



REQUEST FOR QUALIFICATIONS NO. 580-16-RFQ0008

FOR

SERVICES ASSOCIATED TO STUDY BRACKISH AQUIFERS IN TEXAS

Class-Item Code(s): 918/55, 926/52

RESPONSES DUE:

NOVEMBER 24, 2015 12:00 PM

PLEASE NOTE:

This Request for Qualifications No. 580-16-RFQ0008 is revised and supersedes Request for Qualification No. 580-16-RFQ0007 and any other documents.

Texas Water Development Board
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SECTION I - OVERVIEW

1.1 OVERVIEW

The Texas Water Development Board (TWDB) request responses to this Request for Qualifications (RFQ) for the award of Services Contract(s) to conduct studies on six (6) Brackish Aquifers in Texas (hereafter referred to as “Project”). This RFQ is part of a requirement of House Bill 30, 84th Texas Legislative Session, for the TWDB to identify and designate brackish groundwater production zones in the aquifers of the state.

NOTE: Separate Statement of Qualifications (SOQ) is required to be submitted for each of the six (6) Projects as identified in Section II.

1.2 CONTRACT TERM

Service for each Project shall begin upon execution of the Contract. The completion date for three (3) of the Projects shall be August 31, 2016; and the remaining three (3) Projects shall be completed by August 31, 2017. Contract extensions for the studies will NOT be granted. The completion dates are identified in each Project.

NOTE: TWDB reserves the right to award each Project separately.

1.3 COMPENSATION

To be negotiated once the TWDB selects respondent(s) based on qualifications. Failure to arrive at mutually agreeable terms of a contract with the most qualified respondent shall constitute a rejection of the TWDB's offer and may result in subsequent negotiations with the next most qualified respondent. The TWDB reserves the right to reject any or all responses.

1.4 BACKGROUND

Planners and decision makers need reliable estimates of available fresh, brackish, and saline groundwater to better formulate water management strategies. Currently, the basis for determining the amount of brackish groundwater in Texas is decades-old data generated during a 2003 TWDB-funded study (LBG-Guyton, 2003, contract number 2001483395). The study helped lay the foundation for estimating brackish groundwater volumes in the state and documented that brackish groundwater is a tremendous asset in the state's water portfolio. However, the study was by design regional in scope, limited in areal extent, and narrow in its assessment of groundwater quality.

In 2009, the 81st Texas Legislature approved funding to establish the Brackish Resources Aquifer Characterization System (BRACS) program. The goal of the program is to map and characterize the brackish portions of the aquifers in Texas in sufficient detail to provide useful information and data to regional water planning groups and other entities interested in using brackish groundwater for desalination supplies. Since 2009, TWDB has completed three studies: the Pecos Valley Aquifer in West Texas (TWDB Report 382), Gulf Coast Aquifer in a four-county area in the Lower Rio Grande Valley (TWDB Report 383), and the Queen City and Sparta aquifers in part of a two-county area in south-central Texas (TWDB Technical Note 14-1). The TWDB also has two ongoing studies: the Carrizo-Wilcox Aquifer in a nine-county area in south-

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central Texas scheduled for completion in spring 2016 and the Lipan Aquifer in a six-county area in West Texas scheduled for completion in summer 2016.

In 2015, the 84th Texas Legislature passed House Bill 30, directing the TWDB to conduct studies on and report to the legislature on a) four aquifers by December 1, 2016 and b) remaining aquifers in the state by December 1, 2022. This RFQ is for the Projects that require the TWDB to submit a report to the Texas Legislature by December 1, 2016, as well as additional studies. The Projects will also support implementation of House Bill 1232, (84th Texas Legislative Session), which requires mapping of confined and unconfined aquifers in the state by the TWDB.

SECTION II – STATEMENT OF WORK

2.1 DESCRIPTION OF SERVICES

The selected Contractor(s) will provide services, which shall include, but are not limited to, the requirements contained in this RFQ. Services set forth that contain the words “must” or “shall” are mandatory and must be provided as specified with no alterations, modifications or exceptions. Services set forth that contain the words “may” or “can” allow Respondents to offer alternatives to the manner in which the Services are provided. The selected Contractor(s) will provide assistance to the TWDB for activities described below for one or more of the Projects stated within this RFQ.

2.2 SCOPE OF WORK

General Requirements and Resource(s) for all six (6) Projects

To fulfill part of the requirements of House Bill 30, 84th Texas Legislature, 2015, the TWDB is requesting the Contractor to perform the following:

- A. Delineate fresh, brackish, and saline groundwater both vertically and horizontally in the aquifers of the Project areas listed under The Projects.
- B. Use the groundwater salinity classification developed by the U.S. Geological Survey (Winslow and Kister, 1956) to categorize the water delineated. The classification is based on the concentration of total dissolved solids (milligrams per liter) in water and includes the following: fresh (0 to 1,000); slightly saline (1,000 to 3,000); moderately saline (3,000 to 10,000); and very saline (10,000 to 35,000).
- C. Quantify the volume of available fresh, brackish, and saline groundwater.
- D. Delineate potential production areas that are separated by hydrogeologic barriers sufficient to prevent significant impacts to water availability or water quality in any part of the same or other fresh water aquifers. These potential production areas cannot include (a) an aquifer with an average total dissolved solids concentration of more than 1,000 milligrams per liter and which is serving as a significant source of water supply for municipal, domestic, or agricultural purposes, (b) a part of a geologic stratum that is designated or used for wastewater injection through the use of injection or disposal wells permitted under Texas Water Code Chapter 27, and/or (c) areas within the Harris-Galveston Subsidence District and the Fort Bend Subsidence District.

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- E. Meet with TWDB staff to discuss Contractor recommendations of potential production areas and develop a prioritized list of these areas for item 2.2G.
- F. Meet with stakeholders to (1) explain TWDB’s approach in implementing House Bill 30, (2) solicit feedback on what constitutes “significant impact”, and (3) receive general comments concerning implementation of the legislation. *NOTE: Contractor(s) will not be making recommendations to the TWDB to designate brackish groundwater production zones; only the TWDB Executive Administrator will make these recommendations.*
- G. Determine the volume of brackish groundwater that the potential production areas are capable of producing over a 30-year and a 50-year period without causing significant impact to water quality and quantity as described in item 2.2D.
- H. **Resources:** The BRACS Database was developed to store and analyze well data for the completed BRACS studies. TWDB Open-File Report 12-02, Second Edition is a data dictionary for the BRACS Database. It describes the data objects or items in the database for the benefit of the user. In addition, previous and ongoing studies of the Groundwater Availability Modeling program have direct applicability to BRACS studies.
- I. **Project Monitoring:** *At a minimum*, TWDB expects to meet with the Project Team (Contractor Meeting) four (4) times during the Project and conduct at least two (2) stakeholder meetings.
- J. **Contractor Meetings shall include but not limited to:**
- 1) Project initiation; the beginning of the Project.
 - 2) Discussion and approval of Project methodology; date to be determined by the Contractor.
 - 3) Discussion of potential production areas and prioritization for production calculations; date to be determined by the Contractor.
 - 4) Project completion; the end of the Project.
- K. Additional technical meetings may be scheduled either in person, through a webinar, or teleconference venue to discuss Project progress and issues. TWDB staff may periodically visit the Contractor’s work premises to assess progress on the Project.
- L. Detailed monthly progress reports must be submitted to the TWDB outlining progress of the Project and include the original or adjusted schedule and detail how the Project is progressing relative to this yardstick. Project invoices cannot be processed without detailed descriptions of the progress made by tasks. Each of the Project tasks must be described in detail consistent with the budget description. The TWDB expects issues to be reported to the TWDB Project Manager immediately as they appear. Maintaining close coordination with TWDB throughout the Project will be critical.
- M. A draft report documenting the technique(s) and approaches selected by the Contractor for geophysical well log interpretation of aquifer total dissolved solids concentration shall

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be given to TWDB for review at a date determined by the Contractor. The report shall include information on the types of geophysical well logs available in the Project area, how the interpreted total dissolved solids concentration from geophysical well log analysis relates to existing aquifer water chemistry as determined by direct measurements (including specific examples), how the log correction factors are determined, and how the interpretation techniques will be applied across the entire salinity range within the aquifer. TWDB will have up to 10 business days to review the draft report, and the Contractor will schedule a meeting to discuss the techniques.

- N. A meeting to discuss the potential production areas, at a date determined by the Contractor, shall be made prior to the end of the Project. Potential production areas will be prioritized for 30-year and 50-year pumping estimate task with input from stakeholders.
- O. A formal presentation on the results of the Project shall be made to TWDB at the end of each Project.
- P. **Stakeholder Meetings include but not limited to the following:**
- 1) For each Project, formal stakeholder meetings shall be scheduled and held.
 - 2) The first general meeting was held October 26, 2015 from 10:00 am – 12:00pm in room 170 of the Stephen F. Austin Building in Austin, Texas. The general meeting was to explain TWDB’s approach in implementing House Bill 30; solicit feedback on what constitutes “significant impact”, and; receive general comments concerning implementation of the legislation.
 - 3) The second meeting will be held at the end of the Project in the study area to provide information on the results of the Project and to solicit input on the potential production areas.
- Q. TWDB will organize the meetings and invite stakeholders including at a minimum all the groundwater conservation districts within the Project area. The contractor will attend and make a presentation at the second stakeholder meeting.
- R. Any meetings and/or conference calls will be held on regular business days (M - F) during regular business hours (8:00 am – 5:00 pm CT) upon agreed dates and times.

2.3 BRACKISH AQUIFERS

Project No. 1

Project Name: Gulf Coast Aquifer

Project Area: Gulf Coast Aquifer and adjacent strata (Catahoula Formation) that extend from the Texas-Louisiana border to the southern county lines of Brooks, Jim Hogg, and Kenedy counties and from the outcrop areas of these aquifers to the Gulf of Mexico.

Project Timeline: This Project must be completed no later than August 31, 2016.

Contract extensions will not be granted.

Additional resources:

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“Hydrogeochemical evaluation of the Texas Gulf Coast Aquifer system and implications for developing groundwater availability models” (Young and others, 2014, TWDB contract 1148301233),

“Updating the hydrogeologic framework for the northern portion of the Gulf Coast Aquifer” (Young and others, 2012, TWDB contract 1004831113),

“Hydrostratigraphy of the Gulf Coast Aquifer from the Brazos River to the Rio Grande” (Young and others, 2010 TWDB contract 0804830795),

“Groundwater resource evaluation and availability model of the Gulf Coast Aquifer in the Lower Rio Grande Valley of Texas” (Chowdhury and Mace, 2007, TWDB Report 368),

“Groundwater availability model of the central Gulf Coast Aquifer system: numerical simulations through 1999” (Chowdhury and others, 2004),

“Hydrogeology and simulation of groundwater flow and land-surface subsidence in the northern part of the Gulf Coast Aquifer system, Texas, 1891-2009” (Kasmarek, 2013, U.S. Geological Survey Scientific Investigations Report 2012-5154),

An alternative model “Groundwater management area 16 groundwater flow model” (Hutchison and others, 2011) was prepared for the Gulf Coast Aquifer.

TWDB is working on a groundwater model for the Gulf Coast Aquifer in groundwater management areas 15 and 16 scheduled for completion in December 2016.

Project No. 2

Project Name: Blaine Aquifer

Project Area: Blaine Aquifer, extent defined by the TWDB

Project Timeline: This Project must be completed no later than August 31, 2016.

Contract extensions will not be granted.

Additional resources: “Groundwater availability model for the Seymour Aquifer” (Ewing and others, 2004, TWDB contract) that includes Permian formations in layer 2.

Project No. 3

Project Name: Rustler Aquifer

Project Area: Rustler Aquifer, extent defined by the TWDB

Project Timeline: This Project must be completed no later than August 31, 2016.

Contract extensions will not be granted.

Additional resources: “Groundwater availability model report for the Rustler Aquifer” (Ewing and others, 2012 TWDB contract 0904831000)

Project No. 4

Project Name: Trinity Aquifer

Project Area: The northern and southern extent of Trinity Aquifer defined by the TWDB downdip until the total dissolved solids concentration in the aquifer transitions to at least 10,000 milligrams per liter.

Project Timeline: This Project must be completed no later than August 31, 2017.

Contract extensions will not be granted.

Additional Resources:

“Updated groundwater availability model of the northern Trinity and Woodbine Aquifers” (Kelley and others, 2014),

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“Groundwater availability model for the Hill Country portion of the Trinity Aquifer System, Texas” (Jones and others, 2009), and
“Northern Trinity/Woodbine aquifer groundwater availability model” (R.W. Harden and Associates and others, 2004, TWDB contract 2003483483)

Project No. 5

Project Name: Blossom Aquifer

Project Area: Blossom Aquifer extent defined by the TWDB downdip until the groundwater total dissolved solids concentration transitions to at least 10,000 milligrams per liter.

Project Timeline: This Project must be completed no later than August 31, 2017.

Contract extensions will not be granted.

Additional Resources: TWDB Report 307

Project No. 6

Project Name: Nacatoch Aquifer

Project Area: Nacatoch Aquifer extent defined by the TWDB downdip until the groundwater total dissolved solids concentration transitions to at least 10,000 milligrams per liter.

Project Timeline: This Project must be completed no later than August 31, 2017.

Contract extensions will not be granted.

Additional Resources: “Nacatoch Aquifer groundwater availability model” (Beach and others, 2009, TWDB contract 0604830588).

2.4 RESPONSE REQUIREMENTS FOR EVALUATION

Respondents to this RFQ are required to indicate in Section 4.1.B(7)(d) of their response their abilities in the areas listed below (A-L). Please include years of experience, educational degrees and any professional certifications.

- A. General hydrogeology;
- B. Hydrogeology of the Project aquifer;
- C. Interpreting and using geophysical well logs, as applicable to the Project;
- D. Using data from TWDB Groundwater Availability Modeling Projects and other TWDB-contracted studies in the Project area;
- E. Groundwater modeling in order to evaluate potential production areas;
- F. Geographic Information System (GIS) files, use, and metadata documentation;
- G. Communicating with the public;
- H. Technology transfer;
- I. Producing high-quality technical reports;
- J. Using the TWDB BRACS and Groundwater databases;
- K. Contract management including the ability to meet short and strict deadlines within budget; and
- L. Demonstrate their ability to meet Project completion deadlines since there will be no contract extensions.

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SECTION III – DELIVERABLES

3.1 CONTRACT DELIVERABLES

The Contractor shall deliver the following items to the TWDB on the date determined by each Project:

- A. Updated data for the BRACS Database containing all new well records used in the Project.
- B. Copies of water well reports, water quality reports, and geophysical well logs used in the study (unless those reports and logs already exist in the TWDB Groundwater or BRACS databases).
- C. Three-dimensional GIS datasets that delineate groundwater salinity zones using ranges of concentrations of total dissolved solids of 0 to 1,000 milligrams per liter (fresh), 1,000 to 3,000 milligrams per liter (slightly saline), 3,000 to 10,000 milligrams per liter (moderately saline), and 10,000 to 35,000 milligrams per liter (very saline).
- D. Three-dimensional GIS datasets that delineate potential production areas and the estimated volumes of brackish groundwater production in 30- and 50-year timeframes.
- E. A technical report summarizing the study.
- F. All geophysical well logs interpreted for total dissolved solids will be submitted to TWDB and all interpretation data values (input and output) will be documented in table(s) with links to well numbers, log numbers, depths, and names of geological formations in a Microsoft Access database format that can be linked to existing BRACS Database tables. Geophysical well log data obtained for the Project must be non-confidential and submitted in a Tagged Image Format (TIFF) and, if available, Log ASCII Standard (LAS) format. New well control will be added to the BRACS Database with complete attributes. Water quality data will be compatible with the Groundwater Database table design and should include the source of the data.
- G. To develop new and updated maps of the water resources, the Project should use current information from a variety of non-proprietary databases and geophysical log repositories that are publicly available.
- H. The tools and techniques used for determining the extent and volumes of the required ranges of total dissolved solids in the groundwater shall be thorough, use defensible scientific means and approaches, and shall be documented in the technical report. The technique(s) used to determine if a potential production area is hydrogeologically separated from fresh water aquifers shall be thoroughly documented in the technical report. Each potential production area will be assigned a unique ID, and all production area attributes (ID, volume of brackish groundwater subdivided by salinity classification zones, 30-year and 50-year production calculation estimates) will be recorded in a

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Microsoft Access database table, in supporting GIS files (top, bottom, and lateral extent), and in groundwater modeling files.

- I. The calculated volumes of groundwater within each aquifer and each TWDB-prioritized potential production area will be organized by salinity classification zone, county, groundwater conservation district, and groundwater management area. All GIS data shall be thoroughly documented with metadata including source, field descriptions, and units (as applicable) and use BRACS program-naming conventions and map Projection parameters. Geologic formation top and bottom raster surfaces, net sand raster maps, salinity classification zone top and bottom raster surfaces, proposed production area top and bottom raster surfaces, well control point files, and Project raster snap grid will be submitted to TWDB. All raster surfaces will share the same map Projection and snap grid attributes. TWDB must be able to replicate the volumes estimated and techniques used to determine the extents of each of the salinity classification zones. All potential production area modeling files will be submitted to TWDB.
- J. Training for TWDB staff shall be provided, as needed or requested. Training may include, but not limited to how the volumes were estimated and the techniques used to determine the extents of salinity zones.
- K. All draft and final reports shall be delivered in Microsoft Word and PDF formats. Draft deliverables will be submitted for review and comment by TWDB. These comments must be addressed in the Final Report and a copy of the comments must be incorporated into the final deliverables. Acceptance of the Final Report indicates the successful completion of the Project.
- L. The BRACS program contract data requirements are available on the TWDB website at <http://www.twdb.texas.gov/innovativewater/bracs/projects.asp> and include information on GIS data and map Projection standards, BRACS Database standards, well report and geophysical well log file naming and organization standards, and other useful information.

SECTION IV – GENERAL INFORMATION

4.1 SOQ REQUIREMENTS

- A. **SUBMISSIONS:** The Respondent shall submit one (1) original and six (6) double-sided, single-spaced copies of their SOQ on and one electronic copy for *each Project*; please indicate the Project No. on each response as listed in Section 2.3. You can submit a response for all or one of the Projects. However, a separate response is required for each Project and **MUST** indicate the Project No.:
 - 1) **ORIGINAL:** One (1) complete ORIGINAL response (marked Original) which shall include a copy of the RFQ solicitation document along with the SOQ contents listed in paragraph B, below for each Project. The SOQ pages should be numbered and contain an organized, paginated table of contents corresponding to the section and pages of the response.

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- 2) ELECTRONIC: One Portable Document Format files of the submission on a CD/DVD or USB drive.
- 3) Response may be tab indexed.
- 4) Responses must be delivered to the address noted in the RFQ.
- 5) Responses must be clearly marked **RESPONSE TO RFQ 580-16-RFQ0008**.
- 6) Responses must be complete and comprehensive.

B. CONTENTS: The Respondent shall submit all information listed below, in the order given, separated by labeled and tabbed sheets, as the response to this RFQ. The SOQ will only be considered if all items are submitted as required. Incomplete/late responses to this RFQ will not be considered. NOTE: Since there are six (6) Projects, a separate response for each Project is required and the Project No. **MUST** be indicated. ***You may make copies of any attachments and/or forms in the RFQ for submission purpose ONLY.***

- 1) Section 1: Signed/dated Execution of Response to the Request for Qualifications (SECTION 1)
- 2) Section 2: Company Profile Summary and History, two (2) pages maximum. Response should include the following:
 - a. Legal company name, address, phone number, and legal status (corporation, partnership, joint venture, sole proprietorship)
 - b. Legal name of each participant/potential user(s), their possible involvement with the Project, their phone number, and email address. Also include the contact person(s) information should questions come up regarding the response.
 - c. Name, title, phone number and email address of person submitting the response with the authority to bind the company.
 - d. Describe the general nature of previous work, the number of years in business, size and scope of operation.
- 3) Section 3: Company References - Provide references from a minimum of three (3) customers to whom the Respondent has provided services in the past 36 months similar to the scope of work described in this specification.
- 4) Section 4: Resumes of Individuals - Submit qualifications and experience of Project staff that will be directly involved, at any level, with this Project. ***PLEASE NOTE: Resumes do not count towards the two page maximum listed in Section 2.***
- 5) Section 5: Historically Underutilized Businesses Subcontracting Plan and applicable forms.
- 6) Section 6: Name(s) and Social Security Number(s) of Each Person with at least 25 Percent Ownership of the Business Entity submitting the RFQ (if applicable).
- 7) Section 7: Scope of Work - A detailed Scope of Work (SOW) describing the following:
 - a. Each task, a percent of effort per each task, a proposed time schedule for each task, and the amount of time each team member will spend on the Project. This SOW shall not exceed 20 pages, using Times New Roman 12 font.

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- b. A description of project-monitoring procedures; In addition, the contractor should demonstrate they are able to meet project completion deadlines since there will be no contract extensions.
- c. A description of the project deliverables (reports, plans, or other products that the Board will receive;
- d. Indicate abilities as listed in Section 2.4(A-L).

4.2 RESPONSE COSTS

Respondents are responsible for all costs in the preparation and delivery of their response to this RFQ to TWDB.

4.3 TRAVEL EXPENSES

This contract may include travel throughout the State of Texas to perform the tasks therein. Any and all travel expenses shall be in accordance with the state travel and per diem allowances detailed at <https://fmx.cpa.state.tx.us/fmx/travel/index.php>.

4.4 MEETINGS

Any meetings and/or conference calls will be held on regular business days (M - F) during regular business hours (8:00 am – 5:00 pm CT) upon agreed dates and times.

4.5 SCHEDULE OF EVENTS:

The solicitation process for this RFQ will proceed according to the following schedule:

EVENT DATE (Central Time)	
Issue Request for Qualifications	Tuesday, November 10, 2015
Deadline for Submission of SOW	Tuesday, November 24, 2015 12:00 pm
Expected Date of Award of Contract	January, 2016
Expected Contract Start Date	January, 2016

4.6 REVISIONS TO SCHEDULE

TWDB reserves the right to change the dates in the Schedule of Events above upon written notification to prospective Respondent(s) as an addendum posted on the Electronic State Business Daily.

4.7 INQUIRIES

- A. All inquiries shall be submitted in writing to the attention of TWDB Contract Administration Staff via e-mail to contracts@twdb.texas.gov.
- B. Except as otherwise provided in this Section, upon issuance of this RFQ, other employees and representatives of TWDB will not answer questions or otherwise discuss the contents of this RFQ with any potential Respondent or its representatives. Failure to observe this restriction may result in disqualification of any subsequent RFQ. This restriction does not preclude discussions unrelated to this RFQ.

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4.8 RESPONSE SUBMISSION

- A. All responses must be received and date stamped by TWDB by the deadline listed in the Schedule of Events above. TWDB will NOT accept late submittals.
- B. Responses should be placed in a separate envelope or package and correctly identified with the RFQ number and submittal deadline/RFQ opening date and time. It is Respondent's responsibility to appropriately mark and deliver this response to TWDB by the specified date.
- C. Telephone, facsimile or emailed responses will not be accepted.
- D. Receipt of all addenda, if applicable, to this response should be acknowledged by returning a signed copy of each addendum with the submitted response.

NOTE: Failure to return the required items with the response will result in rejection of your Response. TWDB will not be responsible for locating or securing information that is not included in your Response.

4.9 DELIVERY OF SUBMISSION

Responses may be submitted to TWDB by one of the following methods:

U.S. Postal Service

Texas Water Development Board
Contracting & Purchasing
P.O. Box 13231
Austin, TX 78711-3231

Overnight/Express Mail or Hand Delivery

Texas Water Development Board
1700 North Congress Avenue, 6th Floor
Austin, TX 78701
Hours: 8:00 am to 5:00 pm (CT)

4.10 OPENING

Responses will be opened at 1700 North Congress Avenue, 6th Floor, Austin, TX, at the submittal deadline. Only Respondent's names will be read.

All submitted response's become the property of TWDB after the submittal deadline/opening date. Responses submitted shall constitute an offer for a period of ninety (90) days or until selection is made by TWDB, whichever occurs first.

4.11 EVALUATION AND AWARD

- A. TWDB shall award a Contract to the vendor whose response is most qualified to perform the Statement of Work for the State of Texas.
- B. A committee will be established by TWDB (including TWDB employees) to evaluate the responses.
- C. The evaluation applies to *each* Project, which will be evaluated separately. ***TWDB reserves the right to award each Project separately.***

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The evaluation committee will determine best value by applying the following criteria:

Points Available	Evaluation Criteria
0 – 70	Qualifications and Experience
0 – 90	Technical Approach
0 – 40	Project Organization and Management
0 – 30	Reports and Deliverables
0 – 20	Feasible Approach
250	Total Points Possible

- D. TWDB may, at its discretion, elect to have Respondents provide oral presentations and respond to inquiries from the evaluation committee related to their SOQ.
- E. Past Performance: A Respondent’s past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Gov't Code. Respondents may fail this selection criterion for any of the following conditions:
- 1) A score of less than 90% in the Vendor Performance System;
 - 2) Currently under a Corrective Action Plan through the CPA;
 - 3) Having repeated negative Vendor Performance Reports for the same reason; or
 - 4) Having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.).

Contractor performance information is located on the CPA web site at:
http://comptroller.texas.gov/procurement/prog/vendor_performance/

SECTION V – GENERAL TERMS AND CONDITIONS

5.1 GENERAL TERMS

Any Contract awarded as a result of this RFQ will contain the general terms and conditions provided in this document. Subcontractors must also comply. In addition, any Contract awarded as a result of this RFQ shall be governed, construed, and interpreted under the laws of the State of Texas. The factors listed in Texas Government Code, Title 10, Subtitle D, Section 2155.074, 2155.144, 2156.007, and 2157.003 shall also be considered in making an award when specified. Any legal actions must be filed in Travis County, Texas.

5.2 PATENTS OR COPYRIGHTS

The Contractor agrees to protect the State and TWDB from claims involving infringement of patents or copyrights. TWDB will not consider any RFQ that bears a copyright. RFQ will be subject to the Texas Public Information Act, Texas Government Code, Chapter 552, and may be disclosed to the public upon request. Subject to the Act, Respondents may protect trade and confidential information from public release. Trade secrets or other confidential information,

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submitted as part of a RFQ, shall be clearly marked at each page it appears. Such marking shall be in **boldface type at least 14 point font**.

5.3 CONTRACTOR ASSIGNMENTS

Respondent hereby assigns to TWDB any and all claims for overcharges associated with this Contract arising under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and the antitrust laws of the State of Texas, TEX. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967).

5.4 HISTORICALLY UNDERUTILIZED BUSINESSES SUBCONTRACTING PLAN

It is the policy of TWDB to make a good faith effort to achieve the annual program goals by contracting directly with Historically Underutilized Businesses (HUBs) or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F, and HUB Rules promulgated by the Comptroller of Public Accounts (CPA), 34 TAC, Chapter 20.

HUBs are strongly urged to respond to this RFQ. Under Texas law, state agencies are required to make a good faith effort to assist HUBs in receiving certain percentages of the total value of contract awards. Vendors who meet the qualifications are strongly encouraged to apply for certification as HUBs.

TWDB has determined that subcontracting is probable under any Contract awarded as a result of this RFQ. ALL VENDORS RESPONDING TO THIS RFQ, INCLUDING THOSE THAT ARE HUB CERTIFIED OR THOSE WHO DO NOT PLAN TO SUBCONTRACT, MUST COMPLETE A HUB SUBCONTRACTING PLAN (HSP) IN ACCORDANCE WITH THE STATE'S POLICY ON UTILIZATION OF HUBs. THE HSP MUST BE INCLUDED AS PART OF THE RFQ TO THIS RFQ. FAILURE TO COMPLETE THE HSP AS INSTRUCTED MAY RESULT IN DISQUALIFICATION OF THE RFQ FROM CONSIDERATION. Please review the HSP forms carefully and allow sufficient time to identify and contact HUBs and allow them to respond. Note that Vendors must demonstrate a good faith effort to contract with new HUBs if currently proposed HUBs have performed as subcontractors to the Vendor for more than five (5) years. If the Vendor does not plan to subcontract, Vendor must state that fact in their plan. An original, signed paper copy of the HSP must be submitted in an envelope that is separate from the rest of the RFQ. The completed plan shall become a part of the contract that may be awarded as a result of this RFQ.

5.5 HUB CONTINUING PERFORMANCE

Any Contract(s) awarded as a result of this RFQ shall include reporting responsibilities related to HUB subcontracting. Awarded Vendors may not change any subcontractor without submitting a revised HUB Subcontracting Plan (HSP) to TWDB. Any change to a subcontractor and revised HSP must be approved in writing by TWDB prior to implementation.

5.6 HUB RESOURCES AVAILABLE

A list of certified HUBs is available on the Texas Comptroller of Public Accounts (CPA) Web site at: <http://www.window.state.tx.us/procurement/cmb1/hubonly.html>. For additional information, contact the CPA's HUB program office at Texas4hubs@cpa.state.tx.us. If Vendors

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know of any businesses that may qualify for certification as a HUB, they should encourage those businesses to contact the CPA HUB program office.

5.7 RESPONDENT'S AFFIRMATION

Signing this response (SECTION 1 - Execution of Response to the Request for Qualifications) with a false statement is a material breach of Contract and shall void the submitted response or any resulting Contract(s), and the Respondent shall be removed from all bid lists. By signature hereon affixed on SECTION 1, the Respondent hereby certifies that:

- A. The Respondent has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid;
- B. Neither the Respondent nor the firm, corporation, partnership, or institution represented by the Respondent, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State or the Federal Antitrust Laws, nor communicated directly or indirectly this RFQ made to any competitor or any other person engaged in such line of business;
- C. The Respondent is not a member of the TWDB, a TWDB staff member or a member of their immediate family;
- D. Pursuant to Section 2155.004, Government Code, the Respondent has not received compensation for participation in the preparation of the specifications for this RFQ;
- E. Pursuant to Section 231.006 (d), Family Code, re: child support, the Respondent certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate;
- F. Under Section 2155.004 Government Code, the Respondent certifies that the individual or business entity named in this RFQ 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;
- G. The Respondent shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Contractor or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of this contract;
- H. Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas;
- I. Respondent certifies that they are in compliance with Section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If Section 669.003 applies, the Respondent will complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with Respondent: _____
Date of Employment with Respondent: _____

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- J. Respondent agrees to comply with Government Code Section 2155.4441, pertaining to service contract use of products produced in the State of Texas; and
- K. Respondent understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Respondent further agrees to cooperate fully with the State Auditor's Office or its successor in the conducting of the audit or investigation, including providing all records requested. Respondent will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Respondent and the requirement to cooperate is included in any subcontract it awards.

5.8 EXECUTIVE ORDER 13224

The TWDB is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing Respondents/Contractors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.sam.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

5.9 FAMILY CODE REQUIREMENTS

Pursuant to Section 231.006 (c), Family Code, bid must include Names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the bid. Enter Name & Social Security Numbers for each person.

5.10 ADDITIONAL TERMS

Any terms and conditions attached to this RFQ will not be considered unless specifically referred to on this RFQ and may result in disqualification of this RFQ.

5.11 DISPUTE RESOLUTION

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by the TWDB and the Respondent to attempt to resolve all disputes arising under this Contract.

5.12 NON-APPROPRIATION OF FUNDS

The State's funds are contingent on the availability of lawful appropriations by the Texas Legislature. If the Texas Legislature fails to continue funding for the payments due under an order referencing this Contract, the order will terminate as of the date that the funding expires, and TWDB will have no further obligation to make any payments.

5.13 PUBLIC INFORMATION ACT

Information, documentation, and other material in connection with this solicitation or any resulting Contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). Any part of the RFQ that is of a confidential or proprietary nature must be clearly and prominently marked as such by the Respondent.

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5.14 TECHNOLOGY ACCESS CLAUSE

The Respondent expressly acknowledges that State funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, the Respondent represents and warrants to the qualified ordering entity that the technology provided to the qualified ordering entity for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:

- A. Providing equivalent access for effective use by both visual and non-visual means;
- B. Presenting information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; and
- C. Being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this clause, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services that would constitute reasonable accommodations under the Federal Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays and customizable display appearance.

5.15 ETHICS

Under Section 2155.003, Government Code, an individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and bidders who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TWDB or purchasers of other state agencies. Specifically, a TWDB employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or Contract for future reward or compensation. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TWDB or purchasers of other State agencies.

5.16 FRAUD STATEMENT

Respondents understand that the TWDB does not tolerate any type of fraud. The TWDB's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Providers are expected to report any possible fraudulent or dishonest acts, waste, or abuse to the agency's Internal Audit division at 512-463-7978 or Nicole.Campbell@twdb.texas.gov.

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5.17 CONFLICT OF INTERESTS

A RFQ will not be selected if it has a conflict of interest that will or may arise during the performance of its obligations under the Contract. For this reason, the submission in response to this RFQ must disclose all business interest and all relationships that could reasonably be considered to pose possible conflicts of interest in the offer's performance of contract obligations. In addition, Offers must represent and warrant in its response to this RFQ and in the contract that in the performance of services under the contract, (1) Respondent does not have and will not have any actual or potential conflict of interest, and (2) Respondent will take whatever reasonable actions may be necessary and prudent to avoid even the appearance of impropriety.

5.18 CONTRACT ADMINISTRATION

The TWDB shall designate a Project Manager for this Contract. The Project Manager will serve as the point of contact between the TWDB and the selected Contractor. The TWDB's Project Manager shall supervise the TWDB's review of contractor's technical work, deliverables, draft reports, the final report, payment requests, schedules, financial and budget administration, and similar matters. The Project Manager does not have any express or implied authority to vary the terms of the Contract, amend the Contract in any way or waive strict performance of the terms or conditions of the Contract.

5.19 CONTRACT REVISIONS

The contract may only be revised through a contract amendment process.

5.20 VENDOR PERFORMANCE

State agencies shall report a vendor's performance on any purchase of \$25,000 or more from contracts administered by the commission or any other purchase made through an agency's delegated authority or a purchase made pursuant to the authority in Government Code, Title 10, Subtitle D or a purchase exemption from CPA/TPASS procurement rules and procedures.

5.21 DEFAULT

If Contractor is found to be in default under any provision of this Contract, TWDB may cancel the Contract without notice and either re-solicit or award the contract to the next best responsive and responsible Respondent. In the event of abandonment or default, Contractor will be responsible for paying damages to TWDB including but not limited to re-procurement costs, and any consequential damages to the State of Texas or TWDB resulting from Contractor's non-performance. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work is significantly changed.

5.22 FORCE MAJEURE

Neither Contractor nor TWDB shall be liable to the other for any delay in, or failure of performance, of any requirement included in any PO resulting from this RFP caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the

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reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

5.23 OWNERSHIP/INTELLECTUAL PROPERTY, INCLUDING RIGHTS TO DATA, DOCUMENTS AND COMPUTER SOFTWARE

For the purposes of this Contract, the term “Work” is defined as all reports, statistical analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, research, materials, intellectual property or other property developed, produced, or generated in connection with this Contract. All work performed pursuant to this Contract is made the exclusive property of TWDB. All right, title and interest in and to said property shall vest in TWDB upon creation and shall be deemed to be a work for hire and made in the course of the services rendered pursuant to this Contract. To the extent that title to any such work may not, by operation of law, vest in TWDB, or such work may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to TWDB. TWDB shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Contractor must give TWDB and/or the State of Texas, as well as any person designated by TWDB and/or the State of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond those amounts payable to Contractor for the services rendered under this Contract.

Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and the State’s property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the “Work” as defined in paragraph 11.30 of this Contract. Contractor and the subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TWDB and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor.

Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State’s work as requested. Contractor’s failure to comply with this Section shall constitute a material breach of this Contract and shall authorize the TWDB and the State of Texas to immediately assess appropriate damages for such failure. Pursuant to Government Code, §2262.003 the acceptance of funds by Contractor or any other entity or person directly under this Contract, or indirectly through a subcontract under this Contract, shall constitute acceptance of the authority of the State Auditor to conduct an audit or

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investigation in connection with those funds. Contractor acknowledges and understands that the acceptance of funds under this Contract shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Furthermore, under the direction of the legislative audit committee, an 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.

5.24 DRUG FREE WORKPLACE POLICY

The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

5.25 INSURANCE

Contractor represents and warrants that it will, within five (5) business days of executing this agreement, provide TWDB with current certificates of insurance or other proof acceptable to TWDB of the following insurance coverage: Standard Workers Compensation Insurance covering all personnel who will provide services under this Contract;

Commercial General Liability Insurance, personal injury and advertising injury with, at a minimum, the following limits: \$500,000 minimum each occurrence; \$1,000,000 per general aggregate. Contractor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with "A" rating from Best, and authorized to provide the corresponding coverage. Contractor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TWDB. Contractor represents and warrants that it shall maintain the above insurance coverage during the term of this Contract, and shall provide TWDB with an executed copy of the policies immediately upon request.

5.26 ORDER PRECEDENCE

In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Signed Contract (or Notice of Award), Attachments to the Contract (or Notice of Award), Request for Proposals, and Respondent's Response to Request for Proposals.

5.27 PROPRIETY INFORMATION

The TWDB is a government agency subject to the Texas Public Information Act (PIA), Chapter 552, Gov't Code. The Proposal and other information submitted to the TWDB by the Respondent are subject to release as public information. The Proposal and other submitted information shall be presumed to be subject to disclosure unless a specific exception to disclosure under the PIA applies. If it is necessary for the Respondent to include proprietary or otherwise confidential

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information in its Proposal or other submitted information, the Respondent must clearly label that proprietary or confidential information and identify the specific exception to disclosure in the PIA. Merely making a blanket claim that the entire Proposal is protected from disclosure because it contains some proprietary information is not acceptable, and shall make the entire Proposal subject to release under the PIA. In order to trigger the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described above. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA.

All contracts shall include the following language: “**Contractor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.**” In addition to this recommended language, the Comptroller also advises that in order to *comply with the new statutory requirements*, each state governmental entity should supplement this provision with the additional terms agreed upon by the parties regarding the specific format by which the vendor is required to make the information accessible by the public.

5.28 PUBLIC DISCLOSURE

No public disclosures or news releases pertaining to this contract shall be made without prior written approval of TWDB.

5.29 SUBSTITUTIONS

Substitutions are not permitted without written approval of TWDB.

5.30 TAXES

Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. TWDB shall not be liable for any taxes resulting from this Contract.

5.31 ACTS OR OMISSIONS

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

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5.32 INFRINGEMENTS

a) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

c) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense; (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

5.33 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE – INCLUDING INDEMNITY

1) VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE CUSTOMER AND/OR THE STATE SHALL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

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2) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS CUSTOMERS, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS'

COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

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SECTION 1 EXECUTION OF RESPONSE

FOR PROJECT NO. _____

Company Name: _____

Address: _____

Phone Number: _____

I, _____, am the above-referenced company's representative and I am authorized to submit this response and sign future contract documents. By signing, vendor certifies that if a Texas address is shown as the address, the vendor qualifies as a Texas Resident Bidder as defined in Texas Administrative Code, Title 34, Part 1, Chapter 20.

Authorized Signature

Date

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SECTION 2 COMPANY PROFILE SUMMARY AND HISTORY

FOR PROJECT NO. _____

(To be provided by Respondent)

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SECTION 3 COMPANY REFERENCES

FOR PROJECT NO. _____

REFERENCE #1

Name of Organization:			
Business Address:			
Business City:			
Business State:		Zip:	
Contact Person Name:			
Contact Person Title:			
Phone Number:		Fax:	
Client Comments:			

THIS PAGE OR A REASONABLE FACSIMILE SHALL BE RETURNED WITH THE RESPONSE. FAILURE TO RETURN THIS PAGE OR A REASONABLE FACSIMILE WILL RESULT IN THE RESPONSE BEING CONSIDERED NON-RESPONSIVE. ANY NEGATIVE RESPONSE(S) MAY RESULT IN DISQUALIFICATION OF THE RESPONSE.

**Texas Water Development Board
 REQUEST FOR QUALIFICATIONS NO. 580-16-RFQ0008
 FOR SERVICES ASSOCIATED TO STUDY BRACKISH AQUIFERS IN TEXAS**

SECTION 3 COMPANY REFERENCES

FOR PROJECT NO. _____

REFERENCE #2

Name of Organization:			
Business Address:			
Business City:			
Business State:		Zip:	
Contact Person Name:			
Contact Person Title:			
Phone Number:		Fax:	
Client Comments:			

THIS PAGE OR A REASONABLE FACSIMILE SHALL BE RETURNED WITH THE RESPONSE. FAILURE TO RETURN THIS PAGE OR A REASONABLE FACSIMILE WILL RESULT IN THE RESPONSE BEING CONSIDERED NON-RESPONSIVE. ANY NEGATIVE RESPONSE(S) MAY RESULT IN DISQUALIFICATION OF THE RESPONSE.

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SECTION 4 RESUMES OF INDIVIDUALS

FOR PROJECT NO. _____

(To be provided by Respondent)

**Texas Water Development Board
REQUEST FOR QUALIFICATIONS NO. 580-16-RFQ0008
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SECTION 5 Historically Underutilized Businesses Subcontracting Plan

FOR PROJECT NO. _____

Please see SECTION IV, GENERAL INFORMATION, No. 4.1-B5

All HUB Subcontracting Plan Forms must be completed and submitted with the Response.

The forms are entitled and can be found at:

HUB Subcontracting Plan Form

HUB Subcontracting Plan Form, SECTION 2 continuation sheet

HUB Subcontracting Plan Good Faith Effort - Method A (Attachment A)

HUB Subcontracting Plan Good Faith Effort - Method B (Attachment B)

HUB Subcontracting Opportunity Notification Form

<http://comptroller.texas.gov/procurement/prog/hub/hub-subcontracting-plan/>

**Texas Water Development Board
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**SECTION 6 – OWNERSHIP OF BUSINESS ENTITY
(if applicable)
FOR PROJECT NO. _____**

**Name(s) and Social Security Number(s) of Each Person with at least
25 Percent Ownership of the Business Entity Submitting the RFQ**

Name

Social Security Number

Name

Social Security Number

Name

Social Security Number

Name

Social Security Number

**Texas Water Development Board
REQUEST FOR QUALIFICATIONS NO. 580-16-RFQ0008
FOR SERVICES ASSOCIATED TO STUDY BRACKISH AQUIFERS IN TEXAS**

SECTION 7 SCOPE OF WORK

FOR PROJECT NO. _____

(To be provided by Respondent)