

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Cover Page



Date: 04/29/2025

Type of Solicitation: Request for Proposal (RFP)

Name of Solicitation: Continuous Air Monitoring Station for Midland Region

Solicitation Number: 582-26-00027

Class 926, Item 15

Responses Due

May 28, 2025, at 3:00 PM Central Time

Pre-Proposal Conference

May 6, 2025, at 1:30 PM Central Time.

Pre-Proposal Conferences are held virtually, using Microsoft Teams Live Event. See Page 6 for further details.

The link for the Pre-Proposal Conference is provided below:

[**Pre-Proposal Conference**](#)

Pre-Proposal Conference is not mandatory.

Deadline for Submission of Questions

May 8, 2025, at 3:00 PM Central Time

Anticipated TCEQ reply to Vendor Questions (This date is only an estimate):

May 13, 2025

Description:

The Texas Commission on Environmental Quality (TCEQ) is seeking vendors to perform operation and maintenance services of air monitoring equipment and site location in the Midland, Texas Region. The Contractor will operate and maintain continuous air monitoring stations (CAMS) located in Big Springs, Odessa, Goldsmith, and Midland, Texas. The planned term of this contract is September 1, 2025, through August 31, 2027. The Contract may be renewed twice; one two-year renewal term followed by one one-year renewal term.

Historically Underutilized Business (HUB) Subcontracting Plan Note: Subcontracting opportunities have been identified. See information regarding the HUB program and completing the HUB Subcontract Plan in the Responder General Instructions and in the HUB Subcontracting Plan form in Section 4 of this Solicitation.

PURCHASING AUTHORITY:

- Scientific & Technical Environmental Services (RFP) Texas Water Code Section 5.2291, Gov't Code Section 2254.003

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TCEQ POINTS OF CONTACT FOR THIS SOLICITATION

TCEQ Procurements and Contracts Representative

Primary Contact

Name: Demetria Avery
Telephone: (512) 239-0368
Email: Demetria.Avery@tceq.texas.gov

Secondary Contact

Name: Yvette Owens
Telephone: (512) 239-5715
Email: Yvette.Owens@tceq.texas.gov

Please allow one business day before contacting the secondary contact.

Exception: If there is less than 24 hours before a solicitation deadline, you may contact the secondary contact after attempting to contact the primary contact.

Except for contacting the HUB Coordinator, all communication regarding this solicitation must be directed to the TCEQ Procurements and Contracts Representative. If this requirement is not met, then the Response may be disqualified.

Email for Vendor Questions: Procurements&Contracts@tceq.texas.gov

TCEQ Historically Underutilized Business (HUB)

HUB Coordinator

Name: Claribel Diaz
Email: Claribel.Diaz@tceq.texas.gov

Assistant HUB Coordinator

Name: Maria Rodriguez
Email: Maria.Rodriguez@tceq.texas.gov

RESPONSE SUBMISSION PROCEDURE via TCEQ's File Transfer Protocol Secure (FTPS) Server

The Response (proposal) must be signed, and the Responder must submit the Response to TCEQ as one Adobe portable document format (PDF) **searchable file**.

Responses to the Solicitation may only be submitted to TCEQ's FTPS server. The email address is listed below.

Responder must:

- a. Upload the file(s) to TCEQ's FTPS site,
- b. Select the file(s) and click the "Share" button. **Note:** Press the Share button to share files, **not** the Share- or the Share✓ buttons.
- c. Enter **esbd-response@tceq.texas.gov** as the email address. Click "Add" and then "OK." Click OK again to confirm the file share.
- d. A "Notify Recipients" message will appear. Add the Solicitation Number, Solicitation Name, and the Due Date for Responses before the text in the box that says, "One or more files have been shared..." and send the message.

For instructions for using TCEQ's FTPS Server, please visit:

FTPS User's Quick Guide for Solicitations

<https://www.tceq.texas.gov/downloads/agency/financial/contracts/ftps-respondent-user-quick-guide.docx>

The FTPS User's Quick Guide is also attached below (after Instructions).

For more detailed directions for using TCEQ's FTPS Server, please visit:

[TCEQ FTPS Help Page](https://ftps.tceq.texas.gov/help/)
<https://ftps.tceq.texas.gov/help/>

Please note: Responses uploaded to TCEQ's FTPS server without completing the share file(s) steps will not be considered submitted.

RESPONDER GENERAL INSTRUCTIONS

The terms response and proposal are used interchangeably to mean the submission by the Responder to this Solicitation.

Pre-Proposal Conference

Pre-Proposal Conference will be held virtually (no physical location). The date and time are listed on the Cover Page of this Solicitation.

Participants can join the Microsoft Teams Live event for this conference by following the link on the Cover Page. Participants will be asked to either download the Windows application or view the presentation on the web.

Any scheduling changes to the Pre-Proposal Conference made after the posting of this Solicitation will be announced in an addendum posted on the Electronic State Business Daily (ESBD) link <https://www.txsmartbuy.gov/esbd>.

Questions Regarding the Solicitation

Deliver questions in writing no later than the Deadline for Submission of Questions listed on the Cover Page. Questions must be submitted to the following email address:

Procurements&Contracts@tceq.texas.gov.

Please include the following information in the subject line of the email: Solicitation Number, Solicitation Name, and the Due Date for Responses.

TCEQ will provide answers to questions in one or more addenda posted on the ESBD. TCEQ may, at its sole discretion, extend the Due Date for Responses to provide Responders additional time to make revisions.

Addenda

Any changes to the Solicitation, deadline/due dates, and all responses to questions will be posted as addenda on the ESBD. All addenda are part of the Solicitation. No other explanations, interpretations, or changes will be considered official or binding. It is Responder's responsibility to review all addenda.

Changes to the Terms and Conditions

Exceptions that are not advantageous to TCEQ may result in the deduction of points in the evaluation or disqualification of the Response. Requested changes to the terms and conditions must be labeled and included behind **Tab 8**.

Cost of Preparing the Response

The Responder is responsible for all costs incurred in the preparation and submission of a Response.

Quantity and Nature of the Work

Responders are required to inform themselves of all conditions which may affect the performance or the prices. By submitting a Response, Responder expressly waives any claims that there was a misunderstanding concerning the quantities or the nature of the Work.

Historically Underutilized Business (HUB) Subcontracting Plan (HSP)

This Solicitation requires a HUB Subcontracting Plan for any contracted staffing, services, materials, supplies, or any other portions of work. Failure to comply with the HUB requirements and submit a complete HSP will result in rejection of the Response.

The HUB Subcontracting Plan (HSP) forms and additional information about the HUB program are found at the Texas Comptroller's website:

(<https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>).

Responders are encouraged to seek assistance in completing the HSP from the TCEQ HUB Coordinator, listed under the TCEQ Points of Contact for this Solicitation. You may also request an HSP courtesy review from the TCEQ HUB Program Coordinator. Requests for HSP courtesy reviews must be made well in advance of the Response due date. HUB assistance may depend upon the staff availability and resources.

Responders understand that if awarded a Contract, the HSP becomes part of the Contract terms, and any changes to the HSP must first be reviewed and approved by TCEQ to ensure the good faith effort requirements found in 34 Texas Administrative Code §20.285 were followed. This includes subcontracting for any contracted staffing, services, materials, and/or supplies with a subcontractor not listed on the approved HSP.

Preparation of Responses

Responses become TCEQ records and cannot be returned, except for Responses withdrawn by the Responder prior to the due date and time for Responses. Responses must be in the format of one (1) electronic searchable PDF document of the entire Response and shall not be password protected. In order for the Response to be deemed responsive, the electronic version must contain the entire Response. Additionally, the electronic version must contain a signed Responder's Signature and Information page. If these requirements are not met, then the Response may be disqualified.

Prepare the Response as follows:

- Include all information listed on the Response Contents page.
- Obtain any missing applicable forms from TCEQ with sufficient time to complete and submit them in the Response.
- Complete the applicable, required forms in this Solicitation.
- Create any other applicable documents.
- Insert all applicable documents behind cover pages for the specified tabbed sections. If there is no information to include behind a tab, include a page behind the cover page for the tab stating "Not Applicable".
- All pages of the Response shall be submitted to allow for printing on standard 8.5-inch X 11-inch paper. Any maps may be submitted to allow for printing on 11-inch X 17-inch paper. Standard font size for the Response shall be 10 to 12 point. Charts and maps may use smaller font size, but not less than 8 point. Language shall be American English.
- If page limits are specified, any information provided by the Responder in excess of the allowable page limits will not be evaluated.
- Each page of the Response shall be labeled with the Responder's name and the Solicitation number.

- Sign all documents that require a signature, including the Response on the Responder's Signature and Information page. Create a PDF of each signed document and place behind the required tab. Responses not containing a PDF of a signed Responder's Signature and Information Page may not be considered.
- Create a PDF of the entire Response for email submission to the TCEQ.

Submission of Responses

- Submit the Response by the due date and time on the Cover Page using FTPS, as specified under Submission Procedures section. TCEQ will not consider Responses submitted via any other method.
- If the Response lacks required information or does not follow these instructions, the Response may be considered non-responsive and disqualified. TCEQ is not responsible for documents that cannot be read. Unreadable Responses may be, at TCEQ's discretion, rejected as non-compliant.
- Responses cannot be altered, amended, or withdrawn after the Due Date and Time. To withdraw a Response prior to the Due Date and Time, the Responder must submit the request to: Procurements&Contracts@tceq.texas.gov.

Due Date/Late Responses

It is Responder's responsibility to ensure timely delivery of the Response to TCEQ by the date and time on the Cover Page of this Solicitation. Except under extreme circumstances beyond the control of the Responder, late Responses will not be considered. TCEQ will not be responsible for the failure of email services.

TCEQ's Acceptance of Responses

TCEQ may reject Responses that do not comply with requirements in the Solicitation and state and federal laws. TCEQ may accept or reject all or any part of any Response, waive procedures for submitting Responses, waive formalities and/or minor technicalities, and award by item or groups of items, whichever best serves the interests of TCEQ. TCEQ may also cancel this procurement and withdraw this Solicitation at any time before a contract is signed by TCEQ. TCEQ shall have sole discretion of what is in the best interests of TCEQ.

Evaluation

The pricing and all terms and conditions of Responses are fixed for 120 days from receipt by TCEQ. Best and Final Offers (BAFOs), if requested by TCEQ, are fixed for 60 days. To determine the most advantageous Response, in addition to price, TCEQ may consider other relevant criteria, which are described more fully in Section 2, Evaluation Criteria. TCEQ may use information regarding the Responder's performance on past TCEQ contracts in the evaluation of qualifications. In addition, TCEQ will use the information contained in the Texas Comptroller of Public Account's vendor performance tracking system in the evaluation of qualifications.

Selection

Depending on the applicable procurement method and solicitation type, in order to secure the best value for the State, TCEQ may take one or more of the following actions in the selection process:

- Accept the highest scoring Response without changes.

- Request clarifications, assurances, and corrections.
- Modify the selection criteria and apply it to BAFOs, provided that the modifications do not materially affect initial applicant eligibility or invitation to submit a BAFO. Conduct discussions on Responses scoring within a competitive range and request Best and Final Offers (BAFOs).
- Select the highest scoring BAFO and accept it without changes or negotiate acceptable terms.
- Award one or more contracts based on the amount of work that TCEQ foresees needing performed.
- Award contracts to other contractors at a later date under this Solicitation or through another appropriate method, including another solicitation.
- In the case of a tie that cannot be resolved by application of one or more statutory preferences, make a selection, in the best interest of the State, by drawing lots, tossing a coin, or drawing names with two witnesses to oversee the tiebreaking activity.

Certification of Interested Parties

Section 2252.908 of the Texas Government Code states that a state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to the state agency at the time the business entity submits the signed contract to the state agency. The contract is voidable if the business entity fails to provide the disclosure of interested parties as required by statute.

Form 1295 must be [filed electronically](#) through the Texas Ethics Commission at <https://www.ethics.state.tx.us/filinginfo/1295/>. The web site includes a list of [Frequently Asked Questions](#).

The selected vendor(s) for a contract that meet the requirements to provide a Certification of Interested Parties will be given instructions at the time of award on how to submit the certification form.

Protest Procedures

An actual or prospective Responder or Contractor who is aggrieved in connection with the Solicitation, evaluation, or award of a contract by TCEQ may formally protest to the TCEQ Manager of Procurements and Contracts. TCEQ Protest Procedures can be found at [30 Texas Administrative Code Part 1, Chapter 11, Subchapter B, § 11.2](#).

Public Information

The Response is a public record. By signing and submitting a Response, Responder hereby acknowledges:

- That the Response and subsequent documents submitted to TCEQ are subject to the Texas Public Information Act (PIA);
- That it is Responder's obligation to specifically identify information it contends to be confidential or proprietary and accepts that TCEQ may in its sole discretion deem a Response as non-compliant; and
- That Responder grants a royalty-free, irrevocable, world-wide, perpetual license to reproduce any copyrighted portions of the Response and subsequent documents to

comply with LBB reporting requirements, PIA disclosures, or any other reporting requirements mandated by law or statute.

Conflict of Interest

Responder shall disclose apparent, potential or actual conflicts of interest known with the Response in **Tab 8**. Responder has a continuing obligation to disclose conflicts of interest during this Solicitation, and if awarded a contract, during the Contract Period. TCEQ may refuse to contract with Responder or terminate any Contract due to an apparent, potential, or actual conflict of interest.

(End of Responder General Instructions)

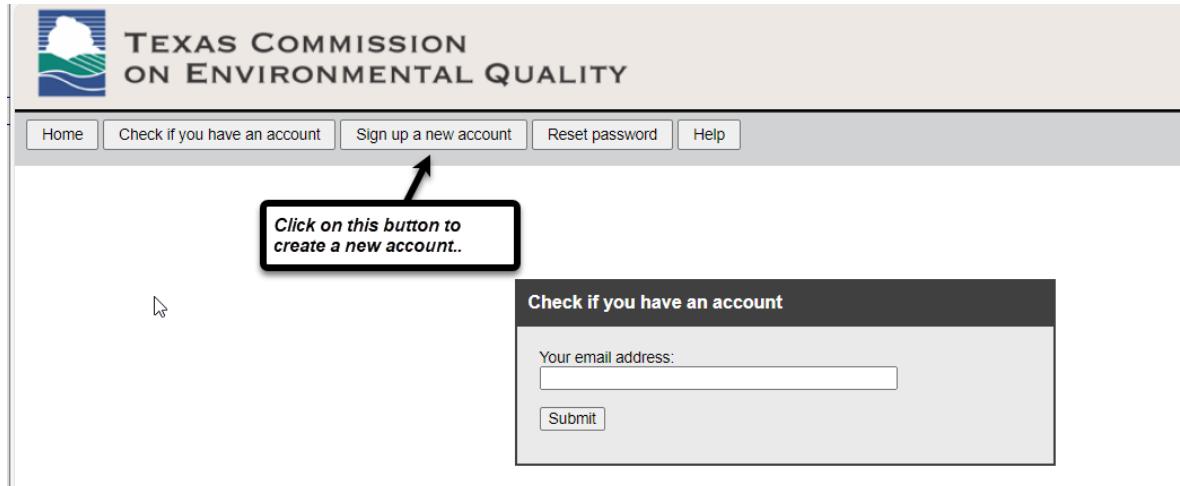
FTPS User's Quick Guide for Solicitations

How to Create an Account

1. Enter <https://ftps.tceq.texas.gov/ut.php> into your web browser.

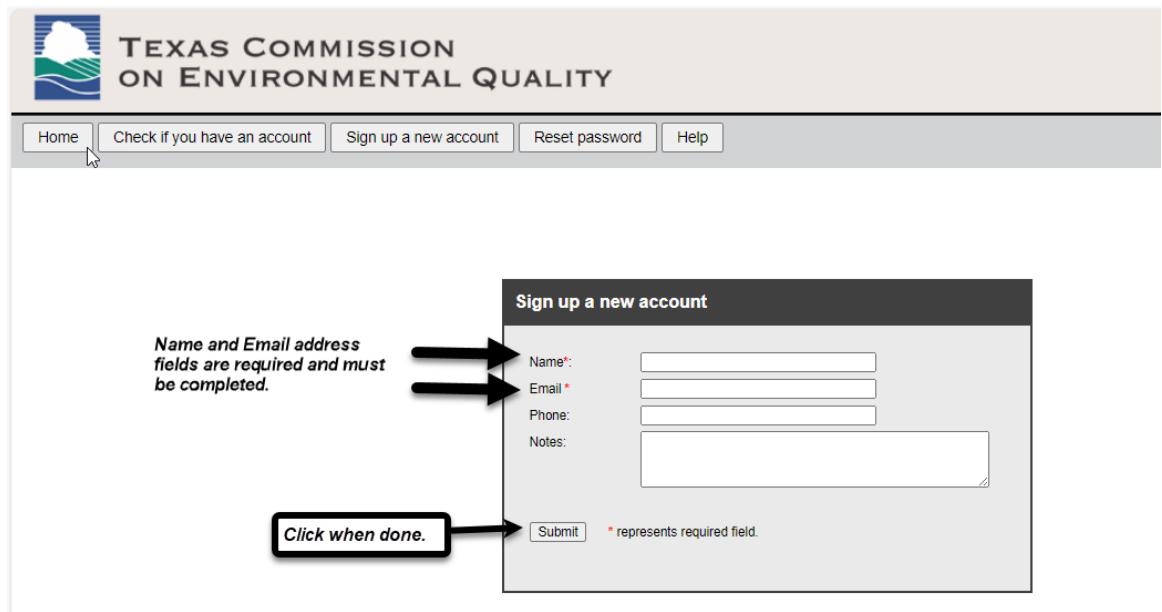
Note: it is important to use the same computer when creating an account and when accessing emails from the FTPS system.

2. Click on the "Sign up a new account" button.



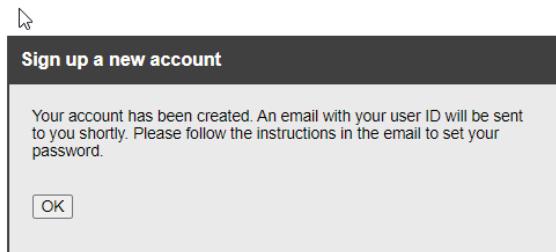
The screenshot shows the TCEQ homepage with the "Sign up a new account" button highlighted by a black callout box containing the text "Click on this button to create a new account..".

3. Enter a name (company name, for example) and an email address. These two fields are required to be completed. Click the Submit button when done.



The screenshot shows the "Sign up a new account" form. It includes a note: "Name and Email address fields are required and must be completed." The "Name*" and "Email*" fields are highlighted with a black callout box. A final callout box points to the "Submit" button with the text "Click when done." A small note at the bottom right of the form states: "* represents required field."

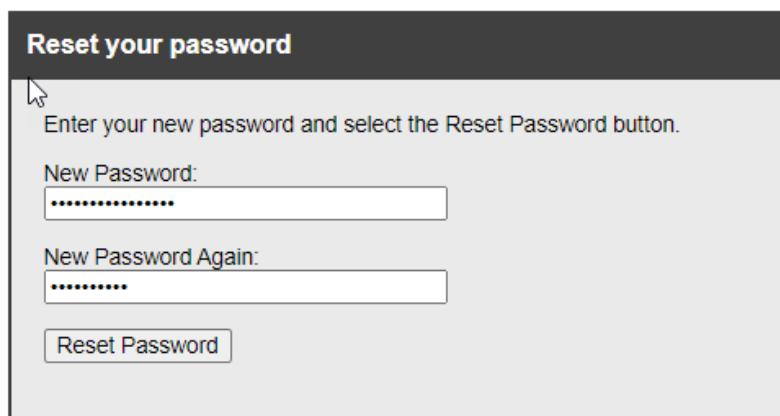
4. A confirmation box will appear with additional information. Click the OK button.



5. Check for an email from ftp_account@tceq.texas.gov. To set up your password for your account, click on the link in the email. This will take you back to the FTPS site.



6. Set your password, then click the “Reset Password” button.



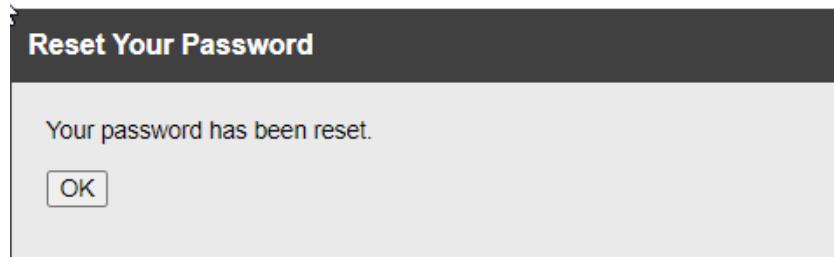
Reset your password

Enter your new password and select the Reset Password button.

New Password: [REDACTED]

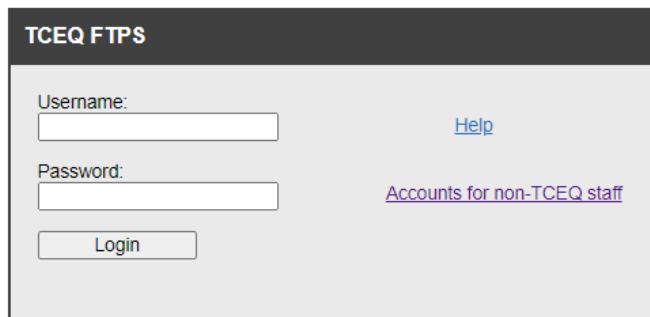
New Password Again: [REDACTED]

7. A box appears, confirming that your password has been reset. Click “OK”.

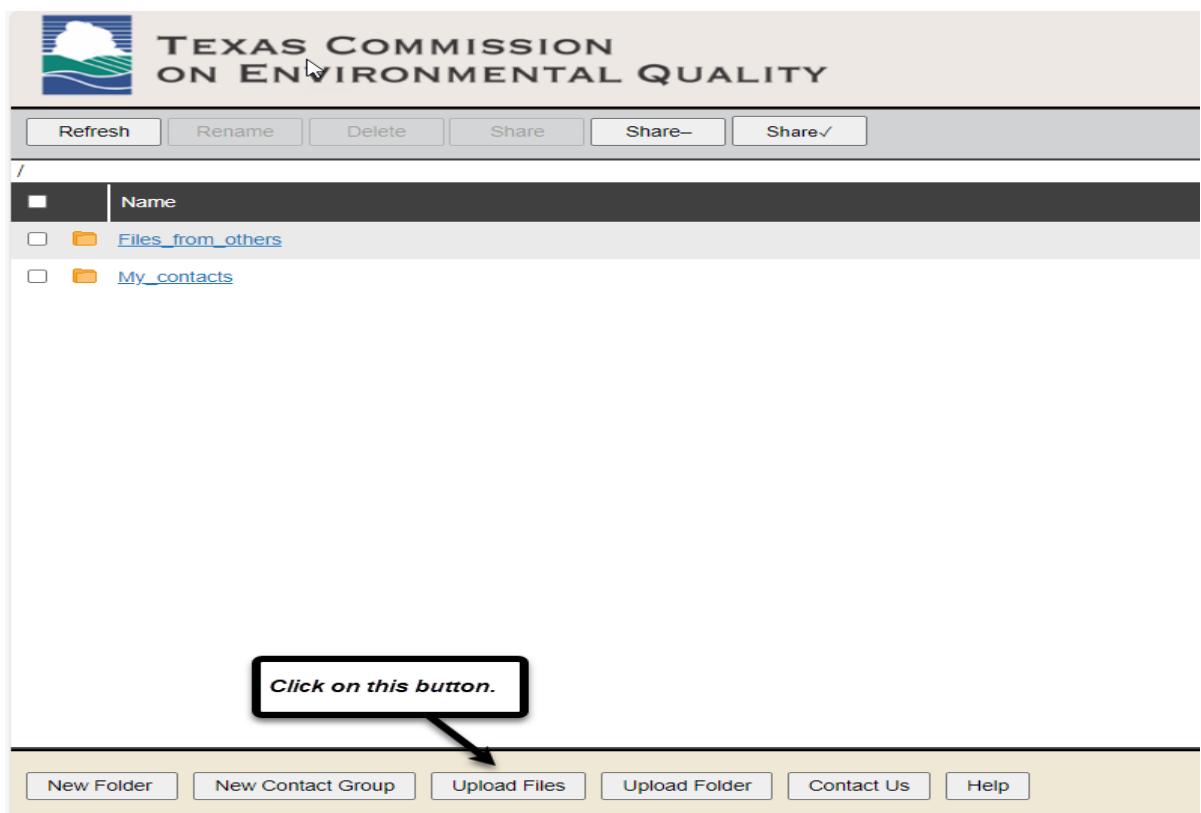


How to Use FTPS to Upload Documents

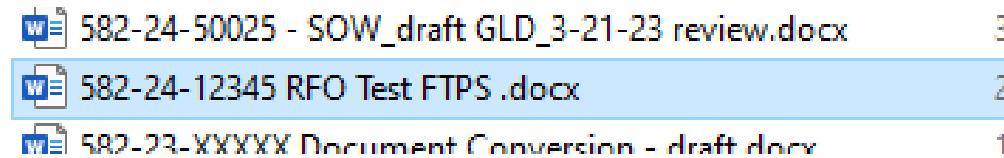
1. Enter <https://ftps.tceq.texas.gov> into your web browser.
2. Enter your Username and Password. Click “Login”.



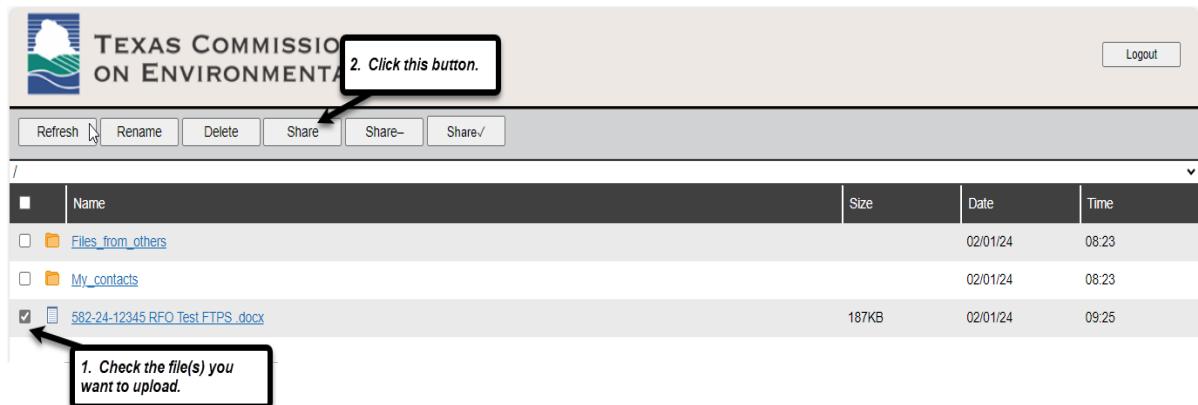
3. Click on the “Upload Files” button at the bottom of the screen.



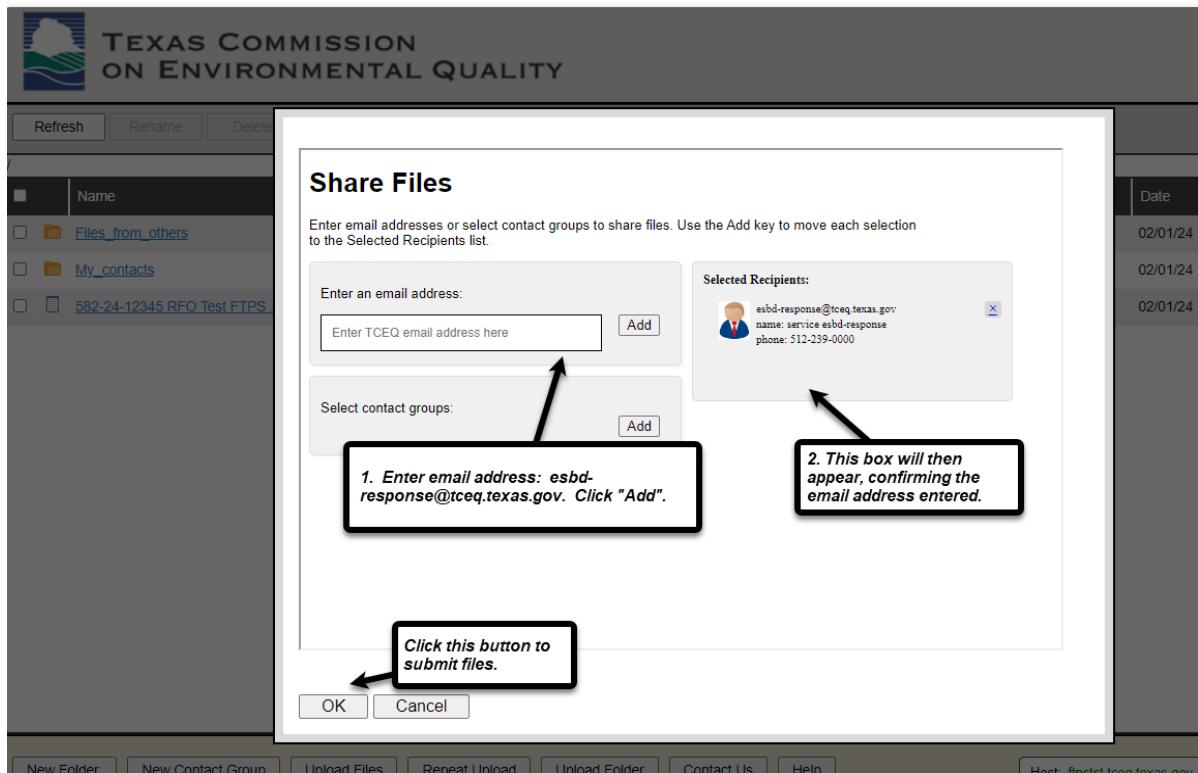
4. From your computer, find and click on the file or files you want to upload. You can upload multiple files at one time.



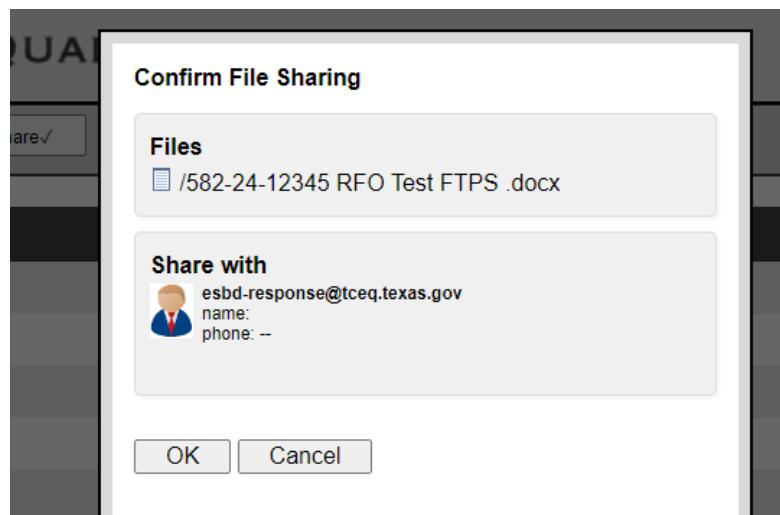
5. The uploaded file(s) will now appear in the list. Place a check in the box beside the file or files to be shared. Once the files are selected, click the “Share” button.



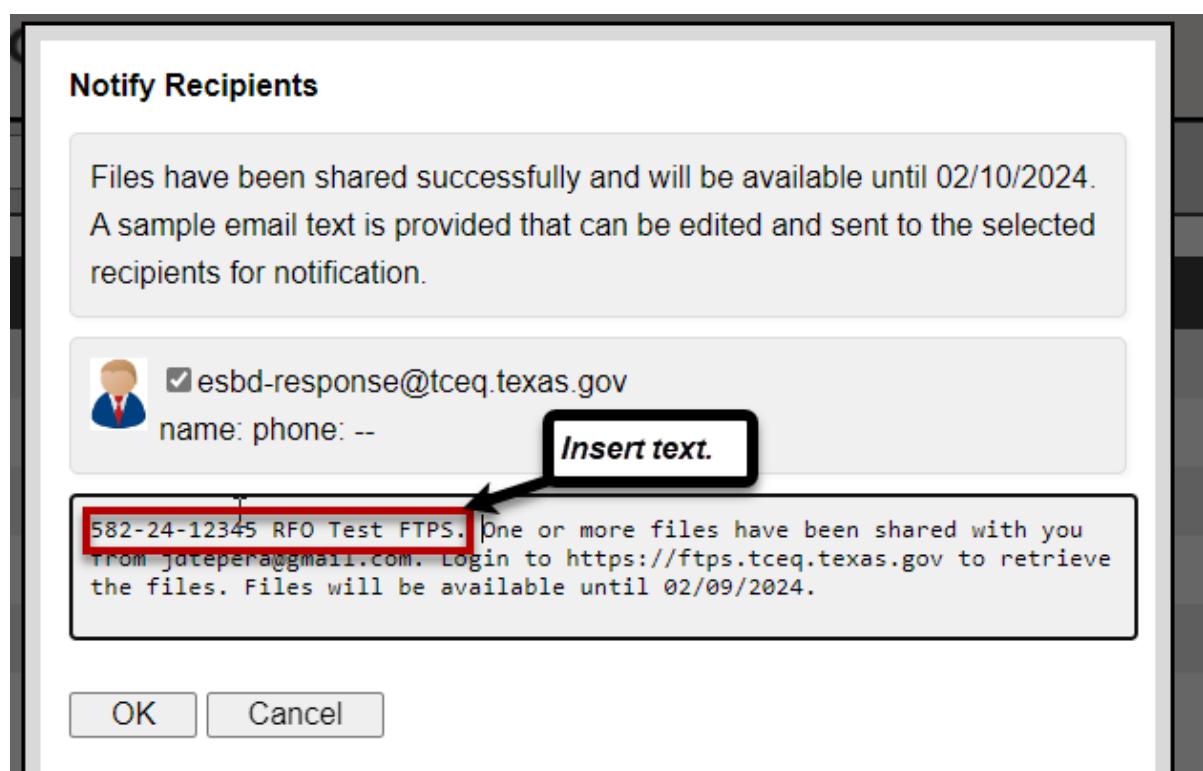
6. In the pop-up “Share Files” box, enter esbd-response@tceq.texas.gov in the email address box and click the “Add” button. Confirm the correct email address was entered, and then click the “OK” button.



7. Another confirmation screen appears, displaying the file or files that have been uploaded and the email address. Click the “OK” button.



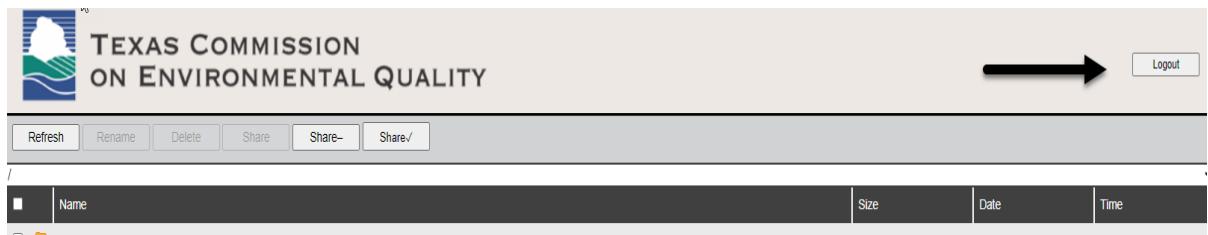
8. **IMPORTANT:** The “Notify Recipients” box appears with pre-filled text. Insert the solicitation number and name in front of the pre-filled text. The text in the red box, below, is an example. Click the “OK” button.



9. A confirmation that the email was sent appears. Click the “OK” button.



10. You will be returned to the Home page. Click the “Logout” button in the top right corner.



-End-

SECTION 2:

SCOPE OF WORK AND EVALUATION CRITERIA

SCOPE OF WORK

I. FACTS/PURPOSE

The Contractor will operate and maintain the air monitoring stations in Texas, listed below in Table I.A in accordance with 40 Code of Federal Regulations (CFR) Parts 50 and 58, the effective Texas Commission on Environmental Quality (TCEQ) quality assurance project plans (QAPPS) pertaining to the State or Local Air Monitoring Stations (SLAMS) network, Particulate Matter of 2.5 Micrometers or Less (PM_{2.5}) program and the Photochemical Assessment Monitoring Station (PAMS) networks, equipment standard operating procedures (SOPs), and the *Preventive Maintenance Instructions (PMI) Manual*. This documentation is available upon request.

Air monitoring stations are subject to relocation and sampler changes (including changes in sampling frequency). In the event of site relocation, the Contractor will be notified 30 days prior to relocation. The Contractor will operate similar, additional, or relocated ambient air monitoring equipment as needed and as agreed upon by both parties.

Table I.A lists all parameters and air monitoring stations operated and maintained under this Contract. Additional auxiliary equipment needed for the data collection is not listed.

Table I.A: Equipment

Station	Address	Equipment Type	Operating Schedule
Big Spring Midway AQS# 482271072 CAMS 1072	1218 N. Midway Road Big Spring, Texas, 79720	SO ₂ analyzer	continuous
		met	continuous
Odessa- Hays Elementary School AQS# 481350003 CAMS 0047, 0122	Barrett & Monahans Streets, Odessa, Texas, 79761	VOC canister sampler	1/6 days
		met	continuous
Odessa Gonzales AQS# 481351014 CAMS 1014	2700 Disney, Odessa, Texas, 79761	PM _{2.5} continuous monitor	continuous
		met	continuous
Odessa Westmark Street AQS# 481351092 CAMS 1092	1684 Westmark Street 7, Odessa, Texas, 79794	H ₂ S analyzer	continuous
		SO ₂ analyzer	continuous
		Met	continuous
Goldsmith Street AQS# 481351093 CAMS 1093	520 North Goldsmith Street, Goldsmith, Texas, 79741	H ₂ S analyzer	continuous
		SO ₂ analyzer	continuous
		met	continuous
Midland Avalon Drive AQS# 483291095 CAMS 1095	5510-U Avalon Drive, Midland, Texas, 79707	H ₂ S analyzer	continuous
		SO ₂ analyzer	continuous
		met	continuous

- number

AQS - Air Quality System

CAMS - continuous air monitoring station

H₂S - hydrogen sulfide

met - meteorological equipment with sensors for monitoring temperature, wind speed, and wind direction

PM_{2.5} - particulate matter of 2.5 micrometers or less in diameter

SO₂ - sulfur dioxide

VOC - volatile organic compound

II. TCEQ RESPONSIBILITIES/DESIGNATION OF STAFF

- A. Provide all air monitoring equipment, parts, audit equipment, gas standards, sample media as required, data collection equipment, and equipment related supplies for the proper operation of the air monitoring stations.
- B. Provide electricity and modem for data collection at the air monitoring stations.
- C. Provide shipping labels or shipping account information upon request for the Contractor to ship air monitoring equipment, parts, audit equipment, and equipment related supplies to the TCEQ.
- D. Provide Contractor staff with individual virtual private network (VPN) access accounts to check the site status remotely and update electronic operator logs through the TCEQ's internal status report webpage during the term of the Contract. Issuance of VPN access accounts to individuals is entirely within the discretion of TCEQ and may be denied and/or revoked with or without cause. All VPN access accounts issued pursuant to this Contract will be revoked upon its expiration.
- E. Provide training for equipment operations and other activities designed to increase technical capabilities required to support this agreement upon request by the Contractor.
- F. Provide contact information, troubleshooting, and technical support related to TCEQ air monitoring equipment by phone, email, or on-site visits, during regular business days between the hours of 8:00 AM and 5:00 PM Central Standard Time (CST).

III. CONTRACTOR RESPONSIBILITIES

- A. At a minimum, provide one primary operator with at least six months experience with operating, maintaining, and troubleshooting continuous and non-continuous air monitoring instrumentation and one backup site operator with similar experience. These site operators must be electrical/mechanical grade technicians capable of operating, troubleshooting, and performing maintenance on meteorological hardware and electronic monitoring equipment. Staff must be proficient with the use of Volt/Ohm meters, dry gas meters, calibration/audit equipment, and personal computers.
- B. Provide all site maintenance equipment (i.e., lawnmower, edge trimmer, ladder, etc.) and perform site maintenance in accordance with Table VII.A.
- C. Designate a project representative who receives communications from the TCEQ, manages the work being performed, and acts on behalf of the Contractor as an authorized representative. Participate in regular phone calls with the TCEQ Project Manager. Calls will be scheduled as agreed upon by both parties and documented in writing by the TCEQ Project Manager.
- D. Communicate effectively and promptly with TCEQ technical staff to troubleshoot malfunctioning equipment. Address all warnings and failures as soon as detected, or no later than the next business day.
- E. At least one operator must be present during all TCEQ assessments or site visits. At least one assessment per year should be expected. More frequent assessments may occur if significant or persistent data quality issues occur. If the data quality objectives are not met, the Contractor must take corrective action and if requested, produce a corrective action plan by the required deadline.
- F. Operate monitoring equipment according to federal regulations, established applicable SOPs, PMIs, QAPPs, and any other guidance documents. This documentation is available upon request.

- G. Operate air monitoring equipment according to Table VII.A and ensure the deliverables listed are performed adequately and on time. Document completion and submit deliverables in the manner listed in Table VII.A.
- H. Provide laptop to the operator(s) with current version of Windows, Microsoft Office Suite, and other necessary software for an effective operation of the air monitoring stations mentioned in Table I.A. Equipment specific software will be provided by the TCEQ to be installed by the Contractor.
- I. Monitor the site status remotely through the agency's internal status report webpage using the TCEQ-provided VPN access. Ensure individual VPN access accounts remain active. If VPN access is lost, notify the TCEQ Project Manager upon discovery. VPN access accounts are issued to individuals annually and must not be shared amongst Contractor's staff. VPN access accounts issued pursuant to this Contract may only be used to complete TCEQ work.
- J. Notify the TCEQ through electronic mail of the name and termination date for any personnel who is terminated or removed from work on this Contract, within one business day of the termination date. The Contractor will notify the TCEQ through electronic mail of the name of new personnel assigned to work on this Contract within five business days.
- K. Reply in writing to all TCEQ requests by set deadlines. Promptly respond to and comply with verbal and written guidance from the TCEQ Project Manager and technical support staff.
- L. Document all site activities in the electronic operator log, including but not limited to requirements listed in SOPs, before leaving a site where access to electronic log is available or within two business days where site access to electronic logs is not available.
- M. Ensure the certification for all equipment and gas cylinders is current. Equipment must be sent to TCEQ for verification prior to expiration. Prior approval is required to use any expired equipment or cylinders.
- N. Document all equipment and gas cylinder changes in Hardware Tracker within two business days of the change.
- O. Make travel arrangements and cover expenses for staff to attend all requested trainings, competency evaluations, and meetings.
- P. Maintain and provide as needed: documentation of shipping expenses, insurance costs (required) whether using the TCEQ account or other, and any additional information necessary to track equipment.
- Q. When visiting the TCEQ headquarters, all staff must enter through the front of the building, check-in with the security guard, and be escorted by TCEQ staff.
- R. Notify the TCEQ Project Manager immediately of any damages due to accident or vandalism. Provide pictures, police reports, and communications to provide remedy within 48 hours of discovery. The TCEQ is not responsible for damages due to negligence of the Contractor or its subcontractors. The Contractor must provide adequate replacement for equipment that is lost, stolen, or damaged due to negligence by the Contractor or any subcontractor.
- S. Provide arrangements to convey equipment to and from the site to TCEQ employees at mutually agreed upon locations for exchange, delivery, or transfer. The Contractor is responsible for its own fuel, vehicle, and any other expenses associated with the requested conveyance.
- T. Upon request by the TCEQ, provide guided tours of the monitoring sites, not to exceed four hours per quarter.

- U. Complete the *Basic Siting Criteria* checklist annually and submit a copy to the TCEQ Project Manager by the requested deadline. Notify the TCEQ Project Manager of any non-conformance or obstructions to the monitoring path upon discovery.
- V. Complete the *CAMS Operator and Safety Checklists* monthly and note its completion in the electronic operator log. Maintain a copy on site. Notify the TCEQ Project Manager about any unresolved safety issue and non-conformance upon discovery.
- W. Provide limited logistical support related to relocating or establishing a new air monitoring site. This may include, but is not limited to, assistance with locating a new site, providing access to contractors and utility companies for site construction, and reviewing and documenting site construction activities.
- X. Perform transitional services. Given the nature and importance of the services requested under this Contract, TCEQ must maintain uninterrupted services. The Contractor will provide services as needed to assist in the smooth transition of a replacement contractor. Transitional services include, but are not limited to:
 - a) the Contractor will provide one week of training to the replacement contractor;
 - b) the Contractor will provide reports, maps, property site contact information, keys, equipment, and other TCEQ property to the replacement contractor upon execution of said future Contract;
 - c) the Contractor will report to the replacement contractor any pending problems being investigated or for which equipment repair is incomplete;
 - d) upon request by TCEQ, the Contractor will provide to the replacement contractor access to site trailers, buildings, utilities, or other locked areas;
 - e) the Contractor will notify the TCEQ Project Manager in writing when the transition of services is complete; and
 - f) at all times, the Contractor will provide complete cooperation, courtesy, civility, and professionalism when providing transitional services and communicating with the replacement contractor staff.

IV. DESCRIPTION OF DELIVERABLES

The Contractor must operate and maintain the air monitoring stations listed in Section I according to all applicable federal regulations and all effective TCEQ QAPPs, SOPs, and PMIs, as well as any additional guidance provided by the TCEQ Project Manager to meet existing, and future, federal and state air monitoring requirements. If there are discrepancies between the TCEQ SOPs and this Contract, the Contractor must contact the TCEQ Project Manager for clarification and approval. TCEQ documents can be accessed through the TCEQ Rhone page and are also available upon request.

V. ACCEPTANCE CRITERIA

- A. The Contractor is required to provide the TCEQ at least an 85 percent (%) quarterly data return from all monitors and samplers. If the 85% data return is not achieved, assignable cause must be identified within a week after each month end. Assignable causes may include acts of nature (tornadoes, hurricanes, hail, etc.), vandalism, or circumstances beyond the control of the Contractor. Neglect of the site is not an assignable cause.
- B. Failure to meet 85% quarterly data returns without assignable cause may result in discretionary payment reductions. Considerations for the reduction of payment will consist of evaluation of the Contractor's performance of required operating procedures, quality control procedures, and effective and timely communication of non-compliance issues. Any payment adjustment made under this section is

cumulative with all other remedies, and non-compliance issues may require additional corrective action.

C. The parties agree that the following payment reductions represent a reasonable calculation of damages to the TCEQ in the event that the Contractor fails to meet the required 85% quarterly data return without an assignable cause.

- a. The TCEQ may reduce payment to the Contractor for non-compliant quarter by up to 25% of the total amount invoiced.
- b. Payment reductions made under this section may not reduce the total amount paid to Contractor for an entire fiscal year by more than 25% of the total amount invoiced. After receipt of the fourth quarter invoice, TCEQ will perform an accounting of all payment reductions and make necessary adjustments to the final payment to ensure that Contractor is paid at least 75% of the total amount invoiced for the fiscal year.

VI. VENDOR PERFORMANCE EVALUATION

Failure to meet Contract deliverables will be noted and documented in the TCEQ Project Manager's performance evaluation of the Contractor and may determine the continuation of this Contract.

VII. SCHEDULE OF DELIVERABLES

The Contractor must provide the deliverables listed in Table VII.A to the TCEQ in accordance with the noted timeframes.

Table VII.A: Contract Deliverables

Deliverable	Equipment	Summary of Tasks and Timeframes	Submit to:
Data Collection	all	<ul style="list-style-type: none"> Operate all samplers according to applicable Standard Operating Procedures (SOPs) and the U.S. EPA Monitoring Schedule. Review continuous data in the TCEQ Data Acquisition System (DAS) daily to ensure sampler function. 	TCEQ DAS via VPN or through the on-site data logger
Sample Collection and Shipping	VOC canister	<ul style="list-style-type: none"> Package and ship collected non-continuous samples to the laboratory for analysis as defined in instrument SOPs. Document set up and collection date in electronic operator log according to the requirements listed in Section III of this Contract. Complete required sample custody documentation with no errors. Respond within two business days to any sample issues provided by the lab. 	TCEQ Air Laboratory
Equipment Failure Response	all	<ul style="list-style-type: none"> Respond to equipment warnings, failures or malfunctions by visiting the site on the same day if feasible, but no later than the next business day. Notify the TCEQ in writing within one business day of problem resolution. Follow the TCEQ's technical advice and instructions without exception when troubleshooting equipment. Document all equipment actions and subsequent resolution in the electronic operator log and hardware tracker if applicable. 	Project Manager, TCEQ equipment support staff, and TCEQ DAS via VPN
Equipment Failure and Sample Loss Report	all	<ul style="list-style-type: none"> Report equipment failures or malfunctions in writing the same day as discovered. Include symptoms or cause of failure and contact information for the Contractor personnel immediately available to troubleshoot. Report in writing within one business day if any continuous monitor fails to collect data for more than 48 consecutive hours or when two consecutive non-continuous samples are missed or invalid. Include reason for data loss and corrective action. 	TCEQ equipment support staff, Project Manager, and TCEQ DAS via VPN
Monthly Verification and Report	PM _{2.5} continuous	<ul style="list-style-type: none"> Perform verifications monthly within first ten business days of the month. Perform verification procedures as defined by instrument SOPs. Perform calibrations as needed or when a monthly verification fails. For each verification, use the latest version of the worksheet. Document all verifications in the electronic operator log according to the requirements listed in Section III of this 	pm@tceq.texas.gov and Project Manager

Deliverable	Equipment	Summary of Tasks and Timeframes	Submit to:
		<p>Contract, identifying the sampler, the results, and the date of the verification. The originator must review the worksheet for accuracy.</p> <ul style="list-style-type: none"> Verification reports must be reviewed by someone other than the originator prior to submission to the TCEQ to ensure accuracy. The review must be documented in the worksheet. Submit verification report within five business days of completion. If corrections are requested by the TCEQ, the Contractor will correct and return the worksheet within the requested timeframe. 	
Quarterly Audit and Report	PM _{2.5} continuous	<ul style="list-style-type: none"> Perform quarterly audits within first ten business days of the quarter. Quarters are defined by instrument SOPs. Perform additional audits after instrument repair, modification, or replacement. For each audit, use the latest version of the worksheet. Document all audits in the electronic operator log according to the requirements listed in Section III of this Contract, identifying the sampler, the results, and the date of the audit. The originator must review the worksheet for accuracy. Audit reports must be reviewed by someone other than the originator prior to submission to the TCEQ to ensure accuracy. The review must be documented in the worksheet. Submit audit reports within five business days of completion. If corrections are requested by the TCEQ, the Contractor will correct and return the worksheet within the requested timeframe. 	pm@tceq.texas.gov and Project Manager
Laboratory Control Check (LCC) and Report	SO ₂ , H ₂ S	<ul style="list-style-type: none"> Perform eight LCCs per year, two per calendar quarter, approximately 45 days apart per instrument. For each LCC, use the latest version of the worksheet. Document all LCCs in the electronic operator log according to the requirements listed in Section III of this Contract, identifying the analyzer, the results, and the date of the LCC. The originator must review the worksheet for accuracy. LCC reports must be reviewed by someone other than the originator prior to submission to the TCEQ to ensure 	lcc@tceq.texas.gov and Project Manager

Deliverable	Equipment	Summary of Tasks and Timeframes	Submit to:
		<p>accuracy. The review must be documented in the worksheet.</p> <ul style="list-style-type: none"> Submit LCC reports within five business days of LCC completion. If corrections are requested by the TCEQ, the Contractor will correct and return the worksheet within the requested timeframe. 	
Preventive Maintenance Instruction (PMI) Completion	all	<ul style="list-style-type: none"> Perform all the PMIs mentioned in the equipment SOPs by the set deadlines Detailed information of the PMIs can be found on the current version of the PMI Manual located on the Rhone web page at http://rhone/cgi-bin/pmi_docs.pl. Perform any future PMIs developed for the equipment listed in Table I.A with TCEQ notification. Enter the completion of each PMI, the PMI number, and the date of completion, in the electronic operator log according to the requirements listed in Section III of this Contract. Track PMI completion using the TCEQ PMI tracker and submit monthly by the tenth calendar day of the following month. 	TCEQ DAS via VPN and Project Manager
On-Site Quality Assurance (QA) and Performance Evaluation (PE) Audits	all	<ul style="list-style-type: none"> Submit completed pre-audit questionnaires by set deadlines. At least one site operator responsible for the equipment of interest must be present during the audit. If requested, assist TCEQ staff or U.S. EPA auditors on-site during audits and assessments. When notified of failures or warnings, troubleshoot and if requested, produce a written response by the deadline. If requested, provide a corrective action plan to the final audit report by the set deadline. 	TCEQ Data Quality Team and Project Manager
Site Maintenance	site	<ul style="list-style-type: none"> Maintain site free of vegetation higher than six inches and trash or debris. Ensure site remains locked and secure when staff are not on-site. Obtain written approval from the TCEQ to change the site lock or combination and major site modifications prior to the change. Record all site maintenance in the electronic operator log according to the requirements listed in Section III of this Contract. Complete the <i>Siting Criteria Checklist</i> annually and submit to the TCEQ Project Manager by the requested deadline. Notify the TCEQ Project Manager of any threats to siting criteria when threats 	Project Manager

Deliverable	Equipment	Summary of Tasks and Timeframes	Submit to:
		<p>occur, such as the growth of trees or construction of nearby structures.</p> <ul style="list-style-type: none"> • Complete the <i>CAMS Operator and Safety Checklists</i> monthly and note its completion in the electronic operator log. Checklists must be kept at the site either electronically or as a physical copy. The checklists are located on the TCEQ Rhone page. • Notify the TCEQ Project Manager about any unresolved safety issue and non-conformance or concern on the day of discovery. 	
Invoice and <i>Release of Claims</i> Submission	all	<ul style="list-style-type: none"> • Submit monthly invoices within 30 days after the close of the calendar month. • Submit completed <i>Release of Claims</i> form with the final contract invoice. • Invoice submittal extensions must be requested at least one week before due date. • If an invoice is rejected, the Contractor must submit a revised invoice by the requested date. 	Project Manager and Contract Specialist
Data Completeness Reports	all	<ul style="list-style-type: none"> • Track and submit data completeness reports quarterly according to the schedule below: <ul style="list-style-type: none"> ▪ September – November <ul style="list-style-type: none"> ▪ due December 31st ▪ December – February <ul style="list-style-type: none"> ▪ due March 31st ▪ March – May <ul style="list-style-type: none"> ▪ due June 30th ▪ June – August <ul style="list-style-type: none"> ▪ due October 30th • Include description of how data completeness was determined and provide justification for data loss and corrective actions taken. 	Project Manager
Inventory Management and Reports	all	<ul style="list-style-type: none"> • Document any equipment or gas cylinder replacement or change in the electronic operator log and Hardware Tracker according to the requirements listed in Section III of this Contract. • Ship inoperable equipment to the TCEQ within five business days of replacement. Coordinate with the TCEQ Project Manager if the equipment cannot be shipped. • Upon request, promptly assist the Project Manager with maintaining inventory control and with Inventory Management Database (IMD) requests. • Track and submit quarterly TCEQ asset inventory reports on the following schedule: <ul style="list-style-type: none"> ▪ September – November 	Project Manager

Deliverable	Equipment	Summary of Tasks and Timeframes	Submit to:
		<ul style="list-style-type: none"> ▪ due December 31st ▪ December – February <ul style="list-style-type: none"> ▪ due March 31st ▪ March – May <ul style="list-style-type: none"> ▪ due June 30th ▪ June – August <ul style="list-style-type: none"> ▪ due October 30th 	
Documentation of Competency (DOC)	all	<ul style="list-style-type: none"> • Ensure all site operators successfully complete and maintain all applicable DOCs. • Site operators must complete and submit a Contractor Competency Evaluation Form (CCEF) to the TCEQ Project Manager for all equipment within 90 days after the effective date of this Contract or deployment of new equipment. • If an operator is hired after the effective date of this Contract, submit a CCEF for all applicable equipment within six months of the operator's hire date. The new operator may not work independently until his/her CCEF has been completed. • Maintain copies of the completed CCEFs and any supporting documentation for a minimum of seven years. Make this documentation available to the TCEQ upon request. 	Project Manager
Quality Assurance Project Plan (QAPP)	all	<ul style="list-style-type: none"> • Read all QAPP documents applicable to Contractor's program and complete QAPP Review Signature Form. Submit the signed form to the TCEQ Project Manager within 30 days of Contract issuance and/ or QAPP revision. The signature form is available upon request from the TCEQ Project Manager. 	Project Manager
FOSTAT Standard Operating Procedures (SOPs)	all	<ul style="list-style-type: none"> • Read all applicable FOSTAT SOPs and complete SOP Review Signature Form. Submit the signed form to the TCEQ Project Manager within ten business days of Contract issuance and/ or SOP effective date. The signature form is available upon request from the TCEQ Project Manager. 	Project Manager

AQS – Air Quality System

CAMS – continuous air monitoring station

FOSTAT – field operations stationary

H₂S – hydrogen sulfide

met – meteorological equipment with sensors for monitoring temperature, wind speed, and wind direction

PM_{2.5} – particulate matter of 2.5 micrometers or less in diameter

site – trailer, fence, electrical equipment, and site pad, and any encroaching vegetation

SO₂ – sulfur dioxide

TCEQ – Texas Commission on Environmental Quality

U.S. EPA – United States Environmental Protection Agency

VOC – volatile organic compound

VPN – virtual private network

EVALUATION CRITERIA

EVALUATION CRITERIA

Total number of pages for the following, excluding resumes is 10 pages.

Selection of the successful bidder will be based on the knowledge and experience necessary to perform the tasks listed in the Scope of Work.

The Texas Commission on Environmental Quality (TCEQ) reserves the right to accept or reject all or any part of the bid, waive minor technicalities, and award the bid to best serve the interest of the State. The lowest bid may not necessarily be selected. The qualifications of the company and its demonstrated ability to comply with the Scope of Work will be important in the award of the contract. Also, qualifications will include demonstrated effectiveness in past performance of similar projects.

A total of 101 points will be considered on the following items:

Executive Summary	5 points
Demonstrated Ability to Perform the Contract	31 points
Commitment of Qualified Personnel	15 points
Technical Approach	30 points
Cost to Perform the Service	20 points
Total	101 points

All proposals will be evaluated on the basis of the Evaluation Criteria in this section. Any bidder who does not provide the documentation necessary to evaluate any one of the items will not receive any credit for that item.

A. Executive Summary - 5 points

The summary is to provide the TCEQ with a broad understanding of the proposal and provide the Responder an opportunity to describe any unique features.

B. Demonstrated Ability to Perform the Contract - 31 points

The Contractor must provide a brief description of work it has done in the past that is substantially similar to the Scope of Work provided for in this Solicitation. For past projects to be evaluated, all relevant information and dates must be included. In addition, include in your statement the aspect of the project that you conducted the best, and the aspect of the project on which you did the poorest job. Each project submitted for evaluation must also include the name, address, and telephone number of the company or governmental entity for whom the project was performed, as well as the period of performance and the contact person for the contract. TCEQ will use this information to conduct a reference check. Comments from the reference may be used, as appropriate, in evaluation of this item. Included in the evaluation will be any work performed for TCEQ.

C. Commitment of Qualified Personnel - 15 points

Describe your level of commitment of qualified personnel to this project. Provide titles of key personnel assigned to the project and their responsibilities or level of commitment including project managers, QA/QC officers, data validators, and data managers and reporters, and operators, etc. Provide details on who will be the primary operator and assigned backup, and that they meet the requirements listed in the scope of work. Contractor should also provide in detail how staff will be replaced if necessary. Include statements of qualifications and resumes for each proposed personnel. Provide a general explanation and/or chart which specifies project leadership and reporting responsibilities and indicate which team members will interface with the TCEQ Project Representative. Indicate which individual will be responsible for ensuring the company's staff are performing work properly and deliverables are being met under the awarded Contract.

D. Technical Approach - 30 points

The Contractor should describe the technical approach that will be used in providing the deliverables specified in the Scope of Work in this RFP. The information on the technical approach should include, but not necessarily be limited to, information related to staff and other resources commitments, communication strategies and chain of command, and other processes and procedures that will ensure the production of valid data of known quality from instrumentation specified in the Scope of Work, as well as designation of the facilities and capacities to perform this contract.

E. Cost to Perform the Service - 20 points

The Contractor must complete price information in the space provided on the Price Form. The number of points to be assigned for total Offer price will be calculated using the following formula:

$$\text{Price Score} = \left[1 - \left(\frac{(bidder's\ price) - (lowest\ bid\ price)}{highest\ bid\ price} \right) \right] \times 20$$

(End of Evaluation Criteria)

SECTION 3:
DRAFT CONTRACT DOCUMENTS

CONTRACT SIGNATURE PAGE

TCEQ Contract 582-26-00027:

Continuous Air Monitoring Station for Midland Region

The Maximum TCEQ Obligation is \$.

The Effective Date is the later of the date of the latest signature below or 09/01/2025.

The Expiration Date is 08/31/2027.

This Contract is funded with federal funds.
Assistance Listing Number:
Federal Grant Number:

Parties to the Contract	Texas Commission on Environmental Quality (TCEQ)	(Contractor Name)
By (Authorized Signature)		Sample Contract Signature Page - Do Not Sign
Printed Name		
Title		
Date of Signature		
Vendor ID Number		
Procurement and Contracts Representative (Authorized Signature)		
Printed Name		
Public Purchasing Certification		
Date		

CONTRACT DOCUMENTS LIST

The entire Contract between TCEQ and Contractor consists of the Contract Documents listed on this page.

- Contract Signature Page
- Contract Documents List
- Scope of Work
- List of Key Personnel
- Approved Price Form
- Federal Conditions and Forms (incorporated by reference when completed)
- Special Terms and Conditions
- General Terms and Conditions
- HUB Subcontracting Plan and HUB Progress Assessment Forms (incorporated by reference)
- Insurance Section
- Insurance Certificate(s) Submitted by Contractor (incorporated by reference when completed)
- Notices, Project Representatives, and Records Location
- Attachment A: Sample Release of Claims Form to be returned with final invoice, unless otherwise specified in the Contract
- Solicitation, including any addenda and Request(s) for Best and Final Offer (BAFO), and related documents (incorporated by reference)
- Contractor's Response to Solicitation, including any Best and Final Offer (BAFO) Response(s) (incorporated by reference)

All applicable statutes, rules and regulations and all other requirements imposed by law, including, but not limited to, those pertinent rules and regulations of the State of Texas, are incorporated into this Contract by reference for all purposes as if specifically written herein. All Texas Governor Executive Orders are incorporated into this Contract by reference for all purposes as if specifically written herein.

FEDERAL TERMS AND CONDITIONS

FEDERAL TERMS AND CONDITIONS

1. This Contract is funded by a Federal Financial Assistance Award from the United States Environmental Protection Agency (EPA). TCEQ's federal grant award is available upon request. Any additional federal funding conditions that arise during the Contract period are incorporated herein by reference.
2. The Contractor must comply with the following requirements, as applicable to the Contractor:
 - [2 CFR Part 200](#), including Appendix II Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, found at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>
 - [EPA's General Terms and Conditions](#), found at <https://www.epa.gov/grants/grant-terms-and-conditions#general>
 - The federal funding award
 - Federal non-discrimination laws, Executive Orders, and EPA regulations prohibiting discrimination in the provision of services or benefits, on the basis of race, color, national origin, sex, disability or age, in programs or activities receiving federal financial assistance in accordance with Title VI of the Civil Rights Act of 1964, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and The Age Discrimination Act of 1975. Additionally, programs must be implemented in accordance with federal provisions protecting free speech, religious liberty, public welfare, and the environment.
3. **Acknowledgement.** The Contractor shall acknowledge the financial support of TCEQ and the EPA on any reports, documents, publications, or other materials developed for public distribution. The Contractor must include the following statement:

“This project has been funded [wholly or in part] by the United States Environmental Protection Agency under assistance agreement (number) to the Texas Commission on Environmental Quality. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency or TCEQ, nor does the Environmental Protection Agency or TCEQ endorse trade names or recommend the use of commercial products mentioned in this document, as well as any images, video, text, or other content created by generative artificial intelligence tools, nor does any such content necessarily reflect the views and policies of the Environmental Protection Agency or TCEQ.”

4. **Violating Facilities.** The Contractor certifies that it has not been convicted, and is not likely to be convicted, of any offense under section 7413(c) of the Clean Air Act

(42 U.S.C. §7413(c)) or section 1319(c) of the Clean Water Act (33 U.S.C. §1319(c)). If the Contractor is convicted of an offense described in those sections, the Contractor will notify TCEQ and EPA. The Contractor shall be in compliance with all applicable standards, orders or requirements issued under Executive Order 11738. The Contractor is disqualified from eligibility to receive any contract, subcontract, assistance, sub-assistance, loan or other nonprocurement benefit or transaction that is prohibited by a Federal department or agency under the Government-wide debarment and suspension system (see 2 CFR part 180), if the Contractor:

- (a) Will perform any part of the transaction or award at the facility giving rise to a conviction (called the violating facility); and
- (b) owns, leases or supervises the violating facility.

5. By signing this Contract, the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)), as amended, and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended.

6. **Prohibition against Lobbying.** By signing this Contract, the Contractor certifies, to the best of its knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit [Standard Form-LLL, "Disclosure Form to Report Lobbying."](#) in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also

disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

d. Any person who makes an expenditure prohibited herein shall be subject to a federal civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure. Any person who fails to file or amend the disclosure form to be filed or amended if required herein, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Disadvantaged Business Enterprise (DBE) Program.

a. The Contractor must follow the six good-faith efforts under [40 CFR Section 33.301\(a\)-\(f\)](#), and [40 CFR Section 33.302 \(a\)-\(d\), \(i\)](#) whenever procuring construction, equipment, services and supplies to perform this Contract.

b. Failure by the Contractor to comply with these requirements is a material breach of this Contract which may result in the termination of this Contract or other legally available remedies.

c. TCEQ's established fair share objectives apply to this Contract:

	MBE GOAL (%)	WBE GOAL (%)
Construction	21.43	6.78
Equipment	22.05	6.27
Services	24.34	25.85
Supplies	31.06	17.66

d. **If this Contract requires a HUB Subcontracting Plan (HSP) and Progress Assessment Reports (PARs), then compliance with the HSP and PAR forms satisfy the DBE good faith efforts and EPA subcontractor reporting forms.**

e. **If this Contract does not require a HSP with the proposal, then the Contractor must submit the following completed Forms:**

- **DBE Program Subcontractor Utilization Form**
- **DBE Subcontractor Performance Form**

f. **If this Contract does not require PAR forms, then the Contractor must submit EPA Form 5700-52a with each invoice ([EPA Form 5700-52A "MBE/WBE Utilization Under Federal Grants and Cooperative Agreements"](#)) At minimum, this form shall include the name of the HUB or DBE; a description of the work, services, or materials provided; the amount paid to the HUB or DBE; and the name and telephone number of a contact person for the HUB or DBE.**

g. **The Contractor shall retain all records documenting compliance with good faith efforts whether performing under a HSP or the EPA DBE program.**

- h. Before terminating a DBE for convenience, the Contractor must notify TCEQ in writing.**
 - i. If a DBE subcontractor fails to complete work for any reason, and the Contractor plans to procure a replacement subcontractor, the Contractor must demonstrate the same good faith effort to procure the replacement subcontractor.**
 - j. The Contractor must pay its subcontractors for satisfactory performance no more than 10 days from the Contractor's receipt of payment from TCEQ.**

8. Cybersecurity

- a. Any connection between the Grantee's network or information technology system and an EPA network or information technology system used to transfer data under this agreement must be secure. A connection is a dedicated persistent interface between the Grantee's network or information technology system and EPA's network or information technology system for the purpose of transferring information.**
- b. The Grantee will contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. Contact the TCEQ Grant Manager for the EPA PO's contact information.**
- c. This condition does not apply to (1) transitory user-controlled connections, such as website browsing, (2) manual entry of data by the Grantee into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data, or (3) Grantee's connections that use the Environmental Information Exchange Network or EPA's Central Data Exchange.**

SPECIAL TERMS AND CONDITION

SPECIAL TERMS AND CONDITIONS

1. The Term of the Contract shall commence on September 1, 2025, or the date of last Contract Signature, whichever is later, and continue through August 31, 2027. This Contract may be renewed for one, two-year period and one, one-year period upon mutual written agreement between both Parties. The same Contract requirements apply to a renewal period and any extension as apply to the Contract period.
2. Prices must be firm for the term of the Contract.
3. TCEQ reserves the option to add or subtract like items or services to this Contract at the same price rates, as set forth in the Price Form, during the period of the Contract including any renewals or extensions. Line-item quantities listed are the TCEQ's best estimate and actual quantities will be in accordance with requirements during the Contract period and any exercised renewals or extensions.
4. The TCEQ, by unilateral amendment, may extend the Contract for up to 180 days beyond any expiration of the Contract Period.
5. Travel will not be reimbursed as a separate cost; it must be included in the prices on the Price Form. Travel from the Contractor's residence to place of business shall not be included in the price proposed.
6. Equipment provided by TCEQ to the Contractor to satisfy the requirements of this Contract must not be used to satisfy the requirements of any other contract or project without the express written approval of the TCEQ Air Monitoring Division.
7. In accordance with Executive Order GA-48, Respondent certifies that neither it, nor its holding companies or subsidiaries, is:
 - a. Listed in Section 889 of the 2019 National Defense Authorization Act;
 - b. Listed in Section 1260H of the 2021 National Defense Authorization Act; or
 - c. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R Section 791.4; or
 - d. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R Section 791.4.

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS

Revised March 26, 2024

1. DEFINITIONS

The following terms shall have the meanings ascribed below when used in this document:

- 1.1 "Conforming" and "Conformity" and similar words refer to the condition or status of a good, service, property or the Work as meeting and being compliant with the requirements of the Contract.
- 1.2 "Fiscal Year" means the period of time that begins on September 1 and ends on August 31. The fiscal year is designated by the calendar year in which it ends; for example, Fiscal Year (FY) 2016 begins on September 1, 2015 and ends on August 31, 2016.
- 1.3 Whenever used in this contract, "include," and similar words are intended to mean include but not limited to; they are not intended to be exhaustive.
- 1.4 "Nonconforming" or "Nonconformity" means a failure of a good, service, property or the Work to conform to this Contract, and includes a defect in a good, service, property or the Work.
- 1.5 "Work" means the services, goods and property the Contractor is required to provide in this Contract. The term includes the entire completed undertaking and the various separately identifiable parts. The term also includes all duties of the Contractor.

2. ORDER OF PRECEDENCE

The entire Contract between TCEQ and Contractor consists of the documents identified in the Contract Documents List. The Contract Documents are intended to be interpreted in harmony with each other. Any inconsistency in the solicitation or the Contract shall be resolved by giving precedence in the following order:

- a. Contract Signature Page
- b. Federal Conditions and Forms
- c. Special Terms and Conditions
- d. Procedures for Work Orders
- e. Scope of Work
- f. Price Form (completed)
- g. Insurance Section
- h. General Terms and Conditions
- i. HUB Subcontracting Plan and HUB Progress Assessment Forms
- j. Work Orders and Notices to Proceed (incorporated by reference)
- k. Work Plans and other Work Order-related documents created during the Contract (incorporated by reference)
- l. TCEQ Solicitation (incorporated by reference)
- m. Other documents, exhibits, and attachments listed in the Contract Documents List.

3. CONTRACT AMENDMENTS

- 3.1 Material Changes. Material changes to the contract require a written amendment signed by both parties. These Amendments take effect when signed by the Contractor and TCEQ, unless otherwise designated in the Amendment. Material changes include the following:

- 3.1.1 Changes in the total amount of funds in the Budget or the Contract;
- 3.1.2 Changes to the Contract's Expiration Date;
- 3.1.3 Changes to the Scope of Work that affect TCEQ's obligations to the entity providing funding, such as the United States Environmental Protection Agency (EPA), another state or federal agency, or the Texas Legislature; and
- 3.1.4 Changes that affect the material obligations of the Performing Party in this Contract.

3.2 Unilateral Amendments. As specifically allowed by the Contract, TCEQ may issue unilateral amendments. Unilateral amendments take effect when issued by TCEQ.

3.3 Minor Changes. The TCEQ Contract Manager and/or the TCEQ Project Manager has the authority, without a formal Amendment, to correct typographical errors; make written Contract interpretations; and make minor, non-material changes to the requirements in the Scope of Work, the Procedures for Work Orders, or the Work Orders; or as agreed to elsewhere in the Contract. Contractor must provide TCEQ with a written objection to any Notice of Interpretation no later than five (5) business days from the effective date of the Notice. A copy of the agreed change must be retained in the appropriate file by both the Performing Party and TCEQ.

- 3.3.1 Minor, non-material changes include:
 - 3.3.1.1 Changes to the schedule in the Scope of Work including an extension of a deliverable due date, not to exceed the expiration date of the Contract;
 - 3.3.1.2 Changes to the schedule in the Work Order including an extension of a deliverable due date, not to exceed the expiration date of the Work Order;
 - 3.3.1.3 Changes to the individual tasks in the Scope of Work or Work Order, if applicable, that do not substantially change the obligations of the Parties relative to those tasks;

3.4 It is the Performing Party's responsibility to request extensions to the deliverable schedule and other changes that are within the authority of TCEQ.

4. TERM AND AMOUNT OF CONTRACT

- 4.1 *Contract Period.* The Contract Period begins on the later of: 1) the Effective Date on the Contract signature page, or 2) the latest date of the parties' signatures shown on the Contract signature page. The Contract Period ends on the Expiration Date on the signature page.
- 4.2 *Renewals and Extensions.* This Contract may be renewed up to three one-year periods by amendment. TCEQ, by unilateral amendment, may extend the Contract for 180 days beyond any expiration of the Contract Period. In a renewal or extension, TCEQ may increase the Maximum TCEQ Obligation by an amount up to the original Maximum TCEQ Obligation.
- 4.3 *Maximum TCEQ Obligation.* The Maximum TCEQ Obligation is the greatest amount TCEQ may pay for the Work. There is no guaranteed minimum expenditure by TCEQ.

4.4 *Service Adjustment/Contingency Requirement (SACR).* TCEQ may in its sole discretion make allowances for unforeseen circumstances or contingency requirements. TCEQ may increase the current Maximum TCEQ Obligation by an amount not to exceed 200% of the original Maximum TCEQ Obligation at the time the Contract was signed.

5. PRICES AND REIMBURSEMENT

- 5.1 *Prices.* Prices are firm, fixed, and fully-loaded.
- 5.2 *Cost Reimbursement.* Reimbursement is limited to direct costs for items specifically identified on the Price Form or in the Scope of Work and approved by the TCEQ Project Manager before the cost is incurred. Reimbursement requests must be itemized and documented in a format acceptable to TCEQ.
- 5.3 *Records.* Contractor must maintain records supporting its costs in accordance with generally accepted accounting principles.
- 5.4 *Reimbursement for Travel.* Travel reimbursement is limited to actual costs, and shall not exceed the maximum allowed for State employees by the Texas Comptroller of Public Accounts.

6. QUALITY AND ACCEPTANCE

- 6.1 *Quality Standard.* All Work must be complete and satisfactory to the TCEQ. All materials and equipment shall be handled in accordance with instructions of the supplier, except as otherwise provided in the Contract.
- 6.2 *Acceptance.* TCEQ relies on Contractor to inspect and test the Work to ensure that it conforms to the Contract requirements. TCEQ relies on the Contractor's greater expertise in the field of the Work. Any act by TCEQ indicating acceptance, whether express or implied, shall not be deemed to mean that TCEQ has tested or inspected the Work, but rather that TCEQ has accepted the Work in reliance on Contractor's greater expertise and Contractor's representation that the Work conforms to all Contract requirements. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of nonconforming Work or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 - payment;
 - use of the Work or any part of the Work by TCEQ;
 - review or approval of a submittal;
 - inspection or testing by TCEQ; or
 - correction of defective Work by TCEQ.
- 6.3 *Quality Assurance.* All Work that involves the acquisition of environmental data shall be performed in accordance with a TCEQ-approved Quality Assurance Project Plan (QAPP) meeting all applicable TCEQ and EPA requirements. Environmental data includes any measurements or information that describe (1) environmental processes, location, or conditions; or (2) ecological or health effects and consequences. Environmental data includes information collected directly from measurements, produced from models, and compiled from other sources such as databases or the literature. No data collection or other Work covered by this requirement shall be implemented until Contractor receives the QAPP approved by TCEQ and, if necessary, the EPA. TCEQ may refuse payment or reimbursement for any environmental data acquisition performed without an approved QAPP.

6.4 *Laboratory Accreditation.* Any laboratory data or analyses provided under this Contract must be prepared by a laboratory that is accredited in accordance with 30 Texas Administrative Code (TAC) Chapter 25, Subchapters A and B, for the matrices, methods, and parameters of analysis used, unless one of the regulatory exceptions specified in 30 TAC § 25.6 applies.

7. PAYMENTS AND INVOICES

7.1 *Excess Obligations Prohibited.* TCEQ's obligations under this Contract are contingent upon the continued availability of funding. If funds become unavailable due to lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruption of current appropriations, TCEQ may terminate this contract.

7.2 *Invoice.* Contractor will submit invoices no later than the 15th day of every month after the services are completed. If the Contract has an approved Historically Underutilized Business (HUB) Subcontract Plan (HSP), a HUB Progress Assessment Report (PAR Form) describing subcontracting activity must also be submitted with the invoice. The invoice may be rejected for failure to comply with all invoice requirements.

7.3 *Invoice Contents.* The Contractor must include the following information on the face of all invoices: invoice number, invoice date, TCEQ Contract number, Work Order number if any, Vendor Identification Number, period covered by the invoice, item and unit description, quantity, unit price, extended price, and total amount for which Contractor is requesting payment. Contractor shall submit its invoice to the TCEQ Contract Manager.

7.4 *State Agencies/Institutions of Higher Education.* If the Contractor is a State agency or institution of higher education payments must be made via interagency transaction voucher (ITV), please provide a Recurring Transaction Index (RTI) number on the face of the invoice OR if payments are to be deposited into a local bank account, the following statement must be placed on the face of the invoice: "Funds to be deposited into local bank account." For additional information, please refer to the Texas Comptroller's Accounting Policy Statement (APS) 014.

7.5 *Progress Payment.* A progress payment is a payment made on a portion of the Work that is part of a line item designated on the Price Form. The Contractor's written request must include a description of the relevant portion of the Work. Contractor may request, and TCEQ at its sole discretion may issue or refuse, a progress payment.

7.6 *Final Payment.* Contractor must submit its invoice for final payment within 30 days of completion of the Work.

7.7 *Retainage.* TCEQ may withhold 5% or less of each payment as retainage. Release of retainage may be requested in the final invoice.

7.8 *Release of Claims by Contractor.* The final invoice shall be accompanied by a complete and legally effective release of TCEQ from all known and unknown claims relating to the Contract on a form provided by TCEQ. Contractor's acceptance of final payment constitutes a waiver of all claims against TCEQ related to the Contract, known or unknown.

7.9 *Assignment of Claims.* Contractor may assign its right to be paid under this Contract. Any assignment shall cover all unpaid amounts payable under this Contract. An assignment does not relieve Contractor of any obligation under

this Contract. All assignments must be approved by both assignor and assignee in writing and submitted to the TCEQ Contract Manager. Notwithstanding any contrary provision in applicable law, TCEQ shall have no liability to Contractor or to any assignee on any claim arising from TCEQ's directing payment to Contractor instead of an assignee, or to an assignee instead of Contractor.

- 7.10 *Prompt Payment Act.* In accordance with the Texas Prompt Payment Act, TCEQ will pay an acceptable invoice within 30 days of receipt.
- 7.11 *Disputed Invoices.* TCEQ may dispute an invoice by sending a notice in writing to the Contractor within 21 days of receipt. TCEQ may make a partial payment and dispute the difference on the invoice.
- 7.12 *Liability for Taxes.* Contractor will pay all taxes resulting from this Contract including, any federal, state, or local income, sales or excise taxes of Contractor or its employees.
- 7.13 *Lobbying.* In accordance with Texas Government Code Chapter 556, funds received under this Contract may not be used toward lobbying expenses of an individual or entity.
- 7.14 *Debts and Delinquencies Affirmation.* Contractor agrees that any payments due under the Contract shall be applied towards any debt or delinquency that it owes to the State of Texas.

8. COMMUNICATIONS AND NOTICES

- 8.1 *Notices.* All notices shall be made in writing and be delivered to a party's designated Contract Manager and Project Manager. Notices are effective upon receipt. If the Contractor has no Contract Manager, TCEQ may send notices to any address previously provided by the Contractor.
- 8.2 *Claim.* Contractor shall give notice to TCEQ of any claim, demand, suit, or other action (a "Claim") asserted against Contractor which either arises in relation to the Contract, or which could have an adverse material effect on Contractor's ability to perform the Work. Contractor shall give notice directly to the TCEQ Manager of Procurements and Contracts within three days of Contractor's receipt of notice of the Claim. The notice shall state the date of the Claim, the names and addresses of the claimants, the basis of the Claim, the name of each person or entity against whom the Claim is asserted, and the amount of the Claim.
- 8.3 *Notice of Conflict of Interest.* Contractor shall give notice to TCEQ of any actual, apparent, or potential conflict of interest regarding Contractor or any entity or individual performing any portion of the Work. As determined by TCEQ, any entity with an organizational conflict of interest and any individual with a personal conflict of interest must not take part in any way in the performance of any portion of the Work that creates the conflict of interest. TCEQ has sole discretion to decide whether an actual, apparent, or potential conflict exists. Any such conflict is cause for termination.
- 8.4 *Bankruptcy.* If Contractor becomes the subject of a voluntary or involuntary bankruptcy proceeding, Contractor shall immediately give notice to TCEQ and send a copy of this notice to TCEQ Bankruptcy Program MC-132, P. O. Box 13087, Austin, TX 78711-3087. The notice must include the Contract number.

9. SHIPMENT AND DELIVERY OF GOODS AND MATERIAL SAFETY DATA SHEETS

- 9.1 *Shipping Terms.* All shipments shall be made Free on Board (FOB) destination, full freight allowed and not invoiced. Delivery shall be made between the hours of 8 a.m. and 5 p.m. Central Time, Monday through Friday, excluding State holidays, unless prior approval for another delivery time has been granted by TCEQ. Each shipment must be accompanied by a packing slip. Packing slips should reflect the TCEQ contract number, item description, lot number and quantity, if applicable.
- 9.2 *Safety Data Sheet.* Contractor must provide to TCEQ, at no cost, at least one copy of any applicable manufacturer's Safety Data Sheet (SDS) (formerly known as Material Safety Data Sheet or MSDS) for any chemical materials provided. Contractor must make available, at no cost, the relevant manufacturer's SDS to any person that may be affected by the Work.

10. SUPERINTENDENCE BY THE CONTRACTOR

- 10.1 *Contractor's Responsibility for Subcontractors.* All acts and omissions of subcontractors, suppliers and others performing or furnishing any of the Work under a direct or indirect contract with Contractor ("Subcontractors") are imputed to Contractor. Nothing in this Contract creates a contractual relationship between TCEQ and any Subcontractor except for product warranties for goods supplied by a third-party manufacturer and delivered to TCEQ. Nothing in this Contract creates any obligation for TCEQ to pay any Subcontractor. Contractor is solely responsible for scheduling and coordinating the work of Subcontractors, and for all communications to Subcontractors.
- 10.2 *Superintendence of the Work.* Contractor shall supervise all Work. Contractor is solely responsible for the means, methods, design, processes, procedures and conduct of the Work. This responsibility includes control of associated hazards to assure the safety of the performance of the Work, and for the protection of all persons, property, premises and facilities which may be affected by the Work. No action by TCEQ will transfer this responsibility to TCEQ. Contractor shall maintain a superintendent capable of overseeing performance of the Work at any location where Work is performed.

11. SUBCONTRACTORS AND EMPLOYEES

- 11.1 *Personnel.* Contractor shall provide competent, suitably qualified personnel to perform the Work. Contractor shall at all times maintain good discipline and order at the site of the Work. Contractor shall require its personnel to execute any confidentiality agreements, and any other required assignments, licenses or other instruments, and to provide information related to Intellectual Property, as may be necessary to effectuate the provisions of the Contract. Contractor will, upon request of TCEQ, obtain and provide background checks on personnel performing Work at a TCEQ campus.
- 11.2 *TCEQ Objection.* Contractor shall not use any subcontractor, employee, supplier, or other person or organization to whom TCEQ reasonably objects.
- 11.3 *Key Personnel and Subcontractors.* Contractor's Project Manager and any individuals specified for the key personnel positions listed in the Contract are material to the performance of the Work. Contractor shall provide notice to TCEQ within five (5) business days of making substitutions to key personnel.

Substitutes shall be at least as qualified as the personnel or subcontractors being replaced.

- 11.4 *Flowdown of Contract Provisions.* Contractor shall include in its subcontracts, supplier contracts, employment contracts, and employment policies any provision included in this Contract, or shall include a similar provision, whenever and to the extent necessary in order for Contractor to fulfill its obligations under this Contract, regardless of whether or not the provision expressly requires that it be included in such contracts or policies.
- 11.5 *E-Verify.* Contractor will use the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of (1) all persons employed during the Contract term to perform duties within Texas; and (2) all persons (including subcontractors) within the United States of America assigned by the contractor to perform Work pursuant to the Contract.
- 11.6 *Equal Opportunity.* Contractor shall not discriminate against any person on the basis of race, color, national origin, religion, sex, age, and disability in the performance of this Contract.

12. BOOKS AND RECORDS

- 12.1 *Contractor's Books and Records.* During the Contract and for four years thereafter, Contractor shall maintain books, records, documents, and other evidence reasonably pertinent to Contractor's performance of the Work. Contractor shall maintain all financial records in accordance with generally accepted accounting principles. Contractor shall permit representatives and agents of TCEQ, or authorized state and federal agencies, to have unrestricted access to all records, data and facilities as necessary to review, inspect, and audit all financial activities and services associated with TCEQ funds. Contractor shall provide appropriate facilities for such access and inspection.
- 12.2 *Right to Audit.* Pursuant to Section 2262.154 of the Texas Government Code, the State auditor may conduct an audit or investigation of the Contractor or any other entity or person receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the Contractor or any other entity or person directly under this contract or indirectly through a subcontract under this 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, the Contractor or other entity that is the subject of an audit or investigation by the State auditor must provide the State auditor with access to any information the State auditor considers relevant to the investigation or audit. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.
- 12.3 *Time Sheets.* Contractor shall maintain and, upon request by TCEQ, submit weekly time sheets for each person providing services on behalf of Contractor or a subcontractor. The time sheets must state the position held by each person and the number of hours worked. Upon request, the timesheets must be submitted to the TCEQ Contract Manager weekly by noon Central Time on Monday of the following week.

13. WARRANTIES AND CERTIFICATIONS

- 13.1 In addition to all warranties established or implied by law, Contractor warrants that:
 - 13.1.1 All goods, services and property provided conform to this Contract and to all representations made or provided by the Contractor for the purpose of inducing the TCEQ to enter this Contract, and are merchantable, fit for the purpose intended, of best quality and workmanship, and free from all deficiencies in media, material, workmanship, and quality;
 - 13.1.2 All goods, services and property provided conform to standards established for such goods in accordance with any applicable laws and regulations, including the Occupational Safety and Health Act (29 U.S.C. §§ 651-678);
 - 13.1.3 All services are performed in a professional and workmanlike manner, consistent with relevant accepted standards and practices.
- 13.2 The warranties set forth above are effective upon TCEQ's issuance of final payment under the Contract or Work Order, and for 24 months thereafter. Nonconformities are not deemed waived by TCEQ's failure to notify Contractor upon receipt of goods, property or completion of services or by payment of invoice. Contractor shall, at its expense, repair or replace any goods and property and re-perform any services that are found to be or that become nonconforming or defective. If, after notice of a claim under these warranties, Contractor fails to promptly repair, replace, or re-perform as required, TCEQ may undertake its own remedial action and Contractor shall reimburse the TCEQ for all costs of such action. If TCEQ does not choose to repair, replace, or re-perform in place of the Contractor, Contractor shall promptly refund to TCEQ the full purchase price paid for the entire Work.
- 13.3 *Ability to Perform.* Contractor has the corporate authority, capability, experience and means to enter into this Contract and to perform the Work.

14. INTELLECTUAL PROPERTY

- 14.1 *Work for Hire.* All Work created under this Contract is a work for hire. TCEQ is the owner of the Work, including user documentation, and all intellectual property in the Work. Contractor will enter into written agreements with its employees and subcontractors that confirm TCEQ's ownership interest.
- 14.2 *License.* If any intellectual property that is incorporated into the Work or intellectual property created under this Contract is not work for hire, Contractor grants to TCEQ a royalty-free, nonexclusive, perpetual, irrevocable, fully paid-up, enterprise-wide and worldwide license to use, reproduce, publish, modify, create derivative works, distribute, publicly perform and display the intellectual property and associated user documentation, and to authorize others to do the same.
- 14.3 *Third Party Intellectual Property.* Contractor shall secure the necessary intellectual property rights from third parties to comply with this article. Contractor's prices include all user documentation, and applicable license and/or royalty fees necessary for TCEQ to use the Work. Commercially available software that is necessary to use the Work may be exempted from this requirement with prior approval from TCEQ. Contractor shall take all necessary steps to pass-through to TCEQ all warranties, representations and other service

commitments applicable to third party intellectual property incorporated into the Work.

14.4 *Electronic Deliverables.* Electronic deliverables must be delivered in a format approved by TCEQ.

15. INDEMNIFICATION

15.1 TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE STATE OF TEXAS, INCLUDING TCEQ AND ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES, FROM AND AGAINST ALL LOSSES, LIABILITIES, ACTIONS, DAMAGES, DEMANDS, SUITS, AND OTHER CLAIMS OF ANY TYPE ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF THE CONTRACTOR OR ITS EMPLOYEES, SUBCONTRACTORS, SUPPLIERS, OR AGENTS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS 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 TEXAS ATTORNEY GENERAL. CONTRACTOR AND TCEQ AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

16. HISTORICALLY UNDERUTILIZED BUSINESSES

16.1 If applicable, Contractor will comply with the Historically Underutilized Business (HUB) requirements of Texas Government Code, Chapter 2161. If this Contract includes an approved HUB Subcontracting Plan (HSP), Contractor shall implement the HSP in good faith. Any substitutions of personnel or subcontractors or other changes that require a revision of the Contractor's approved HSP must receive prior review and approval from TCEQ and comply with the good faith effort requirements of 34 TAC § 20.285.

16.2 The HSP must contain the subcontractors' Texas Comptroller-issued Texas Identification Number System (TINS) identifier. If the subcontractor does not have a TINS identifier, the Contractor will obtain a completed Application for Texas Identification Number from its subcontractor and immediately submit it to TCEQ, or in the case where a subcontractor is being proposed for addition to the HSP, submit it with the Contractor's HSP Amendment Request. The Texas Identification Number form must be submitted to TCEQ using a secure method approved by TCEQ.

17. PUBLIC INFORMATION, CONFIDENTIALITY, AND PUBLICITY

17.1 Public Information and Release of Information.

17.1.1 All information provided by TCEQ and the Work are the property of TCEQ. The Texas Public Information Act (PIA), Texas Government Code Chapter 552, applies to all information provided by TCEQ and the Work. At no additional charge to the TCEQ, Contractor shall surrender or return information regarding this Contract, including information provided by TCEQ or the Work, to TCEQ not later than the 10th day after the date TCEQ requests the information.

17.1.2 *Requests for Public Information.* TCEQ has sole responsibility to respond to any requests for information regarding this Contract, including information provided by TCEQ or the Work. If Contractor

receives a request for information from any third party, Contractor shall immediately forward the request to TCEQ. Except as provided below, the Contractor will not release any information without the express written authorization of the TCEQ Contract Manager or relevant TCEQ Project Manager. The Contractor may release the amount of the Contract and any information required to comply with laws or rules. Contractor will make Work available in a format that is accessible by the public at no additional charge as requested by TCEQ.

- 17.1.3 *Use of Information.* Contractor is permitted to use, copy, and disclose information to Contractor's employees and subcontractors only as necessary to fulfill Contractor's obligations.
- 17.1.4 *Contracting Information Responsibilities.* In addition to the other records retention requirements in this Contract, for contracts with a Maximum TCEQ Obligation of at least \$1 million, in accordance with Section 552.372 of the Texas Government Code, Contractor agrees to (1) preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the TCEQ for the duration of the Contract, (2) promptly provide to the TCEQ any contracting information related to the Contract that is in the custody or possession of the Contractor on request of the TCEQ, and (3) on termination or expiration of this Contract, either provide at no cost to the TCEQ all contracting information related to the Contract that is in the custody or possession of the Contractor or preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the TCEQ. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

17.2 Confidential Information.

- 17.2.1 *TCEQ's Confidential Information.* If TCEQ provides Contractor information identified as confidential or proprietary, Contractor has a duty to maintain its confidentiality and prevent unauthorized release. Contractor is permitted to use, copy, and disclose confidential information to Contractor's employees and subcontractors only as necessary to fulfill Contractor's obligations.
- 17.2.2 *Contractor's Confidential Information.* If TCEQ receives a request for information that Contractor submitted to TCEQ in response to a request for a bid, proposal, qualification or other solicitation or provided during or after the term of the Contract and Contractor has identified the information as business confidential or proprietary, TCEQ will timely notify Contractor of the request. Contractor may submit arguments to the Texas Office of the Attorney General if it believes the information should not be released. TCEQ will not submit arguments on behalf of Contractor and will not release the information unless ordered to do so by the Attorney General. Information contained in this Contract and vouchers, communications, and other information sent between TCEQ and

Contractor related to the performance of this Contract or work performed on behalf of TCEQ is considered public information under § 552.1101(b) of the Texas Government Code regardless of whether Contractor identifies it as being confidential.

- 17.3 *Publicity.* Contractor may not participate in any media event or issue any media release, publication, editorial, or article that pertains to the Work without prior written approval of TCEQ.
- 17.4 *Endorsement of Contractor.* Contractor shall not state or imply that TCEQ endorses or recommends its services, goods, or property. Contractor may not use any TCEQ logo or trademark or the likenesses of TCEQ employees in sales brochures, press releases, or other promotions, unless prior approval is obtained from the TCEQ External Relations Division.

18. OTHER LIABILITIES

- 18.1 No employee, officer, director or agent of TCEQ assumes personal liability by signing this Contract or by reason of default in the performance of any of the Contract.

19. TIME DELAYS, SUSPENSION

- 19.1 *Time is of the Essence.* Contractor's timely performance is essential to this Contract.
- 19.2 *Suspension.* TCEQ may suspend all or part of the Work at any time, for any reason. Contractor shall resume performance within ten days of receipt from TCEQ of a notice to resume. If Contractor's performance is delayed by TCEQ, Contractor's sole remedy is an extension of the schedule for the delivery of the Work. TCEQ may extend the Contract Period to accommodate an extension of the schedule for the delivery of the Work.
- 19.3 *Force Majeure.* Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, or other causes that are beyond the reasonable control of either party, could not reasonably be foreseen, and by the exercise of all reasonable due diligence, is unable to be overcome by either party. Neither party shall be liable to the other for any failure or delay of performance of any requirement included in the contract caused by force majeure. Upon timely notice by the non-performing party, the time for performance shall be extended for a reasonable period after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. The non-performing party must provide evidence of any failure resulting in impossibility to perform.
- 19.4 *Disaster Recovery.* Contractor shall maintain a business continuity plan designed to enable Contractor to recover normal business operations and data within seventy-two hours of any declared disaster or force majeure event.

20. TERMINATION

- 20.1 *Termination for Cause.* If Contractor fails to perform a material obligation, stops Work, or becomes insolvent, TCEQ may give notice of breach of contract. Within ten days of the notice, Contractor must attempt to cure the breach or demonstrate that a breach has not occurred. If Contractor does not cure the breach or demonstrate that a breach has not occurred, TCEQ may terminate the Contract for cause by notice. A material obligation includes delivery of Conforming Work on schedule for the agreed prices, maintaining and providing

evidence of required insurance coverage, compliance with HUB requirements, and integrity in dealing with TCEQ.

- 20.2 *Termination for Convenience.* TCEQ may terminate this Contract without cause by giving ten days' prior notice of termination for convenience. Upon receipt of the notice, Contractor shall promptly stop all Work except as specified in the notice of termination. Contractor's exclusive remedy is payment for goods, services and property ordered, delivered and not rejected by TCEQ. TCEQ shall not be liable for anticipated profits, unabsorbed overhead, interest on borrowing, or other damages not specifically stated in this Contract.
- 20.3 *Debarment.* If Contractor is debarred by the State of Texas or it or any of its officers, directors, owners, partners, or primary managers or supervisors is subject to suspension, debarment, exclusion, disqualification, or similar ineligibility determined by any federal, state or local government entity, the Contractor must immediately notify TCEQ and TCEQ may terminate this contract for cause.
- 20.4 *Hazardous Waste Violations.* If Contractor is adjudicated of having committed substantive, non-clerical violations resulting in an actual release of hazardous waste that presented an imminent and substantial danger to the public health and safety or the environment, Contractor will immediately notify TCEQ and TCEQ may terminate this Contract for cause.
- 20.5 *Termination for Noncompliance.* If Contractor knowingly or intentionally fails to comply with a requirement under Subchapter J, Chapter 552, Texas Government Code, and, after notice and opportunity to cure, TCEQ determines that Contractor has not taken adequate steps to ensure future compliance, TCEQ may terminate this Contract without further obligation to Contractor.

21. REMEDIES

- 21.1 *Right of Set-off.* In addition to other remedies available under the Contract or in law or equity, TCEQ or the Comptroller may set-off the State's good faith claims, whether or not adjudicated, against a Contractor's claim for payment.
- 21.2 *Schedule of Remedies Available to TCEQ.* In accordance with Texas Government Code Chapter 2261, the following Schedule of Remedies applies to this Contract. In the event of Contractor's nonconforming performance, TCEQ may:
 - 21.2.1. Issue notice of nonconforming performance;
 - 21.2.2. Reject nonconforming performance and request corrections without charge to TCEQ;
 - 21.2.3. Accept (subject to limitations on TCEQ acceptance) late performance, nonconforming performance, or correction of nonconforming performance and make payment therefore, with or without a set-off to cover damages, even if such performance is tendered after the end date of the Contract;
 - 21.2.4. Reject a payment request and/or suspend further payments pending acceptable revision of the nonconformity;
 - 21.2.5. Suspend all or part of the Work and/or payments pending accepted revision of the nonconformity;
 - 21.2.6. Demand restitution and recover payments where performance is subsequently found nonconforming;

- 21.2.7. Recover all actual damages incurred by TCEQ, including costs of delay, costs of securing a replacement contractor, reasonable attorney's fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate;
- 21.2.8. Terminate the Contract without further obligation for payment;
- 21.2.9. File a cause of action for specific performance, rescission, damages and other relief as appropriate; and/or
- 21.2.10. Award the Contract to another entity.

21.3 Cumulative Remedies. The rights and remedies provided to TCEQ in this Contract are in addition to, and do not limit, any rights and remedies available under state or federal law.

22. DISPUTES; CLAIMS

- 22.1 *Continuing the Work.* Except as expressly permitted by law, Contractor must not delay or stop Work because of a dispute or disagreement with TCEQ.
- 22.2 *Dispute Resolution Process.* TCEQ and Contractor shall use the dispute resolution process provided for in Texas Government Code Chapter 2260 to attempt to resolve all disputes arising under the Contract. The rules of TCEQ found in 30 TAC Chapter 11, Subchapter D, describe the requirements for filing a notice of claim, conducting negotiations, and requesting a hearing.

23. MISCELLANEOUS PROVISIONS

- 23.1 *Severability of Provisions.* If any provision of this Contract is held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remainder of the Contract shall remain in force and shall be construed to conform as closely as possible to the originally-expressed intent of the parties.
- 23.2 *Sovereign Immunity.* This Contract does not waive TCEQ's sovereign immunity or any official immunity to which TCEQ's officers, employees, or agents are entitled under law.
- 23.3 *Relationship of the Parties.* This Contract does not create an employer/employee relationship, agency relationship, partnership, or joint venture. Contractor is an independent contractor in performing the Work. Contractor shall be responsible for all compensation, coverages, claims and taxes of its employees and subcontractors.
- 23.4 *Venue.* Contractor agrees that the Contract is being performed in Travis County, Texas, because this Contract has been solicited, executed, and will be administered in Travis County, Texas. The Contractor agrees that any permissible cause of action involving this contract arises solely in Travis County.
- 23.5 *Third-Party Beneficiaries.* There are no third-party beneficiaries to this Contract.
- 23.6 *Accessibility.* All electronic deliverables must meet State of Texas accessibility requirements in 1 TAC Chapters 206 and 213 effective April 18, 2020.
- 23.7 *Computation of Time.* A period of days is computed as follows: (1) exclude the day of the event that triggers the period; (2) count every day, including Saturdays, Sundays, and legal holidays; (3) include the last day of the period; (4) if the last day is a Saturday, Sunday or legal holiday, the period continues to run until the next business day.

23.8 *Governing Law.* This Contract and any disputes arising out of or related to it will be governed by the laws of the State of Texas, without regard to its choice of law rules and without regard to conflicts of laws principles.

23.9 *Waiver.* With the exception of an express, written waiver in the form of a unilateral amendment signed by TCEQ, no act or omission will constitute a waiver or release of Contractor's obligation to perform Conforming Work. No waiver on one occasion, whether expressed or implied, shall be effective as a waiver for any other occasion.

23.10 *Assignment of Contract Obligations.* No assignment of the obligations, rights or interests in the Contract by Contractor will be binding on TCEQ without its written consent. No assignment will relieve Contractor from its obligations under this Contract.

23.11 *Survival of Obligations.* Except where a different period is specified in this Contract or applicable law, all representations, indemnifications, and warranties made in, required by or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, survive for four years beyond the termination or completion of the Contract, or until four years after the end of a related proceeding. A related proceeding includes any litigation, legal proceeding, permit application, or State Office of Administrative Hearings proceeding, which is brought in relation to the Contract or which in TCEQ's opinion is related to the subject matter of the Contract. Either party shall notify the other of any related proceeding if notice of the proceeding has not been provided directly to that other party.

23.12 *Visits to Work Site.* TCEQ may make a scheduled or unscheduled visit to any location where the Work is being performed.

23.13 *Contractor Performance Evaluations.* TCEQ may prepare written evaluations of Contractor's performance and use its evaluations in the selection criteria for future contracts. Contractor acknowledges that these evaluations are made on a subject in which TCEQ and its officers and employees have an interest or duty, and are made for the purpose of communicating with other persons having a corresponding interest or duty. TCEQ may provide this information to state agencies and others. Contractor consents to disclosure of TCEQ's evaluations to Texas state agencies and others, including submitting CPA's Texas Procurement and Support Services Division vendor performance forms to appropriate state databases.

23.14 *Compliance with Law.* Contractor must comply with all applicable federal, state, and local statutes, regulations, and other laws. Contractor has sole responsibility for obtaining all licenses and permits necessary for the Work, and for giving all notices required by law.

23.15 *Certifications.* Contractor will maintain the status of all certifications made in the solicitation response, including but not limited to, not boycotting Israel during the term of this Contract. Contractor will notify TCEQ of any change to its certifications.

23.16 *Texas Made Products.* In accordance with Texas Government Code, § 2155.4441, in performing this Contract, Contractor must purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside of Texas.

23.17 *Anti-Trust.* Neither the Contractor, nor any firm, corporation, partnership, or institution, represented by the Contractor, or anyone acting for such a firm, corporation or institution has violated or will violate the antitrust laws of this state (Chapter 15 of the Texas Business & Commerce Code) or federal antitrust law. Contractor assigns to TCEQ any and all claims for overcharges associated with this Contract arising under the antitrust laws of the United States and the State of Texas.

23.18 *Security Requirements.* If Contractor accesses, transmits, uses, or stores TCEQ data:

- 1) Contractor shall meet the security controls specified by TCEQ; and
- 2) Contractor must annually provide TCEQ documentation demonstrating that it meets the specified TCEQ security requirements.

23.19 Pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Contractor represents and warrants that it complies with the requirements of the state risk and authorization management program and Contractor agrees that throughout the term of the Contract it shall maintain its certifications and comply with the program requirements in the performance of the Contract.

23.20 *Cybersecurity Training.* Contractor shall ensure that any Contractor representative (employee, officer, or subcontractor personnel) who has Access to a TCEQ Computer System or Database completes a cybersecurity training program certified by the Texas Department of Information Resources (DIR) under § 2054.519 of the Texas Government Code, when the Contract is executed and annually as applicable.

23.20.1 “Access to TCEQ Computer System or Database” means having a TCEQ network user account or the authorization to maintain, modify, or allow access control to any TCEQ web page, TCEQ computer system, or TCEQ database.

23.20.2 Within seven (7) days after the execution of the Contract, the Contractor shall provide a list of persons requiring training to the TCEQ Contract Manager, and thereafter provide an updated list by the first workday of any additional person who becomes subject to the cybersecurity training requirements. For applicable umbrella contracts, Contractor shall provide a list of any persons requiring training within seven (7) days of issuance of Notice to Proceed/Commence for any Work Order that requires Access to a TCEQ Computer System or Database.

23.20.3 If a Contractor representative has previously completed a DIR-certified cybersecurity training during a State of Texas fiscal year in which the Contract is effective, Contractor shall provide evidence that the Contractor representative completed the required training to the TCEQ Contract Manager within seven (7) days after the execution of the Contract or as applicable, the issuance of a Notice to Proceed/Commence for any Work Order that requires Access to a TCEQ Computer System or Database.

23.20.4 For Contracts that have contract periods that continue beyond August 31st of the State of Texas fiscal year in which they are entered, all persons performing Work under the Contract shall take cybersecurity training each fiscal year that the Contract remains effective. By

August 1st each year, the Contractor must provide to the TCEQ Contract Manager a list of persons that must complete cybersecurity training during the upcoming State of Texas Fiscal Year by September 30th, the Contractor representative must complete the training and the Contractor must provide evidence that the training was completed. Contractor also shall retain the evidence that the training was successfully completed.

23.20.5 TCEQ will provide access to the cybersecurity training program. Contractor is responsible for all other costs associated with their representatives completing the training, including time spent completing the training.

23.20.6 Contractor shall notify the TCEQ Contract Manager within two (2) business days when a person with Access to a TCEQ Computer System or Database no longer needs Access to such Computer System or Database.

23.20.7 TCEQ may terminate the Contract for Cause if Contractor fails to adhere to any of the above terms, including completing the required certified cybersecurity training or notifying the TCEQ Contract Manager when access is no longer needed.

23.20.8 TCEQ may terminate the Contract for Cause if a Contractor representative misuses a TCEQ Computer System or Database, including allowing multiple individuals to utilize a single individual's TCEQ network user account.

23.21 *Prohibited Technologies.* Contractor certifies that Prohibited Technologies will not be used on any of Contractor's or its employees', contractors', and subcontractors' devices including personally-owned devices, if those devices are used to access state-owned data or information systems. These devices include cell phones, tablets, desktop and laptop computers, and other internet-capable devices. "Prohibited Technologies" refers to software, applications, technologies, hardware, and equipment, and any of the aforementioned items made by the developers or manufacturers on the Prohibited Technologies list located on the Texas Department of Information Resources' website at: <https://dir.texas.gov/information-security/prohibited-technologies>. In addition to the DIR list, TCEQ in its sole discretion may designate additional prohibited technologies.

INSURANCE SECTION

INSURANCE SECTION

1. **GENERAL.** Contractor shall purchase and maintain sufficient insurance as appropriate for the Work being performed and furnished, and for protection from any and all claims that may arise out of or result from Contractor's performance and furnishing of the Work and Contractor's other obligations under the Contract Documents. Contractor's insurance shall meet or exceed the requirements set forth in this section or elsewhere in the Contract Documents.
2. **COVERAGES REQUIRED.** Contractor shall obtain and maintain throughout the Contract term the minimum insurance coverages listed below:
 - 2.1 *Worker's Compensation Insurance:* Coverage to secure the payment of compensation to injured employees as defined in the Texas Worker's Compensation Act.
 - 2.2 *Commercial Automobile Liability Insurance:* Coverage in the following minimum amounts for owned, hired, and non-owned vehicles for claims of automobile bodily injury and property damage which may arise in the performance of the Contract:
 - \$500,000 per person; and
 - \$1,500,000 per occurrence if the policy is issued for bodily injury and property damage combined.
 - 2.3 *Commercial General Liability Insurance:* Coverage for claims of personal injury and bodily injury, including accidental death, and property damage which may arise from the performance of the contract. The types of coverage required are: Blanket, Broad Form Property Damage, Premises and Operations Hazards, Products and Completed Operations Hazards, Independent Contractor's, and Contractual Liability (including covering all of the Contractor's indemnity obligations under this Contract).in the minimum amounts of:
 - \$1,000,000 per occurrence for bodily injury; and
 - \$1,000,000 per occurrence for property damage; or
 - \$2,000,000 per occurrence if the policy is issued for bodily injury and property damage combined.
 - 2.4 *Umbrella Liability Insurance:* Additional coverage for all liability policies required for this Contract (excluding Worker's Compensation Insurance, which is not liability insurance) in an amount not less than \$1,000,000 in the aggregate.
 - 2.5 *Requirements for Subcontractors:*

Contractor shall require in writing that all Subcontractors performing Work under this Contract shall obtain insurance which will protect the TCEQ and its employees from the risks associated with the Work performed under the Contract. Required insurance for Subcontractors shall include Workers Compensation in accordance with Section 2.1 above. Before any Subcontractor enters the TCEQ facility, Contractor shall provide TCEQ with a certificate of insurance for the Subcontractor showing coverage for Workers Compensation in accordance with Section 2.1.

If any subcontractor or supplier fails to obtain such insurance or the subcontractor's or supplier's insurance expires or is no longer available for any reason, the Contractor shall provide insurance coverage for the subcontractor or supplier, or shall indemnify the subcontractor or supplier against claims related to the Work.

3. **INSURER REQUIREMENTS.** The Contractor will obtain all required policies from insurers licensed, eligible, or registered under Texas law to issue insurance policies for the limits and coverage required and the insurers must have a rating of A- or better and a financial size capacity of IV or better according to the most recent A.M. Best Ratings Guide.
4. **NOTICES OF CHANGE.** The Contractor's insurance policies must require the insurer or the insurer's authorized agent to notify TCEQ of any cancellation, or material change, other than for non-payment, at least 30 days in advance. The Contractor's insurance policy must require the insurer or the insurer's authorized agent to notify TCEQ of any cancellation or material change due to non-payment at least 10 days in advance. These notices of changes must reference the TCEQ contract number and be made in writing by email to the TCEQ Contract Manager at the address shown in the current NOTICES, PROJECT REPRESENTATIVES, AND RECORDS LOCATION form. This provision does not relieve Contractor of its own requirements to notify TCEQ of any changes during the period of the Contract Term.
5. **INSURANCE CERTIFICATE.** Contractor shall provide TCEQ with evidence of the insurance coverage required under this Contract. The evidence of the coverage shall be a certificate of insurance on a form approved by the Texas Department of Insurance. Contractor will submit the certificate to the TCEQ Contract Manager no later than ten days after award of the Contract, or as directed by the Special Terms and Conditions. Prior to the expiration of any insurance coverages during the term of the Contract, Contractor will submit a certificate evidencing renewed or new insurance policies. Certificates must bear the contract number of this Contract. If Contractor changes insurers, Contractor shall provide the TCEQ Contract Manager with a new certificate of insurance within ten days. The certificate of insurance shall set out any deductible or self-insured retention amounts for each coverage required.

TCEQ's approval, disapproval, or failure to act regarding any insurance required to be supplied by the Contractor will not relieve the Contractor of full responsibility for liability for damages, injury, death, or loss as set forth herein or otherwise provided by law or regulations.

6. **REQUIRED ADDITIONAL PROVISIONS.** All policies of insurance shall include the following provisions:
 - 6.1 TCEQ and its officers and employees are named additional insureds to the *Commercial General Liability Insurance, Excess Liability Insurance (Umbrella)*, and Excess Liability Insurance (Other than Umbrella), including for completed operations, except for the Professional Liability Insurance;
 - 6.2 Waiver of subrogation in favor of TCEQ, its officers and employees for bodily injury (including death), property damage, or any other loss arising from this Contract, except for the Professional Liability Insurance; and

6.3 The Contractor's insurance is primary insurance with respect to the TCEQ and its officers and employees.

7. **SELF-INSURANCE AND DEDUCTIBLES.** Contractor must obtain TCEQ's prior written approval to self-insure or to maintain the required insurance subject to deductibles and/or retentions that exceed Fifty Thousand Dollars (\$50,000). Policies required under this Article or elsewhere in the Contract Documents must not include provisions to the effect that payment of claims up to the limits of the policy are conditioned on the actual payment of a deductible or Self-Insured Retention (SIR) by Contractor.

As a condition of granting approval to retain deductibles or SIRs above Fifty Thousand Dollars (\$50,000) TCEQ may require additional financial assurance in the form of an irrevocable letter of credit, the establishment of an escrow account, or other financial instrument acceptable to TCEQ.

(End of Insurance Section)

NOTICES, PROJECT REPRESENTATIVES, AND RECORDS LOCATION

NOTICES, PROJECT REPRESENTATIVES, AND RECORDS LOCATION

Contract Number: 582-26-00027

Contract Name: Continuous Air Monitoring Station
for Midland Region

- Representatives:** The individual(s) named below are the representatives of the Texas Commission on Environmental Quality (TCEQ) and Contractor. They are authorized to give and receive communications and directions on behalf of the TCEQ and Contractor as indicated below. All communications including official contract notices must be addressed to the appropriate representative or his or her designee.
- Changes in Information:** Either party may change its information in this document by providing notice to the other party's representative for contractual matters.
- TCEQ Representatives:**

TCEQ Contract Manager
(for Contractual matters)

Paushiana Madison
Business & Financial Services Section MC - 165

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
Telephone No.: (512) 239-1828
Email Address:
Paushiana.Madison@tceq.texas.gov

TCEQ Project Manager
(for Technical matters)

Myrah Urquidez
Network Operations Section MC - 165

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
Telephone No.: (512) 239-1722
Email Address:
Myrah.Urquidez@tceq.texas.gov

- Contractor Representatives.**
(for Contractual Matters)

(Name)

(Title)

(Mailing Address)

(City) (State) (Zip Code)

Telephone No.: (—) — - —

(Email address)

(Name)

(Title)

(Mailing Address)

(City) (State) (Zip Code)

Telephone No.: (—) — - —

(Email address)

- Invoice Submittal.** Invoices must be submitted to the TCEQ Project Manager.

6. **Designated Location for Records Access and Review.** Contractor designates the physical location indicated below for record access and review pursuant to any applicable provision of this contract:

(Physical Location Address Line 1)

(Physical Location Address Line 2)

(City)

(State)

(Zip Code)

ATTACHMENT A:

CONTRACT RELEASE OF CLAIMS

(Must be returned with last invoice per General Term and Condition Section 7.8)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Conditional Final Waiver and Release of Claims

Upon receipt and clearance of payment from the Texas Commission on Environmental Quality (TCEQ) in the sum of \$ _____, which constitutes final payment to Contractor's Name (hereinafter referred to as "Contractor"), Contractor and its successors and assigns, release, discharge and relinquish the TCEQ, its officers, agents, and employees from all claims, known or unknown, arising out of or relating to TCEQ Contract Number 582-26-00027 (Contract).

In consideration of payment of such funds, Contractor releases any and all liens related to the Contract and waives any right it may have to place liens related to the Contract. It is expressly agreed and understood that this conditional FINAL waiver and release of all claims is effective, without any further action of any party, only upon clearance of final payment to Contractor in the above-mentioned amount. Contractor warrants that it has completed all Work described in the Contract.

Executed on this _____ day of _____, 20____.

By: _____
(signature)

(name)

(title)

SECTION 4:

RESPONSE DOCUMENTS

Fill out and Submit with Response

RESPONDER'S SIGNATURE AND INFORMATION

(Failure to sign below will disqualify your Response.)

Registered Name of Responder: _____
D/B/A _____

Company Address: _____

Vendor ID Number (VID/Texas Identification Number): _____

The ID number is the payee identification number assigned and used by the Comptroller of Public Accounts of Texas to process payment for goods/services.

If the Responder does not have a Vendor ID Number, provide the Federal Employers Identification Number (EIN). If Responder lacks a Federal EIN, provide the Responder's Social Security Number.

***Note: If providing a Social Security Number or an EIN that contains a full or partial social security number, provide the EIN or Social Security Number behind Tab CONFIDENTIAL.

Federal Employers Identification Number (EIN): _____

Unique Entity Identifier Number, if applicable: _____

Printed Name and Title of individual authorized to bind Responder to this Response:

Authorized Signature: _____

Date of Signature: _____

Your signature binds you to everything in the Solicitation and your Response, including the Certifications and your completed HUB Subcontracting Plan. By signing, you also affirm that everything in your Response is complete, true, and accurate.

Name of Responder Representative to contact regarding this Response:

Title of Representative: _____

Telephone Number: _____

Email Address: _____

Pursuant to Texas Family Code § 231.006(c), regarding child support, Responses must include names and Social Security Numbers of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the Response. See Responder's Certifications for additional information. Check one of the following:

- This provision applies, and the required information is submitted behind Tab CONFIDENTIAL in the Response.
- This provision does not apply.

RESPONSE CONTENTS

Response must be organized with the designated index tabs and in the designated order. If the item for a tab is not applicable to the Response, insert a page marked "Not Applicable" behind the tab.

TAB CONFIDENTIAL	Confidential Information (including Social Security Numbers) (if applicable)
TAB 1	Authorized Signature and Information <ul style="list-style-type: none">• Responder's Signature and Information• Signed Cover Pages of Addenda
TAB 2	Executive Summary
TAB 3	Demonstrated Ability to Perform the Contract
TAB 4	Commitment of Qualified Personnel
TAB 5	Technical Approach
TAB 6	Cost to Perform the Service (Price Form)
TAB 7	Additional Response Forms <ul style="list-style-type: none">• Preferences• HUB Subcontracting Plan Forms (if applicable)• Federal Forms<ul style="list-style-type: none">○ DBE Program Subcontractor Utilization Form, if required○ DBE Program Subcontractor Performance Form, if required○ Disclosure of Lobbying Activities, if required
TAB 8	Other (May be used to include information that does not fall under another designated Tab, to explain a Certification you cannot make, or disclose a conflict of interest.)

RESPONDER'S CERTIFICATIONS

By signing and submitting its Response, Responder certifies each of the numbered statements below. If Responder cannot affirm any of the certifications, please provide the facts that prevent Responder from making the certification in Tab 8. These certifications are part of the Response and any resulting Contract. False certifications may lead to disqualification of the Response or to contract remedies, such as termination for cause, and other administrative and criminal penalties.

1. Responder has not given or offered, and does not intend to give or offer, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service or other thing of value to a public servant in connection with its Response.
2. Responder has disclosed in Tab 8 any known financial interest of, or foreseeable financial benefit to, any TCEQ commissioner, executive director, deputy executive director, general counsel or chief procurement officer, and their family members, as defined by Section 2261.252, Government Code. Responder has disclosed any proposed personnel who are related to any current employees of TCEQ.
3. Responder represents that no person who served as an executive head of TCEQ, in the past four years ending on the date of the Response, was involved with or has any interest in this Response. If Responder employs or has used the services of a former executive head of TCEQ or any other state agency during the four years ending on the date of the Response, then Responder shall provide the following information in the Response: name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with Responder, and the date of employment with Responder.
4. Responder represents and warrants that it and its representatives are not in violation of Texas Government Code Section 572.054, which covers revolving door prohibitions on former employees of state agencies working on the same particular matter.
5. Responder represents and warrants that it and its representatives are not in violation of Texas Government Code Section 2252.901, which places a one-year restriction on former or retired employees from entering an employment contract, professional services contract, or consulting services contract directly with the agency, if appropriated funds will be used to fund the contract.
6. Responder represents and warrants that its employees are not barred from accepting employment from the Responder by Texas Government Code Section 572.069, which covers employees who participate in procurements or contract negotiations on behalf of a state agency.
7. Neither Responder nor any of its officers, directors, owners, partners, or primary managers or supervisors is subject to suspension, debarment, exclusion, disqualification, or similar ineligibility determined by any federal, state or local government entity.
8. The Response does not include financial participation by any individual or entity that was compensated for preparation of the specifications or request for

proposal. In accordance with Section 2155.004 of the Texas Government Code, the Responder certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

9. Neither the Responder, nor the firm, corporation, partnership, or institution, represented by the Responder, or anyone acting for such a firm, corporation or institution has (1) violated the antitrust laws of this state (Chapter 15 of the Texas Business & Commerce Code) or federal antitrust law, or (2) communicated its Response, directly or indirectly, to any competitor or any other person engaged in the same line of business. Responder, or anyone acting for such a firm, has also not received information about any other Response to this Solicitation.
10. No individual who is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent of Responder is a child support obligor who is more than 30 days delinquent in paying child support. In accordance with Section 231.006, of the Texas Family Code, the Responder certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract [if any] may be terminated and payment may be withheld if this certification is inaccurate, in addition to other remedies set out in 231.006(f) of the Texas Family Code.
11. The Response does not include proposed financial participation by any person who, during the five-year period preceding the date of the Response submittal and the date of Contract award, if any, has been convicted of violating a federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of any disaster occurring on or after September 24, 2005, including Hurricane Rita and Hurricane Katrina. In accordance with Sections 2155.006 and 2261.053 of the Texas Government Code, the Responder certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract, if any, may be terminated and payment withheld if this certification is inaccurate. Signature on the Contract (if any) indicates that the Contract does not include financial participation by any person who, during the five-year period preceding the date of the Contract award, has been convicted of violations listed above.
12. The Responder has not been adjudicated during the preceding three-year period to have committed substantive, non-clerical violations resulting in an actual release of hazardous waste that presented an imminent and substantial danger to the public health and safety or the environment.
13. Responder, nor any of its officers, has been adjudicated by a court of law to have violated the Texas Deceptive Trade Practices Act.
14. If Responder gives a Texas address for itself, that address is Responder's legal business address, and Responder qualifies as a Texas Bidder, meaning that Responder is either incorporated in Texas, has its principal place of business in Texas, or has an established physical presence in Texas.

15. Non-boycotting of Israel. If the Responder is required to make a certification pursuant to Section 2271.001 of the Texas Government Code, the Responder verifies that it does not boycott Israel and will not boycott Israel during the term of the contract. If Responder is exempt from this provision, Responder must provide supporting information in Tab 8.
16. In accordance with Chapter 2252, Subchapter F and Chapter 2270 of the Texas Government Code, Responder represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization and that it is not identified on the lists prepared and maintained under Sections 2252.153, 2270.0153, or 2270.0201 of the Texas Government Code. A company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or to a foreign terrorist organization, is not subject to contract prohibition under this clause. A company claiming such exemption must submit the official copy of the declaration.
17. Pursuant to Executive Order No. GA-43 relating to products from the Gaza Strip issued by Governor Abbott on October 9, 2023, Responder certifies that none of the goods to be supplied under any resulting Contract are produced in or exported from the Gaza Strip, or are from any organization or state actor with ties to Hamas.
18. Responder certifies that it is not listed in the prohibited vendors lists 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.
19. Responder acknowledges that TCEQ is required by law to post on its public website information about this Solicitation and any awarded Contract. Responder acknowledges its Response is subject to disclosure pursuant to the Texas Public Information Act, and it is Responder's obligation to conspicuously mark each and every page of information that is business confidential or proprietary. Responder must place all Personal Identifying Information (PII) and Sensitive Personal Information (SPI) information, including Social Security Numbers, behind **TAB CONFIDENTIAL**. *See [Texas Business & Commerce Code § 521.002\(a\)\(1\), \(2\)](#)* for relevant definitions.
20. Abortion Funding Limitation. Contractor represents and warrants that payments made by TCEQ to Contractor and Contractor's receipt of appropriated funds under the Contract are not prohibited by Article IX, Section 6.24 of the General Appropriations Act, nor by Texas Government Code Chapter 2273 *Prohibited Transactions*.
21. Human Trafficking Prohibition. In accordance with Texas Government Code Section 2155.0061 of the Texas Government Code, Responder certifies that any individual(s) and/or business entity(ies) named in this Response are not ineligible to receive the specified contract and acknowledge that this contract may be terminated and payment withheld if this certification is inaccurate.
22. Critical Infrastructure. Pursuant to Section 2275.0102 of the Texas Government Code, Responder certifies that neither it, nor its wholly owned subsidiary, majority-owned subsidiary, parent company, nor any affiliate of those entities or

business associations, is: (1) majority owned, held, or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor as a threat to critical infrastructure under Government Code Section 2275.0103, or (2) headquartered in any of those countries. The term “affiliate” includes subcontractors.

23. Pursuant to Executive Order No. GA-48 relating to the hardening of state government issued by Governor Abbott on November 19, 2024, Responder certifies that neither it, nor any of its holding companies or subsidiaries are:

- Listed in or covered by Section 889 of the 2019 National Defense Authorization Act (NDAA);
- Listed in Section 1260H of the 2021 NDAA;
- Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or
- Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

24. Non-boycotting of Energy Companies. If Responder is required to make a verification pursuant to Section 2276.002 of the Texas Government Code, Responder verifies that it does not, and will not for the duration of the contract, boycott energy companies. If Responder is exempt from this provision, Responder must provide supporting information in Tab 8.

25. No Discrimination Against Firearm Entities. If Responder is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Responder verifies that it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association. If Responder is exempt from this provision, Responder must provide supporting information in Tab 8.

26. COVID-19 Vaccine Passport Prohibition. Under § 161.0085 of the Texas Health and Safety Code, Responder certifies that it is not ineligible to receive the Contract [if any] and will maintain this certification throughout the term of the Contract.

If any of these certifications change between submittal of the Response and award of a contract or cancellation of the Solicitation, Responder will promptly notify TCEQ.

EXECUTIVE SUMMARY

Responder must submit its Executive Summary behind **Tab 2**. Use the outline and format prescribed in Preparation of Responses in the Responder General Instructions in Section 1 and the Evaluation Criteria in Section 2.

DEMONSTRATED ABILITY TO PERFORM THE CONTRACT

Responder must submit its Statement of Qualifications behind **Tab 3**. Use the outline and format prescribed in Preparation of Responses instructions in Section 1 and the Evaluation Criteria in Section 2.

COMMITMENT OF QUALIFIED PERSONNEL

Responder must submit its Statement of Qualifications behind **Tab 4**. Use the outline and format prescribed in Preparation of Responses instructions in Section 1 and the Evaluation Criteria in Section 2.

TECHNICAL APPROACH

Responder must submit its Technical Approach behind **Tab 5**. Use the outline and format prescribed in Preparation of Responses instructions in Section 1 and the Evaluation Criteria in Section 2.

COST TO PERFORM THE SERVICE (PRICE FORM)

Responder must submit its Price Form behind **Tab 6**.

Contractor will use the Scope of Work, above, to complete this price form by filling in the **UNIT PRICE** and **EXTENDED PRICE** cells using the example **ESTIMATED UNIT QUANTITY** provided. The Contractor's **UNIT PRICE** should be all-inclusive and account for travel time, necessary supplies (except those expressly provided by TCEQ) and any other expenses the Contractor anticipates using to satisfy the requirements of this Contract.

ITEM	TASK DESCRIPTION	UNIT	ESTIMATED UNIT QUANTITY	UNIT PRICE	EXTENDED PRICE
1	Operate and maintain the following equipment located at the TCEQ air monitoring site at 1218 North Midway Road, Big Spring, Texas, 79720: 1. SO ₂ Analyzer, 2. A meteorological tower and ancillary equipment	Month	12		
2	Operate and maintain the following equipment located at the TCEQ air monitoring site near Barrett & Monahans Streets, Odessa, Texas, 79761: 1. VOC Canister - 1/6 days 2. A meteorological tower and ancillary equipment	Month	12		
3	Operate and maintain the following equipment located at the TCEQ air monitoring site at 2700 Disney, Odessa, Texas, 79761: 1. PM _{2.5} continuous monitor 2. A meteorological tower and ancillary equipment	Month	12		
4	Operate and maintain the following equipment located at the TCEQ air monitoring site 11695 West Westmark Street, Odessa, Texas, 79794: 1. H ₂ S analyzer 2. SO ₂ analyzer 3. A meteorological tower and ancillary equipment	Month	12		

5	Operate and maintain the following equipment located at the TCEQ air monitoring site 520 North Goldsmith Street, Goldsmith, Texas, 79741: 1. H ₂ S analyzer 2. SO ₂ analyzer 3. A meteorological tower and ancillary equipment	Month	12		
6	Operate and maintain the following equipment located at the TCEQ air monitoring site 5510-U Avalon Drive Odessa, Texas 79707: 1. H ₂ S analyzer 2. SO ₂ analyzer 3. A meteorological Tower and ancillary equipment	Month	12		

PREFERENCES

Identify the preferences for which Responder qualifies.

Not all preferences apply to all procurements. Preferences may not apply to procurements of scientific and technical services. Texas Water Code § 5.2291. Texas bidder preferences may not apply to contracts with financial support from federal agencies. *See 2 CFR § 200.319(b)*. For more information about preferences, see the State of Texas Procurement Manual.

Tie bid preferences (Tex. Gov. Code 2155.444):

- Goods or services produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
- Texas vegetation native to the region, for landscaping
- Agricultural products grown in Texas
- Agricultural products offered by a Texas bidder
- Non-agricultural goods produced in Texas or offered by a Texas bidder that is not 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
- USA-produced supplies, materials or equipment

Specification preferences:

- Products made of recycled, remanufactured, or environmentally sensitive materials (Tex. Gov. Code 2155.445)
- Energy-efficient products (Tex. Gov. Code 2155.442)
- Rubberized asphalt paving material (Tex. Gov. Code 2155.443)
- Recycled motor oil and lubricants (Tex. Gov. Code 2155.447)
- Recycled paper products (Tex. Gov. Code 2155.448(a))
- Foods of higher nutritional value, for public cafeterias (Tex. Gov. Code 2155.452)
- Manufacturers that recycle or reuse computer equipment made by other manufacturers (Tex. Health and Safety Code 361.965(d))

Source preferences:

- Products produced at facilities located on formerly contaminated property (Tex. Gov. Code 2155.450)
- Products and services from economically depressed or blighted areas (Tex. Gov. Code 2155.449, 2306.004)
- Vendors that meet or exceed air quality standards (Tex. Gov. Code 2155.451)
- Products made by persons with disabilities (Tex. Gov. Code 2155.441)
- Products made by Texas Correctional Industries (Tex. Gov. Code Ch. 497)

HUB SUBCONTRACTING PLAN



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

► **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**

- Section 1 - Respondent and Requisition Information
- Section 2 a. - Yes, I will be subcontracting portions of the contract.
- Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
- Section 2 c. - Yes
- Section 4 - Affirmation
- GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

► **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**

- Section 1 - Respondent and Requisition Information
- Section 2 a. - Yes, I will be subcontracting portions of the contract.
- Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- Section 2 c. - No
- Section 2 d. - Yes
- Section 4 - Affirmation
- GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

► **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**

- Section 1 - Respondent and Requisition Information
- Section 2 a. - Yes, I will be subcontracting portions of the contract.
- Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- Section 2 c. - No
- Section 2 d. - No
- Section 4 - Affirmation
- GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.

► **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:**

- Section 1 - Respondent and Requisition Information
- Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
- Section 3 - Self Performing Justification
- Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

-- Agency Special Instructions/Additional Requirements --

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 the 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 the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

The agency-specific Historically Underutilized Business Goal for this *Other Services*, is 26.0%.

An Electronic Format of this form is available on the Texas Comptroller's Website at: comptroller.texas.gov/purchasing/vendor/hub/

FAILURE TO SUBMIT A COMPLETED HUB SUBCONTRACTING PLAN (HSP) WITH THIS SOLICITATION WILL MAKE YOUR PROPOSAL/BID NON-RESPONSIVE, AND IT WILL NOT BE CONSIDERED FOR AN AWARD.

The TCEQ has identified possible HUB subcontracting opportunities related to the type of work being undertaken in this project. This listing is not an inclusive listing. Additional opportunities may be added at the respondent's option and can be referenced on the Statewide Procurement Division (SPD) Commodity Book, Listing by Class, located at commbook.app.cpa.state.tx.us.

The following goods and/or services are possible HUB subcontracting opportunities:

Class Code	Item Code	Description
926	15	Air Quality Monitoring Services

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: _____ Bid Open Date: _____
(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT's SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
	Aggregate percentages of the contract expected to be subcontracted:	%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>).

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract* in place with for more than five (5) years, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT's SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: _____

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature

Printed Name

Title

Date
(mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method A (Attachment A)

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Enter your company's name here:

Requisition #:

IMPORTANT: If you responded “Yes” to **SECTION 2, Items c or d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for each of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

SECTION A-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: **Description:**

SECTION A-2: SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tppasscmbilsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "No" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, continue to SECTION B-4.)
- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			- Yes - No
			- Yes - No
			- Yes - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d. List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		- Yes - No
		- Yes - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%

c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: _____
Point-of-Contact: _____
E-mail Address: _____

State of Texas VID #: _____
Phone #: _____
Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____
Point-of-Contact: _____
Requisition #: _____

Phone #: _____
Bid Open Date: _____
(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____.
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

- Not Applicable

4. Bonding/Insurance Requirements:

- Not Applicable

5. Location to review plans/specifications:

- Not Applicable

FEDERAL FORMS

Instructions on how to fill out Federal Forms:

- 1. Disclosure Regarding Lobbying Forms [NOT ATTACHED]**-If you have lobbying to disclose, please complete the SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES from the federal funding agency and provide it with your Response. If at any time during the course of the contract you have any lobbying to report, you must provide an updated Disclosure of Lobbying Activities form to the TCEQ Contract Manager. Instructions for completing the Disclosure of Lobbying Activities form are available on grants.gov.