

**DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS**

<b>SOLICITATION NO.</b>	<b>TYPE OF SOLICITATION</b>	<b>DATE ISSUED</b>
405-24R0004808	NEGOTIATED - REQUEST FOR PROPOSAL (RFP)	05/09/2024

**DNA ANALYSIS AND GENETIC GENEALOGY**

<p>Vendor must submit electronic responses no later than 5:00 P.M. Central Time on 06/10/2024 to the following address.</p> <p>DPS_Solicit_Response@dps.texas.gov Attention: 405-24R0004808</p> <p>DPS is not currently accepting any in-person solicitation responses. DPS will only accept electronic responses received by the date and time indicated in this document.</p>	<p>FOR INFORMATION CONTACT:</p> <p>Heidi Davis, CTCDC CTCM Contract Administrator PHONE: (512) 424-5724 EMAIL: Heidi.Davis@dps.texas.gov</p>
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**RESPONSE (Respondent must fully complete)**

<b>DISCOUNT FOR PROMPT PAYMENT:</b>	<b>10 DAYS</b> %	<b>20 DAYS</b> %	<b>30 DAYS</b> %	<b>___ DAYS</b> %
<b>ACKNOWLEDGMENT OF ADDENDA:</b> (Respondent acknowledges receipt of Solicitation addenda and related documents numbered and dated:	<b>ADDENDUM NO.</b>	<b>DATE</b>	<b>ADDENDUM NO.</b>	<b>DATE</b>
<b>NAME AND ADDRESS OF RESPONDENT:</b>				
<b>RESPONSE DATE</b>			<b>EMAIL AND TELEPHONE NO. (Include area code)</b>	
<b>SIGNATURE OF AUTHORIZED REPRESENTATIVE</b>	<b>NAME AND TITLE OF AUTHORIZED REPRESENTATIVE</b>			

**CERTIFICATION, DISQUALIFICATION, AND REMEDIES**

By signing this document, Vendor represents and warrants that all statements, certifications, and information submitted in response to this solicitation are true, current, complete, and accurate.

Failure to sign will disqualify response. DPS may pursue and enforce any available remedies against Vendor for making false statements, including disqualifying the Vendor's response, immediately cancelling any Contract awarded to Vendor, or recommending State of Texas debarment.

**TERM, PRICING, AND FUNDING**

The initial contract term commences on the effective date stated in the signing document or purchase order and expires three (3) years from that effective date.

If necessary, at the end of the last optional renewal period, DPS may also extend the Contract as described in the Standard Terms and Conditions section entitled "Option to Extend Services."

DPS will not allow changes after Date of Award to terms or pricing during Contract term. The continuation of the Contract for any period is subject to the availability of DPS's funding source for the Contract.

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## SECTION A—DEFINITIONS

The following terms and acronyms used in the Contract have the meanings given in this section unless the context indicates otherwise.

**"Business Day"** means Monday through Friday except for federal, state, and legal holidays observed by the State of Texas.

**"Business Hours"** means 8:00 a.m. to 5:00 p.m. Central Time.

**"Contract"** means this formal, written, and legally enforceable agreement between DPS and Contractor.

**"Contractor"** means the individual, business entity, or organization awarded the Contract. In the context of submitting a response, "Contractor" also means "Respondent" and "Vendor."

**"Date of Award"** means the date the Contract is fully executed.

**"Days"** means calendar days unless otherwise specified.

**"DPS"** means the Department of Public Safety of the State of Texas, a state agency in the executive branch created under Tex. Gov't Code Ch. 411.

**"Fiscal Year"** means any of the one year periods beginning September 1 and ending August 31 used for annual budgetary purposes by the State of Texas.

**"Genealogy"** means Genetic Genealogy (GG), Forensic Investigative Genetic Genealogy (FIGG), and Investigative Genetic Genealogy (IGG).

**"Parties"** means Contractor and DPS.

**"Respondent"** means the individual, business entity, or organization that submits a response in response to this solicitation with intent to contract with DPS.

**"SNP Analysis"** means single nucleotide polymorphism is a genomic variant at a single base position in the DNA.

**"Vendor"** means the individual, business entity, or organization at any stage in the procurement or contracting process (prior to response, during response, and after contract award).

## **SECTION B—SERVICES AND PRICES**

### **B.1 PRICING REQUIREMENTS**

#### **B.1.1 Pricing Instructions**

- A. Respondent must submit proposed pricing on the Mandatory Pricing Schedule that includes all costs, fees, licenses, and all expenses for Contractor's delivery and performance of the commodities or services requested. The final negotiated, contracted pricing and payment structure will represent Contractor's sole compensation under the Contract. DPS guarantees no minimum compensation under the Contract.
- B. DPS will negotiate pricing prior to award of the Contract if the pricing offered appears that it may not be best value to DPS.
- C. Contractor must deliver and provide the commodities and services described in compliance with all requirements of the Contract on a no minimum, as needed, as requested basis. Notwithstanding anything else to the contrary in the Contract, DPS will not make any payments of any amount to Contractor or any other entity or person, and Contractor will not submit any invoices, until Contractor has received approval from DPS's Contract Monitor specifically stating that DPS accepts the commodities or services and Contractor is authorized to submit an invoice. If DPS does not accept the commodities or services, the Contract will involve no payments of any type for any amount.

#### **B.1.2 Financial Rating Report, Financial Resources, and Ability to Perform**

- A. *Upon request*, Respondent must provide evidence of its financial resources and its ability to provide the commodities or perform the services for which Respondent is submitting a response. This includes information Respondent believes is pertinent to demonstrate its financial capability, financial solvency, and capacity to fulfill the requirements of this solicitation.
- B. Evidence of financial stability include providing audited financial statements for each of the last two 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. Respondents may submit a copy of its Dun & Bradstreet (D&B) Business Information Report. If a D&B Report is submitted the report must include Respondent's Viability Score and the Portfolio Comparison Score or similar ratings.
- C. In lieu of providing financial statements 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 solicitation.

- D. Respondent must provide information and any other financial information reasonably requested by DPS consistent with the services provided by Respondent or otherwise required by the then applicable DPS policies for similar contracts.
- E. Selected Contractor must also submit to the Contract Administrator its financial rating information within 120 days after the end of Contractor's fiscal year.
- F. DPS reserves the right to investigate and determine the financial integrity and responsibility of a Respondent and to reject a response on the grounds of Respondent's lack of financial soundness, or if DPS reasonably concludes, after reviewing the information submitted by Respondent as well as all other relevant information obtained by DPS, that significant issues exist that could jeopardize Respondent's full and timely performance. DPS also reserves this same right throughout the life of the Contract, including before executing any optional renewal with Contractor.

## **B.2 INVOICE REQUIREMENTS**

- A. Invoices are Contractor's billing for commodities or services rendered. DPS will pay Contractor based on itemized invoices submitted to and approved by DPS. The invoices must be itemized and clearly identify the actual commodities and services provided.
- B. Contractor's invoice must include the following: the Contract number, the remittance address, and any prompt discount offered. Contractor must email the invoice to the Contract Monitor listed in the Contract and to [apinvoices@dps.texas.gov](mailto:apinvoices@dps.texas.gov).

**The State of Texas will not incur any penalty for late payment if the invoice fails to conform to the requirements of this section or if Contractor did not email the invoice to the appropriate email addresses identified in this section.**

## **B.3 PAYMENTS**

- A. DPS recommends that Vendor receive payments by electronic funds transfer (EFT), also known as direct deposit. If Vendor elects to be set up for direct deposit payment, Vendor must submit a completed Direct Deposit Authorization Form (74-176).
- B. Regardless as to whether Direct Deposit is chosen, Vendor must submit a completed Application for Texas Identification Number (AP-152) and Request for Taxpayer Identification Number and Certifications Form (W-9) with its response.
- C. If Vendor has previously submitted a completed Direct Deposit Authorization Form and Request for Taxpayer Identification Number and Certifications Form to DPS for another separate contract, Vendor is not required to submit another form.

## **B.4 MANDATORY PRICING SCHEDULE**

Respondent must submit pricing within the table below replicating, as necessary, in this exact format.

Line No.	NIGP	Description	Qty	UOM	Initial Term Per Test	1 <sup>st</sup> Renewal Price Per Test	2 <sup>nd</sup> Renewal Price Per Test
GENERAL DNA EVIDENCE AND BUCCAL SWAB							
1	952-48	DNA Extraction from non-differential sample	1	Test			
2	952-48	DNA Extraction from mixed stains (differential)	1	Test			
3	952-48	Male DNA Screening	1	Test			
4	952-48	STR Testing for DNA Evidence and Buccal Swab Cases (Analysis and Comparison)	1	Test			
5	952-48	Expedited Process of DNA Evidence and Buccal Swab Cases (for line item 1)	1	Test			
6	952-48	Y-STR analysis using DPS approved Y-STR Kit	1	Test			
7	952-48	DNA Extraction and Mitochondrial DNA Analysis from Buccal Swab or Blood Specimen	1	Test			
8	952-48	DNA Extraction and Mitochondrial DNA Analysis from Hair or Bone Specimen	1	Test			
9	952-48	M-VAC technology to extract DNA from submitted sample	1	Test			
10	952-48	Perform DNA analysis on M-VAC Filter DNA Extract	1	Test			
11	952.48	Expedited YSTR Testing	1	Test			
12	952-48	STR of Rootless Hairs	1	Test			
Y-STR SURNAME GENEALOGY							
13	952-48	Y-STR Surname Genealogy Research	1	Research			
SNP ANALYSIS							
14	952-48	DNA Testing for SNP Analysis Services	1	Test			
15	952-48	Quality Verification if a sample is determined ineligible for DNA Testing for SNP Analysis Services	1	Test			
16	952-48	Whole genome sequencing DNA Testing for SNP Analysis Services	1	Test			
17	952-48	Microarray Mixtures	1	Test			

18	952-48	Sequencing Mixtures	1	Test			
19	952-48	Kintelligence	1	Test			
20	952-48	Target Test/Family Reference Test	1	Test			
21	952-48	SNP Testing of Rootless Hairs	1	Test			
SNP GENEALOGY							
22	952-48	Database Uploads to a DPS approved database	1	EA			
23	952-48	SNP Genealogy Services for development of investigative leads	1	Per Investigation up to 20 Hours			
24	952-48	SNP Genealogy Services for development of investigative leads	1	Per Investigation Hours after 20 Hours			
COURT TESTIMONY							
25	961-50	Expert Court Testimony	1	EA			

## **SECTION C - STATEMENT OF WORK**

### **C.1 INTRODUCTION**

DPS seeks proposals from private contractor laboratories for outsourcing various Deoxyribonucleic Acid (DNA) Analysis and Genetic Genealogy Services. DPS's Texas Rangers Division will use the results of the services for the continued investigation and prosecution of unsolved criminal cases. DPS is seeking to award to multiple vendors, and vendors should submit a response for all applicable services they can provide. DPS reserves the right to utilize the Laboratory of choice.

DPS reserves the right to add any new scientific testing and analysis services within the DNA discipline that DPS becomes legally obligated to perform during the Contract period.

### **C.2 SCOPE**

#### **A. Deoxyribonucleic acid (DNA) analysis of general DNA evidence**

1. DNA Extraction from physical evidence.
2. Buccal Swab DNA analysis and comparison to confirm DNA from possible suspects match the DNA sample associated with the crime.
3. Preliminary quant testing used to determine the approximate human DNA present in the sample and offer male DNA screening. The vendor must offer the option to stop testing after the qualification step for samples contain insufficient human DNA for further processing.
4. Testing must be performed by the vendor with TXDPS approved kits (DPS preferred kit is 24plex or Globalfiler).
5. Expedited DNA analysis and comparison: results returned to DPS within 72 hours of receipt of the sample.
6. DNA profiling of submitted buccal swabs for subsequent entry into CODIS by DPS Crime Laboratory with Common message format (CMF). The aforementioned analysis must be at the 20 CODIS core loci: CSF1PO, FGA, THO1, TPOX, VWA, D3S1358, D5S818, D7S820, D8S1179, D13S317, D16S539, D18S51, D21S11, D1S1656, D2S441, D2S1338, D10S1248, D12S391, D19S433, and D22S1045.

#### **B. Y-Chromosome Short Tandem Repeat (PowerPlex Y23) analysis of DNA samples**

1. Profiles will be uploaded to CODIS database by DPS Crime Laboratory

#### **C. Sample Analysis & Procedure**

1. Confidentiality
  - a. Other than the associated case file and report, no identification information about the sample(s) may be recorded by the contractor.
  - b. Any "outside" inquiries related to the processing of these samples must be immediately reported to DPS. "Outside" inquiries are those originating from private citizens, news agencies, etc. No information regarding the processing of these samples may be provided



2. Procedures for performing forensic DNA analysis
  - a. Batch composition:
    1. Cases and samples must be tested, reported, and returned in batches consistent with the way that the samples were shipped to the contractor.
    2. Cases and samples within a batch must be tested and reported in numerical order (with the exception of retesting).
    3. Vendor must not consume the entire sample. If a vendor anticipates the entirety of a sample must be consumed to perform the requested service, DPS must be provided with a written request to consume the sample, and written consent from DPS must be obtained prior to performance of the requested service.
  - b. Storage: Samples must be stored in a secure facility in a manner to minimize loss, contamination, and/or deleterious change at room temperature until analysis has begun. DPS reserves the right to conduct a site visit and to inspect storage sites to awarded contractors for compliance.
  - c. Processing: Cases or samples must be processed beginning with the oldest date of receipt by the Contractor. The contractor must test a case or sample out of receipt of order at DPS's discretion.
  - d. Return and Notification:
    1. Cases or samples must be returned to DPS when the data and reports have been reported and reviewed by the contractor laboratory. Further, if the case has not yet been started and a suspect or lead is developed, the evidence can be recalled by DPS and returned unanalyzed at no cost to DPS.
    2. To maintain the integrity of the samples, each sample must be properly sealed with initialed evidence tape in the pouch provided by DPS and returned by overnight carrier (Federal Express, UPS, or another carrier approved by DPS).
    3. Contractor must immediately notify DPS when cases or samples are returned to DPS. Cases and samples must be in the same order and boxes in which they were received by the contractor laboratory.
  - e. Destruction and Disclosure of sample forensic DNA analysis: Contractor must comply with the following restrictions for Destruction/Disclosure of DNA samples and records:
    1. At the end of each federal fiscal year, October 1<sup>st</sup> through September 30<sup>th</sup>, Contractor must send a certificate of destruction of work product to DPS.
    2. The certificate of destruction must be made in writing by overnight carrier 90 calendar days prior to the destruction and must include a cover letter describing the testing and why the notification has been sent.
    3. The amplified product must be destroyed after the evidence and extracts are returned to DPS. After destruction of evidence, Contractor must send a certificate of destruction of work product (DNA Sample or case documentation) to DPS within five Business Days of destruction at no additional cost.
    4. Remaining portion of the sample must be returned to DPS after the data has been reviewed and reported by Contractor Laboratory.

5. For forensic casework, extracted DNA tubes must be returned to DPS in a separate container from the evidence.
- f. Forensic DNA Analysis performance testing procedures
  1. The validated policies, procedures, and methods used by the Contractor must promote the successful profiling of samples the first time through the laboratory (without re-injections, re-testing, and additional sample consumption) and must provide data that is the least complicated for the State to review.
  2. Contractor must provide documentation for these changes to DPS. When a procedural change is requested, DPS must review Contractor's analysis and comparison studies and reports. DPS will also consider the impact that the proposed change will have on DPS' laboratory process. DPS may also want to inspect the approved process in the contractor's laboratory prior to its implementation. DPS written approval will include an implementation date. Procedural changes must not be utilized prior to the implementation date.
  3. If at any time in the testing process following award, DPS determines that a procedure is inadequate for the processing of the samples, the Contractor must implement and validate a procedure that is acceptable by DPS.
  4. Contractor must not place samples from any other contract or agency on a plate containing samples from DPS.
  5. There is a concern that small amplification volumes (those less than 12.5ul) may result in a higher number of samples unsuitable or failed results. If the contractor(s) laboratory uses a reaction volume less than 12.5 ul and the sample failure rate is greater than 0.1%, at the direction of DPS, the contractor must retest the failed samples using an amplification reaction volume of 12.5ul or greater using the manufacturer's suggested concentrations of reaction components.
  6. Testing paperwork: The contractor must prepare all note pages with proper identifiers, and each step of the DNA analysis process must be thoroughly documented.
3. Retesting:
  - a. The contractor must obtain written consent from DPS to re-test a sample.
4. Notification of Testing Issues:
  - a. Contractor must provide to DPS, in writing, within five working days of any problem and associated corrective action regarding samples.
  - b. If an issue is discovered that requires corrective action, Contractor must demonstrate the extent of the issue, identify all affected samples/profiles, and provide corrective action.
  - c. If unexpected results are obtained, for example, multiple DNA profiles, amplification failure, etc.), the Contractor laboratory must troubleshoot the problem, and all variant alleles must be re-run for confirmation purposes.

### **C.2.1 Y-STR TESTING**

- A. DPS requires that contractor have the ability to process approximately 10 Y-STR tests per month, depending on need.
- B. Expedited Y-STR
  - 1. Upon request by DPS, contractor must perform expedited Y-STR on submitted samples. The aforementioned report must be sent to DPS within 72 hours from receipt of the sample by Contractor.

### **C.2.2 SNP ANALYSIS, KINTELLIGENCE, MICROARRAY, WHOLE GENOME SEQUENCING (WGS), AND MIXTURES**

- A. DPS requires a contractor to perform SNP analysis on extracted DNA samples. The contractor must have the ability to process a minimum of 1-10 tests per month.
- B. DPS will submit extracted DNA to the vendor for DNA SNP analysis.
- C. DPS will submit target testing from non-suspect family members for DNA SNP/WGS analysis.
- D. Vendor will perform SNP analysis on microarray mixtures upon request.
- E. Vendor will perform Kintelligence on single source profiles upon request.
- F. Vendor will perform whole genome sequencing on single source and mixture profiles upon request.
- G. Contractor will perform SNP Analysis on extracted DNA sample and produce a report to be used for forensic genetic genealogy for comparison to public DNA databases.

### **C.2.3 SNP ANALYSIS, WHOLE GENOME SEQUENCING (WGS) AND MIXTURES**

- A. DPS requires that the contractor have the ability to genealogy research a minimum of 5-10 cases per month.
  - 1. Genetic Genealogy
    - a. Contractor will compare SNP results from the unknown DNA extracted sample to public genetic genealogy database for potential construction of family trees based on the relatedness of matches.
    - b. Contractor will process, test, and analyze target tests as needed.
- B. Contractor Requirements
  - 1. Contractor must provide genetic genealogy services using genetic genealogists with a demonstrated track record of;
    - a. Solving law enforcement cases and unknown parentage cases,
    - b. Ethical usage of only public genetic genealogy databases that explicitly allow law enforcement usage
    - c. Ability to further investigation,
    - d. Kinship inference testing generated from the same DNA sample, thus minimizing the number of crime scene DNA sample tests.
- C. Y-STR Surname Genealogy:
  - 1. Contractor will perform Y-STR Surname research on qualified Y-STR samples.

2. The results of Y-STR Surname Genealogy will be used to identify paternal surnames to assist in furthering investigative leads.

### **C.3 CONTRACTOR MINIMUM REQUIREMENTS**

#### **C.3.1 CONTRACTOR REQUIREMENTS**

- A. Contractor must be able and willing to accept additional evidence for analysis for each case.
- B. Contractor's technical proposal must include the following plans:
  1. Logistical Coordination Plan
    - a. The plan must describe measures and action the vendor's laboratory will execute to obtain possession of DNA evidence while also meeting chain of custody requirements.
    - b. Measures and actions may include overnight mail or express service delivery (e.g. UPS, FedEx type service), secure contractor pick up or drop off evidence, DPS staff pick up and drop off evidence, and related activities.

#### **C.3.2 CONTRACTOR QUALIFICATION**

- A. The vendor must be accredited within six months of contract award by the Texas Forensic Science Commission in compliance with ISO 17025 for all work performed that requires accreditation. A copy of all accreditation certifications must be included in the response. Prior to any subcontracting, the vendor must notify DPS of the work to be outsourced and the subcontractor to whom the sample(s) will be sent. Any subcontractor laboratory must meet pertinent requirements for work to be performed (e.g., certifications and/or accreditation where applicable). The Contractor laboratory must not subcontract any portion of the casework sample handling, processing, analysis, or reporting to any other laboratory not associated with the Contractor laboratory's corporation.
- B. The Contractor laboratory must perform all work in the United States of America.

#### **C.3.3 CONTRACTOR RESPONSIBILITIES**

- A. The Contractor laboratory must protect the confidentiality of all records and other materials that are maintained in accordance with this Contract.
- B. The Contractor laboratory must have written policies governing access to, duplication, and dissemination of all such information.
- C. The Contractor laboratory must provide its employees and agents, if any, with a copy of a written explanation of these confidentiality requirements before access to confidential data is permitted. A copy of a signed confidentiality statement for each employee will be maintained on file for audit and review for five (5) years beyond termination of this Contract. Any use, sale, or offering of these data in any form by the Contractor laboratory, its employees, or assignees, except by valid subpoena or court order for testimony or discovery purposes, will be considered in violation of this Contract.
- D. The laboratory must be responsible for all costs incurred in this process. The acceptable mode of transportation must provide proper conditions to protect the integrity of the

samples, ensure the chain of custody remain intact, and assure prompt delivery. The shipper must guarantee the ability to track all shipments, and the mode of transportation must be approved by DPS.

#### **C.4 DELIVERABLES**

- A. Contractor must provide a base-level case file (electronic, hardcopy, or both as required by DPS) for each service type submitted within sections C.2.1 through C.2.5, which must consist of the following:
  - 1. Case reports: Any/all data relating to SNP forensic genealogy results, ancestry determination, and phenotyping will be provided to DPS 75 days from the day the genotyping laboratory receives the sample from DPS.
    - a. Any Department required paperwork
    - b. All Technical worksheets reflecting samples for the particular case (i.e., extraction/quantitation/Amplification/CE set-up)
    - c. Summary table depicting all sample profiles
    - d. Chain of custody record
    - e. Documentation of 100% technical review by a qualified individual
    - f. Copies of written reports, which include results and interpretation of the analysis as issued to DPS. Including sample genotypes chart.
    - g. Case Notes
    - h. A court ready written Report (See the FBI's Quality Assurance Standards for Forensic DNA Testing Laboratories, 7-1-2009, Standard 11.2 for required elements)
- B. Specialized Case reports may be requested for specific services. Those reports should include the complete case file, as mentioned above, as well as the following;
  - 1. General DNA Evidence and Buccal Swab
    - a. Contractor must provide DNA results within 72 hours from receipt of sample to DPS when expedited DNA analysis and comparison is requested for a sample.
    - b. Contractor must provide DNA with a report of the 20 CODIS loci from the sample submitted by DPS that DPS Crime Laboratory will upload to the CODIS database.
- C. Contractor will provide a rush turnaround time of 14-30 days for Genetic Genealogy testing and phenotyping at the written request of DPS.
- D. Electronic data
- E. Expert Court Testimony

**Note:** Reports must be sent to the DPS crime laboratory both by hard copy and electronically, as the cases are submitted and returned.

#### **C.5 GENERAL ACCEPTANCE CRITERIA**

- A. DPS has the right to inspect and validate all products, services, and deliverables called for by this Contract, to the extent practicable at all times and places during this Contract. DPS must perform inspections in a manner that must not interfere with the Contractor's performance of this Contract. The Contractor must furnish and must require subcontractors to furnish, at no increase in this Contract's price, all reasonable assistance for the safe and convenient performance of these duties.

- B. If any deliverables do not conform to this Contract's requirements, DPS requires the Contractor to perform the deliverables or services again in conformity with this Contract's requirements, at no increase in this Contract's amount, in addition to all other legal and equitable remedies.
- C. If subject to the outcome of an audit, it is determined that the Contractor is in non-compliance with any provisions of this Contract and/or that money is owed to DPS by the Contractor, then DPS must exercise its rights of recovery of money owed as authorized in Section B.3.5 of this Contract.
- D. Contractor must provide and maintain all documentation pertaining to quality testing, acceptance of deliverables, maintenance and warranty records, inventories of equipment per location, and all reports necessary as per the terms of this Contract, in a manner acceptable to the Department for the deliverables provided under this Contract. Complete records of all inspection work performed by the Contractor(s) must be maintained and made available to the DPS during this Contract performance period and for a period of four (4) years after the termination of this Contract.
- E. DPS will evaluate National DNA Index System (NDIS) Standards for Acceptance of DNA data. DPS will evaluate confidence interval for DNA records of samples returned to us, vendor's performance of all agreed upon timeline for communication and services, and documentation of work performed per specification outlined in Section C, Statement of Work.

## **C.6 TRANSITION**

In the event that DPS awards a subsequent competitive solicitation to a new contractor or if DPS decides to perform the work itself, Contractor must work with DPS and any new contractor to smoothly and seamlessly transition the contract. Contractor will develop a transition plan upon request by DPS. DPS must approve the transition plan before implementation. DPS will not release the final invoice until Contractor returns all Work to DPS.

## **C.7 DPS PERSONNEL**

### **C.7.1 DPS's Contract Administrator**

- A. The Contract Administrator for administration of the Contract is Heidi Davis.
- B. The telephone number for the Contract Administrator is 512-424-5724.
- C. The email address is [Heidi.Davis@dps.texas.gov](mailto:Heidi.Davis@dps.texas.gov).

The Contract Administrator is the representative of DPS's Procurement and Contract Services responsible for the general administration of the Contract, negotiation of any changes, and issuance of written amendments to the Contract.

If DPS and Contractor agree to amend the Contract, DPS will issue a written amendment signed by authorized signatories of the Parties.

### **C.7.2 DPS's Contract Monitor**

- A. The Contract Monitor for the Contract is Orlando Salinas.

- B. The telephone number for the Contract Monitor is 512-424-7303.
- C. The email address is [Orlando.Salinas2@dps.texas.gov](mailto:Orlando.Salinas2@dps.texas.gov).

The Contract Monitor is not authorized to make any representations or commitments of any kind on behalf of DPS or the State of Texas.

#### **C.8 LIQUIDATED DAMAGES**

- A. DPS reserves the right to assess liquidated damages at an amount up to \$100.00 for each instance that the contractor does not provide the analysis results outlined within the Service Level Agreement or any specified requirements in the Contract.
- B. Contractor will not be responsible and liquidated damages may not be assessed due to any delay caused by schedule amendments requested by DPS, delays as the result of activity that is the responsibility of DPS Project Team, as long as Contractor timely files its deficiency report as required by the section entitled "Rolling Estoppel" or delays that DPS deems were outside the control of Contractor. The burden of proof that the delay is attributable to DPS rests with Contractor.
- C. Any liquidated damages assessed under the Contract may, at DPS's option, be deducted from any payments due to Contractor. DPS has the right to offset any liquidated damages payable to DPS, as specified above, against any payments due to Contractor. If insufficient payments are available to offset such liquidated damages, then Contractor must pay to DPS any remaining liquidated damages within 15 days following receipt of written notice of the amount due.

#### **C.9 HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) PARTICIPATION**

- A. An Historically Underutilized Business (HUB) is a business that is certified by the State of Texas that (1) is at least 51% owned by an Asian Pacific American, a Black American, a Hispanic American, a Native American, an American woman, or a Service Related Disabled Veteran; (2) is a for-profit entity that has not exceeded the size standards established by 34 Tex. Admin. Code § 20.294, and has its principal place of business in Texas; and (3) has an owner residing in Texas who has a proportionate interest in the business and who actively participates in the control, operations and management of the entity's affairs. See also 34 Tex. Admin. Code § 20.282.
- B. Contractor must make a good faith effort to comply with all state HUB requirements under Tex. Gov't Code Chapter 2161 and the administrative rules, as applicable. Contractor must also comply with its approved HUB Subcontracting Plan (HSP).
- C. Vendor must submit an HSP as part of its response and must comply with implementation of the HSP. Contractor must seek written approval from DPS prior to making any modifications to its HSP. Respondent must submit a complete HSP and required forms with the response. Respondent's response will be considered non-

responsive if the agency forms are not completed in full or are missing from Respondent's original response.

- D. Vendor must provide notice to all subcontractors of their selection as a subcontractor for the Contract. The notice will specify, at a minimum, DPS's name, the HUB Office, the Contract's assigned contract number, the subcontracting opportunity the subcontractor will perform, the approximate dollar value of the subcontract, and the expected percentage of the Contract's total value that the subcontract represents. A copy of the notice will be provided to the HUB Office and the Contract Administrator no later than ten business days after the effective date of the Contract.
- E. Contractor must submit to the Contract Administrator on a monthly basis (by the fifth day of the following month) the Prime Vendor Progress Assessment Report.

#### **C.10 INSURANCE REQUIRED UNDER THE CONTRACT**

In its response, Respondents must provide a statement of its intent to obtain and maintain for the term of the Contract (and any renewal periods or additional extensions) the minimum insurance coverage specified. Respondents should also describe other insurance coverage maintained by Respondents in the ordinary course of business and provide proof of same in its response. Proof of insurance and bond coverage may be provided in the form of current certificates of insurance. DPS and the State of Texas do not accept "self-insurance" coverage.

The awarded Contractor is required, within five business days of Notice of Award, to provide DPS with current certificates of insurance or other proof acceptable to DPS. Failure to submit acceptable proof of insurance within such period may result in DPS's revocation of the award. Contractor must maintain the required insurance during the initial term and any optional renewal period exercised. Contractor is responsible for ensuring its subcontractors' compliance with all insurance requirements.

<b>Minimum Required Amounts of Insurance Coverage</b>	
<b>Type of Insurance</b>	<b>Each Occurrence/Aggregate</b>
<i>Workers' Compensation</i>	Statutory Limits for the State of Texas or for any state Contractor's employee resides in
<i>Employer's Liability</i> Bodily Injury by Accident Bodily Injury by Disease Bodily Injury by Disease	\$1,000,000 Each Accident \$1,000,000 Each Employee \$1,000,000 Policy Limit
<i>Commercial General Liability</i> (occurrence based)	Bodily Injury and Property Damage \$1,000,000 Each Occurrence Limit \$2,000,000 Aggregate Limit \$2,000,000 Products/Completed Operations Aggregate Limit \$1,000,000 Personal Injury and Advertising Liability \$50,000 Damage to Premises Rented \$5,000 Medical Payments



<i>Umbrella/Excess Liability</i>	\$1,000,000 Per Occurrence
<i>Additional Insurance</i>	

All required insurance coverage must be issued from a company or companies with a Financial Strength Rating of "A" or better from A.M. Best Company, Inc.

All insurance policies for required coverage must be issued by companies authorized to do business under the laws of the State of Texas and in a form satisfactory to DPS. All required insurance contracts must:

- i. Be written on a primary and non-contributory basis with any other insurance coverages Respondents currently has in place; and
- ii. Include a Waiver of Subrogation Clause.

All certificates of insurance for required coverage other than workers compensation and professional liability must name the Department of Public Safety of the State of Texas and its board, officers, employees, and agents as additional insureds.

Contractor must:

- A. Provide all required written documentation under this section to the Contract Administrator.
- B. Ensure all insurance policies and certificates of insurance for required coverage are written to include all products, services, and locations related to Contractor's performance under this Contract.
- C. Ensure (and represents by executing a Contract) that all required policies contain endorsements prohibiting cancellation except upon at least 30 days' advanced written notice to DPS. The certificates of insurance must be addressed to the Department of Public Safety of the State of Texas as the certificate holder.
- D. Deliver all copies of changes to insurance coverage (including extensions, renewals, cancellations, and revisions) at least ten calendar days prior to any expiration of a required policy. All renewal policies and corresponding certificates of insurance must meet all terms set forth in the Contract.
- E. Ensure that all provisions of the Contract concerning liability, duty, and standard of care, together with the indemnification provision, are underwritten by contractual liability coverage sufficient to include Contractor's obligations under the Contract.  
Obtain and maintain insurance policies that provide coverage for Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under this Contract.

#### **C.11 CRIMINAL HISTORY BACKGROUND CHECK**

- A. Contractor's project personnel must submit to a fingerprint-based Criminal History Background Investigation, at Contractor's expense. To facilitate this Criminal History Background Investigation, each person must complete DPS Contractor Background Information form (HR-22), which DPS will provide.
- B. If required under the Contract, Contractor will not allow personnel who have not submitted to and successfully completed DPS fingerprint-based Criminal History Background Investigation and who do not otherwise maintain a DPS security clearance

to work on the Contract. DPS has the right to prevent Contractor's personnel from gaining access to DPS building(s) and computer systems if DPS determines that such personnel do not pass the background check or fail to otherwise maintain DPS security clearance.

- C. When required, Contractor's Project Manager will provide the following to DPS Contract Monitor no later than ten days of executing the Contract:
  - a) the completed Contractor Background Information form (HR-22) for all proposed personnel; and
  - b) acceptable fingerprints for all proposed personnel.
- D. Throughout the term of the Contract, DPS may require Contractor personnel to submit to an annual DPS fingerprint-based Criminal History Background Investigation to DPS.
- E. Throughout the term of the Contract, Contractor will promptly notify DPS of any activity or action by Contractor's personnel that may affect that individual's ability to continue to work under the Contract.

#### **C.12 GENERAL CONFIDENTIALITY REQUIREMENTS**

- A. All information provided by DPS to Contractor, created by Contractor, or overheard, seen, or otherwise obtained by Contractor in performing the obligations under the Contract is confidential and may not be used by Contractor or disclosed to any person or entity, unless such use or disclosure is required for Contractor to perform work under the Contract. The requirements in this section also apply to subcontractors. The obligations of this section do not apply to information that Contractor can demonstrate:
  - 1) Is publicly known at the time of disclosure or subsequently becomes publicly known through no fault of Contractor;
  - 2) Contractor discovered, learned, or created independently by Contractor or by a rightfully possessing and disclosing third party or by any other legitimate means;
  - 3) Is required to be disclosed by law or final order of a court of competent jurisdiction or regulatory authority, but Contractor must furnish prompt written notice of such required disclosure and will reasonably cooperate with DPS at DPS's cost and expense, in any effort made by DPS to seek a protection order or other appropriate protection of its confidential information.
- B. Contractor must notify DPS in writing of any unauthorized release of confidential information within four hours of when Contractor knows or should have known of such unauthorized release.
- C. Contractor must notify affected parties in writing of any unauthorized release of confidential information within two business days of when Contractor knows or should

have known of any unauthorized release of confidential information obtained from affected parties.

- D. Contractor must maintain all confidential information in confidence during the term of the Contract and after the expiration or earlier termination of the Contract.
- E. If Contractor has any questions or doubts as to whether particular material or information is confidential information, Contractor must obtain the prior written approval of DPS prior to using, disclosing, or releasing such information.
- F. Contractor acknowledges that DPS's confidential information is unique and valuable, and that DPS may have no adequate remedy at law if Contractor does not comply with its confidentiality obligations under the Contract. Therefore, DPS will have the right, in addition to any other rights it may have, to seek in any Travis County court of competent jurisdiction temporary, preliminary, and permanent injunctive relief to restrain any breach, threatened breach, or otherwise to specifically enforce any confidentiality obligations of Contractor if Contractor fails to perform any of its confidentiality obligations under the Contract.
- G. Contractor must immediately return to DPS all confidential information when the Contract terminates, at such earlier time as when the confidential information is no longer required for the performance of the Contract or when DPS requests that such confidential information be returned.
- H. Information, documentation, and other material in connection with the Contract, including Contractor's response, may be subject to public disclosure under the Tex. Gov't Code Chapter 552.
- I. The FBI and DPS have computer security requirements. Contractor's and subcontractor's employees working on this assignment must sign and submit appropriate agreements and abide by these security requirements, within five days of DPS's request.

### **C.13 PERSONAL INFORMATION**

To the extent this subsection does not conflict with the section entitled "General Confidentiality Requirements," Contractor must comply with both sections. To the extent this subsection conflicts with the section entitled "General Confidentiality Requirements," this section entitled "Personal Information" controls.

- A. "Personal identifying information" and "Sensitive personal information" are defined by Tex. Bus. & Com. Code Ch. 521. Both are classified as personal information for purposes of this section.

- B. Personal information does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.
- C. "Breach of system security" is defined as follows: Unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information Contractor maintains under the Contract, including data that is encrypted if Contractor's employee or agent accessing the data has the key required to decrypt the data. Good faith acquisition of personal information by an employee or agent of Contractor for the purposes of performing under the Contract is not a breach of system security unless the employee or agent of Contractor uses or discloses the personal information in an unauthorized manner.
- D. Contractor must implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect from unlawful use or disclosure any personal information collected or maintained by Contractor under the Contract.
- E. Contractor must notify DPS and affected parties of any breach of system security immediately after discovering the breach or receiving notification of the breach, if personal information was, or is reasonably believed to have been, acquired by an unauthorized person. However, Contractor must delay providing notice to the affected parties at DPS's request, if DPS determines that the notification will impede a criminal investigation. Notification to the affected people may be made as soon as DPS determines that it will not compromise any criminal investigation.
- F. Contractor must give notice as follows, at Contractor's expense:
  - 1) Written notice;
  - 2) Electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001;
  - 3) Notice as follows:
    - a) If Contractor demonstrates that the cost of providing notice would exceed \$250,000, the number of affected people exceeds 500,000, or Contractor does not have sufficient contact information for the affected people, Contractor may give notice as follows:
      - i. Email, if Contractor has an email address for the affected people;
      - ii. Conspicuous posting of the notice on Contractor's website;
      - iii. Notice published in or broadcast on major statewide media; or
    - b) If Contractor maintains its own notification procedures (as part of an information security policy for the treatment of personal information) that comply with the timing requirements for notice under this subsection entitled "Personal Information," Contractor may provide notice in accordance with that policy.

- G. If this subsection requires Contractor to notify at one time more than 10,000 people of a breach of system security, Contractor must also notify, without unreasonable delay, each consumer reporting agency (as defined by 15 U.S.C. Section 1681a) that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices.
- H. In the event of a breach of system security, if personal information was, or is reasonably believed to have been, acquired by an unauthorized person, DPS, an agency of the State of Texas, may assess and enforce, as applicable and without limitation, cyber insurance coverage requirements, indemnification, duty to defend, liquidated damages, actual damages, sanctions, rights, claims, remedies and other amounts against Contractor in accordance with the contract that includes these Cyber Security Contract Requirements, and in accordance with other applicable law. Contractor understands that there may be constitutional and statutory limitations on DPS to enter into certain terms and conditions of the contract that includes these Cyber Security Contract Requirements and that any such terms and conditions will not be binding on DPS except to the extent authorized by the laws and constitution of the State of Texas.
- I. Liquidated Damages may be assessed under this section in the amount of the per capita data breach cost for public sector (government) records as listed in the current Ponemon Institute Research Report Cost of Data Breach Study: United States. The number of affected records will be determined at the time of breach, with a not to exceed Liquidated Damages Cap of 100% of the total contract value.

The Ponemon Institute Research Report Cost of Data Breach Study: United States may be found at: <http://www-03.ibm.com/security/data-breach/>.

- J. Contractor will not be responsible and liquidated damages may not be assessed due to a breach of system security caused entirely by someone other than Contractor, Contractor's subcontractor, or Contractor's agent. (This provision is not to be interpreted that Contractor is absolved of liability with any other sections pertaining to cyber security or data protection).
- K. Any liquidated damages assessed under the Contract may, at DPS's option, be deducted from any payments due Contractor. DPS has the right to offset any liquidated damages payable to DPS, as specified above, against any payments due to Contractor. If insufficient payments are available to offset such liquidated damages, then Contractor will pay to DPS any remaining liquidated damages within 15 days following receipt of written notice of the amount due.

## **SECTION D—INSTRUCTIONS, CONDITIONS, AND NOTICES TO RESPONDENTS**

### **D.1 RESPONSE PREPARATION INSTRUCTIONS**

- A. These instructions are designed to help ensure the Respondent submits all relevant information in its response
- B. Responses must be prepared in accordance with these instructions providing all required information in the format specified.
- C. Failure of a response to show compliance with these instructions and submit all documentation may be grounds for considering the response non-responsive unless stated otherwise within this solicitation.
- D. Responses must use a sans serif 12-point font (such as Arial or Calibri) on an 8-1/2" x 11" format (except for graphic information being requested). Respondent's response must be paginated, contain a full table of contents, and have component sections clearly identified.
- E. DPS must receive responses no later than the deadline established in this solicitation and submitted to the submission email listed on page 1.
- F. Respondent must ensure that its response is clearly labeled.
- G. Respondent must submit only material directly pertinent to the requirements of this solicitation. Extraneous narrative, elaborate brochures, uninformative public relations material, and other similar documents may not be submitted.
- H. Respondent must submit all pertinent information directly within its response, information submitted as an internet link is considered non-responsive. Respondent must submit documentation or information within the response.

### **D.2 SOLICITATION ADDENDA**

- A. No later than the established solicitation deadline, Respondents must acknowledge receipt of all solicitation addenda by signing and returning the addenda, identifying the addenda number and date.
- B. Respondent's failure to timely acknowledge addenda may subject its response to rejection.

### **D.3 LATE SUBMISSIONS, CHANGES, AND WITHDRAWALS OF RESPONSES**

- A. DPS will not consider any response received at the designated email address after the specified date and time.

- B. Respondent cannot amend its response and DPS will not accept an amended response after closing date and time. If Respondent wants to amend its response, Respondent must amend prior to the closing date and time.
- C. Respondent must clearly identify any alterations made before closing time through its authorized representative.
- D. Alterations made before closing time will be initialed by Respondent or its authorized representative.
- E. No responses can be withdrawn after closing date and time without approval by DPS. Should a Respondent, after closing time, request its response be withdrawn, Respondent must email the request to the Contact Administrator listed in the solicitation.
- F. DPS is not responsible for submissions delivered to DPS after the date and time stated on page 1 of this solicitation. It is the Respondent's responsibility to ensure that it submits, and that DPS receives, its complete response timely. DPS recommends that Respondent submit their complete response well in advance of the due date and time stated on page 1 of this solicitation.
- G. DPS takes no responsibility for electronic responses that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by any DPS anti-virus or other security software. Therefore, DPS recommends confirming receipt.

#### **D.4 RESPONSE ACCEPTANCE PERIOD**

- A. All responses will be valid for 180 days after the solicitation opening date and will constitute an irrevocable response to DPS for the 180-day period.
- B. Such period may be extended beyond the 180 days upon mutual written agreement of both parties.

#### **D.5 CONTRACT AWARD**

DPS may award one or more Contract resulting from this solicitation to the responsible Respondent, whose response is best value under the evaluation criteria in this solicitation.

#### **D.6 DPS'S RIGHTS**

- A. DPS may:
  - 1. reject any or all responses if such action is in the public interest;
  - 2. accept other than the lowest priced response; and
  - 3. waive minor informalities and minor irregularities in responses received.

- B. Waiver of deviations in any response will not constitute a modification of this solicitation and will not preclude DPS from asserting all rights against Respondent for failure to fully comply with all terms and conditions of this solicitation. Copyrighted responses are unacceptable and are subject to being considered non-responsive. DPS reserves the right to make any corrections or include additional requirements in the resulting contract prior to issuance which are necessary for DPS compliance, as an agency of the State of Texas, with all state and federal requirements. DPS reserves the right to consider any response non-responsive which asserts any copyright on any DPS-created form which is specifically designated by this solicitation to be a form that will be completed and included in a response submitted in response to this solicitation.
- C. DPS reserves the right to reject any one response or all responses or portions of responses submitted in response to this solicitation.
- D. The submission of a response has the effect of waiving proprietary rights or confidentiality.
- E. All responses and any content provided by the Respondent are considered the property of DPS for use for the life of any resulting contract as determined by DPS with respect to the scope of the project.
- F. DPS is not liable for any costs or damages that may be incurred by Respondents or in the preparation, formulation, or presentation of a response.
- G. In case of ambiguity or lack of clarity, DPS may adopt such interpretations as may be advantageous to DPS.
- H. DPS reserves the right to withdraw this solicitation at any time for any reason.
- I. DPS reserves the right to award no contract and to solicit additional responses at a later time.
- J. DPS incurs no obligation regarding this solicitation unless and until a contract is fully executed by the parties. However, all responses received by DPS will remain confidential until the evaluation process is complete.
- K. DPS will not hold a public response opening event.

## **D.7 RESPONSE SUBMISSION INSTRUCTIONS**

### **D.7.1 Volume One – Contract Forms and Required Response Information**

This section will contain the following completed contract sections with authorized representative signatures, where applicable:

- A. Solicitation, page 1 (with any signed addenda)



- B. Information and Certifications Form;
- C. Financial Rating and Solvency Information, if applicable;
- D. A Redacted Solicitation and Contract response, if applicable;
- E. Direct Deposit Authorization Form (74-176), completed if choosing direct deposit as a possible payment option;
- F. Request for Taxpayer Identification Number and Certifications (W-9);
- G. Application for Texas Identification Number (AP-152); and
- H. Documentation from the appropriate state entity that indicates that Respondent is properly certified to conduct business in the State of Texas (e.g., The Certificate of Existence from the Texas Secretary of State and the Certificate of Account Status from the Comptroller of Public Accounts).

#### **D.7.2 Volume Two – Information Section**

- A. Cover Page: List name and address of Respondent, date of response, solicitation identifier, and signature of authorized official.
- B. Introduction: Clear expression of who Respondent is, to include an outline of organizational capabilities, goals, project management process approach, business process management design, other previous accolades, and a listing of all subcontractors.
- C. Information Sheet: Including all information required of Respondent and any subcontractors.
  - 1. Name and address (including telephone number) of Respondent and all subcontractors.
  - 2. Business form of Respondent and its subcontractors (e.g., corporation, partnership).
  - 3. Date and state of incorporation.
  - 4. Names and addresses of principal officers, directors, or partners.
  - 5. A résumé of key personnel who will be providing services in any resulting contract, both Respondent and subcontractor employees. These résumés should include the percentage of time each person will dedicate to any resulting contract. The response will include key project personnel as follows:
    - i. Demonstrated experience in providing the services requested in this solicitation for each key project personnel.
    - ii. Résumés for key personnel assigned to any resulting contract will include: project management experience, supervisory experience, business process experience, application languages, hardware installation abilities, software upgrade experience, programming skills/abilities, data formats for each qualifying project.

- 1) Name
  - 2) Title (current)
  - 3) Education
  - 4) Experience related to projects the staff member was directly involved in:
  - 5) Project(s) Scope
    - a) Role
    - b) Related specific technical qualification experience
    - c) Start and completion dates (must include MM/DD/20YY)
    - d) Specific work to be performed or deliverables to be provided under the Contract.
- D. Respondent must identify and provide in its response a minimum of three references relating to past contracts or projects that are similar in size and scope. Respondent must provide, at a minimum, the name, email address, phone number, and title for each reference provided. Additionally, Respondent must provide project begin and end dates, brief descriptions of deliverables, overall costs, and scope of work performed.
- E. Organizational, biographical, and Financial Rating information for the Respondent and all proposed third-parties and subcontractors, if applicable.
- F. Project Schedule and Plan: A plan detailing how Respondent will deliver the commodities and fully implement the services required in Section C.
- G. Respondent must specifically address, within its response, the requests for information as detailed throughout this solicitation. Respondent is responsible for ensuring that all such information is included within its response.
- H. Respondent is encouraged to provide a response narrative for each section and subsection, in the format in which requirements are presented, in sufficient detail to clearly demonstrate Respondent's compliance with all requirements of this solicitation, both technical and administrative. Supplemental justification or documentation can be provided as attachments. Respondent must ensure that all material submitted should be directly pertinent to the requirements of this solicitation and will be formatted as to the specific requirement as delineated in this solicitation.
- I. Electronic and Information Resources (EIR) Accessibility. Respondent must provide documentation of the voluntary product accessibility template (VPAT) Voluntary Product Accessibility Template (VPAT<sup>™</sup>) | Section508.gov (including accessibility conformance reports or vendor accessibility development services questionnaire as applicable) and Section 508 and EIR compliance for all components of the proposed goods or services. See Tex. Gov't Code Chapter 2054, Subchapter M; 1 Tex. Admin. Code Chapter 213; and 1 Tex. Admin. Code Chapter 206; and WCAG 2.0 AA (current and as subsequently amended). VPAT is a vendor-generated statement (using

the required template) that provides relevant information on how a vendor's product or service claims to conform to the Section 508 Standards.

- J. **Business Continuity and Disaster Recovery Plan.** Respondent must submit, with its response, descriptions of its business continuity and disaster recovery plan and processes. If DPS awards a Contract under this solicitation, Contractor must submit, within ten days from Contract award, its plans regarding how Respondent will protect DPS's vital state records throughout the life of the Contract and for any record retention period required beyond the life of the Contract. The plans must include specific actions Contractor will take to meet DPS's essential function recovery times and the related artifacts for the methodologies, tests, and exercises used to validate its business continuity and disaster recovery plan. DPS may reasonably require Contractor to amend its business continuity and disaster recovery plan (based on DPS's dependence or necessity on the particular good or service).
- K. **Assumptions.** No assumptions should be included in a response. All issues or questions that might be advanced or addressed by way of assumption should be submitted to DPS. *The inclusion of assumptions in a proposal may result in a Respondent not being awarded a contract.*
- L. **Exceptions.** If Respondent has exception requests to the DPS Standard Terms and Conditions, these exceptions must be submitted on the Vendor Exceptions Form.

#### **D.7.3 Volume Three – HUB Subcontracting Plan (HSP)**

Respondent must provide a completed HSP as required.

NOTE: Failure to submit the HUB Subcontracting Plan, if applicable, with the appropriate forms will subject Respondent's response to rejection from further consideration.

#### **D.7.4 Volume Four – Cost and Pricing Response**

Respondent must provide pricing in the required Mandatory Pricing Schedule format.

### **D.8 DISCUSSION AND CORRESPONDENCE**

- A. Respondent must communicate and ask questions concerning this solicitation, including any of a technical nature, in writing only to the Contract Administrator listed on page 1 and in accordance with any required deadlines.
- B. DPS will provide written responses to the questions.
- C. Respondent should rely only on the written information provided in this manner. Respondent is specifically cautioned against relying on any oral information.

- D. Respondent is specifically prohibited from making contact with any DPS personnel other than the Contract Administrator involved in this solicitation for discussing its responses. The only exception is if the Respondent has questions regarding proper completion of the HSP, the HUB coordinator listed on the HSP may be contacted with a copy to the Contract Administrator.
- E. The responsiveness of each response will be evaluated upon the written instructions provided by throughout this solicitation and as described in Evaluation Criteria.
- F. Unauthorized contact with DPS personnel by any Respondent may result in DPS considering Respondent's response non-responsive in its entirety.

#### **D.9 SUBMISSIONS SUBJECT TO THE TEXAS PUBLIC INFORMATION ACT**

DPS is a governmental body subject to the Texas Public Information Act (PIA), Tex. Gov't Code Chapter 552. The response and other information submitted to DPS by Respondent are subject to release as public information by DPS. The response and other submitted information is presumed subject to disclosure unless a specific exception to disclosure under the PIA applies.

If it is necessary for Respondent to include proprietary or otherwise confidential information in its response or other submitted information, Respondent must clearly label that proprietary or confidential information and identify the legal basis for confidentiality. Merely making a blanket claim that the entire response is protected from disclosure because it contains some proprietary information is not acceptable, and will make the entire response subject to release under the PIA.

In order to trigger the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the response that are considered by Respondent to be proprietary or confidential must be clearly labeled as described above. Any information which is not clearly identified by Respondent as proprietary or confidential will be deemed subject to disclosure under the PIA. Respondent will irrevocably deemed to have waived, and Respondent agrees to fully indemnify the State of Texas and DPS against any claim of infringement by DPS regarding the intellectual property rights of Respondent or any third party for any materials appearing in the response.

If Respondent's response contains any information that Respondent claims is confidential and not subject to release under the PIA, Respondent must prepare and deliver to DPS two copies of its response containing the following information.

- A. A complete copy of all of Respondent's submissions under this solicitation. Respondent must mark this copy's documents with "Complete Response Documents, [Respondent's Name], DPS SOLICITATION [SOLICITATION Number]. CONTAINS CONFIDENTIAL INFORMATION."

- B. A complete copy of all of Respondent's submissions with all information claimed as confidential excised, blacked out, or otherwise redacted. This copy must also contain an Appendix, which contains clear references to all redacted information including a general description of the redacted information. Respondent must mark this copy's documents with "For Public Release: Redacted Version of [Respondent's Name], DPS SOLICITATION [SOLICITATION Number]."

#### **D.10 AGENCY POSTING OF CONTRACTS**

After award, information, documentation, and other material in connection with this solicitation or the Contract may be subject to public disclosure under the Public Information Act.

Without prior written notice to Respondent, the redacted response may be posted on DPS's website as part of the Contract per Tex. Gov't Code § 2261.253(a).

#### **D.11 ANTICIPATED SCHEDULE OF EVENTS**

DPS currently anticipates that the selection of successful Respondents and award of the Contract, if any, will proceed according to the following schedule:

5/9/2024		Solicitation Posted to ESBD
5/21/2024	5:00 PM CT.	Last day to submit written questions for clarification to DPS
5/29/2024	5:00 PM CT.	Estimated date for DPS to post Question and Answer (Q&A) document to ESBD
6/10/2024	5:00 PM CT.	Deadline for DPS to receive responses
08/31/2024		Anticipated date of Contract Award

DPS reserves the right, in its sole discretion, to change the above date(s). Notices of changes to items directly impacting the original solicitation process will be posted on the Electronic State Business Daily (ESBD) located at: <http://www.txsmartbuy.com/esbd>. Respondent should check the ESBD frequently for updates. Respondent is solely responsible for verifying receipt of its questions, if applicable, and responding by the deadlines stated. A Respondent's failure to periodically check the ESBD for updates will in no way release the awarded Respondent from compliance with any requirements in posted "addenda or additional information" although such compliance may result in additional costs to meet the requirements.

Questions regarding this solicitation must be in writing and must be submitted to DPS's Contract Administrator by the date and time noted in the table listed in this solicitation. Questions may only be submitted by email. DPS intends to post answers to these questions on the ESBD on or before the date and time noted in the table listed in this solicitation.

Respondent is solely responsible for verifying DPS's timely receipt of its questions by the stated deadlines.

## SECTION E—EVALUATION CRITERIA

DPS will evaluate responses in accordance with the best value standard in Tex. Gov't Code § 2155.074. The specific criteria and relative weights are as follows.

Criteria	Weight
The quality and reliability of the goods and services	50 points
Indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support	20 points
Cost	30 points
Total	100 points

A Respondent's past performance will be measured based in accordance with applicable provisions of Texas Gov't Code §§ 2155.074, 2155.075, 2156.007, 2157.003, and 2157.125. Respondents may no longer be considered for this selection criterion for any of the following conditions:

1. A score of less than a C or Legacy Unsatisfactory in the Vendor Performance System;
2. Currently under a Corrective Action Plan through the Comptroller of Public Accounts (CPA);
3. Having repeated negative Vendor Performance Reports for the same reason;
4. Having a record of repeated non-responsiveness to Vendor Performance issues; or
5. Having purchase orders that have been cancelled in the previous 12 months for non-performance (late delivery, etc.).

Contractor performance information is located on CPA's website at:  
<http://www.txsmartbuy.com/vpts>.

DPS may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System, DPS may examine other sources of vendor performance including, 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, DPS may initiate such examinations of vendor performance based upon media reports. Any such investigations will be at the sole discretion of DPS, and any negative findings, as determined by DPS, may result in non-award to Respondent.

**SECTION F—LIST OF EXHIBITS**  
**By number and title**

- F.1 Standard Terms and Conditions
- F.2 Information and Certifications Form
- F.3 HUB Subcontracting Plan (HSP)
- F.4 Change Order Request Form
- F.5 Change Order Acceptance Form
- F.6 Verification of Experience
- F.7 Laboratory Certifications
- F.8 Application for Texas Identification Number (AP-152)
- F.9 Direct Deposit Authorization Form (74-176)
- F.10 Request for Taxpayer Identification Number and Certifications (W-9)
- F.11 Vendor Exceptions Form