



Texas Medical Board

Request for Offers

Website Redesign and Modernization

RFO No. 503-24-0003

June 10, 2024

Anticipated Schedule of Events

June 10, 2024	Issuance of RFO
June 19 2024	Deadline for Submission of Questions (2:00 p.m., CT)
June 21, 2024	Release of Official Responses to Questions (or as soon thereafter as practical)
July 5, 2024	Deadline for Submission of Offers (2:00 p.m., CT) <u>Late Offers will not be considered</u>
August 1, 2024	<i>Services Commencement Date</i> (or as soon thereafter as practical)

I. Summary

- A. **Type of Submission:** Request for Offers (RFO)
- B. **Issuing Office:** Texas Medical Board (TMB)
- C. **Additional Requirements/Qualifications:** N/A
- D. **Responses to RFO:** Sealed Competitive Offers
- E. **Deadline for Offers:** In Issuing Office No Later Than:
July 5, 2024;
2:00 p.m. Central Time (CT)
- F. **Initial Contract Terms:** Date of Award to August 31, 2025
- G. **TMB Optional Contract Terms:** N/A
- H. **TMB Contact Person for this RFO:** Mr. Kayode Ogunbanjo, CTCD, CTCM
Email: purchasing@tmb.state.tx.us
- I. **Offers Submitted by Email:** Required; See Section III
- J. **Offers Submitted by Fax:** Not Acceptable
- K. **Pre-Offer Conference:** N/A
- L. **Pre-Offer Inspection:** N/A
- M. **Letters of Intent to Submit an Offer:** N/A
- N. **RFO Addenda:** Notices of changes to items directly impacting the RFO or solicitation process will be posted on the Electronic State Business Daily (ESBD) located at: <http://www.txsmartbuy.com/esbd>. TMB will post any amendment to this solicitation on the ESBD as an RFO Addendum. It is the responsibility of an interested party to check the ESBD for updates to this RFO before submitting an Offer. Each Respondent is solely responsible for verifying TMB's receipt of its questions, if applicable, and its Offer by the deadlines specified in this RFO.
- O. **Questions and Answers:** Questions regarding this RFO must be in writing and must be submitted to the TMB Contact Person specified in Part H, no later than June 19, 2024; 2:00 p.m. CT. Telephone inquiries will not be accepted. Questions may be submitted by email to the email address specified in Part H.

TMB intends to post answers to the questions received on the ESD on June 21, 2024, or as soon thereafter as practical.

P. **Respondent Presentations:** N/A

Q. **Evaluation of Offers under Best Value Standard (Section 2157.003 of the Texas Government Code):**

<u>Criteria</u>	<u>Weight</u>
Respondent's Qualifications and Experience	40%
Implementation Strategy	30%
Price Schedule	20%
Past Contract Performance with State Agencies	10%
Total:	100%

R. Due to changed building access restrictions, Respondents will not be permitted to hand deliver Offers to the Issuing Office. Respondents are required to submit Offers electronically via email in accordance with Section III of the RFO.

S. **Contact with TMB Personnel:** Upon issuance of this RFO, employees and representatives of TMB, other than the TMB Contact Person identified in Part H, will not discuss the contents of this RFO with any Respondent or its representatives. **Failure of a Respondent or any of its representatives to observe this restriction may result in disqualification of any related Offer.** This restriction does not preclude discussions between the parties to conduct business unrelated to this procurement.

II. Specifications

A. Introduction

The Texas Medical Board (TMB), an agency of the state of Texas, issues this Request for Offers (RFO) to solicit Offers from qualified vendors for the renovation of the agency public website. TMB is a customer centric agency utilizing new technologies to better meet its goal of providing excellent customer service. TMB seeks a vendor to provide a solution for the renovation of the agency public website. Included in the requirement shall be designs and implementation making web pages render well on a variety of devices and window or screen sizes. The goal is to allow customers to find the information they need quickly and effortlessly.

B. Background

The mission of the TMB is to protect and enhance the public's health, safety and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline and education. Created in 1937, the TMB operates under the authority of the Texas Medical Practice Act, Tex. Occ. Ann., Chapters 151-171, 204-206, and 601-604. Further information regarding TMB is available at www.tmb.state.tx.us.

C. Definitions and Acronyms

AI	Artificial Intelligence
Business Day	Monday through Friday, 8:00AM (CT) through 5:00PM (CT), except days on which TMB is officially closed.
CMS	Content Management System
COLI	Cost of Living Index
CT	Central Time
CTCD	Certified Texas Contract Developer
CTCM	Certified Texas Contract Manager
ESBD	Electronic State Business Daily
FAQ	Frequently Asked Question
FEI	Federal Employer Identification
Go Live Date	Date renovated website is activated and made public.
ISS	Integrated Security System
Offer	A submitted response to this Request for Offers.
RBAC	Role-Base Access Control
Respondent	An individual or firm submitting an Offer.
RFO	Request for Offers
SaaS	Software-as-Service

SLA	Service Level Agreement
Successful Respondent	The Respondent(s) awarded a Contract.
SQL	Structured Query Language
TIN	Texas Identification Number
TMB	Texas Medical Board
UI	User Interface
URL	Uniform Resource Locator
WCAG	Web Content Accessibility Guidelines

D. Scope of Services

The scope of this project encompasses a comprehensive overhaul focusing on technology design, taxonomy, content strategy, user interface (UI), existing TMB tools, and business processes to enhance the user experience. The primary objective is to update and refresh the public-facing website of the TMB at <https://www.tmb.state.tx.us>. This encompasses creating a complete and functional website that adheres to the detailed specifications outlined in later sections.

1. **Single Point of Contact:** TMB requires that a single point of contact be designated for the renovation of the website to ensure clear and concise communication with the Respondent.
2. **Experience and Qualifications:**
 - a. The Respondent will provide in detail in their Offer submission the experience and qualifications of the individual Respondent or key members of the team that demonstrate the Respondent's capacity to perform the scope of services outlined in this Offer.
 - b. Resumes for key personnel should be included.
 - c. The Respondent should include a list of Texas state agencies for which the Respondent has provided similar services, if applicable.
3. **Deliverables:** The website redesign aims to enhance the user experience, modern design, and improve functionality to align with current industry standards and client requirements. The proposed website must provide the functions available on the existing website (see Appendix A) and meet the new specifications listed below.
 - a. Website design includes the user interface, request processing, data storage and system design necessary to run the website.
 - b. Development of the new website based on the agency approved design from D.3.a, above.
 - c. Data migration from the existing system.
 - d. Full support and warranty for the first twelve (12) months from the Go Live date.

- e. Integrated content management system (CMS) allowing TMB staff to create future content that follows the redesigned website's design guideline.
- f. Finalized design assets for desktops, tablets, and mobile devices.
- g. Integration of new features: social media sharing, artificial intelligent (AI)-driven live chat support, and improved product filtering.
- h. Providing documentation for website administration, content management, and maintenance.
- i. Provide training for TMB staff on CMS usage, content management, and basic website update.
- j. Identifying and fixing bugs or issues during testing and initial twelve (12) months to ensure a smooth user experience.

4. User Interface Requirements

4 Part 1-General User Requirements: Website user encompasses specifications and features necessary to create an intuitive, visually appealing, and user-friendly interface with the expectations, interactions, specific activities that any end-user expects to perform on the site. These requirements are essential for ensuring that users can navigate the website efficiently and accomplish their goals effectively.

- a. Each user type (persona) needs a view that supports their specific use case. See below for user types.
- b. Provide a seamless browsing experience that include the following:
 - i. Fast page transitions
 - ii. Responsive user interface
 - iii. Efficient data loading
 - iv. Seamless browsing experience
 - v. Integrate advanced search features to facilitate quick and efficient information retrieval for end-users.
- c. The website is responsive and interactive.
- d. Implement a robust search feature that allows users to perform the following:
 - i. Easily find specific information within the website.
 - ii. Provide advanced search options.
 - iii. Filters
- e. Sorting capabilities to refine search results effectively.
- f. Include clear channels for users to provide feedback, report issues, or seek assistance.
- g. **Contact Visibility:** Enable easy user contact via email and customer service number.
 - i. Contact Us directory.
 - ii. Searchable by department/function.

- iii. Action prompted "Where Do I Send This?" "Where can I send a complaint?"
- h. **Aesthetics:** Use of high-quality imagery, illustrations, and visual elements to convey professionalism, trustworthiness, and credibility.
- i. **Navigational and Information Architecture:** Intuitive navigation structure that include the following:
 - i. Clearly labeled menus.
 - ii. Dropdown boxes.
 - iii. Navigation to help users find relevant information and features.
 - iv. Local organization of content into categories and sections based on vendor needs and priorities.
 - v. Incorporation of breadcrumb trails, search functionality, and filters to facilitate navigation and content discovery.

4 Part 2-User Types: The agency has three main types of users accessing information on the website. The website should present information to each of the user types in a logical and easy to use manner.

- a. **Licensees and Related Persons:** Licensees and related persons engage in business or professional activities regulated by the Board who adhere to its guidelines and regulations in a lawful, compliant manner.
 - i. Individuals or institutions with pending, current, or inactive licenses regulated by the board.
 - Applicants
 - Active licensees
 - Expired licensees
 - Retired licensees
 - ii. Lawyers who represent clients before the board.
 - iii. Staff working for licensees.
 - iv. May need to access many different types of agency data (statutes, rules, process, etc.)
- b. **The Public:** The TMB website will cater to the public by offering information services agency programs, policies, and regulations. The public can be identified as the following:
 - v. Individuals or institutions that have business before the board (complaint, license verification, etc.)
 - Individual citizen
 - Hospitals
 - Credentialing entities
 - University and colleges
 - Media outlets
 - Legislators and staffer
 - Other state and government agencies

- vi. Do not have a license regulated by the Board.
- vii. May need to access many different types of agency data (financial, licensing, process, etc.)
- c. **Staff:** Staff refers to the employees who are hired by an agency to perform a wide range of tasks, responsibilities, and contribute to the functioning and overall success.

4 Part 3-Responsive Web Design: Adapt the layout and content for larger screens across various devices.

- a. Desktop computers
- b. Laptops
- c. Tablets
- d. Smartphones

4 Part 4-Accessibility for Persons with Disabilities: Equal access and usability for individuals with disabilities across products, services, environments, and digital content.

- a. Alternate text for images
- b. Captioning videos
- c. Using appropriate color contrast
- d. Assistive technology which includes:
 - i. Screen readers.
 - ii. Voice recognition software
 - iii. Keyboard navigability
- e. Accessibility documentation and training materials
- f. Ensure compliance with WCAG (Web Content Accessibility Guidelines) standards.
- g. The website shall meet or exceed the Texas State standards for accessibility as defined in [Texas Administrative Code 206.50](#).

5. **Content Creation:** Content creation refers to the process of developing and producing various types of content that will be on the TMB website. The existing public website content is maintained by TMB staff. The proposed website must allow staff to create content and all navigation. Content creation must not require programming or third-party vendor support. The content must attract visitors, convey information, build brand identity, or contact the agency.

- a. Users can perform the following functions:
 - i. Create pages using standardized objects.
 - ii. Check that all pages are loading without error.
 - iii. Check that all forms are running properly.
 - iv. Check pages for broken links.
 - v. Upload media.
 - vi. Upload files (Word, Excel, .pdf)
 - vii. Manage documents.

- viii. Manage widgets.
 - ix. Make updates to website software and plugins.
 - x. Search for 404 errors and fix or redirect.
 - xi. Test website on all devices and browsers to see if it displays correctly.
 - xii. Restore a previous version of the website or page.
 - xiii. Can assign different users to different sections.
 - xiv. Security control
 - xv. Version control
 - xvi. Create links to TMB sites providing non-local applications.
 - xvii. Links websites associated with other entities.
 - xviii. Regularly update the knowledge base for AI webchat accuracy.
- b. **Branding:** The proposed website must follow TMB's branding standards.
- i. A visually appealing landing page that reflects the TMB brand identity and captures attention.
 - ii. Easy navigation on the landing page.
 - Clear and intuitive navigation menus.
 - Logical information architecture
 - iii. Prominent search functionality

6. **New Capabilities:** New capabilities for a redesigned website refer to additional features, improvements that enhance the users experience and offer new ways for users to interact with the TMB website. These capabilities meet user needs, enhance usability, and add value. The following features are not available on the existing website.

- a. **Webchat:**
 - i. AI based to respond to simple requests.
 - ii. Ability to chat with TMB staff for more complex questions.
- b. **Deep Linking:** Able to link to specific content on a page.
- c. Updated Frequently Asked Questions (FAQs) page:
 - i. **Search Functionality:** Implement a robust search feature for users to easily find answers to their questions.
 - ii. **Keyword Optimization:** Ensure FAQ's entries are optimized with relevant keywords to enhance search accuracy and relevance.
 - iii. **Filters and Categories:** Provide filters or categories for users to narrow down searches, focusing on specific topics like Board's minutes, agendas, forms, and other document types.
 - iv. **Intuitive User Interface:** Create a user-friendly interface for easy navigation and a positive user experience.

- v. **Mobile Responsive:** Ensure the FAQ's webpage is responsive and accessible on multiple devices, including mobile phones and tablets.
- vi. **Up-to-Date Information:** Enable staff to regularly update the FAQ database with the latest information, changes, or additions.
- vii. **Multilingual Support:** if applicable, provide multilingual support for a diverse user base.
- viii. **Accessibility:** Ensure the FAQ's webpage adheres to accessibility standards to accommodate users with disabilities.
- ix. **Customization Options:** Allow users to customize their user experience, such as:
 - Enabling users to personalize their experience by saving frequently accessed questions for future reference.
 - Provide tool to easy reorder, save, delete, and add categories or section of FAQ's.
 - Allow linking of individual sets of FAQs for seamless navigation.
 - Implement measures to prevent duplications within the FAQ's.
- x. Robust search natural language and Boolean search support.
 - Indexes all document types (ex: PDF, Word, and Excel).
 - Metadata for files that are not machine readable (ex: audio or video).
- xi. Scheduled Publication/Removal of Content - Homepage/Banner Announcements:
 - Implement the ability to schedule the publication or removal of content.
 - Integrate a prominent banner for announcements regarding closures and important updates.
- xii. Website archiving for records retention purposes.
- xiii. Easily embed multi-media projects such as video.
- xiv. Ability to change or update the website style without editing CSS files. The system must not allow style changes to break the website.
- xv. Completion of post-production fixes.
- xvi. **Security Measures:** Implement security features to safeguard user data.

7. **Technical Requirements:** Technical requirements in a website redesign encompass the necessary specifications and features aimed at enhancing the website's functionality, performance, and accessibility. These requirements ensure a seamless and engaging user experience.
- a. **Cross-Browser Compatibility:** Ensure website compatibility with major web browsers to deliver a seamless experience.
 - i. Chrome
 - ii. Edge
 - iii. Safari
 - iv. Firefox
 - v. Ensure AI webchat works with different browsers.
 - b. **Traffic Analysis Tools:**
 - i. Provide metrics on the following website activities.
 - Hits
 - Page Views
 - Visitors
 - Bandwidth
 - Activity by monthly, weekly, and daily time periods.
 - Access statistics by pages, files, images, directory, entry pages, exit pages, and paths.
 - Visitors by hosts, top-level domain, and IP address.
 - Referrers by sites, Uniform Resource Locators (URLs), search engines, search phrases and keywords.
 - Computer details including operating system, browser, and types.
 - Errors
 - ii. Analyze website statistics hourly, weekly daily, monthly, or annually.
 - c. **Performance Optimization:** Optimize the website's performance to ensure fast loading times and smooth user interactions. This includes but is not limited to:
 - i. **Minimizing File Sizes:** This will enhance loading speed and efficiency of the website.
 - ii. **Leveraging Caching Mechanisms:** This improves website performance by storing access data for faster retrieval and reducing server load.
 - iii. Employ best practices for front-end development. This will enhance the performance through the following:
 - Clean code
 - Optimized markup
 - Optimal resource usage
 - d. **Website Security and Privacy:**

- i. Ensuring website security measures and monitoring mitigate risks, protect data, maintain availability, and ensure user safety. The following include:
 - Security incident notification
 - Unauthorized access
 - Suspicious activities
 - **Traffic Analysis:** Identify patterns, anomalies, or potential security threats.
 - Log monitoring.
 - Ensure AI webchat complies with privacy regulations.
 - Implement security measures for user data protection in AI webchat.
 - ii. **Role-Base Access Control (RBAC):** Manage access by assigning permissions and privileges based on specific roles within the software system. The following includes but is not limited to:
 - Granting management access
 - Assign roles based on staff responsibilities and functions.
 - Allow administrators to grant or revoke permissions for each user.
 - iii. **Encrypted Communication:**
 - Support for TLS 1.2 and 1.3.
 - Latest version of security cyphers.
 - Ability to upgrade security to meet future standards.
 - Ability to turn off deprecated security modules without code changes.
- e. **Web Hosting Requirements:** The new website must work within the agency's supported technology matrix.
 - i. The website must be hosted in the cloud.
 - ii. The hosting provider must be Microsoft Azure.
 - iii. An IIS/SQL Server SAS solution is preferred.
 - iv. Virtual machine solutions must run on Windows Server 2022, or Windows Server 2019 with agency permission.
 - v. Must support multiple domain names.
 - tmb.state.tx.us
 - tmb.texas.gov
- f. **Records Management:** The website must include features to facilitate meeting the agency's records retention requirements.
 - i. Export the current or previously published version of a page(s) including all content on the page.

- ii. All uploaded media or documents will have a record retention date. The following functions will be possible using the date.
 - Listing all content older than a selected date.
 - The ability to export content using a selected date.
 - Deleting all content older than a selected date.

8. **Data Migration:** Data migration involves the transfer of existing data and relevant information from the current website to the new website platform. This process maintains continuity and safeguards valuable data while integrating new designs and functionalities. Much of the data on the existing website must be migrated, and converted, if necessary, to the new website. Below are data migration essentials for the planning, execution, and validating of a successful transition to the new website.

- a. All documents
- b. All media
- c. All calendars
- d. All data is accurate.
- e. URL Redirects
- f. Metadata migration
- g. Analytics and tracking mechanisms for user behavior.

9. Project Implementation:

9 Part 1-Project Plan: The response will include a detailed project plan in their response. The Plan must include all tasks to be performed by the Respondent and TMB personnel as well as a Project Timeline.

9 Part 2-Project Milestones: Project milestones ensure successful development, construction, and launching of the final TMB website while ensuring it meets project requirements and objectives. The milestones below are required in the Project Plan.

- a. Project Kick-off and resource assignment.
- b. Focus groups and design document.
- c. Wireframe
- d. Functional walk-through.
- e. Testing and quality assurance.
- f. User feedback
- g. Final product refinement.
- h. Release to TMB.
- i. TMB Staff Training
- j. Production Release

- k. Post-launch monitoring and support.

9 Part 3-Report and Meetings: Successful communication is crucial to the working relationship between the successful vendor and TMB. The following reports and meetings must be included in the Project Plan.

- a. Weekly status report outlining:
 - i. Progress since the last meeting,
 - ii. Planned progress,
 - iii. Upcoming deliverables by responsible party,
 - iv. Any emergent issues.
- b. Bi-weekly status meeting:
 - i. Review status reports,
 - ii. Review progress on milestones,
 - iii. Review any deliverables, and
 - iv. Discuss any issues impacting the project plan.
- c. Share insights and recommendations.
- d. Collaborate with TMB staff to resolve issues.
- e. Keep communication open to address concerns or questions.

10. Service Level Agreements: The response shall include a proposed Service Level Agreement (SLA) that ensures consistent service support and delivery to TMB staff. The vendor is responsible for providing one (1) year of support beginning on the final production release date.

- a. **Objectives:**
 - i. Outline service ownership and accountability,
 - ii. Provide a clear, concise, and measurable description of service delivery to the agency.
 - iii. Align expected service provisions with support and delivery.
- b. **Service Requirements:** The vendor is responsible for adhering to the comprehensive service standards outlined in this ongoing agreement, which include:
 - i. Software upgrades.
 - ii. Server backup and recovery.
 - iii. User security and account management.
 - iv. Automated service monitoring.
- c. **Service Requests:** The vendor commits to addressing service-related incidents or TMB staff requests within the specified time frames during business hours.
 - i. General service requests – 24 hours.
 - ii. Low priority – 8 hours.
 - iii. Medium priority – 4 hours.
 - iv. High priority – 2 hours.
 - v. Critical issues – 1 hour.

- d. **Service Maintenance:** Scheduled services and/or maintenance will be conducted during off-peak hours, typically between midnight and 5:00 A.M. CST, ensuring a minimum uptime guarantee of 99%.

- 11. **Communications with TMB Designated Personnel:** Successful Respondent may communicate with various TMB personnel under the direction of the TMB designated point of contact and/or TMB Contract Manager.
- 12. **Resource Management:** Successful Respondent shall ensure that the website renovation is adequately staffed throughout the entire project. Successful Respondent shall ensure that all its employees are trained, certified, or licensed, as applicable, and are properly qualified by education and experience to perform this project.
- 13. **Issue and Risk Management:** Successful Respondent shall identify, document, and assess potential risks of this project. Successful Respondent shall be responsible for identifying and managing actions to avoid, transfer, mitigate, or manage those risks throughout the life of the project and for communicating the status of issues and risks to TMB during weekly status reports and/or meetings. If a risk becomes an issue requiring immediate action, Successful Respondent shall bring the matter to the attention of the TMB point of contact and TMB Contract Manager as soon as Successful Respondent determines mitigation is necessary.
- 14. **Change Requests:** Any request for a change in the work to be performed for the project, including requests for changes in project plan, scope, specifications, schedule, requirements, deliverables, or any other aspect, shall be submitted in writing. The parties may change the scope of the project or pricing specified in the Contract only by written amendment to the Contract, signed by an authorized representative of each party. An amendment to the Contract is not valid without the written signature of TMB's Executive Director, Deputy Executive Director of Business Administration, or General Counsel.
- 15. **TMB Roles and Responsibilities:** TMB will assign a Contract Manager and primary point of contact to serve as the project manager to work with the Successful Respondent's single point of contact. TMB will provide reasonable access to TMB subject matter experts and technical staff for questions and data collection and transfer.

16. Standard Acceptance and Evaluation Process for All Work Products:

- a. Successful Respondent shall be responsible for the creation, development, and submission of the written deliverables and work products required under the Contract.
- b. Successful Respondent shall make all written deliverables and work products electronically available in software versions and formats and for operating platforms approved by TMB (i.e. Microsoft Word, Microsoft Excel, Microsoft PowerPoint, Windows operating system, .pdf, etc.).
- c. All written deliverables and work products must be reviewed and approved by TMB.
- d. Except as otherwise mutually agreed by TMB and Successful Respondent, TMB's evaluation period shall be ten (10) Business Days for each written deliverable or work product. On or before the tenth (10th) Business Day following TMB's receipt of Successful Respondent's written deliverable or work product, TMB shall provide Successful Respondent with either:
 - i. TMB's written acceptance of the written deliverable or work product, or
 - ii. TMB's written rejection of the written deliverable or work product. Successful Respondent shall have ten (10) Business Days after written notice within which to correct all defects identified within the written notice of rejection and resubmit the corrected written deliverable or work product. Upon delivery, TMB shall have five (5) Business Days to evaluate the corrected written deliverable or work product to confirm that the defects identified by TMB have been corrected. The evaluation process shall be continued until the written deliverable or work product receives TMB approval.

E. Contract Resulting From This Solicitation

1. The term "Contract" refers to the contract resulting from this RFO, if any. Respondent's Offer is a legal offer to contract based upon the terms, conditions, and specifications set forth in this RFO. An Offer becomes a contract with TMB only when a duly authorized representative of TMB issues a valid Purchase Order ("PO"). TMB may award the Contract by issuing a PO only, or the PO may incorporate by reference a formal, written agreement executed by authorized representatives of TMB and Successful Respondent.
2. The Contract will be between TMB and the Successful Respondent that will be responsible and accountable for completing this project.

3. The term “Successful Respondent” includes employees, representatives, agents, subcontractors, suppliers, and third-party service providers of Successful Respondent, regardless of how such persons or entities are employed or contracted by Successful Respondent. Successful Respondent shall be solely responsible to TMB for all performance by Successful Respondent’s employees, representatives, agents, subcontractors, suppliers, third-party service providers, and similar entities.

F. Warranty of Performance

Successful Respondent represents and warrants that its performance under the Contract shall be conducted conscientiously in a professional and workmanlike manner to the full extent of Successful Respondent’s talents and capabilities with due diligence, and in full compliance with the highest professional standards of practice in the industry applicable to the Services.

G. Contract Term

The initial term of the Contract shall be from Date of Award through August 31, 2025 (“Initial Term”). Notwithstanding the termination or expiration of the Contract, certain provisions (e.g., indemnification, confidentiality, right to audit) shall survive the termination or expiration of the Contract.

H. Acceptance Criteria

Prior to payment, TMB will evaluate the provided products using the following criteria and any additional acceptance criteria agreed to by the parties prior to contract award and included in the Contract.

1. The products and/or services must meet all specifications and standards of performance in the Contract; and
2. The products and/or services must comply with all published specifications.

I. Payments

Payment(s) to Successful Respondent will be based upon the schedule described in Section III, Part C. Mandatory Price Sheet, and the Contract. TMB may, in its sole discretion, process payments on a monthly basis or by completion of performance obligations. TMB makes no express or implied warranty whatsoever that any minimum compensation or minimum quantity will be guaranteed under the Contract. Payment shall be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. Payments will be made to Successful Respondent using electronic funds transfer. In accordance with Section 403.16(h)(1), Successful Respondent may provide a written request to TMB for Successful Respondent to receive payments by warrant.

J. Respondent Exceptions

1. If Respondent takes any exception to any provisions of this RFO, the exceptions must be specifically and clearly identified by section number in Respondent's Offer. Respondent's proposed alternative must also be provided in the Offer. If a Respondent takes a "blanket exception" to the entire RFO or does not propose alternate language for TMB's consideration, Respondent's Offer may be considered non-responsive to this RFO and disqualified from further consideration.
2. Respondents are strongly encouraged to submit any inquiries regarding specific terms or conditions of this RFO during the question-and-answer period designated in Section I (Summary) of this RFO.

III. Offer Submission Requirements

A. Delivery of Offer

1. Respondent must submit its Offer electronically via email, in accordance with the following:
 - a. The Offer must be emailed to purchasing@tmb.state.tx.us, with copy to the TMB Contact Person for this RFO as identified in Section I, Part H;
 - b. The subject line of the email must include Respondent's name and a reference to RFO No. 503-24-0003;
 - c. All attachments to the email must be in a format that is accessible to TMB (specific acceptable formats include Word, Excel, and .pdf);
 - d. All required forms must be manually signed with scanned signatures; and
 - e. TMB strongly encourages Respondent to send the email with the attached Offer at least fifteen (15) minutes prior to the Deadline for Submission of Offers as specified in this RFO in order to allow for any networking delays that may occur (e.g., firewalls, security scans, etc.).
2. **Respondent is solely responsible for ensuring timely delivery of its Offer to the Issuing Office by the deadline. Late Offers will not be accepted.**

B. Offer Content and Format

The Offer must contain the information listed in this Part B. Failure to include all information may result in exclusion of the Offer from consideration. The Offer must contain an organized, paginated table of contents corresponding to the sections and pages of the Offer. The Offer must be organized as follows:

1. Respondent's Contact Person and Identifying Information

Respondent must submit the following in its Offer:

- a. Respondent's identifying information:
 - i. name and address of business entity submitting the Offer;
 - ii. list of all principals;
 - iii. type of business entity (e.g., corporation, partnership);
 - iv. state of incorporation or organization;
 - v. principal place of business;
 - vi. Texas Identification Number (TIN), if available; and
 - vii. Federal Employer Identification Number (FEI).
- b. Respondent's contact information (i.e., name, title, email address, phone number and fax number) for the individual(s) who will be

TMB's point of contact for questions regarding the Offer and the Contract.

2. Respondent's Qualifications, Experience and Past Performance:

- a. Profile. In its Offer, Respondent must provide a profile that:
 - i. describes the size and scope of all of Respondent's operations, including number of Respondent's employees and years in business;
 - ii. describes in detail Respondent's history and experience, particularly in the most recent three (3) years, in providing same or substantially similar Services to comparable Texas state agencies other than TMB or other organizations;
 - iii. describes Respondent's prior contracting experience with TMB and other organizations;
 - iv. includes a statement regarding the financial stability of Respondent, including the ability of Respondent to perform the Services and any other services proposed in its Offer; and
 - v. includes any other information Respondent believes is pertinent to this RFO (e.g., certificates, industry awards).
- b. References.
 - i. In its Offer, Respondent must provide a list of three (3) entities other than TMB for which Respondent has provided services and/or products described in this RFO during the past three (3) years. For each of the three references, Respondent must include dates when items that were the same or similar to those requested in this RFO were provided, and the names, telephone numbers and email addresses of the entity's contact person.
 - ii. In TMB's sole discretion, TMB may contact Respondent's references by electronic mail or telephone. TMB will not notify Respondent of its reference-checking activities. In the event Respondent provides more than three references, TMB will contact only the first three references listed in Respondent's Offer.
 - iii. TMB 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 Section 2262.055 of the Texas Government Code, TMB may examine other sources of Respondent 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 Respondent performance may include any governmental

entity, whether an agency or political subdivision of the state of Texas, another state or the Federal government. Further, TMB may initiate such examinations of Respondent performance based upon media reports. Any such investigations shall be at the sole discretion of TMB, and any negative findings, as determined by TMB, may result in a non-award to Respondent. Information pertaining to VPTS is located on the Texas Comptroller of Public Account's website at:

<https://comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>.

- iv. Respondent must provide the reference information in a format similar to the following:

Reference 1:

Entity Name: _____
Date Item(s) Provided: _____
Name of Entity's Contact Person: _____
Telephone Number of Entity's Contact Person: _____
Email Address of Entity's Contact Person: _____

Reference 2:

Entity Name: _____
Date Item(s) Provided: _____
Name of Entity's Contact Person: _____
Telephone Number of Entity's Contact Person: _____
Email Address of Entity's Contact Person: _____

Reference 3:

Entity Name: _____
Date Item(s) Provided: _____
Name of Entity's Contact Person: _____
Telephone Number of Entity's Contact Person: _____
Email Address of Entity's Contact Person: _____

- c. Cancellations or Terminations. In its Offer, Respondent must list all contracts or purchase orders that Respondent executed or accepted within the last three (3) years and that were canceled or terminated before completion by any entity with which Respondent contracted. For each cancelled or terminated contract or purchase order, Respondent must include a detailed explanation for the cancellation or termination and final resolution of the matter. The Offer must include the names and telephone numbers of each such entity's contact person. If there

were no contracts or purchase orders cancelled or terminated before completion in the last three years, specify none.

3. Respondent Narrative:

- a. Scope of Services. In its Offer, Respondent must submit a detailed, narrative explanation of how the offered services will meet the requirements of Section II, Part D. Scope of Services, of this RFO. Respondent must provide in its Offer all the information requested in the Scope of Services in conformity with the structure outlined in Section II, Part D. Scope of Services, of this RFO.
- b. Description of Optional Features, Products, and Services. The TMB may consider additional features, products or services not outlined in this Offer. The Respondent must clearly define these additional options and specifications as an attachment to the proposal. Additional options are still subject to the same requirements set forth in this Offer.

4. Mandatory Price Sheet:

See Section III, Part C, below, of this RFO.

5. Other Required Forms:

See Section VI of this RFO.

C. Mandatory Price Sheet

1. Respondent must complete and submit in its Offer a separate page titled, Mandatory Price Sheet, in the format described in Section III, Part C, below. Additional pages may be included as required.
2. All costs associated with the offered services must be entered on the Mandatory Price Sheet and described in the Offer. This includes the following mandatory costs:
 - a. Classification of all employees and/or associates expected to perform the required services.
 - b. Blended hourly fee for employees and/or associates expected to perform the required services.
 - c. Estimated total working hours by employees and/or associates by work product and/or deliverable.
 - d. Estimated travel expenses to include cost for transportation, overnight lodging, and meals according to the Texas Comptroller of Public Accounts travel guidelines, if applicable, <https://fmx.cpa.texas.gov/fmx/travel/texttravel/index.php>.
 - e. Estimated expenses to include cost for administrative and related services, if applicable.

3. If Optional Features, Products and Services are offered, refer to Section III, Part B.3. of this RFO.
4. Respondent will provide a Mandatory Price Sheet in a format similar to the following:

Price Schedule 1* Texas Medical Board Website Renovation				
#	Description	Quantity	Price per Unit	Total Price
1.	Deliverable A			\$
2.	Deliverable B			\$
3.	Deliverable C			\$
4.	Deliverable D			\$
Total				\$

**Price Schedule 1:* Insert additional lines as necessary to accommodate all work products and deliverables.

Price Schedule 2** Optional Features, Products and Services				
#	Description	Quantity	Price per Unit	Total Price
1.	Option 1			\$
2.	Option 2			\$
3.	Option 3			\$
Total				\$

***Price Schedule 3:* Insert additional lines as necessary to accommodate all work products and deliverables. TMB recognizes that additional conversations may be necessary with the Respondent and other Texas state agencies interested in optional features, products or services for this project to finalize a final Contract price.

IV. Standard Terms and Conditions

This Section IV, Standard Terms and Conditions, is incorporated into this RFO for all purposes. Respondent's representation and signature is required on the Execution of Offer.

A. Contract Award; Copyright; Reissuance

In awarding a contract, TMB reserves the right, in its sole discretion, to reject all or any part of any Offers; waive minor technicalities; negotiate price and other provisions with all Respondents, the top-rated Respondents, or no Respondents; and award a contract in the best interests of TMB and the state of Texas. TMB reserves the right, in its sole discretion, to award a contract without discussion of Offer(s) with Respondent(s). TMB's waiver of any deviations in any Offers will not constitute a modification of this RFO and will not preclude TMB from asserting all rights against Respondent for failure to comply fully with all terms and conditions of this RFO. TMB reserves the right to make any corrections or include additional requirements in the PO prior to issuance necessary for TMB's compliance, as an agency of the state of Texas, with all state and federal requirements. Copyrighted offers are unacceptable and are subject to disqualification as non-responsive. TMB reserves the right to disqualify any Offer that asserts a copyright on any TMB-created form that TMB requires a Respondent to include in its Offer, e.g., Mandatory Price Sheet and Sections IV, V, and VI of this RFO. TMB is not required to award a contract as a result of this RFO. TMB may reissue or issue another RFO for the requested services or items described in this RFO or similar services or items at any time.

B. Electronic Signatures

1. Respondent's Offer may be electronically signed. Subsequent documents delivered pursuant to this RFO may be electronically signed as well. To the extent the parties sign electronically, their electronic signature, whether digital or encrypted, is intended to authenticate the applicable signature and will have the same force and effect as manual signatures. Delivery of a copy of the Offer, Contract, or any other document contemplated under this RFO, bearing an original manual or electronic signature by facsimile transmission (including a facsimile delivered via the Internet), by electronic mail in pdf or similar format intended to preserve the original graphic and pictorial appearance of a document, or through the use of electronic signature software will have the same effect as physical delivery of the paper document bearing an original manual signature.
2. Electronic signature means electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record pursuant to the

Texas Uniform Electronic Transactions Act (Tex. Bus. & Com. Code §322.001 et seq.) as amended from time to time.

C. No Alterations or Withdrawals of Offer after Deadline

Offers cannot be altered or amended after the deadline specified in Section I (Summary) of this RFO. Any alterations made before this deadline must be initialed by the Respondent or its authorized agent. No Offers can be withdrawn after the specified deadline without approval by TMB based on a written reason acceptable to TMB.

D. Selected Definitions

The following terms used throughout this RFO are defined in this section as follows:

1. Successful Respondent's employee includes:
 - a. any individual who, on behalf of Respondent, will or may participate in the Contract.
 - b. all officers, personnel, replacement personnel, agents, subcontractors and other representatives of Respondent regardless of how employed or contracted by Respondent.
2. When the term "relative" refers to an individual, the term includes a current or former TMB employee's spouse, father, mother, brother, sister, son or stepson, daughter or stepdaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.
3. "Financial interest" means receiving, or the right to receive, money or other valuable property or benefits under the actual or proposed contract; holding a position in the business of Respondent, such as a principal, officer, director, trustee, partner, employee or the like, or holding any position of management; holding any of the outstanding debt of a person directly involved in the proposed or resulting contract; or owning stock or other interest in the business of Respondent.

E. Tie Offers

Consistent and continued tie Offers could cause rejection of Offers by TMB and/or investigation of antitrust violations.

F. Email Offers

TMB will not be responsible for Offers received late, illegible, incomplete, or otherwise non-responsive due to network delays (e.g., firewalls, security scans, etc.), internet connection issues, etc.

G. Mailed or Hand-delivered Offers

TMB will not accept mailed or hand-delivered Offers.

H. Terms and Conditions Attached to Offer

TMB will not consider any terms and conditions or other documents attached to an Offer as part of the Offer unless the Respondent specifically and prominently refers to each of them in its Offer. TMB reserves the right, in its sole discretion, to reject any Respondent terms and conditions or other documents or attachments that are submitted to TMB as part of Respondent's Offer.

I. Incorporation of Entire RFO

Except as otherwise provided in the negotiated terms and conditions, if any, that are expressly identified as such in the Contract, this entire RFO applies to and becomes part of the Contract.

J. Contract between TMB and Successful Respondent

The entire Contract between TMB and Successful Respondent shall consist of the following documents:

1. The PO and PO Change Notices, if any;
2. The formal, signed agreement, if any;
3. This RFO; and
4. Successful Respondent's Offer.

K. Authority to Bind TMB; Execute Documents

Only the TMB Executive Director, Deputy Executive Director of Business Administration and General Counsel have the authority to execute a document or grant a permission on behalf of TMB with respect to this RFO or the Contract, except that TMB's Procurement Officer has authority to issue POs and PO Change Notices.

L. Conflicting Provisions

Except as otherwise provided in the negotiated terms and conditions, if any, that are expressly identified as such in the formal signed agreement or PO resulting from this RFO, in the event of conflicting terms or provisions between this RFO, the formal, signed agreement, the PO (and any PO Change Notices issued) and Respondent's Offer, the order of priority of the documents comprising the Contract is: (1) the PO and the PO Change Notices, if any; (2) the formal, signed agreement; (3) this RFO and (4) the Offer.

M. Specifications; Performance

Successful Respondent will provide the requested services and/or items of the quality and in the manner described in this RFO. Successful Respondent's failure to conform to all requirements of the Contract may, among other things, result in TMB's withholding of acceptance and payments under the Contract, TMB's cancellation of all or part of the Contract, TMB's revocation of any prior acceptance and Successful Respondent's refund to TMB of amounts paid by TMB prior to revocation of acceptance.

N. Respondent Costs

Respondent will bear all costs and expenses for the provision of the requested Services or items required by the Contract. All such costs and expenses must be included in the prices detailed in the Contract. No other amounts will be paid.

O. Prepayments

TMB, in its sole discretion, reserves the right, to the extent permitted by Texas law and TMB regulations, to prepay for any requested services or items delivered to or provided to TMB by Successful Respondent in its performance under the Contract. TMB may inspect, test and evaluate the requested items prior to acceptance and payment.

P. Refunds

Successful Respondent will promptly refund or credit, within thirty (30) calendar days, any funds erroneously paid by TMB not expressly authorized under the Contract.

Q. Invoicing; Travel-related Expenses; Withholding of Payments

To be paid, Successful Respondent must submit one copy of an itemized invoice showing the PO number to TMB's Accounts Payable section for all requested services and/or items delivered, inspected, tested, evaluated and accepted by TMB. TMB will not reimburse for travel, meals, lodging or other related expenses unless specifically provided in the Contract. In that event, Successful Respondent will invoice such costs to TMB based on actual expenses and TMB shall not be liable for reimbursement of expenses that: (1) were not pre-approved in writing by TMB, or (2) exceed the current state of Texas' Travel Regulations. Receipts are required to validate invoicing.

R. Termination and Cancellation Circumstances

TMB may terminate or cancel the Contract in any one of the following circumstances:

1. **Mutual Agreement:** Upon the mutual, written agreement of TMB and Successful Respondent, the Contract may be terminated or cancelled.
2. **TMB Upon 30 days' Notice:** TMB may, in its sole discretion, terminate or cancel the Contract with thirty (30) calendar days' written notice to Successful Respondent. Upon termination under this provision, Successful Respondent shall refund to TMB any amounts attributable to the terminated months remaining in the Contract within thirty (30) days of the termination effective date.

3. **Successful Respondent's Nonperformance:** If Successful Respondent fails to comply with any requirement of the Contract, including, but not limited to, those requirements included in this RFO, TMB may immediately terminate or cancel all or any part of the Contract, may obtain substitute requested services and/or items, may withhold acceptance and payments to Successful Respondent, may revoke any prior acceptance, may require Successful Respondent to refund amounts paid prior to revocation of acceptance and may pursue all rights and remedies against Successful Respondent under the Contract and any applicable law. In addition, TMB will report defaulting Successful Respondent to the Statewide Procurement Division for possible action by the Statewide Procurement Division against defaulting Successful Respondent.
4. **Excess Obligations Prohibited:** The Contract is subject to termination or cancellation, without penalty to TMB, either in whole or in part, subject to the availability of state funds. TMB is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TMB becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either TMB's or Successful Respondent's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this part, TMB will not be liable to Successful Respondent for any damages that are caused or associated with such termination or cancellation, and TMB will not be required to give prior notice. Termination under this part shall not affect TMB's right to use previously paid Licensed Software through the term of each such license, nor any maintenance or support paid prior to such termination.
5. TMB reserves the right to recover reasonable costs, fees, expenses and other amounts or damages available to TMB under the Contract or under applicable law, including, but not limited to, attorneys' fees and court costs, if termination or cancellation is at Successful Respondent's request or if TMB terminates or cancels the Contract for cause. This right is in addition to any other remedies available to TMB under the Contract or under applicable law. TMB reserves the right to pursue any and all applicable rights and remedies if the Contract is terminated for any reason and TMB does not expressly waive such rights or remedies.

S. Substitute Hardware, Software, Services or Warranties

In the event TMB terminates or cancels the Contract for Successful Respondent's nonperformance or for cause, TMB may procure, upon reasonable terms and in a manner as it deems appropriate, substitute requested items similar to those that were terminated or cancelled.

Respondent will be liable to TMB for any excess or additional costs incurred by TMB in acquiring these requested items, plus court costs and attorneys' fees. TMB's recovery of costs under this part is in addition to any other remedies available to TMB under the Contract or under applicable law.

T. Notice of Termination or Cancellation Delivery

Any termination by TMB of the Contract that requires notice may be accomplished by TMB's delivery to Successful Respondent of a written notice of termination or cancellation specifying that the Contract is terminated or cancelled.

U. Respondent Assignments

Successful Respondent hereby assigns to TMB all claims of Successful Respondent's rights, title, and interest in and all claims and causes of action Successful Respondent may have under the antitrust laws of Texas or the United States or overcharges associated with the Contract.

V. Taxes

1. Purchases made for state of Texas use are exempt from the State Sales Tax and Federal Excise Tax. TMB will furnish Tax Exemption Certificates upon request. Respondent represents and warrants that it shall pay all taxes or similar amounts resulting from the Contract, including, but not limited to, any federal, State or local income, sales or excise taxes of Respondent or its employees. TMB shall not be liable for any taxes resulting from the Contract.
2. Successful Respondent will serve as an independent contractor under the Contract. Successful Respondent must be able to 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 Respondent's employees. Successful Respondent will be solely responsible for payment of all taxes, including, but not limited to, state, federal, foreign, or local taxes, income taxes, withholding taxes, social security taxes, pension contributions, and any other form of payroll or any other taxes, for Successful Respondent and Successful Respondent's employees. TMB will have no responsibility for payment of any such taxes or amounts related to such taxes. At Successful Respondent's sole cost and expense, Successful Respondent will secure and maintain all insurance premiums that are required by this RFO or the Contract or insurance premiums that are necessary to protect the interests of the state of Texas and TMB or that Successful Respondent may need or desire for Successful Respondent or Successful Respondent's employees. Successful Respondent shall indemnify TMB and pay to TMB all costs, penalties, losses and other

amounts resulting from the Successful Respondent's omission or breach of this part.

W. Termination or Cancellation Effectiveness

Unless otherwise specified in this RFO or the Contract, any termination or cancellation of the Contract will be effective upon the date specified in TMB's notice of termination or cancellation.

X. Limitation on Authority; No Other Obligations

Respondent shall have no authority to act for or on behalf of TMB or the state of Texas, except as expressly provided for in the Contract; no other authority, power or use is granted or implied. Respondent may not incur any debt, obligation, expenses or liability of any kind on behalf of TMB or the state of Texas.

Y. Public Information Act

Notwithstanding any provisions of this RFO to the contrary, Respondent understands that TMB will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code), as interpreted by judicial opinions and opinions of the Office of the Texas Attorney General. Information, documentation, and other material in connection with this RFO or the Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Successful Respondent is required to make any information created or exchanged with the state of Texas pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State. Specific formats acceptable to TMB include Word, Excel, and pdf. All Offers become the property of TMB and may be subject to release to any requester under the provisions of the Texas Public Information Act. After the award and execution of a contract for a particular procurement, Offers submitted shall be presumed to be public information and subject to disclosure unless a specific exception to disclosure under the Texas Public Information Act applies. TMB advises each Respondent to consult with its legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or other proprietary information. TMB assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Respondent.

Z. Confidential Information; Nondisclosure Agreements

1. Successful Respondent and Successful Respondent's employees shall not disclose to anyone, directly or indirectly, any information designated by TMB as confidential or to information accessed as a result of the Contract without the prior written consent of TMB. In addition,

Successful Respondent must sign the Nondisclosure Agreement located in Section VI (Nondisclosure Agreement) of this RFO prior to the Contract commencement date.

2. If a Respondent asserts that any portion of its Offer is confidential, then Respondent must specify the confidential portions in its Offer. Respondent must stamp in bold red letters the term “**CONFIDENTIAL**” on that specific part or page of the Offer that Respondent asserts to be confidential. Respondent must submit in writing specific detailed reasons, including any relevant legal authority, stating why Respondent asserts the material is confidential. Merely making a blanket claim that the entire Offer is protected from disclosure because it contains some proprietary information is not acceptable and will not render the entire Offer confidential. TMB will not accept vague and general claims as to confidentiality; TMB will determine whether a claim is general or vague in nature. TMB will consider all Offers and parts of Offers that are not marked as confidential as public information after the contract is awarded. The successful Offer may be considered public information even though parts are marked confidential.
3. In the event TMB receives a request for portions of an Offer marked as “**CONFIDENTIAL**”, TMB shall forward the request to the Texas Attorney General’s Office for an opinion on whether TMB may withhold such information from disclosure under the Texas Public Information Act. TMB will notify the Respondent whose Offer is the subject of the request when the information is forwarded to the Texas Attorney General’s Office. TMB assumes no obligation for asserting legal arguments on behalf of a Respondent.
4. Within three (3) days of receipt, Successful Respondent shall refer to TMB any third-party requests, received directly by Successful Respondent, for information to which Successful Respondent has access as a result of or in the course of performance under the Contract. The provisions of this part survive the termination or expiration of the Contract.

AA. No Other Benefits

Respondent has no exclusive rights or benefits other than those set forth herein.

BB. Parties Bound

The Contract will be binding upon and inure to the benefit of TMB and Successful Respondent and to their respective heirs, executors, administrators, legal representatives and successors.

CC. Assignment

Respondent may not assign the Contract or assign, transfer or delegate, in whole or in part, any of its interest in, or rights or obligations under, the Contract without the prior written consent of TMB, and any attempted or purported assignment, transfer or delegation thereof without such consent shall be null and void.

DD. No Waiver

No provision of the Contract shall constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies or immunities available to TMB as an agency of the state of Texas or otherwise available to TMB. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies or immunities detailed in the Contract or otherwise available to TMB by law will not constitute a waiver of said privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. By issuing a PO, by its conduct prior to or subsequent to issuing the PO or by executing the Contract, TMB does not waive any privileges, rights, defenses, remedies or immunities available to TMB as an agency of the state of Texas or otherwise available to TMB. The modification of any privileges, rights, defenses, remedies or immunities available to TMB must be in writing, must reference this section, and must be signed by TMB to be effective. Such modification of any privileges, rights, defenses, remedies or immunities available to TMB will not constitute a waiver of any subsequent privileges, rights, defenses, remedies or immunities under the Contract or under applicable law.

EE. TMB Not Liable Upon Termination

If the Contract is terminated for any reason, TMB and the state of Texas will not be liable to Successful Respondent for any damages, claims, losses or any other amounts arising from or related to any such termination.

FF. Personal Injury; Property Damage

Successful Respondent shall be liable for any bodily injury or personal injury to any individual caused by Successful Respondent or Successful Respondent's employees or Successful Respondent's defective products. In the event of loss, destruction or damage to any TMB or state of Texas property by Successful Respondent or Successful Respondent's employees, Successful Respondent shall indemnify TMB and the state of Texas and pay to TMB and the state of Texas the full cost of repair, reconstruction or replacement of the lost, destroyed or damaged property, at TMB's election. Successful Respondent will reimburse TMB and the state of Texas for such property damage within ten (10) calendar days after Successful Respondent's receipt of TMB's notice of amount due.

GG. INDEMNIFICATION

SUCCESSFUL RESPONDENT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TMB, 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 SUCCESSFUL RESPONDENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT , INCLUDING ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY SUCCESSFUL RESPONDENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUCCESSFUL RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. SUCCESSFUL RESPONDENT AND TMB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

HH. INDEMNIFICATION (INTELLECTUAL PROPERTY)

SUCCESSFUL RESPONDENT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS TMB 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 SUCCESSFUL RESPONDENT PURSUANT TO THE CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE, OR OTHER SERVICE PROVIDED THEREUNDER; AND/OR (3) TMB'S AND/OR SUCCESSFUL RESPONDENT'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO TMB BY SUCCESSFUL RESPONDENT OR OTHERWISE TO WHICH TMB HAS ACCESS AS A RESULT OF SUCCESSFUL RESPONDENT'S PERFORMANCE UNDER THE CONTRACT. SUCCESSFUL RESPONDENT AND TMB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. NOTICE SHALL BE CONSIDERED TIMELY IF DELIVERED WITHIN FIVE (5) BUSINESS DAYS. SUCCESSFUL RESPONDENT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY SUCCESSFUL RESPONDENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND SUCCESSFUL RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, SUCCESSFUL RESPONDENT WILL REIMBURSE TMB 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 TMB DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF SUCCESSFUL RESPONDENT OR IF TMB IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, TMB WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND SUCCESSFUL RESPONDENT WILL PAY ALL REASONABLE COSTS OF TMB'S COUNSEL. SUCCESSFUL RESPONDENT REPRESENTS AND WARRANTS THAT IT HAS DETERMINED WHAT LICENSES, PATENTS AND PERMITS ARE REQUIRED UNDER THE CONTRACT AND HAS ACQUIRED ALL APPLICABLE LICENSES, PATENTS, AND PERMITS.

II. Governing Law and Venue

The Contract will 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 arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas.

JJ. Support Documents; Inspection of Records

Successful Respondent shall maintain and retain supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable state of Texas requirements. These supporting fiscal documents will be maintained and retained by Successful Respondent for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. 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 TMB or the state of Texas.

KK. Notices

Any written notice(s) required under the Contract will be by either hand delivery to Successful Respondent's office or to TMB's Issuing Office at the address specified in Section I (Summary), or by U.S. Mail, certified, return receipt requested. Notice will be effective on receipt by the affected party. TMB and Successful Respondent agree that either party may change the designated notice address in this part by written notification to the other party.

LL. Unfair Business Practices

Respondent represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations 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 it has not been found to be liable for such practices in such proceedings. Respondent certifies

that it has no officers who have served as officers of other entities that have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings.

MM. Immigration

Respondent 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.

NN. Franchise Taxes

Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed to the state of Texas under Chapter 171 of the Texas Tax Code.

OO. False Statements

Respondent represents and warrants that all statements and information prepared and submitted in its Offer are current, complete, true and accurate. Submitting an Offer with a false statement or material misrepresentations made during the performance of a Contract are each a material breach of contract and may void the submitted Offer and the Contract

PP. Force Majeure

Except as otherwise provided, neither Successful Respondent nor TMB shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

QQ. Subcontracts

Successful Respondent may not subcontract for any of the equipment, software, warranties, or Services required under the Contract without the prior written consent of TMB. Should Successful Respondent subcontract any such items, Successful Respondent expressly understands and acknowledges that in entering into such subcontract(s), TMB is in no manner liable to any

subcontractor(s) of Successful Respondent. In no event shall this provision relieve Successful Respondent of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with the Contract. Successful Respondent will retain responsibility for ensuring that the performance rendered under any subcontracts comply with all requirements of the Contract as if Successful Respondent rendered such performance. Successful Respondent shall comply with all applicable Historically Underutilized Business (HUB) requirements of Texas law and the Contract.

RR. Title; Ownership; Licenses

TMB and the state of Texas will receive and Successful Respondent will convey to TMB and the state of Texas clear title, ownership, and licenses, whichever is applicable, to all items provided by Successful Respondent under the Contract.

SS. Severability

If any provision of the Contract will, for any reason, be held to violate any applicable law, and so much of the Contract is held to be unenforceable, then the invalidity of such a specific provision will not be held to invalidate any other provisions, which other provisions will remain in full force and effect unless removal of said invalid provisions destroys the legitimate purpose of the Contract, in which event the Contract will be canceled.

TT. Recycled, Remanufactured, or Environmentally Sensitive Materials

Under Section 2155.445 of the Texas Government Code (relating to preference to recycled materials), TMB will give preference in the solicitation of products made of recycled, remanufactured, or environmentally sensitive products if the products meet applicable specifications as to quantity and quality.

UU. Entire Agreement

Except as expressly provided otherwise herein, the Contract will represent the entire agreement by and between TMB and Successful Respondent regarding the subject matter of this RFO. The Contract may not be changed except by TMB's written Change Notice to the PO or otherwise by the mutual, written agreement of the parties.

VV. Dispute Resolution Processes

1. 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, TMB 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 the contract,

including any extensions. Successful Respondent and TMB shall comply with such rules.

2. The dispute resolution process provided in Chapter 2260 must be used, as further described herein, by TMB and the Successful Respondent to attempt to resolve any dispute arising under the Contract:
 - a. If the Successful Respondent's claim for breach of contract cannot be resolved informally with TMB, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Successful Respondent shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under Section 2260.051 of the Texas Government Code. Compliance by the Successful Respondent with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
 - b. The contested case process provided in Chapter 2260 is the Successful Respondent's sole and exclusive process for seeking a remedy for an alleged breach of contract by TMB if the parties are unable to resolve their disputes under subparagraph (A) of this Section.
 - c. Neither the execution of a contract by TMB nor any other conduct of any representative of TMB relating to a contract resulting from this RFO shall be considered a waiver of sovereign immunity to suit.
3. For all other specific breach of contract claims or disputes under the Contract, the following shall apply:
 - a. Should a dispute arise out of the Contract, TMB and the Successful Respondent 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 TMB and the Successful Respondent within fifteen (15) days after written notice by one of them demanding mediation under this Section. The Successful Respondent shall pay all costs of the mediation unless TMB has appropriated funds available to pay up to half of such costs. By mutual agreement, TMB and the Successful Respondent may use a non-binding form of dispute resolution other than mediation.
 - b. The purpose of this Section is to reasonably ensure that TMB and the Successful Respondent shall in good faith utilize mediation or another non-binding dispute resolution process

before pursuing litigation. TMB'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 TMB of (1) any rights, privileges, defenses, remedies or immunities available to TMB as an agency of the state of Texas or otherwise available to TMB; (2) TMB's termination rights; or (3) other termination provisions or expiration dates of the Contract.

4. Notwithstanding any other provision of the Contract to the contrary, the Successful Respondent 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, Successful Respondent may suspend performance during the pendency of such claim or dispute if Successful Respondent 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.

WW. Applicable Law and Conforming Amendments

Successful Respondent must comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products described in this RFO to the state of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Contract. TMB reserves the right, in its sole discretion, to unilaterally amend the Contract prior to award and throughout the term of the Contract to incorporate any modifications necessary for TMB's compliance, as an agency of the state of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

XX. Media Releases

Successful Respondent shall not use TMB's name, logo or other likeness in any press release, marketing material or other announcement without TMB's prior written approval. TMB does not endorse any vendor, commodity or service. Respondent is not authorized to make or participate in any media releases or public announcements pertaining to this procurement, the Offer or the Services without TMB's prior written consent, and then only in accordance with explicit written instructions from TMB. Disclosure of any Offer prior to contract award or violation of this part may result in disqualification of Respondent's Offer and subject the Respondent to other action deemed appropriate by TMB.

YY. Equal Employment Opportunity

Respondent represents and warrants its compliance with all applicable, duly enacted state and federal laws governing equal employment opportunities.

ZZ. Americans with Disabilities Act (ADA)

Respondent represents and warrants that it will comply with the requirements of the ADA and its implementing regulations, as each may be amended.

AAA. Protest Procedures

Any actual or prospective Respondent who is aggrieved in connection with this RFO, evaluation, or award of the Contract may formally protest, as provided in TMB's rules at 34 Texas Administrative Code §1.72. Respondents may protest any term or condition of this RFO within ten (10) business days of issuance of this RFO, as provided in 34 Texas Administrative Code §1.72.

BBB. Debts and Delinquencies Affirmation

Respondent acknowledges and agrees that, to the extent Respondent owes any debt, including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the state of Texas, any payments or other amounts Respondent is otherwise owed under the Contract may be applied by TMB toward any debt Respondent owes the state of Texas until the debt is paid in full. These provisions are effective at any time Respondent owes any such debt or delinquency. Successful Respondent shall comply with Sections 403.055, 403.0551, and 2252.903 of the Texas Government Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the state of Texas.

CCC. State Auditor's Right to Audit

In addition to and without limitation on the other audit provisions of this RFO or the Contract, pursuant to Section 2262.154 of the Texas Government Code, the Texas State Auditor's Office ("State Auditor") may conduct an audit or investigation of any entity receiving funds from the state of Texas directly under any contract or indirectly through a subcontract under the contract. The acceptance of funds by Successful Respondent or any other entity or person directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, Successful Respondent or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. Successful Respondent shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Successful Respondent and the requirement to cooperate is included in any subcontract it awards.

DDD. Prohibited Use of Appropriated or Other Funds under Control of State Agency; Lobbying

Respondent represents and warrants that TMB's payments to Respondent and Respondent's receipt of appropriated or other funds under the Contract are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.

EEE. Property Rights

1. For purposes of this RFO, 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. TMB and Successful Respondent intend the Contract to be a contract for the Services and each considers the Work and any and all documentation or other products and results of the Services to be rendered by Successful Respondent to be a work made for hire. Successful Respondent and Successful Respondent'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 TMB. Successful Respondent acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of TMB.
2. If for any reason the Work would not be considered a work-for-hire under applicable law, Successful Respondent does hereby sell, assign, and transfer to TMB, its successors and assigns, the entire right, title and interest in and to the copyright in 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. Successful Respondent agrees to execute all papers and to perform such other property rights, as TMB may deem necessary to secure for TMB or its designee the rights herein assigned.
3. In the event that Successful Respondent has any rights in and to the Work that cannot be assigned to TMB, Successful Respondent hereby grants to TMB 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.

4. No later than the first calendar day after the termination or expiration of the Contract or upon TMB's request, Successful Respondent shall deliver to TMB all completed, or partially completed, Work and any and all documentation or other products and results of the Services. Failure to timely deliver such Work or any and all documentation or other products and results of the Services will be considered a material breach of the Contract. Successful Respondent will 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 TMB.

FFF. Evaluation Process

Evaluation of Offers will begin as soon as practical after receipt. Only those Offers that are responsive to this RFO will be evaluated, using the criteria and the weights set forth in Section I of this RFO. Clarifications on issues raised in the Offers may be sought from individual Respondents. Best and Final Offers may be sought from the Respondents whose Offers are ranked most highly by the evaluation committee. TMB reserves the right in its sole judgment and discretion, and at any time upon failure of negotiations, to reissue or withdraw this RFO rather than continue with negotiations.

GGG. Outsourcing

Respondent acknowledges that TMB may, in its sole discretion, enter into an outsourcing agreement with another provider that shall perform certain services for TMB. If TMB enters into a written agreement for outsourcing, Successful Respondent shall, as consistent with the terms of the Contract, grant the outsourcing vendor the right to use and access the services and/or equipment (e.g., software, hardware) on the same terms and conditions that Successful Respondent has granted TMB the right to use and access such services and/or equipment; provided, the outsourcing vendor also agrees that it (i) shall only use the services and/or equipment for the benefit of TMB, and (ii) shall enter into a confidentiality agreement with TMB, which contains confidentiality terms that are substantially no less restrictive than the confidentiality terms contained in this RFO and the Contract. In addition, Successful Respondent shall either fully cooperate with all transition activities regarding outsourcing or Successful Respondent agrees that TMB shall have the right to immediately terminate or assign to the outsourcing vendor the Contract without any liability for any amounts to Respondent.

HHH. Information Security Requirements for Successful Respondent

Successful Respondent shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security pertaining to confidential TMB information. If communications with Successful Respondent

necessitate the release of confidential TMB information, each individual who will require access to or may be exposed to that information must sign the TMB Confidential Treatment of Information Acknowledgement (CTIA) form. See Section IX for the CTIA.

III. Independent Contractor

Successful Respondent has the sole obligation to supervise, manage and direct the performance of its obligations under the Contract. Successful Respondent and Successful Respondent's employees, representatives, agents, subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the Services. Neither Respondent nor TMB is an agent of the other and neither may make any commitments on the other party's behalf. Should Respondent subcontract any of the services required in the Contract, Respondent expressly understands and acknowledges that in entering into such subcontract(s), TMB is in no manner liable to any subcontractor(s) of Respondent. In no event shall this provision relieve Respondent of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract. Respondent shall have no claim against TMB for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits or employee benefits of any kind. Successful Respondent and Successful Respondent's employees, representatives, agents, subcontractors, suppliers, third-party service providers, and similar entities shall not be employees of TMB. The Contract shall not create any joint venture, partnership, agency or employment relationship between Successful Respondent and TMB.

JJJ. Use of State Property

Successful Respondent is prohibited from using State Property for any purpose other than performing the Services. State Property includes, but is not limited to, TMB's office space, identification badges, TMB information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any TMB -issued software and the TMB Virtual Private Network (VPN client)) and any other resources of TMB. Successful Respondent shall not remove State Property from the continental United States. In addition, Successful Respondent may not use any computing device to access TMB's network or e-mail while outside of the continental United States. Successful Respondent shall not perform any maintenance services on State Property unless the Contract expressly authorizes such services. During the time that State Property is in the possession of Successful Respondent, Successful Respondent shall be responsible for (i) all repair and replacement charges incurred by TMB that are associated with loss of State Property or damage beyond normal wear and tear, and (ii) all charges attributable to Successful Respondent's use of State Property that exceeds the Contract scope. Successful Respondent shall fully reimburse such charges to

TMB within ten (10) calendar days of Successful Respondent's receipt of TMB's notice of amount due. Use of State Property for a purpose not authorized by the Contract shall constitute breach of contract and may result in termination of the Contract and the pursuit of other remedies available to TMB under the Contract, at law, or in equity.

KKK. Drug-Free Workplace

Respondent represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 and maintain a drug-free work environment.

LLL. Occupational Safety and Health Law

Respondent represents and warrants that all articles and services quoted in response to this RFO meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act, any successor laws, and its regulations in effect or proposed as of the date of this solicitation.

MMM. Survival of Terms

Termination of the Contract for any reason shall not release Successful Respondent from liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, invoice and fees verification.

NNN. Pre-Contract Costs

Respondent is responsible for all expenses related to the preparation and submission of an Offer. TMB shall pay no costs or other amounts incurred by any entity in responding to this RFO or incurred prior to the effective date of the Contract.

OOO. No TMB Indemnification

Any requirement that TMB defend, indemnify, or hold harmless the Successful Respondent or other entity is hereby deleted from the Offer and Respondent Documents.

PPP. Disaster Recovery Plan

Upon TMB's request, Respondent shall provide to TMB the descriptions of its business continuity and disaster recovery plans.

QQQ. Critical Infrastructure

1. Pursuant to Government Code Section 2275.0102, 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.

2. Subcontracts: For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 113.002 of the Business and Commercial Code, Respondent shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Respondent will notify the Agency before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 113.001 of the Texas Business & Commerce Code, in this state.

RRR. Cybersecurity Training

Respondent represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

SSS. Data Management and Security Controls

In accordance with Section 2054.138 of the Texas Government Code, Respondent certifies that it will comply with the security controls required under this contract and will maintain records and make them available to Agency as evidence of Respondent's compliance with the required controls.

V. Execution of Offer

- A. By signature hereon, Respondent represents and warrants that the provisions in this Execution of Offer 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 RFO or any contract resulting from it.
- B. By signature hereon, Respondent represents and warrants its intent to furnish the requested items at the prices quoted in its Offer.
- C. 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 RFO.
- D. By signature hereon, Respondent represents and warrants that the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest or not reasonably create an appearance of impropriety.
- E. By signature hereon, Respondent represents and warrants that, pursuant to Section 2155.003 of the Texas Government Code, it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Offer.
- F. By signature hereon, Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed to the state of Texas under Chapter 171 of the Texas Tax Code.
- G. By signature hereon, Respondent represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Respondent nor any firm, corporation, partnership, or institution represented by Respondent, 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 Offer to any competitor or any other person engaged in the same line of business as Respondent.
- H. By signature hereon, Respondent represents and warrants that all statements and information prepared and submitted in response to this RFO are current, complete, and accurate.

- I. By signature hereon, Respondent represents and warrants that the individual signing this document and the documents made part of this RFO and Offer is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract that may result from the submission of the Offer.
- J. By signature hereon, Respondent represents and warrants that if a Texas address is shown as the address of the Respondent on this Offer, Respondent qualifies as a Texas Bidder as defined by Section 2155.444(c) of the Texas Government Code.
- K. Check below if Respondent is claiming a preference 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
- L. By signature hereon, under Section 231.006, Texas Family Code, regarding child support, Respondent certifies that the individual or business named in

the Offer 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 Offer. This information must be provided prior to award. If applicable, 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) of the 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) of the Texas Family Code.

- M. By signature hereon, in accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Respondent certifies that it is not: (1) the executive head of TMB, (2) a person who at any time during the four years before the date of the Contract was the executive head of TMB, or (3) a person who employs a current or former executive head of TMB.
- N. By signature hereon, pursuant to Section 2155.004(a) of the Texas Government Code, Respondent certifies that neither Respondent nor any person or entity represented by Respondent has received compensation from TMB to participate in the preparation of specifications or solicitation on which this Offer or Contract is based. In addition, under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Offer or Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
- O. 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 Texas.
- P. By signature hereon, Respondent represents and warrants that TMB's payments to Respondent and Respondent's receipt of appropriated or other

funds under the Contract are not prohibited by Sections 556.005, 556.0055 or 556.008 of the Texas Government Code.

- Q. By signature hereon, Respondent 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 United States Department of the Treasury, Office of Foreign Assets Control.
- R. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from accepting an Offer or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Respondent certifies that the individual or business entity named in its Offer or Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
- S. By signature hereon, if Respondent is submitting an Offer for the purchase or lease of computer equipment, then Respondent hereby certifies its compliance with Chapter 361, Subchapter Y of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules at 30 Texas Administrative Code Chapter 328.
- T. 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 this section within the five (5) calendar years immediately preceding the submission of Respondent's Offer in response to this RFO that would or could impair Respondent's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to TMB's consideration of Respondent's Offer. 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 Offer a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to TMB's consideration of Respondent's Offer. In addition, Respondent represents and warrants that it shall notify TMB 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 TMB shall constitute breach of contract and may result in immediate termination of the Contract.

- U. By signature hereon, Respondent represents and warrants 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 TMB's objectives.
- V. By signature hereon, Respondent represents that neither Respondent or any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, proposed in the Offer has been convicted of a felony criminal offense, or that if such a conviction has occurred Respondent has fully advised TMB of the facts and circumstances in its Offer.
- W. By signature hereon, Respondent represents and warrants that if selected for award of a contract as a result of this RFO, Respondent will submit to TMB a Certificate of Interested Parties prior to contract award in accordance with Section 2252.908 of the Texas Government Code.
- X. By signature hereon, pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Contract. Respondent shall state any facts that make it exempt from the boycott certification in its Offer.
- Y. 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.
- Z. By signature hereon, Respondent certifies 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. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
- AA. By signature hereon, Respondent represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code as applicable. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552 of the Government Code, may apply to the Contract and Respondent agrees that the Contract can be terminated if Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.

- BB. Under Section 2155.0061 of the Texas Government Code, Respondent certifies that the individual or business entity named in this Offer is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
- CC. Pursuant to Texas Government Code Section 2274.0102, 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 Texas Government Code Section 2274.0103, or (2) headquartered in any of those countries.
- DD. If Respondent is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Respondent verifies that Respondent does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Respondent does not make that verification, Respondent must so indicate in its Offer and state why the verification is not required.
- EE. 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 the contract against a firearm entity or firearm trade association. If Respondent does not make that verification, Respondent must so indicate in its Offer and state why the verification is not required.
- FF. 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.
- GG. Pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, Respondent represents and warrants that it complies with the requirements of the Texas Department of Information Resources state risk and authorization management program (TX-RAMP), and Respondent agrees that throughout the term of this Contract it shall maintain any required TX-RAMP certifications and comply with applicable TX-RAMP requirements in performance of the Contract.
- HH. By signature hereon, Respondent represents and warrants that it has read and agrees to all terms and conditions of this RFO, unless Respondent

specifically takes an exception and offers an alternative provision in Respondent's Offer as provided in Section II of this RFO.

An 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: _____
Email Address: _____

Entity Name (Respondent): _____
Federal Employer Identification Number: _____
DUNS Number, if applicable: _____
Texas Identification Number, if applicable: _____

Physical Street Address: _____
City, State, Zip Code: _____

Mailin Address, if different: _____
City, State, Zip Code: _____

VI. Certifications and Acknowledgements

The certifications and acknowledgements on the following pages are required to be completed and submitted with the Respondent's Offer.

A. Conflict of Interest/Disclosure

1. **Disclosures:** Provide the requested information in the space provided; indicate "N/A" as appropriate.
 - a. Respondent must disclose any proposed personnel who are current or recent former employees of TMB or the state of Texas.

 - b. Respondent must disclose the following:
 - i. any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to Respondent's and its proposed subcontractors' submission of an Offer, possible selection as Successful Respondent, or its performance of the contract.

 - ii. all past and present contractual, business, financial or personal relationships between Respondent and TMB and between Respondent's proposed subcontractors, if any, and TMB.

 - c. For each item, Respondent must also 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 an Offer, possible selection as the Successful Respondent, or its performance of the contract.
2. **Defined Terms:** For purposes of the disclosure statements required by this solicitation, the terms below are defined as follows:
 - a. "past" is defined as within the two (2) calendar years prior to the deadline for submission of offers in response to this solicitation.
 - b. "recent former employees" are defined as those TMB employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of offers in response to this solicitation.
 - c. "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 response to this solicitation. 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:
 - i. a reasonable person could expect the connection to diminish Respondent's independence of judgment or effectiveness in the performance of the Respondent's responsibilities to TMB or the state of Texas under the contract;
 - ii. a reasonable person could expect the connection, within the overall context of Respondent's submission of an Offer, 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; or
 - iii. the relationship is with a TMB or other state of Texas employee with authority to make decisions or recommendations on state contracting or procurement or this solicitation. 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.
3. **Continuing Duty to Disclose:** If circumstances change or additional information is obtained subsequent to submission of the Offer, Successful Respondent's duty to disclose under these provisions continues under the term of the contract and does not end with submission of an Offer or receipt of contract award.
4. Disclosures under these provisions are information that will be evaluated by TMB; 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 Respondent is in doubt about whether information should be disclosed, Respondent should consult with its legal counsel. Failure to disclose any required information under these provisions may be cause for offer disqualification or termination of the contract resulting from this solicitation. TMB reserves the right, in its sole discretion, to determine if an issue should result in offer disqualification or termination of the contract.

Signature of Authorized Representative

Date Signed

Printed Name and Title of Authorized Representative

Entity Name (Respondent)

B. Nondisclosure Agreement

In consideration of Texas Medical Board (TMB) communicating with the undersigned Respondent regarding a potential contract resulting from the referenced solicitation (e.g., RFO, RFP, IFB) and because of the sensitivity of certain information provided to Respondent, both parties agree that all information regarding TMB 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 TMB, 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 TMB 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 TMB.
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 TMB's prior written approval. Confidential Information and any copies thereof shall be TMB's exclusive property.
5. All Confidential Information made available to Respondent, including copies thereof, must be returned to TMB upon the first to occur of (a) expiration or termination of any contract resulting from the solicitation, or (b) request by TMB.
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 TMB, (d) which is or becomes part of the public domain through no breach by Respondent of this nondisclosure agreement or other contractual obligations to TMB, or (e) approved by TMB 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 TMB with prompt notice of any such requirement prior to delivery of the Confidential Information to allow TMB 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 TMB 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 TMB elects to terminate any contract with Respondent resulting from the solicitation upon the breach hereof, TMB may require Respondent to pay to TMB 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 TMB in the event of a breach hereof by Respondent of this nondisclosure agreement. TMB 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 and Title of Authorized Representative

Entity Name (Respondent)

C. Certification Regarding Public Nature of Offer

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.state.tx.us. Following the contract award resulting from this solicitation, TMB 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 an Offer 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 Offer is confidential.

OR

2. _____ Respondent has stamped in bold red letters the term "**CONFIDENTIAL**" on the specific part or page of the Offer considered to be confidential by Respondent. In the table below or as an attachment to this form submitted with the Offer, Respondent has identified by page number(s) the location of all information in the Offer 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 Offer to be confidential and exempt from public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code.

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

Signature of Authorized Representative

Date Signed

Printed Name and Title of Authorized Representative

Entity Name (Respondent)

D. HUB Subcontracting Plan (HSP)
See Exhibit A