

**ITEMS BELOW ARE INCORPORATED INTO THE PURCHASE ORDER (PO) CONTRACT.**

**There are no exceptions permitted.**

**1. Payment**

Payment will be made in accordance with Tex. Gov't Code Ch. 2251.

**2. Notice**

DPS will send any written notices to the Vendor's email or mailing address. Vendor must deliver notice to DPS to [procurement@dps.texas.gov](mailto:procurement@dps.texas.gov). Notice will be effective on receipt by the affected party.

**3. Vendor Affirmations, Authority, And False Statements**

Vendor represents and warrants that all statements, certifications, and information submitted are true, current, complete, and accurate. Signing or accepting the Contract with a false statement is a material contract breach, and DPS may pursue and enforce any available remedies against Vendor for making false statements, including disqualifying the Vendor's response, immediately cancelling any Contract awarded to Vendor, or recommending State of Texas debarment. Vendor warrants that Vendor's authorized signatory is authorized to execute a Contract on its behalf.

3.01 **Antitrust Affirmation.** Vendor affirms under penalty of perjury of the laws of the State of Texas that: (1) Vendor is duly authorized to execute this contract; (2) In connection with this bid, Vendor has not violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Ch. 15; (3) In connection with this bid, Vendor has not violated any federal antitrust law; and (4) Vendor has not directly or indirectly communicated any of the contents of this bid to a competitor or any other Vendor engaged in the same line of business as Vendor.

3.02 **Assignment.** Vendor may not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from DPS. Any attempted assignment in violation of this provision is void and without effect.

3.03 **Buy Texas.** Vendor agrees to comply with Tex. Gov't Code § 2155.4441 requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

3.04 **Child Support Obligation Affirmation.** Under Tex. Fam. Code § 231.006(d) (relating to child support), Vendor certifies that it is not ineligible to receive payments under the Contract and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate.

3.05 **Computer Equipment Recycling Program.** If Vendor is providing for the lease or purchase of computer equipment, Vendor certifies its compliance with Texas Health and Safety Code Ch. 361, Subch. Y and the related TCEQ rules in 30 Tex. Admin. Code Ch. 328.

3.06 **Contracting Information Responsibilities.** Vendor represents and warrants that it will comply with the requirements of Tex. Gov't Code § 552.372(a). Except as provided by Tex. Gov't Code § 552.374(c), the requirements of Tex. Gov't Code Ch. 552, Subch. J, may apply to the Contract. Vendor agrees that the contract can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

3.07 **Cybersecurity Training.** If Vendor has access to any state computer system or database, Vendor represents and warrants that it will comply with the requirements of Tex. Gov't Code § 2054.5192 relating to cybersecurity training and required verification of completion of the training program.

- 3.08 **Dealings with Public Servants Affirmation.** Vendor has not given, offered to give, and does not intend to give at any time in the future any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
- 3.09 **Debts and Delinquencies Affirmation.** Vendor agrees that any payments due under the Contract will be applied towards any debt or delinquency that is owed the State of Texas.
- 3.10 **Disaster Recovery Plan.** Upon request of DPS and in accordance with 13 Tex. Admin. Code § 6.94(a)(9), Vendor must provide copies of its most recent business continuity and disaster recovery plans.
- 3.11 **Disclosure of Prior State Employment.** In accordance with Tex. Gov't Code § 2254.033, relating to consulting services, Vendor certifies that it does not employ an individual who has been employed by Agency or another agency at any time during the two years preceding the submission of the Response or, in the alternative, Vendor has disclosed in its Response the following: (i) the nature of the previous employment with Agency or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.
- 3.12 **Dispute Resolution.** Vendor must use the dispute resolution process provided for in Tex. Gov't Code Ch. 2260 and 37 Tex. Admin. Code Ch. 34, Subch. C to resolve any dispute arising under the Contract.
- 3.13 **Entities that Boycott Israel.** In accordance with Tex. Gov't. Code § 2270.002, Vendor (if defined as a company under Tex. Gov't. Code § 808.001) certifies that it does not boycott Israel and will not boycott Israel during the term of the Contract.
- 3.14 **E-Verify Program and Immigration.** Vendor represents and warrants that it will comply with the requirements of the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.) and all subsequent immigration laws and amendments. To the extent not prohibited by federal law or regulation, Vendor certifies that it uses and will continue to use the U.S. Department of Homeland Security's E-Verify system.
- 3.15 **Excess Obligations Prohibited.** The contract is subject to termination or cancellation, without penalty to Agency, either in whole or in part, subject to the availability of state funds.
- 3.16 **Excluded Parties.** Vendor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control.
- 3.17 **Executive Head of a State Agency Affirmation.** In accordance with Tex. Gov't Code § 669.003, Vendor certifies that (1) it is not the executive head of DPS, (2) does not employ, in the past four years before the date of the Contract, any person who was the executive head of DPS, or (3) does not employ a current or former executive head of DPS.
- 3.18 **Financial Participation Prohibited Affirmation.**
- 3.18.1 Under Tex. Gov't. Code § 2155.004(b), Vendor certifies that the individual or business entity named in the Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. Tex. Gov't Code. § 2155.004(a) prohibits a person or entity from receiving a state contract if that person or entity received compensation for participating in preparing the solicitation or specifications for the Contract.
- 3.18.2 Under Tex. Gov't Code § 2261.252, DPS may not enter into a contract for the purchase of goods or services with a private vendor if members of the Public Safety Commission or certain positions within the agency including the Executive Director, the General Counsel or the Procurement Director or their covered family members have a financial interest in the vendor. Any contract found to violate Tex. Gov't Code § 2261.252 is void.

- 3.19 **Foreign Terrorist Organizations.** Vendor certifies that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Tex. Gov't Code § 2252.152.
- 3.20 **Former Agency Employees.** Vendor represents and warrants that none of its employees including those authorized to provide services under the contract, were former employees of DPS during the 12-month period immediately prior to the date of Contract execution.
- 3.21 **Governing Law and Venue.** Vendor understands the Contract is governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the Contract is fixed in any state court of competent jurisdiction of Travis County, Texas.
- 3.22 **Human Trafficking Prohibition.** Under Tex. Gov't Code § 2155.0061, Vendor certifies that the individual or business entity named in this Response 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.
- 3.23 **Indemnification. VENDOR MUST DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND DPS, OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, 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 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 WILL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE TEXAS 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 TEXAS ATTORNEY GENERAL. VENDOR AND DPS AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**
- 3.24 **Limitations.** Vendor understands that there are constitutional and statutory limitations on the authority of DPS to enter into certain terms and conditions of the Contract, including those terms and conditions relating to liens on property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the Limitations), and terms and conditions related to the Limitations will not be binding on DPS except to the extent explicitly authorized by Texas law.
- 3.25 **No Conflicts of Interest.** Vendor represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- 3.26 **Prior Disaster Relief Contract Violation.** Tex. Gov't Code §§ 2155.006 and 2261.053 prohibit state agencies from awarding contracts to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Tex. Gov't Code § 418.004, occurring after September 24, 2005. Under Tex. Gov't Code § 2155.006, Vendor certifies that the individual or business entity named in the Contract is not ineligible to receive a contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate.

- 3.27 **Texas Public Information Act (PIA).** Information, documentation, and other material in connection with this Contract may be subject to public disclosure under Tex. Gov't Code Ch. 552. In accordance with Tex. Gov't Code § 2252.907, Vendor is required to make any information created or exchanged with DPS under the Contract, and not otherwise excepted from disclosure under the PIA, available in a format that is accessible by the public at no additional charge to DPS.
- 3.28 **State Auditor's Right to Audit.** Under Tex. Gov't Code § 2262.154, the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. The acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, 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.
- 3.29 **Suspension and Debarment.** Vendor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Comptroller of Public Accounts and the System for Award Management maintained by the federal General Services Administration.
- 3.30 **Television Equipment Recycling Program.** If Vendor's Contract is for the purchase or lease of covered television equipment, Vendor certifies its compliance with Texas Health and Safety Code Ch. 361, Subch. Z.
- 3.31 **Texas Bidder Affirmation.** Vendor certifies that if a Texas address is shown as the Vendor's address, Vendor qualifies as a Texas Bidder as defined in Tex. Gov't Code § 2155.444(c).