Respondent represents and warrants that it provided with this Exhibit C a separate attached document detailing and explaining these convictions. Further, Respondent represents and warrants that it shall notify Comptroller's Contract Administrator in writing if any future proposed employee (for example, a substitute or other newly assigned employee) has any felony criminal conviction or if any information for any previously assigned employee has changed, no later than three (3) business days prior to such proposed employee's proposed assignment starting date or no later than three (3) business days after Respondent's receipt of such changed information, whichever is applicable.

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative

EXHIBIT D
NONDISCLOSURE AGREEMENT

In consideration of Texas Comptroller of Public Accounts (“CPA”) communicating with the undersigned Respondent regarding a potential contract resulting from the referenced solicitation (e.g., RFP, RFO, IFB) and because of the sensitivity of certain information provided to Respondent, both Parties agree that all information regarding CPA or gathered, produced, collected or derived from or related to the potential contract, or provided to Respondent under a resulting contract (“Confidential Information”) must remain confidential subject to release only upon prior written approval of CPA, and more specifically agree as follows:

1. The Confidential Information may be used by Respondent only to assist Respondent in connection with the business relationship contemplated in the solicitation or performance of a contract with CPA resulting from the solicitation.
2. Respondent shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as proposed consultant or independent contractor to CPA.
3. Unless otherwise provided in the solicitation or resulting contract, Respondent agrees to maintain the confidentiality of all Confidential Information in the same manner that it protects the confidentiality of its own materials of like kind, but in no event less than reasonable care. Respondent shall take reasonable precautions to protect the Confidential Information including, but not limited to, not disclosing Confidential Information in any manner to any person, firm, or entity, except for authorized employees, agents, or contractors of Respondent with a need to know who are bound by confidentiality obligations at least as stringent as those contained in this agreement prior to any disclosure of such Confidential Information.
4. The Confidential Information may not be copied, reproduced, disclosed, distributed, or otherwise divulged without CPA's prior written approval. Confidential Information and any copies thereof shall be CPA's exclusive property.
5. All Confidential Information made available to Respondent, including copies thereof, must be returned to CPA upon the first to occur of (a) expiration or termination of any contract resulting from the solicitation, or (b) request by CPA.
6. The foregoing does not prohibit or limit Respondent's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, provided such prior knowledge was not subject to a confidentiality obligation, (b) independently developed by it, (c) acquired by it from a third party under no obligation of confidentiality to CPA, (d) which is or becomes part of the public domain through no breach by Respondent of this nondisclosure agreement or other contractual obligations to CPA, or (e) approved by CPA in writing for unrestricted disclosure.
7. If Respondent is required by applicable law, regulation, or legal process to disclose any Confidential Information, then Respondent shall provide CPA with prompt notice of any such requirement prior to delivery of the Confidential Information to allow CPA a reasonable opportunity to seek a protective order or equivalent.
8. This nondisclosure agreement shall become effective as of the date Confidential Information is first made available to Respondent and shall survive the expiration or termination of any contract resulting from the solicitation and be a continuing requirement.
9. The breach of this nondisclosure agreement by Respondent shall entitle CPA to immediately terminate any contract with Respondent resulting from the solicitation upon written notice to Respondent for such breach. The Parties acknowledge that the measure of damages in the event of a breach of this nondisclosure agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether CPA elects to terminate any contract with Respondent resulting from the solicitation upon the breach hereof, CPA may require Respondent to pay to CPA the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to CPA in the event of a breach hereof by Respondent of this nondisclosure agreement. CPA does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this nondisclosure agreement.
10. This nondisclosure agreement is governed by and construed under the laws of the State of Texas. Any and all obligations of this agreement are due in Travis County, Texas and venue is proper in only such county.

Signature of Authorized Representative

Date Signed

Printed Name & Title of Authorized Representative

Company Name (“Respondent”)

EXHIBIT E
CONFLICT OF INTEREST STATEMENT

[To be prepared and signed by Respondent (Refer to Section 4.2. of the RFP)]

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative

EXHIBIT F
CERTIFICATION REGARDING PUBLIC NATURE OF THE PROPOSAL

The Legislative Budget Board (LBB) has established a database of state agency contracts pursuant to Section 322.020 of the Texas Government Code. See the LBB website at www.lbb.texas.gov. Following the contract award resulting from this solicitation, CPA plans to upload to the LBB contracts database the complete contract, except for information that is not subject to disclosure under Chapter 552 of the Texas Government Code. Information that is not subject to disclosure under Chapter 552 of the Texas Government Code must be referenced in an appendix that generally describes the information without disclosing the specific content of the information. In submitting a Proposal in response to this solicitation, Respondent acknowledges that it understands and accepts this requirement

Respondent **must initial below EITHER Item 1 or Item 2, as appropriate. DO NOT INITIAL BOTH ITEMS.**

By signature hereon, Respondent certifies the following:

1. _____ Respondent does not assert that any portion of its Proposal is confidential.

OR

2. _____ Respondent has stamped in bold red letters the term “**CONFIDENTIAL**” on the specific part or page of the Proposal considered confidential by Respondent. In the table below or as an attachment to this form submitted with the Proposal, Respondent has identified by page number(s) the location of all information in the Proposal asserted to be confidential by Respondent as well as provided an explanation, including any relevant legal authority, for why Respondent reasonably considers the identified portion(s) of its Proposal to be confidential and exempt from public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code.

Page No. of Proposal	General description of the designated information	Explanation, including relevant legal authority, in support of the confidential treatment of the designated portion(s) of the Proposal.

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative

EXHIBIT G
VENDOR REFERENCE QUESTIONNAIRE
Texas BEAD Program Management Request for Proposals 909-24-1690KW

REFERENCE DEADLINE to Comptroller: May 3, 2024 02:00 PM (Central Time)

The Texas Comptroller of Public Accounts (CPA) requests your assistance in providing a vendor reference for a Request for Proposals (RFP) that has been issued. The vendor that is responding to this RFP is providing this document for you to fill out and return directly to CPA at the following email address: bidcpa@cpa.texas.gov.

This table to be completed by the Vendor requesting reference information:

Respondent Name (the "Vendor")	
Company to be contacted as a reference	
Type of Product/Service Provided	Bead Program Management (the "Services")
Dates of Performance for Listed Customer	Starting Date: Ending Date:
Total Estimated Contract Dollar Amount	\$

Items below to be completed by the Company providing reference.

Rating: (0) Unsatisfactory; (1) Marginally Satisfactory; (2) Satisfactory; (3) Excellent; or N/A (Not Applicable). Definitions for each rating category are contained at the end of this document. Please rate the following:

Quality of Services

- | | |
|--|-------------------------------------|
| 1. Have you purchased any Services from this Vendor in the past 2 years? | Yes ___ No ___ |
| 2. Vendor's ability to provide the Services in a timely manner? | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
| 3. Vendor's knowledge of and ability to answer questions regarding the Services? | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
| 4. Vendor's ability to resolve problems? | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
| 5. If used, quality and ease of use of vendor's challenge and rebuttal platform? | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |

Cost

- | | |
|--|-------------------------------------|
| 5. Did Vendor submit timely, accurate and complete invoices? | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
|--|-------------------------------------|

Timeliness of Performance

- | | |
|---|-------------------------------------|
| 6. Adherence to delivery schedule (major tasks, milestones) | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
|---|-------------------------------------|

Business Relations & Satisfaction

- | | |
|---|-------------------------------------|
| 7. Effectively communicated with Reference's management & staff | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
| 8. Vendor personnel (professional, cooperative & flexible) | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
| 9. Vendor's attitude toward customer service | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |
| 10. Overall Satisfaction with Vendor | 0. ___ 1. ___ 2. ___ 3. ___ N/A ___ |

Comments: (Please use additional page if necessary)

In your opinion, would you use this Vendor again for these Services?	Yes ___ No ___
In your opinion, should this Vendor be recommended to others?	Yes ___ No ___

Name of Individual Completing Form: _____ Date: _____
Organization: _____ Title: _____
Phone Number: _____ Email address: _____

Vendor References Scoring

Score	Pricing	Timeliness	Customer Service
Excellent (3) There are no quality problems.	There are no cost issues.	There are no delays.	Responses to inquiries, technical, service, and administrative issues are effective and responsive.
Satisfactory (2) Nonconformances do not impact achievement of contract requirements.	Cost issues do not impact achievement of contract requirements.	Delays do not impact achievement of contract requirements.	Response to inquiries, technical, service, and administrative issues is usually effective and responsive.
Marginal (1) Nonconformances require minor Agency resources to ensure achievement of contract requirements.	Cost issues require minor Agency resources to ensure achievement of contract requirements.	Delays require minor Agency resources to ensure achievement of contract requirements.	Response to inquiries, technical, service, and administrative issues is somewhat effective and responsive.
Unsatisfactory (0) Nonconformances are compromising the achievement of contract requirements.	Cost issues are compromising performance of contract requirements.	Delays are compromising the achievement of contract requirements.	Response to inquiries, technical, service, and administrative issues is not effective and responsive.

EXHIBIT H
Contractor Cybersecurity Training Attestation Form

Texas Comptroller of Public Accounts (CPA)

Attestation of Contractor Compliance with State of Texas Cybersecurity Training Requirements

Contractor Name:	
CPA Purchase Order Number:	
Contract Description:	

In accordance with [Section 2054.5192](#) of the Texas Government Code, the contractor identified above (“Contractor”) shall ensure that any employee or subcontractor who has access to a CPA computer system or database in performing services under the contract identified above (“Contract”) has completed a cybersecurity training program certified by the Texas Department of Information Resources (“DIR”) on an annual basis during the term of the Contract and during any renewal periods.

Please identify the completed course(s) from the list of [Department of Information Resources \(DIR\) Certified Training Programs](#) located at: <https://dir.texas.gov/information-security/statewide-cybersecurity-awareness-training?id=154#requirements>. CPA will only accept attestation for DIR-certified training programs. CPA’s security awareness training includes DIR-certified training programs in compliance with [Section 2054.519](#) of the Texas Government Code.

Contractor must complete, sign, and return this form to CPA no later than sixty (60) calendar days following Contract award and each anniversary thereafter during the term of the Contract, including any renewal periods. Contractor must email the completed and signed form to CPA at contract.administration@cpa.texas.gov and reference “Cybersecurity Training Attestation” and the purchase order number in the subject line.

By signing below, Contractor hereby certifies that all applicable employees or subcontractors have completed a DIR-certified cybersecurity training program in accordance with by Section 2054.5192 of the Texas Government Code.

[Contractor Entity Name]

Signature: _____
Printed Name: _____
Title: _____
Date: _____