

**GLENN HEGAR  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**

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**Request for Proposals  
for  
Tier I Collection Services  
for the  
Texas Comptroller of Public Accounts**

**RFP No. 238j**

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**Anticipated Schedule of Events**

<b>December 20, 2024</b>	Issuance of RFP
<b>January 6, 2025</b>	Deadline for Submission of Questions (2:00PM CT)
<b>January 8, 2025</b>	Release of Official Responses to Questions (or as soon thereafter as practical)
<b>February 5, 2025</b>	Deadline for Submission of Proposals (2:00PM CT) <b><u>Late Proposals will not be considered</u></b>
<b>July 1, 2025</b>	Services Commencement Date (or as soon thereafter as practical)

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## TABLE OF CONTENTS

<b>PART I GENERAL INFORMATION .....</b>	<b>4</b>
1.1 Introduction .....	4
1.2 Background .....	4
1.3 Definitions and Acronyms.....	4
<b>PART II SCOPE OF WORK .....</b>	<b>6</b>
2.1 Services Description .....	6
2.2 Contract Resulting from this RFP; Contract Term; Sample Contract .....	11
<b>PART III GENERAL INFORMATION .....</b>	<b>12</b>
3.1 Legal Authority .....	12
3.2 Comptroller Rights .....	12
3.3 Respondent Obligations.....	12
3.4 Successful Respondent Obligations .....	12
3.5 Anticipated Schedule of Events.....	12
3.6 Issuing Office .....	13
3.7 Submission of Questions .....	13
3.8 Deadline for Submission of Proposals; Delivery Instructions; Number of Copies Required .....	13
3.9 Confidential Information; Nondisclosure; Open Records .....	13
3.10 Media Releases.....	14
3.11 Non-exclusivity .....	14
3.12 Incorporation of Exhibits.....	14
<b>PART IV PROPOSAL FORMAT .....</b>	<b>15</b>
4.1 Introduction .....	15
4.2 General Organization of Proposal Contents .....	15
<b>PART V PROPOSAL EVALUATION AND SELECTION.....</b>	<b>23</b>
5.1 Evaluation Process .....	23
5.2 Selection Criteria .....	23
5.3 Respondent's Past Performance .....	23
5.4 Protest Procedures .....	24
<b>EXHIBIT A SAMPLE CONTRACT.....</b>	<b>25</b>
I. Recitals .....	25
II. Authority .....	25
III. Services .....	25
IV. Personnel .....	26
V. Funding; Legislative Action .....	26
VI. Evaluation .....	26
VII. Payments .....	27
VIII. Term and Termination .....	27

IX. Confidentiality and Open Records .....	30
X. Insurance and Surety Bond.....	30
XI. Indemnification .....	30
XII. Dispute Resolution.....	31
XIII. Property Rights .....	32
XIV. General Provisions .....	33
XV. Merger; Severability .....	40
XVI. Signatories .....	40
<b>ATTACHMENT A TO THE SAMPLE CONTRACT.....</b>	<b>41</b>
<b>ATTACHMENT B TO THE SAMPLE CONTRACT.....</b>	<b>42</b>
<b>ATTACHMENT C TO THE SAMPLE CONTRACT.....</b>	<b>43</b>
<b>ATTACHMENT D TO THE SAMPLE CONTRACT.....</b>	<b>44</b>
<b>ATTACHMENT E TO THE SAMPLE CONTRACT.....</b>	<b>45</b>
<b>ATTACHMENT F TO THE SAMPLE CONTRACT .....</b>	<b>46</b>
<b>EXHIBIT B EXECUTION OF PROPOSAL.....</b>	<b>47</b>
<b>EXHIBIT C CRIMINAL CONVICTION CERTIFICATION .....</b>	<b>51</b>
<b>EXHIBIT D NONDISCLOSURE AGREEMENT .....</b>	<b>53</b>
<b>EXHIBIT E CONFLICT OF INTEREST/DISCLOSURE STATEMENT .....</b>	<b>54</b>
<b>EXHIBIT F CERTIFICATION REGARDING PUBLIC NATURE OF THE PROPOSAL.....</b>	<b>55</b>
<b>EXHIBIT G CONTRACTOR CYBERSECURITY TRAINING ATTESTATION FORM .....</b>	<b>56</b>
<b>APPENDIX A TIER I COLLECTION SERVICES DATA .....</b>	<b>57</b>

## PART I GENERAL INFORMATION

### 1.1 Introduction

The Texas Comptroller of Public Accounts (“Comptroller” or “CPA”), an agency of the State of Texas, issues this Request for Proposals No. 238j (“RFP”) to solicit Proposals from qualified, independent persons or entities to provide debt collection services pursuant to Sections 403.019 and 2107.003(c) of the Texas Government Code and as described in this RFP (“Tier I Collection Services”).

All requisite services are referred to as “Services” in this RFP and are more fully described in Part II (*Scope of Work*) of this RFP. Each individual or firm submitting a response to this RFP will be referred to as a “Respondent.” The selected Respondent(s), if any, will be referred to as the “Successful Respondent.”

Comptroller anticipates executing a contract with Successful Respondent to perform the Services. It is expected that one or more awards will be made from this RFP; the date of award, number of contracts awarded, and all procedures relating to a Contract are the sole discretion of the Comptroller. Successful Respondent, as an independent contractor, shall provide Services under the Contract with Successful Respondent’s own personnel.

### 1.2 Background

Under Sections 403.019 and 2107.003(c) of the Texas Government Code the Comptroller may contract with a person, other than a full-time state employee, who is qualified in the business of debt collection to collect delinquent obligations that are owed to Comptroller in its official capacity, are not collected through normal collection procedures, and do not meet the referral guidelines adopted for collection by the Office of the Attorney General of Texas (“Attorney General”). Section 2107.001 of the Texas Government Code defines the term “obligation” to include a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant. Any proposed contracts arising from this RFP shall be reviewed and approved by the Attorney General.

Under the Contract, Comptroller will refer only those accounts that do not meet guidelines for referral to the Attorney General for collection (*i.e.*, accounts for which the combined state or local tax liability due, excluding penalty and interest, is less than \$2,500, and the combined tax liability due, excluding penalty and interest, for all other tax types is less than \$2,500) and those accounts that do not fall within the guidelines for referral to the Attorney General for collection and have not been successfully collected to date. Comptroller uses Tier I Collection Services as a category term for a referred Franchise Tax (Tax Type 13), Sales and Use Tax (Tax Type 26), or Fuels Tax (Tax Type 90) account with a balance less than \$2,500. Comptroller’s collection efforts on accounts to be referred to Successful Respondent may have included one or more of the following: attempted phone contact, sending delinquent notices, including at least one notice of tax due, third party freeze/levy, forfeiture of securities, seizure and sales of non-exempt assets, filing of criminal charges, filing of State tax liens, and pursuit by the Attorney General of litigation, if merited.

Guidelines for referral of accounts to the Attorney General for collection are in the sole discretion of the Attorney General and may be revised by the Attorney General at any time during the term of the Contract. A person contracting with Comptroller for the Services is entitled to a collection fee not to exceed thirty percent (30%) of the full amount of the obligation collected.

**Comptroller cannot guarantee any minimum number of accounts or any minimum amount of compensation under the Contract, if any.**

Comptroller provides notice that the Services requested in this RFP are similar to services previously procured. Respondents are referred to Appendix A to this RFP for data related to the Services and the existing contract.

### 1.3 Definitions and Acronyms

- **Award Date.** The Award Date is the date an authorized representative of Comptroller signs the Contract.
- **Comptroller’s Designated Representative.** Comptroller’s staff, such as a project manager or contract monitor, designated to serve as the Comptroller’s point of contact for certain project related communications and activities during performance of work under the Contract.

- **Contract.** The agreement described in Section 2.2 (Contract Resulting from this RFP; Contract Term; Sample Contract).
- **CT.** Central Time.
- **Days.** The word “days” shall mean calendar days unless otherwise specified.
- **Fiscal Year (“FY”).** The period from September 1 of a year through August 31 of the following year. FY25 represents Comptroller’s Fiscal Year 2025 (*i.e.*, September 1, 2024 through August 31, 2025).
- **Interactive Voice Response (“IVR”).** A telephone technology system that provides callers the ability to interact with Successful Respondent’s host system via a telephone keypad or by speech recognition input from the caller, after which Successful Respondent’s system responds with pre-recorded or dynamically generated audio to further direct callers on how to proceed.
- **Proposal.** A submitted response to this RFP.
- **Referred Account.** An account with delinquent obligations, including but not limited to state taxes, fees, penalties, interest and other statutory amounts due, that is referred by Comptroller to Successful Respondent for debt collection and related services in accordance with the terms of the Contract and applicable law. For clarity, Backlog Accounts are a subcategory of Referred Accounts.
- **Skip Tracing Action.** A task undertaken to determine a person’s whereabouts.

## **PART II SCOPE OF WORK**

### **2.1 Services Description**

#### **2.1.1 General**

Successful Respondent shall provide all debt collection and related services for all delinquent obligations, including all delinquent state taxes, fees, penalties, interest and other statutory amounts due under Referred Accounts. Successful Respondent shall provide all Services on its premises located in the State of Texas with Successful Respondent's personnel and its other resources.

Successful Respondent shall be solely responsible for providing all Services. Successful Respondent shall document all collection and related services provided on each Referred Account and provide such documentation and data to Comptroller in compliance with the schedule outlined in the final agreed work plan included in the Contract. Successful Respondent shall fully cooperate with Comptroller and Comptroller's Designated Representatives.

Comptroller's information provided to Successful Respondent shall not include any Federal Tax Information ("FTI"). Comptroller shall furnish to Successful Respondent information that Comptroller believes to be reliable; however, Comptroller cannot guarantee the accuracy or completeness of any information provided to Successful Respondent under the RFP or the Contract. Comptroller shall not be liable to Successful Respondent or any other entity or person for any losses, damages, claims or any other amounts resulting from Successful Respondent's use of, or reliance on, such information or information independently collected by Successful Respondent. Comptroller does not waive any sovereign immunity or any other privileges, remedies, immunities, rights or defenses available to Comptroller by issuing this RFP, entering into the Contract, or by its conduct prior to or subsequent to entering into the Contract.

#### **2.1.2 Information Technology Requirements**

Comptroller's computer hardware used in connection with collections consists of an IBM mainframe computer with networked Windows PCs. The system runs on Windows 11 Enterprise Version 1803 with proprietary software and off the shelf software.

Comptroller shall provide to Successful Respondent account updates via daily event files to be delivered nightly each business day and monthly payment files to be delivered by the 7th business day of the following month. Successful Respondent shall be solely responsible for notifying Comptroller's Designated Representative of Successful Respondent's failure to receive a scheduled daily event file or a scheduled monthly payment file from Comptroller. Upon occurrence of such failure to receive a scheduled daily event file or a scheduled monthly payment file, Successful Respondent shall notify Comptroller's Designated Representative by close of the next business day immediately following the original scheduled delivery date for the file. Successful Respondent shall provide to Comptroller account updates via daily event files to be delivered nightly each business day. To facilitate transfer of files between Comptroller and Successful Respondent, the Successful Respondent shall be granted access to Comptroller's MVS environment, via an assigned user ID requiring a password, that shall grant Successful Respondent daily server access to FTP files via Blue Zone emulator. Successful Respondent shall perform Services under this RFP using the following method:

1. File Transfer. Comptroller and Successful Respondent shall use Comptroller approved, encrypted enterprise solutions for File Transfer Protocol ("FTP") or file transfer communication. Approved secure file transmission protocols include:
  - SFTP (FTP over SSH) with password.
2. IP Address. Comptroller requires Successful Respondent use of a single static IP address per FTP account. Written approval and authorization by Comptroller's Information Technology Security and Data Operations shall be required prior to Successful Respondent's implementation and use of multiple static IP addresses in performance of work under the Contract.

### **2.1.3 Business Requirements**

Successful Respondent shall be responsible for the following:

1. Providing obligor with collection placement letters and payment demand letters that are issued in both English and Spanish languages and that conform to Comptroller notice requirements. Collection placement letters and payment demand letters shall include a detachable remittance coupon.
  - a. The detachable remittance coupon shall include a barcode that must be readable by Comptroller's optic scanner.
  - b. Comptroller shall provide the remittance coupon and scan line positions to Successful Respondent for incorporation into coupon.
  - c. See Section 2.1.9 below: Prior to Successful Respondent's use of a collection placement letter and/or a payment demand letter, Successful Respondent shall submit such collection placement letter and such payment demand letter to Comptroller for Comptroller's review and written approval to use.
2. Providing obligor with a Comptroller-specific IVR for after-hours phone calls.
  - a. IVR shall include both English and Spanish language options.
  - b. IVR shall fully inform obligors of Comptroller payment method resources (*i.e.*, Comptroller's mailing address and Comptroller's website).
  - c. IVR shall fully inform obligors that all payments shall be made to and paid directly to the Comptroller's office and not to Successful Respondent.
  - d. See Section 2.1.9 below: Prior to Successful Respondent's use of an IVR phone script, Successful Respondent shall submit the IVR phone script to Comptroller for Comptroller's review and written approval to use.
3. Providing Comptroller daily event files, delivered electronically each night, that must include, at a minimum, the following:
  - a. Updated obligor address and phone information on all Referred Accounts.
  - b. Events taken on and Event Codes applicable to all Referred Accounts.
    - i. An "Event Code" is a code defined by Comptroller and that is used by Successful Respondent to indicate the status, activities, and/or events applicable to a Referred Account.
    - ii. Each night Successful Respondent shall electronically transmit to Comptroller a daily event file that includes updates for and current Event Code(s) applicable to each Referred Account with an active Referral Period on that date.
    - iii. During the Referral Period applicable to each Referred Account, Successful Respondent must update and include Event Codes for each Referred Account and electronically transmit each night as a condition precedent to Comptroller's payment issuance for Successful Respondent's invoiced Services on a Referred Account.
  - c. Documents received from obligors on all Referred Accounts (*e.g.*, correspondence, proof of payment, etc., whether received from obligor as hard copy or in electronic format; "Obligor Documents").
    - i. Obligor Documents shall be electronically transmitted to Comptroller with Successful Respondent adhering to all information technology requirements and CPA Data Safeguard Standards described herein.
    - ii. Successful Respondent shall also deliver to Comptroller original hard copies of any Obligor Documents.

In the event Successful Respondent is unable or fails to submit an event file, Successful Respondent shall provide Comptroller's Designated Representative immediate notification, via both phone and email, of the inability or failure to submit the event file. Notification shall include the date, time, and explanation of the cause of the inability or failure and Successful Respondent's proposed solution and time required to resolve the situation. For purposes of this clause, "immediately notify" shall mean delivery of notification as soon as discovered by Successful Respondent but not later than eight (8) hours from the scheduled time for submitting the event file. Successful Respondent's failure to comply with this clause may be deemed breach of Contract.

4. Providing additional data and information as requested by Comptroller as part of the Services under the Contract at no additional charge to Comptroller.

#### **2.1.4 Collection Referrals and Ownership**

1. **Referral Period.** The referral period for an account begins on the date Successful Respondent initiates and documents formal collection activities on a Referred Account and terminates on the earlier of Comptroller's receipt of payment in full on the Referred Account, Successful Respondent's receipt of Comptroller's written notice of withdrawal of the Referred Account, or the termination or expiration date of the Contract ("Referral Period"). Successful Respondent may pursue Services on a Referred Account only while the Referred Account is within a Referral Period.
2. **Payment Remittance.** Comptroller shall own all amounts collected by Comptroller as a result of Successful Respondent's performance under the Contract. ***Successful Respondent shall not process any obligor payments, including through credit card, online, or IVR payment methods.*** Successful Respondent shall instruct all obligors to make payment directly to Comptroller and not to Successful Respondent and shall provide obligors with payment method resources and information including taxpayer number, remittance coupon, Comptroller's website, Comptroller's mailing address, and Comptroller's toll free IVR number.

In event an obligor of a Referred Account remits payment to Successful Respondent, within twenty-four (24) hours of receipt of the payment, Successful Respondent shall contact Comptroller's Designated Representative for instructions. In compliance with this clause, it is solely the responsibility of Successful Respondent to ensure timely and secure transfer of funds; Comptroller shall not indemnify Successful Respondent or any other entity or person for any loss of any amounts for any purpose.

3. **Compliance with Fair Debt Collection Practices Act.** Successful Respondent shall comply with all applicable provisions of 15 U.S.C. 1692 ("Fair Debt Collection Practices Act").
  - a. When an obligor for a Referred Account requests a statement or itemized bill for a Referred Account, Successful Respondent shall comply with provisions of 15 U.S.C. 1692g (Validation of Debts), and:
    - 1) Successful Respondent shall advise the obligor to contact Comptroller *in writing* to request the statement or itemized bill;
    - 2) Successful Respondent shall cease collection actions on the subject Referred Account; and
    - 3) Comptroller shall remove the subject Referred Account from Successful Respondent's inventory of Referred Accounts.
  - b. Successful Respondent shall not have access to Comptroller's accounting systems or to Referred Account billing information and shall not provide obligors with hard copy or electronic copy of statements or itemized billing information.
4. **Backlog Accounts.** As applicable, at the beginning of the Contract Term, Comptroller shall place with Successful Respondent the inventory, if any, of accounts that Comptroller referred to the incumbent vendor but that have not been collected ("Backlog Accounts"). Transfer of Backlog Accounts to Successful Respondent shall occur as a one-time placement.

Successful Respondent shall accept and provide collection services on all Referred Accounts, including but not limited to Backlog Accounts; however, Successful Respondent may refuse to accept Referred Accounts with obligors serving in the United States Armed Forces, Vista or the Peace Corps.

5. **Spanish Language Services.** Comptroller anticipates that approximately one-third (33%) of Referred Accounts will be those of obligors who are Spanish language speaking only. Successful Respondent's staff communicating with obligors shall include at least 25% or more of the staff possessing demonstrated oral and written Spanish language proficiency with ability to accurately communicate account collection information in the Spanish language.

#### ***2.1.5 Collection Account Withdrawals***

Comptroller reserves the right, in its sole discretion, to withdraw any Referred Account from Successful Respondent at any stage of the collection process.

Comptroller's withdrawal of a Referred Account from the collection process shall be effective upon Successful Respondent's receipt of written notification from Comptroller's Designated Representative.

Upon Successful Respondent's receipt of written notification from Comptroller's Designated Representative, Successful Respondent shall immediately suspend all collection activity on the withdrawn Referred Account and remove the Referred Account from Successful Respondent's collection accounts inventory. Successful Respondent shall receive no compensation or fees for Referred Accounts that are withdrawn by Comptroller prior to Successful Respondent's collection of amounts on the Referred Account or due to Comptroller's withdrawal of such Referred Accounts.

#### ***2.1.6 Account Closeout; Data Surrender; Liquidated Damages***

Successful Respondent shall commence account closeout within 24 hours of the earlier of the following: successful account collection in full, receipt of Comptroller's written notice of withdrawal of a Referred Account, or the termination or expiration date of the Contract. Within ten (10) calendar days of account closeout commencement, Successful Respondent shall complete account closeout activity, including returning to Comptroller all data, documents, work papers, correspondence, and any other Comptroller property.

Comptroller has determined that Successful Respondent's timely delivery of Comptroller property is essential to Comptroller's ability to comply with statutory requirements, fulfill obligations to third parties, and/or meet Comptroller's responsibilities to the taxpayers of the state. In submitting a response to this RFP, Respondent and Comptroller agree that in any instance of Successful Respondent's failure to timely return Comptroller's property, the measure of Comptroller's damages are difficult or impossible to determine or forecast, and the not-to-exceed amount of Five Hundred Dollars (\$500.00) per calendar day of default is established by the parties not as a penalty, but as liquidated damages representing the reasonable estimate of just compensation to Comptroller for Successful Respondent's failure to timely return Comptroller property. Comptroller may, but not must, impose the liquidated damages.

By submitting a response to this RFP, Respondent acknowledges each Referred Account under the Contract is subject to this Section 2.1.6. Failure to timely return Comptroller property for any Referred Account may result in Comptroller imposing liquidated damages for each such account in accordance with the terms of the Contract.

In event Comptroller imposes liquidated damages, charges shall begin accumulating the first day after the scheduled date of delivery of Comptroller property and continue through to the actual date of Successful Respondent's delivery of Comptroller's property. In event Comptroller deems liquidated damages are necessary and appropriate, in the sole discretion of Comptroller the total sum of liquidated damages shall be deducted from the money due or to become due to Successful Respondent or shall be issued by Successful Respondent to Comptroller as a credit towards pending orders, if any. Failure of Comptroller to impose liquidated damages in any instance of Successful Respondent's default in return of Comptroller property shall not waive Comptroller's right to exercise such remedy in any subsequent default in return of Comptroller property. The foregoing remedy for default in return of Comptroller property is non-exclusive, shall not preclude other remedies available to Comptroller in contract or by law, and shall not be applicable in event of Successful Respondent's perfected force majeure claim qualified under Section 14.18 (Force Majeure) of the Contract.

### **2.1.7 Compensation**

Successful Respondent's total compensation under the Contract shall be based on the final, negotiated percentage fee (not to exceed 30%) applied to amounts successfully collected by Successful Respondent during the Referral Period applicable to Referred Accounts and received by Comptroller during the Referral Period or postmarked no later than the last date of the applicable Referral Period and received within sixty (60) calendar days after such Referral Period end date. For each Referred Account, Successful Respondent's collection fee shall be applied on actual amounts collected during the Referral Period even if the total amount owed by obligor on the Referred Account is not collected in a single payment.

***The collection fees will be adjusted due to the following reversals:***

- *Returned items from a financial institution;*
- *Amended reports decreasing or eliminating the tax due which requires a refund;*
- *Penalty waiver;*
- *Difference between amount originally contracted and actual amount collected if an amended report is filed increasing the tax due;*
- *Entity granted exemption status, i.e., 501(c);*
- *Account with no nexus;*
- *Account affiliated with a reporting group;*
- *Tax responsibility set up in error; and*
- *Any other necessary adjustments permissible by law.*

For accounts withdrawn by Comptroller, Successful Respondent shall not receive any compensation for amounts collected after the date of Successful Respondent's receipt of Comptroller's written withdrawal notice on such account.

For any Referred Accounts not withdrawn by Comptroller, Successful Respondent shall not receive any compensation for any amounts collected after the Contract expiration or termination date unless the postmark date or other indication of payment initiation is dated on or before the Contract expiration or termination date and the payment is received by Comptroller within sixty (60) calendar days after the Contract expiration or termination date, whichever is applicable. Successful Respondent shall not assess penalties or other charges against Comptroller for Comptroller's withdrawal of any Referred Account.

### **2.1.8 Notification of Bankruptcy**

In event Successful Respondent receives or obtains a bankruptcy notice on any Referred Account, Successful Respondent shall contact Comptroller's Designated Representative within twenty-four (24) hours of receipt of the bankruptcy notice for instructions applicable to forwarding the bankruptcy notice to Comptroller. Successful Respondent shall adhere to all information technology requirements and data safeguard standards described herein during Successful Respondent's electronic transmittal of obligor bankruptcy notices to Comptroller.

### **2.1.9 Role and Restrictions**

Successful Respondent shall not settle or compromise any Referred Account for less than the full amount owed without written authorization from Comptroller.

Prior to using any form notices, form letters or scripts in delivery of Services for Referred Accounts, Successful Respondent must submit **all** such form notices, form letters and scripts (including, but not limited to, form notices and form letters delivered through US mail, text messaging, email content, and/or email attachments as may be applicable, and IVR and phone scripts) to Comptroller for Comptroller's review and written approval. Throughout the Contract Term, any changes and/or revisions to any such items previously approved by Comptroller must be submitted to and approved in writing by Comptroller prior to Contractor's use of the changed/revised item(s).

Successful Respondent shall not commence working on Referred Accounts until Successful Respondent has submitted **all** form notices, form letters and scripts (including, but not limited to, form notices and form letters delivered through US mail, text messaging, email content, and/or email attachments as may be applicable, and IVR and phone scripts) proposed for use during the Contract Term and obtained Comptroller's written notice to proceed using the final, approved versions of such items.

Successful Respondent shall not submit to credit reporting agencies any information on any Referred Accounts.

Pursuant to Section 2107.019(e) of the Texas Government Code, Successful Respondent is prohibited from filing suit or otherwise pursuing judicial action in a court of this state or another state on behalf of the Comptroller to collect on any Referred Accounts.

Successful Respondent is prohibited from issuing or directing any, including verbal or written, threats of litigation toward any obligor of Referred Accounts.

Failure to adhere to any role or restriction within this section may be deemed breach of contract, and Comptroller shall have the option to terminate the Contract without further obligation to Successful Respondent as well as pursue all other remedies and rights available to Comptroller under the Contract, at law, or in equity.

## **2.2 Contract Resulting from this RFP; Contract Term; Sample Contract**

Respondent's Proposal is a legal offer to contract based upon the terms, conditions, and specifications set forth in this RFP. "Contract" means the formal, written agreement, if any, between Comptroller and Successful Respondent. The Contract is effective as of the Award Date and will be between Comptroller and Successful Respondent. The Initial Term of the Contract shall be from Award Date through December 31, 2025, unless terminated sooner in accordance with the terms of the Contract. Comptroller may, in its sole discretion, exercise the option to renew the Contract for up to three (3) additional, individual, one (1) year periods. The optional additional periods are January 1, 2026 through December 31, 2026; January 1, 2027 through December 31, 2027; and January 1, 2028 through December 31, 2028.

Comptroller, in its sole discretion, may extend the Contract for up to six (6) months following the Initial Term or last exercised optional additional period, if any, or for such additional time as Comptroller deems necessary to secure and transition to a new contract.

Any renewal or extension options exercised shall be done so in accordance with the terms of the Contract. "Contract Term" means the Initial Term and any renewal or extension periods exercised.

**Comptroller reserves full discretion and authority to transition accounts on a gradual or other basis to Successful Respondent on or after effective date of the Contract only after successful completion of systems and process acceptance testing of Successful Respondent's systems and processes. The standard for acceptance of systems and processes shall be in sole discretion of Comptroller; failure to meet Comptroller's acceptance testing may result in termination of the Contract.**

The Contract awarded, if any, shall be based on the Sample Contract included as Exhibit A of this RFP and shall incorporate this entire RFP. The Sample Contract includes boilerplate provisions, and Comptroller reserves the right, in its sole discretion, to make a contract award without negotiation of these provisions. In the event Comptroller requires negotiations with Respondents, any modifications or clarifications agreed to with Successful Respondent during contract negotiations shall also be incorporated into the final executed Contract. Each Respondent must review the terms and conditions in Exhibit A and this RFP and address any concerns or issues in its transmittal letter. Terms and conditions not specifically objected to in Respondent's transmittal letter will be deemed to be accepted by Respondent. Comptroller has final approval of any contract awarded as a result of this RFP. Comptroller reserves the right, in its sole discretion, to modify the terms and conditions of the Sample Contract in the best interests of the State of Texas prior to signature by the parties. Notwithstanding any exceptions or any other provision of Respondent's Proposal to the contrary, Successful Respondent shall indemnify Comptroller and the State of Texas, as specified in the Sample Contract. The State of Texas, Comptroller, and their respective employees, officers, agents, and representatives, will not indemnify Successful Respondent or any other entity for any amount or for any purpose, and any provisions to the contrary are void.

## PART III GENERAL INFORMATION

### 3.1 Legal Authority

This RFP is issued pursuant to Sections 403.019, 2107.003(c), and Chapters 2155 and 2156, as applicable, of the Texas Government Code. The services requested in this RFP are similar to services previously procured.

### 3.2 Comptroller Rights

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

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

### 3.3 Respondent Obligations

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

### 3.4 Successful Respondent Obligations

Comptroller shall look solely to Successful Respondent for performance of the Contract. Successful Respondent shall provide the requested Services in accordance with Comptroller's requirements. Successful Respondent shall be the sole point of contract responsibility. Successful Respondent shall be liable, both individually and severally, for the performance of all obligations under the awarded Contract and shall not be relieved of the non-performance of any subcontractor.

### 3.5 Anticipated Schedule of Events

Comptroller anticipates that the solicitation process, selection of Successful Respondent and execution of the Contract will proceed according to the following schedule:

Date	Event
December 20, 2024	Issuance of RFP
January 6, 2025	Deadline for Submission of Questions (2:00PM CT)
January 8, 2025	Release of Official Responses to Questions (or as soon thereafter as practical)
February 5, 2025	Deadline for Submission of Proposals (2:00PM CT) <b><u>Late Proposals will not be considered</u></b>
July 1, 2025	Services Commencement Date (or as soon thereafter as practical)

Comptroller's regular office hours are 8:00AM to 5:00PM (CT), Monday through Friday, except national and official State of Texas holidays. All deadlines are subject to change at Comptroller's sole discretion.

Notices of changes to items directly impacting the original RFP or proposal process will be posted on the *Electronic State Business Daily* ("ESBD") located at: <http://www.txsmartbuy.gov/esbd>. Comptroller will post any amendment to this solicitation on the ESBD as an RFP addendum. It is the responsibility of an interested party to check the ESBD for updates to this RFP prior to submitting a Proposal. Respondent's failure to periodically check the ESBD

for updates will in no way release Successful Respondent from compliance with any requirements in the addenda or additional RFP information posted to the ESBD, even if such compliance results in additional costs to meet the requirements.

### 3.6 Issuing Office

Comptroller, through its Contracts Section, is the issuing office (“Issuing Office”) and the sole point of contact for this RFP. The Contracts Section is the only office authorized to clarify, modify, amend, alter, or withdraw the specifications, terms, and conditions of this RFP and Contract. Upon issuance of this RFP, other employees and representatives of the Comptroller shall not answer questions or otherwise discuss the contents of this RFP with any Respondent or their representative. **Failure of a Respondent or any of its representatives to observe this restriction may result in disqualification of any related Proposal.** This restriction does not preclude discussions between the parties to conduct business unrelated to this RFP. **Except as otherwise indicated, all communications concerning this procurement must be in writing and addressed to the Issuing Office as follows:**

**Kathleen Graham Blue**  
**Email: [contracts@cpa.texas.gov](mailto:contracts@cpa.texas.gov)**

### 3.7 Submission of Questions

Questions concerning this RFP must be in writing and submitted by email to the email address specified in Section 3.6 (Issuing Office) no later than the Deadline for Submission of Questions due date and time specified in the Anticipated Schedule of Events. **Telephone inquiries will not be accepted.** Respondents are encouraged to email questions to the Issuing Office at least fifteen (15) minutes prior to the Deadline for Submission of Questions due date and time set forth in the Anticipated Schedule of Events in order to allow for any networking delays that may occur (e.g., firewalls, security scans, etc.). Each Respondent submitting any question(s) is solely responsible for ensuring timely delivery of its questions to the Issuing Office by the deadline. Comptroller intends to issue the Release of Official Responses to Questions by electronically posting the Official Responses to Questions on the ESBD located at: <http://www.txsmartbuy.gov/esbd>, on the date set forth in the Anticipated Schedule of Events.

### 3.8 Deadline for Submission of Proposals; Delivery Instructions; Number of Copies Required

**3.8.1** Respondent must submit its Proposal electronically via email with delivery receipt requested, in accordance with the following:

- a. The Proposal must be emailed to the email address set forth in Section 3.6 (Issuing Office);
- b. The subject line of the email must include Respondent’s name and reference to RFP No. 238j – Tier I Collection Services;
- c. All attachments to the email must be in a format that is accessible to Comptroller (specific acceptable formats include Word, Excel, and searchable .pdf);
- d. All required forms must be signed, either with digital signatures or manually with scanned signatures; and
- e. Comptroller strongly encourages Respondent to send the email with the attached Proposal at least fifteen (15) minutes prior to the Deadline for Submission of Proposals as specified in this RFP in order to allow for any networking delays that may occur (e.g., firewalls, security scans, etc.).

**3.8.2** Respondent is solely responsible for ensuring timely delivery of its Proposal to the Issuing Office by the deadline. **Late Proposals will not be accepted. For purposes of meeting the 2:00PM delivery deadline, the Issuing Office’s electronic receipt date and time will be considered conclusive in all respects.**

**3.8.3** Comptroller shall not be liable or responsible for any costs whatsoever incurred in submission of a Proposal.

**3.8.4** Faxed Proposals are not acceptable and will not be considered. Due to changed building access restrictions, Respondents will not be permitted to hand deliver Proposals or provide hardcopy Proposals to the Issuing Office.

### 3.9 Confidential Information; Nondisclosure; Open Records

All information gathered, produced, derived, obtained, analyzed, controlled, or accessed by Respondent in connection with a Contract (“Confidential Information”) shall be and remain Confidential Information and shall not

be released or disclosed by Respondent without the prior written consent of Comptroller. Such consent must specifically identify the Confidential Information allowed to be disclosed by Respondent and the nature of the disclosure allowed. Respondent must execute and return with its Proposal a Nondisclosure Agreement with Comptroller, in the form of Exhibit D attached hereto.

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

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

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

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

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

### **3.10 Media Releases**

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

### **3.11 Non-exclusivity**

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

### **3.12 Incorporation of Exhibits**

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

## PART IV PROPOSAL FORMAT

### 4.1 Introduction

Each Proposal shall contain a cover sheet with the following: “RFP No. 238j for Tier I Collection Services” and the name and address of Respondent. Proposal pages must be numbered consecutively.

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

Any terms and conditions attached to a Proposal will not be considered unless specifically referred to in the Proposal.

**ALL EXHIBITS TO THIS RFP ARE PREPARED EXCLUSIVELY FOR RFP NO. 238j. RESPONDENT’S SUBMISSION OF OTHER EXHIBITS OR DOCUMENTS, INCLUDING PRIOR RFP EXHIBITS, MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.**

### 4.2 General Organization of Proposal Contents

Proposals must be organized as follows:

1. Transmittal Letter;
2. Executive Summary;
3. Table of Contents;
4. Respondent Identifying Information;
5. Proposed Subcontractor(s) Identifying Information;
6. Respondent and Proposed Subcontractor(s) Qualifications and Experience;
7. Proposed Personnel;
8. Respondent Narrative, Preliminary Work Plan, and Proposed Transition Plan;
9. Proposed Fee;
10. Insurance;
11. Financial Statements;
12. Execution of Proposal;
13. Historically Underutilized Businesses Subcontracting Plan;
14. Criminal Conviction Certification;
15. Nondisclosure Agreement;
16. Conflict of Interest/Disclosure Statement; and
17. Certification Regarding Public Nature of the Proposal.

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

#### 4.2.1 Transmittal Letter

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

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

The transmittal letter must include a statement of acceptance of the terms and conditions of the Contract as set forth in the Sample Contract located in Exhibit A to the RFP. If Respondent takes any exception to any of the provisions of this RFP or the proposed terms and conditions stated in the Exhibit A (Sample Contract), the exceptions must be clearly and specifically identified by section number in Respondent's Proposal transmittal letter and be accompanied by both (1) an explanation for the reason for the requested change and (2) proposed alternative language. If Respondent takes "blanket exception" to the entire RFP or to the entire Exhibit A (Sample Contract) terms and conditions or does not propose alternate language for Comptroller's consideration, Respondent's Proposal may be considered non-responsive to this RFP and disqualified from further consideration. Failure to accept the terms and conditions as set forth in Exhibit A (Sample Contract) may result in disqualification of the Proposal.

#### **4.2.2 Executive Summary**

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

#### **4.2.3 Table of Contents**

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

#### **4.2.4 Respondent Identifying Information**

Respondent must provide the following identifying information:

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

#### **4.2.5 *Proposed Subcontractor(s) Identifying Information***

The Proposal must identify any subcontractors and outline the contractual relationship between Respondent and each proposed subcontractor. Respondent must provide statements for each proposed subcontractor attesting to the fact that the subcontractor will provide the Services as represented in Respondent's Proposal. Each statement must be signed by an individual with authorization to legally obligate the subcontractor named in the statement. Proposed subcontractors may be required to submit ownership information similar to that required of Respondents in Section 4.2.4 (*Respondent Identifying Information*) of this RFP. Respondent must disclose, at Comptroller's request, any information regarding proposed subcontractors.

#### **4.2.6 *Respondent and Proposed Subcontractor(s) Qualifications and Experience***

##### **1. Experience**

Respondent's Proposal must include a detailed overview of Respondent's and Respondent's Subcontractors' (if any) experience providing the requisite Services. Respondent must demonstrate its knowledge of and experience with activities relevant to the Services.

Respondent must provide a detailed profile that describes the following:

- a. The size and scope of all operations, including number of Respondent's employees and years in business;
- b. The general nature of similar work previously performed by Respondent, particularly work performed in the three (3) years immediately preceding issuance date of this RFP;
- c. Respondent's depth and length of experience with state agencies;
- d. Respondent's experience providing professional collection services, with a particular emphasis on such services delivered for a public entity;
- e. For each proposed subcontractor:
  - i. The size and scope of all operations, including number of employees and years in business;
  - ii. The general nature of similar work previously performed by the subcontractor, particularly work performed in the three (3) years immediately preceding issuance date of this RFP;
  - iii. The depth and length of experience with state agencies; and
- f. Any other information Respondent believes is pertinent to this RFP.

##### **2. Cancellations or Terminations**

Respondent must list **all** contracts or purchase orders that Respondent executed with or accepted from a state agency or any other entity within the last three (3) years and that were canceled or terminated by the state agency or other entity prior to natural end of contract; if none, Respondent must state none. For each such canceled or terminated contract or purchase order, Respondent must include a detailed explanation for the cancellation or termination and final resolution of the matter as well as the name and telephone number of contact person for the state agency or other entity.

##### **3. References**

In its Proposal, Respondent must include a list of at least three (3) clients, other than Comptroller, for which Respondent has provided services during the last three (3) years on projects similar in size, scope and nature as requisite Services of this RFP and that exemplify Respondent's qualifications. For each reference, Respondent should include the following information:

- a. Client name, address and telephone number;
- b. Client point of contact name, business address, and telephone number;
- c. Complete description of work performed and deliverables provided; and
- d. Accurate, detailed description of the contract price paid for the work performed (if for a public entity), including whether payment was fixed-fee, hourly fee, or some other method of compensation.

Comptroller is not obligated to contact Respondent in the event incomplete reference information is submitted in the Proposal. Consequently, Respondent's failure to provide all or part of the requested reference information in its Proposal may be reflected as a score of "0" for the applicable evaluation criterion.

#### **4.2.7 *Proposed Personnel***

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

1. A full name (including full middle name);
2. A five (5) year employment history;
3. A specific description of relevant experience and skills the individual has with performance of the Services, that must include at least three (3) years of experience performing work similar to the required Services (limit to one page);
4. Professional certifications (if any);
5. A specific indication of what role the individual will have in performance of the Services; and
6. Any additional pertinent information to indicate the individual's ability to aid Respondent in successfully completing the required Services (limit to one page).

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

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

#### **4.2.8 *Respondent Narrative, Preliminary Work Plan, and Proposed Transition Plan***

In its Proposal, Respondent must submit a narrative explanation of how the offered services will meet the requirements of this RFP, including but not limited to the requirements of Part II (*Scope of Work*). In its narrative, Respondent may also concisely describe any additional features, aspects, or advantages of its services in any relevant area not covered elsewhere in its Proposal.

In its Proposal, Respondent must also provide a preliminary *Work Plan*, with a table of contents, that: (1) addresses how work will be performed by Respondent; (2) describes the research, analyses, and methodologies Respondent will use to complete the Services; and (3) provides a detailed description, including a timeline for completion, of each deliverable to be provided. Roles and responsibilities of Comptroller, beyond those stated in this RFP, must be clearly described by the Respondent.

In its Proposal, Respondent must provide a *Transition Plan* that described the method by which Respondent will facilitate a prompt transition of services to any new arrangement or successor collection firm upon termination or end of the Contract. A copy of the final agreed *Transition Plan* shall be included in the Contract and shall include, as applicable, the following:

1. A description of licenses, if any, that Respondent shall provide to the Comptroller and to successor collection firm in order to ensure a smooth transition, and
2. The method by which Respondent will work cooperatively with Comptroller to ensure a prompt transition to and resumption of services by Comptroller or successor collection firm.

#### **4.2.9 Proposed Fee**

Comptroller is soliciting Proposals to procure the Services for a firm fixed price. Respondents are encouraged to offer their best pricing at all times. Respondent must include all costs of providing all Services requested by this RFP on a price sheet similar in format to the price sheet located in Attachment C (Authorized Personnel and Compensation) to Exhibit A (Sample Contract) of this RFP. Respondent must include a percentage that indicates Respondent's proposed percentage fee to be charged for Respondent's collection services on Comptroller referred accounts. All costs and expenses associated with the Services defined by the RFP, including attendance at and participation in all meetings as requested by Comptroller, must be included on the proposed price sheet. Variable costs such as travel-related expenses must not be added as line items on the price sheet. Comptroller reserves the right to negotiate budget and budgetary constraints at the time of contract award. Any Contract shall include a total not-to-exceed fee for all costs associated with providing the Services.

#### **4.2.10 Insurance and Surety Bond**

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

#### **4.2.11 Financial Statements**

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

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

#### **4.2.12 Execution of Proposal**

Exhibit B must be completed and signed by Respondent and included in the Proposal.

#### **4.2.13 Historically Underutilized Businesses Subcontracting Plan**

In accordance with Section 2161.252 of the Texas Government Code and 34 Texas Administrative Code §20.285, each state agency that considers entering into a contract with an expected value of \$100,000 or more over the life of the contract (including any renewals) shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. If subcontracting opportunities are probable, each state agency's invitation for bids, requests for proposals, or other purchase solicitation documents with an expected value of \$100,000 or more shall state that probability and require a Historically Underutilized Business (HUB) Subcontracting Plan (HSP).

Comptroller has determined that subcontracting opportunities are probable and requires Respondents to complete the State of Texas HUB Subcontracting Plan (HSP) form located at <https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>. The HSP form is also posted to the ESBD as a separate package under this RFP available at: <http://www.txsmartbuy.gov/esbd>. For assistance in completing the HSP, Respondent may visit the following website: <https://comptroller.texas.gov/purchasing/vendor/hub/>. Respondents may submit an HSP review request to the email address set forth in Section 3.6 (Issuing Office). CPA

will provide a courtesy HSP review if the request is received prior to the Deadline for Submission of Questions due date and time set forth in the Anticipated Schedule of Events.

For purposes of the HSP, Comptroller has determined that this procurement falls under the following category:

Special Trade Construction \_\_\_\_\_ Professional Services \_\_\_\_\_ Other Services ☒ Commodities \_\_\_\_\_

Comptroller has identified the possible subcontracting opportunities on the “Agency Special Instructions/Additional Requirements” portion of the State of Texas HSP form set forth below.

#### **Agency Special Instructions/Additional Requirements**

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

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

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

If Respondent is subcontracting some portion of the contract, the supporting documentation of “Good Faith Effort” must be demonstrated in either Method A (Attachment A) or Method B (Attachment B).

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

<b>Class</b>	<b>Item</b>	<b>Description</b>
946	33	Collection Services (Financial Debt)

In accordance with 34 TAC §20.285(d)(1)(D)(iii), a Respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of Respondent’s subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a Respondent uses this method to demonstrate good faith effort, the Respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal.

**Respondent must carefully review, complete and return all HUB forms, as required by this Section.**

#### ***4.2.14 Criminal Conviction Certification***

Exhibit C must be completed and signed by Respondent and included with the Proposal.

#### ***4.2.15 Nondisclosure Agreement***

Exhibit D must be completed and signed by Respondent and included with the Proposal.

#### ***4.2.16 Conflict of Interest/Disclosure Statement***

Exhibit E must be prepared and signed by Respondent and included with the Proposal.

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

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

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

For purposes of this RFP, "personal relationship" is defined as a current or past connection other than a clearly contractual, business, financial, or similar relationship and includes family relationships or other connections outside simply providing a response to this RFP. For this purpose, "family relationship" means a relationship within the third degree of consanguinity or second degree of affinity. Chapter 573 of the Texas Government Code defines these degrees of consanguinity and affinity. Connections other than such family relationships fall within this definition and must be disclosed if a reasonable person could expect the connection to diminish Respondent's independence of judgment or effectiveness in the performance of Respondent's responsibilities to Comptroller or the State of Texas under the Contract. Connections also fall within this definition if a reasonable person could expect the connection, within the overall context of Respondent's submission of a Proposal, possible selection as Successful Respondent, or its performance of the Contract, to create an issue for the agency's consideration relative to a potential appearance of impropriety or conflict of interest. Connections also fall within this definition if the relationship is with Comptroller or other State of Texas employee with authority to make decisions or recommendations on State of Texas contracting or procurement or this RFP. For purposes of this provision, those persons with authority to make decisions or recommendations are those persons who fall within the definition of "purchasing personnel" in Section 2262.004(a)(2) of the Texas Government Code.

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

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

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

#### ***4.2.17 Certification Regarding Public Nature of the Proposal***

Exhibit F must be completed and signed by Respondent and included with the Proposal.

## PART V PROPOSAL EVALUATION AND SELECTION

### 5.1 Evaluation Process

Comptroller shall establish an Evaluation Committee. Copies of Proposals that Comptroller determines are responsive and in compliance with this RFP will be distributed to the members of the Evaluation Committee for their review and evaluation. Comptroller may request clarifications on issues raised in the Proposals from individual Respondents. Comptroller may request Best and Final Offers from Respondents whose Proposals are ranked highest by the Evaluation Committee.

Comptroller may request that top-scoring Respondents present an overview of the proposed services. The number of top-scoring Respondents selected to provide presentations will be determined by Comptroller in its sole discretion. Such Respondents will be notified, and presentation dates and times will be arranged. All presentations will be performed at Comptroller offices located in the LBJ Building, 111 E. 17th Street, Austin, Texas or through virtual environment (*e.g.*, WebEx or Microsoft Teams) as determined within sole discretion of Comptroller.

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

As soon as possible after the execution of the written Contract with Successful Respondent, all other Respondents will be provided with formal notification that they were not selected.

### 5.2 Selection Criteria

Only those Proposals that meet the minimum qualifications shall be evaluated and scored. The evaluation of the Proposals will be conducted in accordance with the standards and factors set forth in Sections 2155.074, 2155.075, and 2156.007 of the Texas Government Code, with criteria and relative weights as follows:

<b>1. Respondent's Demonstrated Competence, Knowledge, and Qualifications:</b>	<b>75%</b>
a. Respondent's past performance, qualifications, and experience in providing the requisite, or substantially similar, collection services to the public sector and Respondent's financial capability to do so;	
b. Respondent's proposed personnel and their demonstrated applicable experience, and Respondent's organizational chart demonstrating a clear line of authority exists and responsibility is assigned to ensure quality of services and timely results; and	
c. Respondent's proposed <i>Work Plan</i> and <i>Transition Plan</i> , the inclusion of quality assurance and control measures, and thorough understanding of the project and description of services	
<b>2. Reasonableness of Proposed Fee:</b>	<b>25%</b>
<b>Total:</b>	<b>100%</b>

### 5.3 Respondent's Past Performance

Comptroller may conduct reference checks with other entities regarding past performance of Respondent or its subcontractors. In addition to evaluating performance through the Vendor Performance Tracking System as authorized by 34 Texas Administrative Code §20.115, Comptroller may examine other sources of vendor

performance, including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, Comptroller may initiate such examinations of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of Comptroller, and any negative findings, as determined by Comptroller, may result in a non-award to Respondent. The Vendor Performance Tracking System information is located on Comptroller's website at: <https://www.comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>.

#### **5.4 Protest Procedures**

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

**EXHIBIT A  
SAMPLE CONTRACT**

**TIER I COLLECTION SERVICES AGREEMENT  
BETWEEN  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS  
AND  
[CONTRACTOR]**

This Tier I Collection Services Agreement (“Contract”) is entered into by and between the Texas Comptroller of Public Accounts (“Comptroller” or “CPA”), an agency of the State of Texas, and \_\_\_\_\_ (“Contractor”), located at \_\_\_\_\_ (individually, “Party”; collectively, “Parties”).

**I. Recitals**

**Whereas**, on December 20, 2024, Comptroller issued a Request for Proposals No. 238j (“RFP”) from qualified, independent persons and entities to provide debt collection services;

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

**Whereas**, Contractor was selected as a Successful Respondent;

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

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

**Now, therefore**, the Parties hereby agree as follows:

**II. Authority**

This Contract is entered into pursuant to Sections 403.019 and 2107.003(c) of the Texas Government Code.

**III. Services**

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

1. This Contract (without attachments).
2. Attachment A: Comptroller’s RFP.
3. Attachment B: Standards of Performance.
4. Attachment C: Authorized Personnel and Compensation.
5. Attachment D: HUB Subcontracting Plan.
6. Attachment E: Contractor’s Proposal.
7. Attachment F: Confidential Treatment of Information Acknowledgement.

Contractor’s performance under this Contract is limited to the requirements set forth in this Contract, including services reasonably related to satisfying those requirements. The requirements set forth in this Contract include, but

are not limited to, compliance with all Standards of Performance set forth in Attachment B (*Standards of Performance*) of this Contract.

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

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

#### **IV. Personnel**

Contractor shall act as an independent contractor in providing Services. Contractor's employees shall not be construed as employees of Comptroller in providing Services. Contractor shall assign to this Contract only those persons as employees who are approved by Comptroller. Contractor shall assign only qualified personnel to this Contract. Comptroller reserves the right, in its sole discretion, to approve each of Contractor's personnel and to request substitution. As of the date of Comptroller's execution of this Contract, Comptroller has authorized the personnel listed in Attachment C (*Authorized Personnel and Compensation*) of this Contract to provide Services.

Contractor shall provide to Comptroller prior written notice of any proposed change in authorized personnel providing Services. In the event Contractor intends to add, replace, or substitute personnel during the term of the Contract, Contractor shall provide Comptroller with résumés of the proposed individuals. All proposed substitutions and replacement personnel must be of equal or superior experience or skill as the person replaced. Comptroller will provide Contractor with written notice of approval or rejection of proposed personnel within three (3) business days following receipt of the résumé. No additions, substitutions or replacements of authorized personnel will be made without the prior written consent of Comptroller. Each of Contractor's personnel is subject to removal from the Contract by Comptroller.

Contractor represents and warrants that each of the authorized personnel listed in Attachment C (*Authorized Personnel and Compensation*) of this Contract, and any substitute or replacement personnel assigned after the effective date of this Contract, have the training, qualifications, education and experience to provide the Services. Contractor represents and warrants that none of its employees, including, but not limited to, those authorized to provide services under this Contract, are present or former employees of Comptroller.

#### **V. Funding; Legislative Action**

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

#### **VI. Evaluation**

Prior to authorizing any payment under Section VII (*Payments*) of this Contract, Comptroller shall evaluate Contractor's performance against the Standards of Performance and with all other requirements of this Contract.

Prior to authorizing any payments, Comptroller shall evaluate and provide written notice of Comptroller's acceptance or rejection of Contractor's Services.

Contractor acknowledges and agrees that prior to authorizing any payments for invoiced Services, Comptroller may reconcile Contractor's invoice to supporting documentation, Event Codes, daily event files, previously submitted invoices, Comptroller's written notice of acceptance or rejection of Contractor's Services, and any other records related to Services invoiced under the Contract.

## **VII. Payments**

Contractor's total compensation under this Contract shall not exceed the rates set forth in Attachment C (Authorized Personnel and Compensation).

Contractor shall be required to submit detailed invoices to support payment upon receipt of Comptroller's written acceptance described in Section VI (*Evaluation*) of this Contract. Contractor's invoices must be in a format acceptable to Comptroller, complete with required supporting documentation, and submitted within ten (10) calendar days after receipt of Comptroller's written acceptance described in Section VI (*Evaluation*) of this Contract.

In submitting an invoice to Comptroller, Contractor certifies to the following: that the invoice has been carefully reviewed for detailed description of the Services performed; that the Services have been performed in compliance with this Contract; that Contractor has complied with RFP Section 2.1.3.3 related to submission of Event Codes; that the amount of the invoice and all previous invoices together do not exceed the contractual cap of the Contract or Contractor's negotiated fees, as applicable; that the charges and expenses shown on the invoice are reasonable and necessary; and that all appropriate and required supporting documentation is attached. Comptroller may, in its sole discretion, require additional documentation to support payment and Contractor shall respond to any such requests within five (5) days of receipt.

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

## **VIII. Term and Termination**

**8.1 Contract Term.** This Contract is effective as of the date signed by Comptroller (Award Date), after having first been signed by Contractor. The Initial Term of the Contract shall be from Award Date through December 31, 2025, unless terminated sooner in accordance with the terms herein. Comptroller may, in its sole discretion, exercise the option to renew the Contract for up to three (3) additional, individual, one (1) year periods. The optional additional periods are January 1, 2026 through December 31, 2026; January 1, 2027 through December 31, 2027; and January 1, 2028 through December 31, 2028.

Comptroller, in its sole discretion, may extend the Contract for up to six (6) months following the Initial Term or last exercised optional additional period, if any, or for such additional time as Comptroller deems necessary to secure and transition to a new contract. To exercise the option to renew or extend the Contract, Comptroller will notify Contractor in writing; such notice may be by purchase order issuance. "Contract Term" means the Initial Term and any renewal or extension periods exercised.

Notwithstanding the termination or expiration of this Contract, the provisions of this Contract regarding confidentiality, indemnification, payments, records, and dispute resolution shall survive the termination or expiration dates of this Contract.

**8.2 Termination for Cause.** Without limitation on the right of Comptroller to terminate this Contract pursuant to its terms, Comptroller reserves the right, in its sole discretion, to terminate this Contract, in whole or in part, upon

any one of the following conditions, any of which constitute an “Event of Default”:

1. A receiver, conservator, liquidator, or trustee of Contractor or of any of its property is appointed by order or decree of any court or agency or supervisory authority having jurisdiction; or an order for relief is entered against Contractor, under Title 11 of the United States Code; or Contractor is adjudicated bankrupt or insolvent; or any portion of the property of Contractor is sequestered by court order and such order remains in effect for more than thirty (30) days after Contractor obtains knowledge thereof; or a petition is filed against Contractor under any state, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect, and such petition is not dismissed within thirty (30) days;
2. Contractor files a case under the Title 11 of the United States Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law;
3. Contractor makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of Contractor or of all or any part of its property; of judgment for the payment of money in excess of \$50,000.00 (which is not covered by insurance) is rendered by any court or governmental body against Contractor, and Contractor does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within thirty (30) days from the date of entry thereof, and within said thirty (30) day period or such longer period during which execution of such judgment shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal while providing such reserves therefor as may be required under generally accepted accounting principles; or a writ or warrant of attachment or any similar process shall be issued by any court against all or any material portion of the property of Contractor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) days after its entry;
4. A court of competent jurisdiction finds that Contractor has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction;
5. Contractor fails to communicate with Comptroller as required by the Contract;
6. Contractor breaches an industry standard of confidentiality related to the Contract;
7. Comptroller determines that Contractor or any of its subcontractors have an unacceptable conflict of interest and such conflict is not cured within ten (10) calendar days following notification thereof to Contractor;
8. Comptroller determines that Contractor has failed or refused to perform, is negligent in performing, or is unable to perform or it reasonably appears that Contractor will not perform any of the duties or obligations as provided under this Contract, or fails or refuses to perform consistent with the statements, promises and commitments made by Contractor during the solicitation process, and has not cured such performance defect within thirty (30) days of receipt of written notice from Comptroller of such performance defect or the actual deadline for performing, whichever occurs last;
9. If Contractor fails to notify Comptroller in writing of a “material adverse change” experienced by Contractor or any subcontractor during the term of this Contract or any extension thereof, at the time the change occurs or is identified. The term “material adverse change” shall mean: (i) any actual or anticipated change in control, ownership or executive management of Contractor or any subcontractors for which Comptroller has not provided advance written consent; (ii) any actual or anticipated legal or administrative investigations or proceedings initiated against Contractor or subcontractors regardless of the jurisdiction from which such proceedings originate; or (iii) any change or changes that individually or in the aggregate are materially adverse to (1) the net assets in an amount of fifteen percent (15%) or more, properties, business, security, results of operations or financial condition, taken as a whole, of Contractor or any

subcontractor, (2) the ability of Contractor or subcontractors to perform its or their obligations under this Contract, or (3) the legality or enforceability against Contractor or subcontractors;

10. Contractor fails to comply with any of the Standards of Performance of the Contract; or

11. Contractor or any of Contractor's employees, subcontractors, agents, or any person acting on behalf of Contractor is found to be in violation of the federal Fair Debt Collection Practices Act, state debt collection statutes, rules, or regulations, discloses confidential information to a person not authorized to receive it, or performs any act resulting in a final judgment for damages against the State of Texas.

**8.3 Termination for Convenience.** Comptroller reserves the right, in its sole discretion, to terminate the Contract on thirty (30) days' written notice to Contractor. Comptroller also reserves the right, in its sole discretion, to terminate the Contract immediately, with written notice to Contractor, if it is in the best interests of Comptroller or the State of Texas to do so.

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

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

**8.5 Transition.** Upon termination of the Contract for any reason, Contractor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and provider. In accordance with Section 14.46 of this Contract, Contractor shall deliver to Comptroller all completed, or partially completed, work and any and all documentation or other products and results of the Services.

Within a reasonable time prior to termination of Contract, Comptroller shall have the right, in its sole discretion, to transition the contracted or similar collection services back to Comptroller or to a successor collection firm without disruption of Services or incurring duplicative expenses, such as for development of software or license of proprietary software. Contractor shall issue license to the Comptroller to use Contractor's proprietary software or software developed as a result of Contract, as modified throughout the Contract term, and Contractor shall assist Comptroller in obtaining any third-party licenses necessary for such transition of the contracted or similar collection services back to Comptroller or to successor collection firm.

Upon completion of transition of the contracted or similar collection services to Comptroller or successor collection firm, Contractor shall issue license to successor collection firm and Comptroller to use any software developed as a result of the Contract, as modified throughout the term of the Contract, and shall assist successor collection firm and Comptroller in obtaining any third-party licenses necessary for ongoing use by the successor collection firm and Comptroller.

In the event of a transition from Contractor to a successor collection firm, Contractor shall provide such successor collection firm with access to all Comptroller accounts handled by the Contractor including without limitation, list of accounts and all information on the status of the accounts.

**8.6 No Liability upon Termination.** If this Contract is terminated for any reason, Comptroller and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. In the event of termination of this Contract, Comptroller's sole and maximum obligation shall be to authorize payment to Contractor for previously authorized services, performed in accordance with all requirements of this Contract, up to the termination date.

## **IX. Confidentiality and Open Records**

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

Notwithstanding any provisions of this Contract to the contrary, Contractor understands that Comptroller will comply with the Texas Public Information Act as interpreted by judicial opinions and opinions of the Office of the Attorney General of Texas ("Attorney General"). Within three (3) days of receipt, Contractor shall refer to Comptroller any third-party requests received directly by Contractor for information to which Contractor has access as a result of or in the course of performance under this Contract. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with Comptroller pursuant to this Contract, and not otherwise excepted from disclosure under this Contract or the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to Comptroller. In order to comply with such requirement, any information created or exchanged with Comptroller shall be in Word, Excel, or PDF format, as applicable.

## **X. Insurance and Surety Bond**

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

- (i) Standard Workers' Compensation Insurance covering all personnel who will provide services under this Contract;
- (ii) Commercial General Liability Insurance: \$1,000,000 minimum each occurrence limit; \$2,000,000 minimum aggregate limit;
- (iii) Professional Liability Insurance (to include but not be limited to, coverage for errors, omissions, technical violations under debt collection statutes, and damages arising from the negligent, reckless, or intentional acts by Successful Respondent or its agent(s) in the course of collecting debt under the Contract): \$1,000,000 minimum each occurrence limit; \$2,000,000 minimum aggregate limit.

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

Contractor represents and warrants that it shall, within five (5) business days of executing this Contract, provide Comptroller with evidence of current surety bond in compliance with Section 392.101 of the Texas Finance Code. Contractor also represents and warrants that throughout the Contract term, Contractor shall obtain, maintain, and renew, as applicable, any surety bonds required by statute.

## **XI. Indemnification**

**11.1 GENERAL. CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND COMPTROLLER, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY**

**FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

**11.2 INDEMNIFICATION FOR INTELLECTUAL PROPERTY. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS COMPTROLLER AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) COMPTROLLER'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO COMPTROLLER BY CONTRACTOR OR OTHERWISE TO WHICH COMPTROLLER HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. IF CONTRACTOR IS NOTIFIED OF ANY CLAIM SUBJECT TO THIS SECTION, CONTRACTOR SHALL NOTIFY COMPTROLLER OF SUCH CLAIM WITHIN FIVE (5) WORKING DAYS OF SUCH NOTICE. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE ATTORNEY GENERAL. IN ADDITION, CONTRACTOR WILL REIMBURSE COMPTROLLER AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF COMPTROLLER DETERMINES A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF COMPTROLLER IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, COMPTROLLER WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF COMPTROLLER'S COUNSEL.**

## **XII. Dispute Resolution**

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

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

- (i) Contractor's claim for breach of this Contract that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of Comptroller and

Contractor otherwise entitled to notice under this Contract. Compliance by Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

- (ii) The contested case process provided in Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller if the Parties are unable to resolve their disputes under subparagraph (i) of this Section.
- (iii) Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practice and Remedies Code. Neither the execution of this Contract by Comptroller nor any other conduct of any representative of Comptroller relating to this Contract shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Contract, the following shall apply:

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

Notwithstanding any other provision of the Contract to the contrary, Contractor shall continue performance and shall not be excused from performance during the period any breach of contract claim or dispute is pending under either of the above processes; however, Contractor may suspend performance during the pendency of such claim or dispute if Contractor has complied with all provisions of Section 2251.051 of the Texas Government Code and such suspension of performance is expressly applicable and authorized under that law.

### **XIII. Property Rights**

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

If for any reason the Work would not be considered a work-for-hire under applicable law, Contractor does hereby sell, assign, and transfer to Comptroller, its successors and assigns, the entire right, title and interest in and to all copyright and other intellectual property rights in and to the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Contractor agrees to execute all papers and to perform such other property rights as Comptroller may deem necessary to secure for Comptroller or its designee the rights herein assigned.

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

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

#### **XIV. General Provisions**

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

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

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

**14.4 Disaster Recovery Plan.** Upon request of Comptroller, Contractor shall provide the descriptions of its business continuity and disaster recovery plans.

**14.5 Former Agency Employees.** Contractor represents and warrants that none of its employees, including, but not limited to, those authorized to provide Services were former employees of Comptroller during the twelve (12) month period immediately prior to the date of execution of this Contract.

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

**14.7 Amendments.** Except as provided in this Section 14.7 (*Amendments*) and Section 14.2 (*State Auditor's Right to Audit*) of this Contract, this Contract may be amended only upon written agreement between Comptroller and Contractor; however, this Contract may not be amended to make it conflict with the laws of the State of Texas. Comptroller may issue Purchase Order Change Notices ("POCN") for ordering and tracking purposes consistent with this Contract, provided such POCNs reference this Contract.

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

## 14.9 CPA Data Safeguard Standards.

- a. Defined Terms. The term “CPA Data” refers to CPA’s information as well as other entity information in the possession of CPA that is processed, stored, or transmitted by a computer. CPA Data includes all data that is generated by Successful Respondent in performance of a contract with CPA. The term “CPA Information System” refers to those devices, software, networks and related infrastructure that CPA owns, operates or has obtained for use to conduct CPA business. Devices include, but are not limited to, CPA-owned or managed storage, processing, and communications devices, as well as personally owned devices.
- b. Access to CPA Data. Successful Respondent represents and warrants that it will implement, maintain, and use appropriate administrative, technical, and physical safeguards to preserve the confidentiality, integrity, and availability of CPA Data. Successful Respondent will not collect, access, use, disclose, or retain CPA Data other than as necessary to perform the services specified in a contract resulting from this solicitation or as otherwise authorized in writing by CPA. Successful Respondent will restrict access to CPA Data to only those personnel who must have the information on a “need to know” basis. Successful Respondent will not use CPA Data, or any information derived from CPA Data, for its own benefit or the benefit of any other person or entity. Successful Respondent will not share CPA Data with its parent company or other affiliate without CPA’s express written consent.
- c. Reserved.
- d. Remote Access to CPA Information Systems. Successful Respondent shall accept the CPA Remote Access Terms and Conditions and obtain CPA’s written approval of Successful Respondent’s Remote Access Request Form before CPA will issue Successful Respondent with credentials to remotely access CPA Information Systems (*e.g.*, for continuous access). Successful Respondent may contact the CPA Designated Representative for the applicable forms. Successful Respondent shall only access CPA Information Systems in accordance with CPA’s security protocols using CPA-approved remote access technologies, processes, and procedures. CPA reserves the right to immediately terminate any access to a CPA Information System.
- e. CPA-Required Security Awareness Training. As a condition of CPA issuing credentials and Successful Respondent gaining access to a CPA Information System, Successful Respondent shall complete CPA’s security awareness training or an equivalent DIR-approved training on an annual basis during the Contract Term, including renewal periods. Successful Respondent shall submit to CPA at [contract.administration@cpa.texas.gov](mailto:contract.administration@cpa.texas.gov): (i) the Contractor Cybersecurity Training Attestation (CCTA) form attached as Exhibit G to the RFP; and (ii) any other information reasonably requested by CPA to comply with Section 2054.5192 of the Texas Government Code. Successful Respondent must complete, sign, and return the CCTA form to CPA no later than sixty (60) calendar days following Award Date and each anniversary thereafter during the term of the Contract, including any renewal periods. Successful Respondent shall maintain records of all individuals who have completed the CPA-required training for the duration of the individual’s employment or other business relationship with Successful Respondent, plus five years. CPA, in its sole discretion, may deny network or system access to any individual that does not complete the CPA-required training within thirty (30) calendar days following the date of CPA’s grant of access to the CPA Information System(s).
- f. Location of CPA Data. Successful Respondent shall ensure that CPA Data (*i.e.*, primary and backup) remains, at all times, within the continental United States. Successful Respondent shall receive, process, transmit, and store all CPA Data within the continental United States. Successful Respondent’s point of access to CPA Data shall be within the continental United States.
- g. Encryption Standards.
  1. Successful Respondent shall encrypt CPA Data in transit and at rest. Data in transit means data is moving via email, in applications, or through browsers and other web connections. Data at rest (including data backups) means data is stored in databases, the cloud, removable media, or mobile devices.

2. Successful Respondent shall utilize encryption standards that are FIPS 140-2 compliant or, upon the written approval of CPA's Chief Information Security Officer, shall meet the intent of the standards as described in FIPS 140-2.
  3. The minimum cryptographic algorithm used by Successful Respondent must be Advanced Encryption Standard (AES) 128 or higher (256 AES is preferred).
  4. Successful Respondent shall encrypt CPA Data transmitted over a public or private network. CPA approved data encryption transmission protocols include the following: (1) SFTP (FTP over SSH), (2) FTPS (FTP over TLS), (3) HTTPS (HTTP over TLS), and (4) virtual private network.
- h. Reserved.
- i. Auditable Information Security Framework. Successful Respondent shall secure its own and its third-party service providers' systems (e.g., IT service provider, Cloud Service Provider) in a manner consistent with an auditable information security framework e.g., National Institute of Standards and Technology (NIST), International Organization for Standardization (ISO) 27001.
- j. Reserved.
- k. Supply Chain Risk Management. Successful Respondent shall provide CPA's Designated Representative a description of how it manages supply chain risks. Specifically, Successful Respondent shall describe its established agreements and procedures with entities involved in the supply chain for the notification of supply chain risks, compromises, and the result of assessments or audits. During the term of the contract, Successful Respondent shall provide CPA's Designated Representative prompt, written notice of supply chain risks that impact the delivery of the products and services of the Contract. Examples of supply chain risks include supplier financial failure, production control/product quality, market supply and demand, labor disputes/shortages, cybersecurity threats, natural disasters. Successful Respondent shall notify CPA of a supply chain compromise and potential compromise in accordance with Section 14.10 Security Incident Notification.
- l. Independent Information Security Assessment. If Successful Respondent has access to a CPA Information System or receives, processes, transmits, or stores CPA Data, then Successful Respondent shall provide CPA's Designated Representative with its most recent information security assessment conducted by an independent third-party (e.g., SSAE-18 SOC 2 Type II, ISO 27002) upon Contract award and annually thirty (30) days prior to the anniversary of the Contract award date thereafter. CPA, in its sole discretion, may conduct a security assessment of any information system holding CPA Data or connected to a CPA Information System. CPA's security assessment may consist of a review of the following: (i) independent third-party assessment(s) contracted by Successful Respondent (e.g., SSAE-18 SOC 2 Type II, ISO 27002) and (ii) Successful Respondent's System Security Plan.
- m. Media Sanitization. Successful Respondent shall sanitize information system media, both digital and non-digital, in accordance with NIST Special Publication 800-88 (Guidelines for Media Sanitization) when CPA Data in the custody of Successful Respondent is no longer required to be retained by contract with CPA. Successful Respondent must maintain a record documenting each sanitization procedure that, at a minimum, includes the following information: (i) date sanitization completed, (ii) description of the item(s), serial number(s), inventory control number(s), if applicable, and (iii) sanitization method used. No later than sixty (60) calendar days from contract expiration or termination or as otherwise specified in the Contract, Successful Respondent must either (i) complete the sanitization and submit via email to the CPA Designated Representative all sanitization documentation or (ii) submit a written statement via email to the CPA Designated Representative explaining the reason that destruction of CPA Data by Successful Respondent is technically impossible or impractical. Successful Respondent's obligations set forth in this clause survive the termination or expiration of the contract as long as Successful Respondent retains CPA Data.
- n. Third-Party Service Providers. It is Successful Respondent's sole responsibility to ensure that its access and the access Successful Respondent grants to its service providers to CPA Data or CPA Information Systems does not result in unauthorized access to CPA Data or CPA Information Systems.
- o. Reserved.

- p. Reserved.
- q. Reserved.
- r. State Authorization and Risk Management Program (TX-RAMP). Successful Respondent shall obtain TX-RAMP certification in accordance with the Department of Information Resources (DIR) Program Manual. CPA requires the following TX-RAMP certification based-on Agency criteria:
1. X None. Product is out of scope/low impact in accordance with the DIR TX-RAMP Manual.
  2.      Level 1 Certification. The product will administer Agency public data.
  3.      Level 2 Certification. The product will administer Agency sensitive, confidential, and/or regulated data.
- Upon Contract award, Successful Respondent shall maintain compliance with TX-RAMP program requirements and certification throughout the term of the contract. Successful Respondent shall notify the CPA Designated Representative immediately if TX-RAMP certification is revoked or otherwise removed.
- s. Reserved.
- t. Reserved.

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

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

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

**14.11 Reserved.**

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

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

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

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

**14.16 Records Retention.** Contractor shall maintain and retain all records relating to the performance of this Contract, including supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable State of Texas requirements. These records will be maintained and retained by Contractor for a period of seven (7) years after the Contract expiration date or until all audit, claim and litigation matters are resolved, whichever is later.

Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State of Texas' property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by Comptroller, State of Texas or their authorized representatives. Contractor shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such State of Texas' property as requested by Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, Contractor's failure to comply with this Section shall constitute a material breach of this Contract. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in this Contract.

Comptroller may require, at Contractor's sole cost and expense, independent audits by a qualified certified public accounting firm of Contractor's books and records or the State of Texas' property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to Contractor. Comptroller retains the right to issue the request for proposals for the services of an independent certified public accounting firm under this Contract.

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

**14.18 Force Majeure.** Neither Contractor nor Comptroller shall be liable to the other for any delay in, or failure of performance, of any requirement included in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been

removed; provided, the non-performing Party exercises all reasonable due diligence to perform. "Force majeure" is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, 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.

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

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

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

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

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

**14.24 Limitation on Authority.** Contractor shall have no authority to act for or on behalf of Comptroller or the State of Texas except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Contractor may not incur any debt, obligation, expense, or liability of any kind on behalf of Comptroller or the State of Texas.

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

**14.26 Abandonment or Default.** If Contractor defaults on this Contract, Comptroller reserves the right to cancel this Contract without notice and either re-solicit or re-award the contract to the next-best responsive and responsible respondent. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specifications or scope of work significantly change. The period of suspension will be determined by Comptroller based on the seriousness of the default.

**14.27 Notices.** Unless noted elsewhere in this Contract, any written notices required under this Contract will be by either hand delivery to Contractor's office address, as specified on Page 1 of this Contract, or to Comptroller's Legal Counsel, c/o Texas Comptroller of Public Accounts, 111 E. 17<sup>th</sup> Street Room 201, Austin, Texas, 78774, or by U.S. certified mail with return receipt requested, addressed to the appropriate foregoing address. Notice will be effective on receipt by the affected Party. Either Party may change the designated notice address in this Section by written notification to the other Party.

**14.28 Change in Law and Compliance with Laws.** Contractor shall comply with all laws, regulations, requirements and guidelines applicable to a contractor providing services to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for Comptroller's or Contractor's compliance with all applicable State and federal laws, regulations, requirements and guidelines.

**14.29 Federal, State, and Local Requirements.** Contractor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2s to common law employees. Contractor is responsible for both Federal and State of Texas Unemployment insurance coverage and standard Workers' Compensation insurance coverage. Contractor shall comply with all Federal and State of Texas tax laws and withholding requirements. Comptroller shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or Federal or State of Texas withholding requirements. Contractor shall indemnify Comptroller and pay to Comptroller all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

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

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

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

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

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

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

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

**14.37 Unfair Business Practices.** Contractor represents and warrants that it has not been the subject of a Deceptive Trade Practices violation under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business administrative hearing or court suit and such officers have not been found to be liable for such practices in such proceedings.

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

## **XV. Merger; Severability**

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

## **XVI. Signatories**

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

**TEXAS COMPTROLLER OF PUBLIC ACCOUNTS      [CONTRACTOR NAME]**

By: \_\_\_\_\_  
Printed Name: Lisa Craven  
Title: Deputy Comptroller  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**ATTACHMENT A  
TO THE SAMPLE CONTRACT**

**Comptroller's RFP**

Comptroller's RFP No. 238j, issued [Date], is incorporated by reference for all purposes into this Contract as Attachment A to the Contract.

**ATTACHMENT B  
TO THE SAMPLE CONTRACT**

**Standards of Performance**

The Contract includes minimum Standards of Performance in the RFP, including those listed under Part II, Section 2.1 (*Services Description*) of Attachment A (*Comptroller's RFP*) to the Contract, any additional Standards of Performance proposed by Contractor and agreed to in writing by Comptroller, and the following:

1. Contractor shall discharge all duties solely in the interest of Comptroller and with the judgment, care, skill, prudence and diligence that an expert would use in a similar situation.
2. Contractor shall comply with all applicable state and federal laws, regulations, requirements and guidelines relating to debt collection and related services, as they exist at the inception of this Contract and as they may be amended or revised during the term of this Contract.
3. Contractor shall meet all requirements of the final work plan and provide all deliverables included in Contract.
4. Contractor shall be consistently available to Comptroller by telephone, email, and on-site as reasonably requested and as necessary to complete the required services.
5. Receipt of any new account shall be confirmed for verification of the number of accounts and the dollar amount received. Verification must be sent to Comptroller within three (3) business days of account receipt.
6. Prior to using any form notices, form letters or scripts in delivery of Services for Referred Accounts, Contractor shall submit **all** such form notices, form letters and scripts (including, but not limited to, form notices and form letters delivered through US mail, text messaging, email content, and/or email attachments as may be applicable, and IVR and phone scripts) to Comptroller for Comptroller's review and written approval. Throughout the Contract Term, any changes and/or revisions to any such items previously approved by Comptroller must be submitted to and approved in writing by Comptroller prior to Contractor's use of the changed/revised item(s).
  - a. Contractor shall not commence working on Referred Accounts until Contractor has submitted **all** form notices, form letters and scripts (including, but not limited to, form notices and form letters delivered through US mail, text messaging, email content, and/or email attachments as may be applicable, and IVR and phone scripts) proposed for use during the Contract Term and obtained Comptroller's written notice to proceed using the final, approved versions of such items.
  - b. Contractor shall advise Comptroller of the form notices, form letters and scripts used in collection activity for Referred Accounts.
7. Contractor shall not submit information to credit reporting agencies on any Referred Accounts.
8. First and Continued Collection Actions.
  - a. First Collection Action is either first telephone contact attempt or first correspondence attempt and must occur within seven (7) days of Contractor's initial receipt of referral.
  - b. Continued Collection Actions follow First Collection Action and will occur weekly, with varying times and days, until account is collected or removed from inventory referred by Comptroller to Contractor.
9. First and Continued Skip Tracing Actions
  - a. On any Referred Accounts with no telephone AND no deliverable address, First Skip Tracing Action will occur within thirty (30) days of Contractor's initial receipt of the Referred Account.
  - b. Continued Skip Tracing Actions will follow First Skip Tracing Action and will occur weekly until the Referred Account is collected or removed from inventory outsourced by Comptroller to Contractor.
10. All Collection Actions and Skip Tracing Actions performed by Contractor will be documented in the format required by Comptroller, and documented events shall be electronically transmitted by Contractor to Comptroller nightly.

**ATTACHMENT C  
TO THE SAMPLE CONTRACT**

**Authorized Personnel and Compensation**

[This Attachment C will include the final, agreed Authorized Personnel and Compensation Schedule, to be negotiated in accordance with terms of the RFP and Sample Contract.]

**1. Authorized Personnel:**

**2. Compensation:**

Contractor's compensation under this Contract shall be limited as described in Section VII of the Contract and shall be calculated as follows:

Contractor's percentage (not to exceed 30%)	%
*Total amount received by Comptroller on Referred Accounts during Referral Period	x \$
<i>SUBTOTAL</i>	\$
Less total monthly liquidated damages (as defined in RFP)	- \$
<b><i>TOTAL AMOUNT DUE TO CONTRACTOR</i></b>	<b>\$</b>

\*Comptroller shall determine this amount on a monthly basis.

In event Comptroller issues a notice pursuant to Texas Government Code Section 2251.042 (Disputed Payment), Contractor shall respond to the notice in accordance with the terms noted within the notice. Through direct correspondence and discussions in a spirit of mutual cooperation, Comptroller and Contractor shall attempt to resolve any error or disputed amount in an invoice within 21 calendar days of Comptroller's issuance of such notice to Contractor.

Credit for payment of cases worked does not begin until the Referral Period (as defined by the RFP) is activated.

**ATTACHMENT D  
TO THE SAMPLE CONTRACT**

**HUB Subcontracting Plan**

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

**ATTACHMENT E  
TO THE SAMPLE CONTRACT**

**Contractor's Proposal**

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

**ATTACHMENT F  
TO THE SAMPLE CONTRACT**



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

**Texas Comptroller of Public Accounts**

**Confidential Treatment of Information Acknowledgment (CTIA)**

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

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

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

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

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

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

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

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

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

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

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

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

**EXHIBIT B**  
**EXECUTION OF PROPOSAL**

1. By signature hereon, Respondent represents and warrants that the provisions in this Execution of Proposal apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide Services under, who have a financial interest in, or otherwise are interested in, this RFP or any Contract.
2. By signature hereon, Respondent represents and warrants its intent to furnish the requested items at the prices quoted in its Proposal.
3. By signature hereon, Respondent represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy, located on Comptroller's website at: <https://www.comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of the Contract.
4. By signature hereon, Respondent represents and warrants that its prices include all costs of Respondent to provide the requested items that meet all specifications of this RFP, and that its prices will remain firm for acceptance for a minimum of one hundred eighty (180) days from deadline for submission of Proposals.
5. By signature hereon, Respondent represents and warrants that each employee, including replacement employees, will possess the qualifications, education, training, experience, and certifications necessary to perform the Services in the manner required by this RFP.
6. By signature hereon, Respondent represents and warrants that Respondent's 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.
7. 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 Proposal.
8. By signature hereon, Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
9. 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 Proposal to any competitor or any other person engaged in the same line of business as Respondent.
10. By signature hereon, Respondent represents and warrants that all statements and information prepared and submitted in its Proposal are current, complete, and accurate.
11. By signature hereon, Respondent represents and warrants that the individual signing this document and the documents made part of this RFP and Proposal is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of the Proposal.
12. By signature hereon, Respondent represents and warrants that if a Texas address is shown as the address of the Respondent on this Proposal, Respondent qualifies as a Texas Bidder as defined by Section 2155.444(c) of the Texas Government Code.
13. 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

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

15. 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 Comptroller, (2) a person who at any time during the four years before the date of the Contract was the executive head of Comptroller, or (3) a person who employs a current or former executive head of Comptroller.
16. 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 Comptroller to participate in the preparation of specifications or solicitation on which this Proposal or the 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 Proposal or the 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.
17. By signature hereon, in accordance with Section 2155.4441 of the Texas Government Code, Respondent agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside Texas.
18. By signature hereon, Respondent represents and warrants that CPA'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.
19. 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.
20. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from accepting a Proposal 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 Proposal 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.
21. By signature hereon, Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings, or investigations, etc., pending or threatened against Respondent or any of the individuals or entities included in Part 1 of this Execution of Proposal within the five (5) calendar years immediately preceding the submission of Respondent's Proposal in response to this RFP that would or could impair Respondent's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to CPA's consideration of Respondent's Proposal. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its Proposal a complete disclosure of any such court or governmental agency actions, proceedings, or investigations, etc., that would or could impair Respondent's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to CPA's consideration of Respondent's Proposal. In addition, Respondent represents and warrants that it shall notify CPA 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 CPA shall constitute breach of contract and may result in immediate termination of the Contract.

22. 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 Comptroller's objectives.
23. 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 CPA of the facts and circumstances in its Proposal.
24. By signature hereon, Respondent represents and warrants that if selected for award of a contract as a result of this RFP, Respondent will submit to Comptroller a Certificate of Interested Parties prior to contract award in accordance with Section 2252.908 of the Texas Government Code.
25. 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 Proposal.
26. 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.
27. 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 <https://www.sam.gov>.
28. 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.
29. Under Section 2155.0061 of the Texas Government Code, regarding human trafficking, Respondent certifies that the individual or business entity named in this Proposal is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.
30. Pursuant to Government Code Section 2275.0102, relating to contracts for critical infrastructure, if applicable, 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 2275.0102, or (2) headquartered in any of those countries.
31. If Respondent is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Respondent verifies that Respondent does not boycott energy companies and will not boycott energy companies during the term of the Contract. If Respondent does not make that verification, Respondent must so indicate in its Offer and state why the verification is not required.
32. 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.
33. 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.
34. 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.
35. As of the effective date of the Offer, are not listed in any of the Divestment Statute Lists published on the Texas State Comptroller's website (<https://comptroller.texas.gov/purchasing/publications/divestment.php>).
36. To the extent applicable to the scope of this RFP, the Offer and Contract, Respondent hereby certifies that it is authorized to sell and provide warranty support for all products and services listed in its Offer and the Contract.
37. By signature hereon, Respondent represents and warrants its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

38. By signature hereon, Respondent represents and warrants that it has read and agrees to all terms and conditions of this RFP, unless Respondent specifically takes an exception and offers an alternative provision in Respondent’s Proposal as provided in Part IV, Section 4.2.A (Transmittal Letter) of this RFP.

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

<hr/> <b>Signature of Authorized Representative</b>	<hr/> <b>Date Signed</b>
<hr/> <b>Printed Name &amp; Title of Authorized Representative</b>	<hr/> <b>Phone Number</b>
<hr/> <b>Organization Name (“Respondent”)</b>	<hr/> <b>Fax Number</b>
<hr/> <b>Federal Employer Identification Number</b>	<hr/> <b>Email Address</b>
<hr/> <b>Physical Street Address</b>	<hr/> <b>City, State, Zip Code</b>
<hr/> <b>Mailing Address, if different</b>	<hr/> <b>City, State, Zip Code</b>

**EXHIBIT C**  
**CRIMINAL CONVICTION CERTIFICATION**

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

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

1. **Criminal Background Investigation by Successful Respondent.** Prior to an Assigned Personnel commencing Services under the Contract, Successful Respondent shall conduct a criminal background investigation and provide written notice via email to CPA's Criminal Investigation Division of any Assigned Personnel that have any felony criminal conviction(s). If any information for the Assigned Personnel changes during the Contract Term, Successful Respondent shall provide written notice via email to CPA's Criminal Investigation Division no later than three (3) business days after Successful Respondent's discovery of such changed information that relates to felony criminal conviction(s). Written notice to CPA's Criminal Investigation Division shall be submitted to [cid.analysts@cpa.texas.gov](mailto:cid.analysts@cpa.texas.gov).

Successful Respondent's exercise of due diligence in conducting the criminal background investigation shall include, at a minimum, the following: (1) compliance with Successful Respondent's published policies and procedures for background and criminal conviction checks and (2) a comprehensive search of the public information portion of Texas Department of Public Safety criminal conviction database located at: <https://publicsite.dps.texas.gov/ConvictionNameSearch/>. If Successful Respondent asserts that a search of the Texas Department of Public Safety criminal conviction database is not appropriate for a particular Assigned Personnel, Successful Respondent must provide written notice via email to CPA's Criminal Investigation Division that explains the proposed alternate approach for conducting the criminal background investigation.

For purposes of this clause, "Assigned Personnel" includes, without limitation, all individuals provided by Successful Respondent under the Contract who will or may (1) be assigned as lead or key personnel, (2) provide Services on-site at CPA's premises, or (3) access CPA information resources, *i.e.*, the procedures, equipment, and software that are employed, designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel including consultants and contractors. At CPA's written request, Successful Respondent shall replace any Assigned Personnel that have any felony criminal conviction(s).

Within five (5) business days of receipt of a written request by CPA's Criminal Investigation Division during the Contract Term, Successful Respondent shall provide written notice to CPA's Criminal Investigation Division of any Assigned Personnel that have any felony criminal conviction(s).

2. **Criminal Background Investigation by CPA.** At CPA's discretion, CPA may conduct a criminal background investigation on Successful Respondent's Assigned Personnel. Should any Assigned Personnel not be acceptable to CPA due to a finding of felony criminal conviction(s) as a result of the criminal background investigation, Successful Respondent shall replace such Assigned Personnel upon CPA's written request or CPA may terminate the Contract.
3. **Remedies.** If CPA becomes aware that Successful Respondent provided false information, Successful Respondent fails to promptly notify CPA of changed information that related to felony criminal convictions, or Successful Respondent fails to replace Assigned Personnel as required by this Section, Successful Respondent shall be in breach of the Contract and CPA shall have the option to terminate the Contract without further obligation to Successful Respondent as well as pursue all other remedies and rights available to CPA under the Contract, at law, or in equity.

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

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

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

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

**OR**

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

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

**EXHIBIT D**  
**NONDISCLOSURE AGREEMENT**

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

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

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Signature of Authorized Representative

---

Date Signed

---

Printed Name & Title of Authorized Representative

---

Company Name (“Respondent”)

**EXHIBIT E**  
**CONFLICT OF INTEREST/DISCLOSURE STATEMENT**

A. Disclosures. Provide the requested information in the space provided; indicate “N/A” as appropriate.

1. Respondent must disclose any proposed personnel who are current or recent former employees of CPA or the State of Texas.
2. Respondent must disclose the following:
  - a. 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 a Proposal, possible selection as Successful Respondent, or its performance of the contract.  
  
\_\_\_\_\_  
\_\_\_\_\_
  - b. all past and present contractual, business, financial or personal relationships between Respondent and CPA and between Respondent’s proposed subcontractors, if any, and CPA.  
  
\_\_\_\_\_  
\_\_\_\_\_

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 a Proposal, possible selection as the Successful Respondent, or its performance of the contract.

B. Defined Terms. For purposes of the disclosure statements required by this solicitation, the terms below are defined as follows:

- “past” is defined as within the two (2) calendar years prior to the deadline for submission of Proposals in response to this solicitation.
- “CPA” is defined as the statewide elected official who heads the agency, as well as the agency’s employees or recent former employees.
- “recent former employees” are defined as those CPA employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of Proposals in response to this solicitation.
- “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:
  - (a) 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 CPA or the State of Texas under the contract;
  - (b) a reasonable person could expect the connection, within the overall context of Respondent’s submission of a Proposal, possible selection as Successful Respondent or its performance of the contract, to create an issue for the agency’s consideration relative to a potential appearance of impropriety or conflict of interest; or
  - (c) the relationship is with a CPA 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.

C. Continuing Duty to Disclose. If circumstances change or additional information is obtained subsequent to submission of the Proposal, Successful Respondent’s duty to disclose under these provisions continues under the term of the contract and does not end with submission of a Proposal or receipt of contract award.

D. Disclosures under these provisions are information that will be evaluated by CPA; 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 Proposal disqualification or termination of the contract resulting from this solicitation. CPA reserves the right, in its sole discretion, to determine if an issue should result in Proposal disqualification or termination of the contract.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Name & Title of Authorized Representative

\_\_\_\_\_  
Entity Name (“Respondent”)

**EXHIBIT F**  
**CERTIFICATION REGARDING PUBLIC NATURE OF THE PROPOSAL**

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

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

By signature hereon, Respondent certifies the following:

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

OR

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

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

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

**EXHIBIT G**  
**CONTRACTOR CYBERSECURITY TRAINING ATTESTATION FORM**

**Texas Comptroller of Public Accounts (CPA)**  
**Attestation of Contractor Compliance with**  
**State of Texas Cybersecurity Training Requirements**

Contractor Name:	
CPA Purchase Order Number:	
Contract Description:	

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

Please identify the completed course(s) from the list of [Department of Information Resources \(DIR\) Certified Training Programs](#). CPA will only accept attestation for DIR-certified training programs. CPA’s security awareness training includes DIR-certified training programs in compliance with [Section 2054.519](#) of the Texas Government Code.

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

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

**[Contractor Entity Name]**

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## APPENDIX A

### TIER I COLLECTION SERVICES DATA

#### 1. General.

Data provided in this Appendix A to the RFP includes current (as of dates indicated) information related to the RFP and the Contract, if any, arising therefrom, as well as historical data from the Comptroller's existing contract for the Services. Data is provided for information purposes only; Comptroller cannot guarantee any minimum number of Referred Accounts, Backlog Accounts, or any minimum amount of compensation under the Contract.

#### 2. Accounts available for referral.

The accounts available for referral for the requested Services as of 11/01/2024 are provided within *Appendix A Table 1 – Accounts Available for Referral*. Please note:

- Data does not include Backlog Accounts; values for Backlog Accounts, if any, are contingent on results of continued efforts under the existing contract for Tier I Collection Services and will not be known until the end of the current contract and the beginning of the Contract arising from this RFP.
- Dollar amounts do not include fee calculations.
- A single account may include multiple work items.

*Appendix A Table 1 – Accounts Available for Referral\**

	Tax Type Category		
	Tax Type 13 (Franchise)	Tax Type 26 (Sales & Use)	Tax Type 90 (Fuels)
<b>Total Quantity of Accounts Available</b>	6,438	11,932	9
<b>Total Quantity of Work Items Available</b>	6,933	19,523	12
<b>Total (Aggregate) Value of Accounts</b>	\$6,021,509.73	\$5,374,048.66	\$2,560.98
<b>Average Balance of Accounts</b>	\$935.31	\$450.39	\$284.55
<b>Average Case Age (days) of Accounts</b>	406	765	449
<b>Average Placement Age (days) of Accounts</b>	253	546	320

#### 3. Quantity, Value, & Amounts paid during prior CPA Fiscal Years.

For the existing Services contract, the quantity and dollar value of accounts referred per month and the amounts paid per month to the incumbent vendor during Comptroller's FY24 are:

*Appendix A Table 2 – FY22 Monthly Quantity, Value, & Amounts Paid\**

FY22 Month	Quantity of Accounts Referred	Total Amount Due of Accounts Referred	Amount Paid to Vendor
Sep-2021	13,221	\$4,964,190.14	\$44,967.01
Oct-2021	2,030	\$1,165,172.32	\$33,291.82
Nov-2021	4,224	\$1,154,007.31	\$27,673.45
Dec-2021	1,914	\$776,386.25	\$16,385.70
Jan-2022	5,147	\$1,153,092.14	\$15,939.35
Feb-2022	118,115	\$142,117,260.64	\$15,243.94
Mar-2022	3,637	\$1,750,244.42	\$92,963.33
Apr-2022	16,111	\$4,534,387.86	\$66,996.86
May-2022	2,959	\$1,575,926.74	\$81,671.85
Jun-2022	2,863	\$899,626.96	\$93,506.71
Jul-2022	2,113	\$757,738.31	\$48,982.64
Aug-2022	5,421	\$2,886,332.29	\$30,187.26
<b>Totals FY22 →</b>	<b>177,755</b>	<b>\$163,734,365.38</b>	<b>\$567,809.92</b>

*Appendix A Table 3 – FY23 Monthly Quantity, Value, & Amounts Paid\**

FY23 Month	Quantity of Accounts Referred	Total Amount Due of Accounts Referred	Amount Paid to Vendor
Sep-2022	9,861	\$2,345,084.05	\$51,304.30
Oct-2022	4,733	\$2,473,535.00	\$46,306.66
Nov-2022	2,701	\$972,711.61	\$43,730.92
Dec-2022	1,764	\$690,518.43	\$41,376.64

Jan-2023**	163,445	\$197,283,507.85	\$101,569.19
Feb-2023**	3,996	\$1,992,211.29	\$184,820.22
Mar-2023**	3,176	\$1,594,690.46	\$108,612.32
Apr-2023**	10,130	\$3,255,582.86	\$85,212.17
May-2023	7,912	\$7,787,751.78	\$27,029.62
Jun-2023	2,019	\$931,273.87	\$42,166.51
Jul-2023	6,809	\$6,855,185.54	\$27,038.04
Aug-2023	4,975	\$2,726,320.24	\$44,232.28
<b>Totals FY23 →</b>	<b>221,521</b>	<b>\$228,908,372.98</b>	<b>\$803,398.87</b>

\*\*CPA began referring accounts to current incumbent vendor 09/23/2022. During September through December 2022 some collection activities on some accounts referred were not included within event file reporting received September through December 2022. Payment by CPA for the collections on such accounts was made January through April 2023 after receiving the event file reports. Values of Amount Paid to Vendor for January through April 2023 include the following breakouts: **January 2023** [\$36,485.94 January collections plus \$65,083.25 for prior months event files updated]; **February 2023** [\$62,641.85 February collections plus \$122,178.37 for prior months event files updated]; **March 2023** [\$41,149.15 March collections plus \$67,463.17 for prior months event files updated]; and **April 2023** [\$25,738.48 April collections plus \$59,473.69 for prior months event files updated].

*Appendix A Table 4 – FY24 Monthly Quantity, Value, & Amounts Paid\**

<b>FY24 Month</b>	<b>Quantity of Accounts Referred</b>	<b>Total Amount Due of Accounts Referred</b>	<b>Amount Paid to Vendor</b>
Sep-2023	9,275	\$2,507,249.94	\$47,216.85
Oct-2023	3,229	\$1,426,594.16	\$43,334.53
Nov-2023	2,539	\$1,382,540.77	\$27,020.94
Dec-2023	144,452	\$176,362,107.96	\$106,912.38
Jan-2024	3,830	\$1,818,566.94	\$157,566.72
Feb-2024	3,643	\$1,800,529.84	\$46,892.23
Mar-2024	3,131	\$1,721,378.33	\$50,468.77
Apr-2024	9,670	\$3,435,176.66	\$57,869.88
May-2024	2,560	\$1,681,241.38	\$50,802.99
Jun-2024	6,196	\$6,629,156.54	\$33,210.92
Jul-2024	2,095	\$1,314,336.52	\$18,400.84
Aug-2024	3,827	\$2,195,463.43	\$28,562.50
<b>Totals FY24 →</b>	<b>194,447</b>	<b>\$202,274,342.47</b>	<b>\$668,259.55</b>

4. **Liquidation percentage FY24.** For the existing Services contract, the FY24 average liquidation rate was: 2.89%.
5. **Zero returns FY24.** For the existing Services contract, the FY24 average percentage of zero/no tax base returns was: 17.66%.
6. \*Historically, for Tier I Collection Services, Tax Type 13 (Franchise) accounts referred were a blend of two general categories: i) accounts with unpaid, Comptroller-estimated franchise taxes, penalties and fees applicable to accounts that did not file a required report, and ii) accounts with unpaid franchise taxes, penalties and fees applicable to accounts that filed reports but that did not pay in full. No historical or current data is available to report values attributable to each of the two general categories of Tax Type 13 (Franchise) accounts referred. As a result of change in law, effective January 1, 2024, Comptroller no longer estimates Tax Type 13 (Franchise). Though Successful Respondent will receive Referred Accounts for Tax Type 13 (Franchise), the Referred Accounts for Tax Type 13 (Franchise) will include only accounts with unpaid franchise taxes, penalties and fees applicable to accounts that filed reports but did not pay in full. Comptroller cannot provide an accurate estimate of the impact this change will have on values represented in Appendix A Tables, but Comptroller anticipates the values for Tax Type 13 (Franchise) Referred Accounts will be lower than the levels reported within Appendix A Tables. Additionally, Backlog Accounts, if any, may include some Tax Type 13 (Franchise) accounts with unpaid, Comptroller-estimated franchise taxes, penalties and fees applicable to accounts that did not file a report as required for a period prior to January 1, 2024.