



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Texans Helping Businesses & Protecting Communities

**Request for Proposals (RFP)
for
Employee Assistance Program Services
RFP No. E210601**

**Date of Release: July 14, 2021
Responses Due: August 6, 2021 at 3:00
PM Central Daylight Time**

ARTICLE I. EXECUTIVE SUMMARY, DEFINITIONS, AND AUTHORITY

1.1 EXECUTIVE SUMMARY

The Texas Alcoholic Beverage Commission seeks to contract with one (1) qualified vendor to Employee Assistance Program services in accordance with the **Statement of Work** attached hereto as **Exhibit A**.

To be considered for award, Respondents must execute **Exhibit C, Affirmations and Solicitation Acceptance**, of this Solicitation and provide all other required information and documentation as set forth in this Solicitation.

1.2 DEFINITIONS

Refer to **Exhibit B, Texas Alcoholic Beverage Commission's Uniform Terms and Conditions**.

Additionally, as used in this Solicitation, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

"Addendum" means a written clarification or revision to this Solicitation issued by the TABC.

"Contract" means the written agreement resulting from this Solicitation.

"Contractor" means the entity awarded the Contract to provide services resulting from this Solicitation.

"ESBD" means the Electronic State Business Daily, the electronic marketplace where State of Texas bid opportunities over \$25,000 are posted. The ESBD may currently be accessed at <http://esbd.cpa.state.tx.us/>

"Texas Alcoholic Beverage Commission" or **"TABC"** means the administrative agency established under The Texas Alcoholic Beverage Code, or its designee.

"HUB" means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

"HUB subcontracting plan" or **"HSP"** means written documentation regarding the use of sub-contractors, which is required to be submitted with all responses to state agency Contracts with an expected value of \$100,000 or more where subcontracting opportunities have been determined by the state agency to be probable. The HUB subcontracting plan subsequently becomes a provision of the awarded Contract and shall be monitored for compliance by the state agency during the term of the Contract.

"Respondent" means the entity responding to this Solicitation.

"Solicitation" means this Request for Proposals including any Exhibits and Addenda, if any.

"State" means the State of Texas and its instrumentalities, including the Texas Alcoholic Beverage Commission and any other state agency, its officers, employees, or authorized agents.

1.3 AUTHORITY

The TABC is soliciting the services listed herein under Title 10, Subtitle D of the Texas Government Code the Texas Alcoholic Beverage Code

ARTICLE II. STATEMENT OF WORK

2.1 STATEMENT OF WORK

The **Statement of Work** is attached hereto as **Exhibit A**.

2.2 CONTRACT AWARD, TERM AND AMOUNT

2.2.1 Contract Award and Execution

The TABC intends to award one Contract as a result of this Solicitation. Any award is contingent upon approval of the Executive Director or their designee.

If, for any reason, a final Contract cannot be executed with a Respondent selected for award within 30 days of the TABC's determination to seek to contract with that Respondent, the TABC may negotiate a contract with the next highest scoring Respondent or may withdraw, modify, or partially award this Solicitation.

2.2.2 Contract Term

The TABC anticipates the initial duration of any Contract resulting from this Solicitation shall be from September 1, 2021 until August 31, 2023. The TABC, at its sole option, may extend any Contract awarded pursuant to this Solicitation for up to 2 additional years.

2.2.3 Contract Amount

Initial total compensation under any Contract awarded shall not exceed the amount of \$25,000. However, notwithstanding the preceding, the TABC reserves the right to increase this amount if additional state or federal funding become available during the term of the Contract, including any extensions.

2.4 NO GUARANTEE OF VOLUME, USAGE OR COMPENSATION

The TABC makes no guarantee of volume, usage, or total compensation to be paid to any Respondent under any awarded Contract, if any, resulting from this Solicitation. Any awarded Contract is subject to appropriations and the continuing availability of funds.

The TABC reserves the right to cancel, make partial award, or decline to award a Contract under this Solicitation at any time at its sole discretion.

ARTICLE III. ADMINISTRATIVE INFORMATION

3.1 SCHEDULE OF EVENTS

EVENT	DATE/TIME
Solicitation Post Date	July 14, 2021
Deadline for Submitting Questions	July 23, 2021 at 5:00 PM Central Daylight Time
Posting of Questions and Answers	July 30, 2021 at 5:00 PM Central Daylight Time
Deadline for submission of Solicitation Responses [NOTE: Responses must be <u>RECEIVED</u> by TEXAS ALCOHOLIC BEVERAGE COMMISSION by the deadline.]	August 6, 2021 at 3:00 PM Central Daylight Time
Evaluation Period	August 9-13, 2021
Anticipated Notice of Award	August 20, 2021
Anticipated Contract Start Date	September 1, 2021

Note: These dates are a tentative schedule of events. The TABC reserves the right to modify these dates at any time upon notice posted to the ESBD. Any dates listed after the Solicitation Response deadline will occur at the discretion of the TABC and may occur earlier or later than scheduled without notification on the ESBD.

3.2 CHANGES, AMENDMENT OR MODIFICATION TO SOLICITATION

The TABC reserves the right to change, amend or modify any provision of this Solicitation, or to withdraw this Solicitation at any time prior to award if it is in the best interest of the TABC. Any such revisions will be posted such on the ESBD. It is the responsibility of Respondent to periodically check the ESBD to ensure full compliance with the requirements of this Solicitation. Solicitation response shall acknowledge receipt of any addendums.

3.3 IRREGULARITIES

Any irregularities or lack of clarity in this Solicitation should be brought to the attention of the Point of Contact listed in Section 3.5.1 as soon as possible so corrective addenda may be furnished to prospective Respondents.

3.4 INFORMALITIES

The TABC reserves the right to waive minor informalities in a Solicitation Response if it is in the best interest of the TABC. A “minor informality” is an omission or error that, in the TABC's determination if waived or modified when evaluating Solicitation Responses,

would not give a Respondent an unfair advantage over other Respondents or result in a material change in the Solicitation Response or Solicitation requirements.

3.5 INQUIRIES

3.5.1 Point of Contact

All requests, questions or other communication about this Solicitation shall be made in writing to the TABC's Purchasing Department, addressed to the person listed below. All communications between Respondents and other TABC staff members concerning the Solicitation are strictly prohibited. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

Name: Susannah Jones, CTPM
Title: Purchaser V
Address: 5806 Mesa Drive, Austin, TX 78731
Email: Solicitation.Responses@tabc.texas.gov
and cc: Susannah.Jones@tabc.texas.gov

3.5.2 Prohibited Communication

On issuance of this Solicitation, except for the written inquiries described in Section 3.5.4 and 3.5.5 below, the TABC, its representative(s), or partners will not answer any questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s). Attempts to ask questions by phone or in person will not be allowed or recognized as valid. Respondent shall rely only on written statements issued by or through the TABC's designated staff as provided by this Section. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation. **Failure to comply with these requirements may result in disqualification of Respondent's Solicitation Response.**

3.5.3 Exception

The only exception to the single point of contact is the HUB Coordinator. Should respondents have questions regarding proper completion of the HUB Subcontracting Plan, the HUB coordinator may be contacted at Lynn.Taylor@tabc.texas.gov with a copy to the purchaser listed above.

3.5.4 Questions

The TABC will allow written questions and requests for clarification of this Solicitation. Questions must be submitted by **email only** to the Point of Contact listed in section 3.5.1 above. Respondents' names will be removed from questions in any responses released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

- a) Identifying Solicitation number
- b) Section Number
- c) Paragraph Number
- d) Page Number
- e) Text of passage being questioned

f) Question

Note: Questions or other written requests for clarification must be received by the Point of Contact by the deadline set forth in Section 3.5.1 above. However, the TABC, at its sole discretion, may respond to questions or other written requests received after the deadline. Please provide company name, address, phone number, e-mail address, and name of contact person when submitting questions.

3.5.5 Clarification

Respondents must notify the Point of Contact of any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other error in the Solicitation in the manner and by the deadline for submitting questions. If a Respondent fails to properly and timely notify the Point of Contact of such issues, the Respondent submits its Solicitation at its own risk, and if awarded a Contract: (1) shall have waived any claim of error or ambiguity in the Solicitation and any resulting Contract, (2) shall not contest the interpretation by any TABC of such provision(s), and (3) shall not be entitled to additional compensation, relief, or time by reason of ambiguity, error, or later correction.

3.5.6 Responses

Responses to questions or other written requests for clarification may be posted on the ESBD. The TABC reserves the right to amend answers prior to the deadline for submission of Solicitation Responses. Amended answers may be posted on the ESBD. It is Respondent's responsibility to check the ESBD. The TABC also reserves the right to decline to answer any question or questions or to provide a single consolidated response of all questions they choose to answer in any manner at the TABC's sole discretion.

3.6 SOLICITATION RESPONSE COMPOSITION

3.6.1 Generally

Respondent shall submit **an original Proposal and Respondent Information and an original Cost Proposal** marked "Original" **via email**. The Original copy must include all required documents. Failure to submit all required documents in required format(s) may result in disqualification of the Solicitation Response without further consideration. A Respondent shall prepare a Solicitation Response that clearly and concisely represents its qualifications and capabilities under this Solicitation.

The TABC, in its sole discretion, may reject any and all proposals or portions thereof.

3.6.2 Submission in Separate Parts

Solicitation Responses must be submitted in separate documents and may be submitted in one or more emails:

- Proposal and Respondent Information
- Cost Proposal; and

If you must send multiple emails due to file sizes please label them email 1 of 3, 2 of 3, 3 of 3, etc.

3.6.3 Supporting Documentation

If complete responses cannot be provided without referencing supporting documentation, such documentation must be provided with the Solicitation Response, with specific reference made to the tab, page, section, and/or paragraph where the supporting information can be found.

3.6.4 Discrepancies

Section is inapplicable due electronic response requirement

3.6.5 Exceptions

The Texas Alcoholic Beverage Commission will more favorably evaluate responses that offer no or few exceptions, reservations, or limitations to the terms and conditions of the Solicitation.

No exception, nor any other term, condition, or provision in a Solicitation response that differs, varies from or contradicts this solicitation will be considered to be part of any Contract resulting from this Solicitation unless expressly made a part of the Contract in writing by the TABC.

A Solicitation Response should be responsive to the Solicitation as worded, not with any assumption that any or all terms, conditions, or provisions of the Solicitation will be negotiated. Furthermore, all Solicitation Responses constitute binding offers. **Any Solicitation Response to this Solicitation that includes any type of disclaimer or other statement indicating that the response does not constitute a binding offer may be disqualified.**

3.7 SOLICITATION RESPONSE SUBMISSION AND DELIVERY

3.7.1 Deadline

Solicitation Responses must be received at the address in Section 3.7.3 time-stamped by the TABC no later than the date and time specified in Section 3.1

3.7.2 Labeling

Solicitation Responses shall be sent to the solicitation.responses@tabc.texas.gov and the subject line shall read RFP No. E210601 Solicitation Response. The following should be contained in the body of the email.

SOLICITATION NO: RFP No. E210601
SOLICITATION NAME: Employee Assistance Program Services
SOLICITATION RESPONSE DEADLINE: August 6, 2021 at 3:00 PM
Central Daylight Time

The TABC will not be held responsible for any Solicitation Response that is mishandled prior to receipt by the TABC. It is Respondent's responsibility to mark appropriately and deliver the Solicitation Response to the TABC by the specified date and time.

3.7.3 Delivery

The preferred method of delivery for responses to TABC is by email submissions to the Solicitation Responses box at:

solicitation.responses@tabc.texas.gov
and cc Susannah.Jones@tabc.texas.gov

If you have any questions about submission or encounter any problems, please contact the assigned purchaser. Respondents are highly encouraged to submit a separate email to confirm that the Respondent's bid has been received by the purchaser prior to the deadline to ensure appropriate time for troubleshooting if files do not properly transmit.

Solicitation Responses submitted by other method(s) such as regular mail or mail courier, Fed Ex, DHL or UPS will be accepted at:

5806 Mesa Drive
Austin, TX 78731
Attn: Purchasing – BSD RFP E210601

NOTE: Solicitation Responses submitted by any other method, facsimile or telephone will NOT be considered. All Solicitation Responses become the property of TEXAS ALCOHOLIC BEVERAGE COMMISSION after submission and will not be returned to Respondent.

3.7.4 Alterations, Modifications, and Withdrawals

Prior to the Solicitation Response submission deadline, a Respondent may: (1) withdraw its Solicitation Response by submitting a written request to the Point of Contact identified in Section 3.5.1; or (2) modify its Solicitation Response by submitting a written amendment to the Point of Contact identified in Section 3.5.1. The TABC may request Solicitation Response Modifications at any time.

ARTICLE IV. SOLICITATION RESPONSE EVALUATION AND AWARD PROCESS

4.1 EVALUATION CRITERIA

4.1.1 Conformance with State Law

Solicitation Responses shall be evaluated in accordance with Title 10, Subtitle D of the Texas Government Code. The TABC shall not be obligated to accept the lowest priced Solicitation Response but shall make an award to the Respondent that provides the best value to the State of Texas.

4.1.2 Minimum Qualifications

Respondents must meet the minimum qualifications listed below. Furthermore, Solicitation Responses that appear unrealistic in terms of technical commitment, that show a lack of technical competence, or that indicate a failure to comprehend the risk and complexity of a potential Contract may be rejected, in the sole discretion of the TABC.

- a) Respondents must have recently been in business for a minimum of 5 years, or the principals/owners must have had recent ownership/executive management experience in a previous company that provided EAP or similar services;
- b) Respondents shall have demonstrated experience in providing EAP or similar services;
- c) Respondents must be financially solvent and adequately capitalized; and
- d) Respondent must be authorized to do business in the State of Texas.

4.1.3 Specific Criteria

Solicitation Responses shall be consistently evaluated and scored in accordance with the following criteria.

- a) Cost (40%)
- b) Qualifications and Experience (20%)
- c) Approach to EAP Service Provision (25%)
- c) Overall Clarity of Response (5%)
- d) Provision of Additive Alternate Services (10%)

4.1.4 Other Information

Texas Alcoholic Beverage Commission may contact references provided in response to this Solicitation, contact Respondent's clients, or solicit information from any available source, including the Comptroller's Vendor Performance Tracking System.

4.2 INITIAL COMPLIANCE SCREENING

The TABC will perform an initial screening of all Solicitation Responses received. Unsigned Solicitation Responses, and Solicitation Responses that do not meet Section 4.1.2 above and/or do not include all required forms and information may be subject to rejection without further evaluation.

4.3 COMPETITIVE RANGE AND BEST AND FINAL OFFER

The TABC may determine that certain Solicitation Responses are within the competitive range and may use this range to award multiple Contracts or as a basis to request a Best and Final Offer (“BAFO”) from Respondents. If the TABC elects to limit award consideration to a competitive range, the competitive range will consist of the Solicitation Responses that receive the highest or most satisfactory ratings, based on the published evaluation criteria and procedures governing this procurement. The TABC, in the interest

of administrative efficiency, may place reasonable limits on the number of Solicitation Responses that will be included in the competitive range.

The TABC may, at its discretion request that any or all Respondents provide a BAFO. A request for a BAFO from a TABC does not guarantee an award or further negotiations.

4.4 ORAL PRESENTATIONS AND SITE VISITS

The TABC may require an oral presentation from any or all Respondents. Respondents will be provided with advance notice of any such oral presentation and are responsible for their own presentation equipment. Failure to participate in the requested presentation may eliminate a Respondent from further consideration. The TABC is not responsible for any costs incurred by the Respondent in preparation for any oral presentation.

The TABC may require site visits from any or all Respondents. The TABC will notify selected Respondents of the time and location of site visits. Failure to permit or participate in the requested site visit may eliminate a Respondent from further consideration. The TABC is not responsible for any costs incurred by the Respondent in preparation for any site visit.

4.5 QUESTIONS OR REQUESTS FOR CLARIFICATION BY THE TABC

The TABC reserves the right to ask questions or request clarification from any Respondent at any time during the Solicitation process, including during Oral Presentations, Site Visits, or during the BAFO process.

ARTICLE V. NARRATIVE PROPOSAL

5.1 NARRATIVE PROPOSAL

5.1.1 Executive Summary

Provide a high-level overview of the Respondent's approach to meeting the requirements contained in Exhibit A. The summary must demonstrate an understanding the TABC's goals and objectives for this Solicitation.

5.1.2 Work Plan

Describe the Respondent's proposed processes and methodologies for providing all components of the Statement of Work detailed in Exhibit A. Respondent should identify all tasks to be performed, including all project activities, equipment used, materials and other products services and reports to be generated during the Contract period.

In addition, Respondent must provide **samples of at least three (3)** other projects of similar complexity. Failure to submit comparable projects may result in disqualification.

5.1.3 This section intentionally left blank

5.1.4 Key Staffing Profile

Respondent must provide a key staffing profile and resumes for staff that will be responsible for the performance of the services requested under this Solicitation.

ARTICLE VI. REQUIRED RESPONDENT INFORMATION

6.1 COMPANY INFORMATION

Respondent must provide satisfactory evidence of its ability to manage and coordinate the types of activities described in this Solicitation and to produce the specified goods or services on time. As a part of the Solicitation Response requested in Article III, Respondent must provide the following information:

6.1.1 Company Narrative

Provide a detailed narrative explaining why Respondent is qualified to provide the services enumerated in Article II, focusing on its company's key strengths and competitive advantages.

6.1.2 Company Profile

Provide a company profile to include:

- (a) The company ownership structure (corporation, partnership, LLC, or sole proprietorship), including any wholly-owned subsidiaries, affiliated companies, or joint ventures. (*Please provide this information in a narrative and as a graphical representation*). If Respondent is an Affiliate of, or has a joint venture or strategic alliance with, another company, Respondent must identify the percentage of ownership and the percentage of the parent's ownership. The entity performing the majority of the Work under a Contract, throughout the duration of the Contract, must be the primary bidder. Finally, please provide your proposed operating structure for the services requested under this Solicitation and which entities (i.e. parent company, Affiliate, Joint Venture, subcontractor) will be performing them
- (b) The year the company was founded and/or incorporated. If incorporated, please indicate the state where the company is incorporated and the date of incorporation;
- (c) The location of company headquarters and any field office(s) that may provide services for any resulting Contract under this Solicitation;
- (d) The number of employees in the company, both locally and nationally, and the location(s) from which employees will be assigned;
- (e) The name, address, and telephone number of Respondent's point of contact for any resulting Contract under this Solicitation; and
- (f) Indicate whether the company has ever been engaged under a contract by any Texas state agency. If "Yes," specify when, for what duties, and for which agency.

Note: If Respondent is an out-of-state company, a Certificate of Authority from the Secretary of State to do business in Texas must be provided as well.

6.2 THIS SECTION INTENTIONALLY LEFT BLANK

6.3 MAJOR SUBCONTRACTOR INFORMATION

Respondent must identify any major subcontractors whom Respondent intends to utilize in performing fifteen percent (15%) or more of any Contract. Respondent must indicate whether Respondent holds any financial interest in any major subcontractor. It may be required as a condition of award that an authorized officer or agent of each proposed major subcontractor sign a statement to the effect that the subcontractor has read, and will agree to abide by, Respondent's obligations under any contract awarded pursuant to this Solicitation.

6.4 LITIGATION AND CONTRACT HISTORY

Respondent must include in its Solicitation Response a complete disclosure of any alleged or significant contractual failures. In addition, Respondent must disclose any civil or criminal litigation or investigation over the last five (5) years that involves Respondent or in which Respondent has been judged guilty or liable including any allegations of such that are currently pending.

Respondent must also disclose any settlement agreements entered into in the last five (5) years related to alleged contractual failures. Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations.

Failure to comply with the terms of this provision may disqualify Respondent. Solicitation Response may be rejected based upon Respondent's prior history with the State of Texas or with any other party that demonstrates, without limitation, unsatisfactory performance, adversarial or contentious demeanor, or significant failure(s) to meet contractual obligations.

6.5 CONFLICTS

Respondent must certify that it does not have any personal or business interests that present a conflict of interest with respect to the RFP and any resulting Contract. Additionally, if applicable, the respondent must disclose all potential conflicts of interest. The respondent must describe the measures it will take to ensure that there will be no actual conflict of interest and that its fairness, independence and objectivity will be maintained. The TABC will determine to what extent, if any, a potential conflict of interest can be mitigated and managed during the term of the Contract. Failure to identify actual and potential conflicts of interest may result in disqualification of a Solicitation Response or termination of a Contract.

Please include any activities of affiliated or parent organizations and individuals who may be assigned to this Contract, if any.

Additionally, pursuant to Section 2252.908 of the Texas Government Code, a successful respondent awarded a Contract greater than \$1 million dollars, or that requires an action or vote of the governing body, must submit a disclosure of interested parties to the TABC at the time the business entity submits the signed Contract. Rules and filing instructions may be found on the Texas Ethics Commission's public website and additional instructions will be given by TEXAS ALCOHOLIC BEVERAGE COMMISSION to successful respondents.

6.6 AFFIRMATIONS AND CERTIFICATIONS

Respondent must complete and return **Exhibit C, Respondent Affirmations and Solicitation Acceptance**.

ARTICLE VII. COST PROPOSAL

7.1 COST PROPOSAL

As noted above, cost information must not be included with the Respondent's Information and Narrative proposal. Respondent must submit a cost proposal for the services listed in Article II, Scope of Work. **Respondent's cost proposal should be a cost per TABC employee for each month of the Contract.** TABC currently employs approximately 575 people and expects to employ between 575 and 600 people during the term of the Contract that will result from this Solicitation. While the Contractor will provide services to all Eligible Individuals, the fee should be based on the number of TABC employees during a given month.

The cost proposal provided is for the goods and services as specified in this Solicitation and shall include all labor, materials, tools, supplies, equipment, and personnel, including but not limited to, travel expenses, associated costs and incidental costs necessary to provide the products and services according to the minimum specifications, requirements, provisions, terms, and conditions set forth in this RFP.

ARTICLE VIII. GENERAL TERMS AND CONDITIONS

8.1 GENERAL CONDITIONS

8.1.1 Amendment

The TABC reserves the right to alter, amend or modify any provision of this Solicitation, or to withdraw this Solicitation, at any time prior to award, if it is in the best interest of the State.

8.1.2 Offer Period

Solicitation Responses shall be binding for a period 180 days after the due date for submission of Solicitation Responses. Each Respondent may extend the time for which its Solicitation Response will be honored. Upon Contract execution, prices agreed upon by the Respondent(s) are an irrevocable offer for the term of the Contract and any Contract

renewals or extension(s). No other costs, rates, or fees shall be payable to the Respondent unless expressly agreed upon in writing by the TABC.

8.1.3 Costs Incurred

Respondents understand that issuance of this Solicitation in no way constitutes a commitment by any TABC to award a Contract or to pay any costs incurred by a Respondent in the preparation of a response to this Solicitation. The TABC is not liable for any costs incurred by a Respondent prior to issuance of or entering into a formal agreement, Contract, or purchase order. Costs of developing Solicitation Responses, preparing for or participating in oral presentations and site visits, or any other similar expenses incurred by a Respondent are entirely the responsibility of the Respondent, and will not be reimbursed in any manner by the State of Texas.

8.1.4 Contract Responsibility

The TABC will look solely to Respondent for the performance of all contractual obligations that may result from an award based on this Solicitation. Respondent shall not be relieved of its obligations for any nonperformance by its subcontractors.

8.1.5 Public Information Act

Solicitation Responses are subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552, and may be disclosed to the public upon request. Subject to the PIA, certain information may be protected from public release. Respondents who wish to protect portions of the Solicitation Response from public disclosure should familiarize themselves with this law. Information pertaining to the Solicitation will be withheld or released only in accordance with the PIA.

8.2 INSURANCE

8.2.1 Required Coverage

For the duration of any Contract resulting from this Solicitation, Respondent shall acquire insurance, bonds, or both, if applicable with financially sound and reputable independent insurers, in the type and amount customarily carried within the industry. Failure to maintain insurance coverage or acceptable alternative methods of insurance shall be deemed a breach of Contract.

8.2.2 Alternative Insurability

Notwithstanding the preceding, the TABC reserves the right to consider reasonable alternative methods of insuring the Contract in lieu of the insurance policies customarily required. It will be the Respondent's responsibility to recommend to the TABC alternative methods of insuring the Contract. Any alternatives proposed by Respondent should be accompanied by a detailed explanation regarding Respondent's inability to obtain the required insurance and/or bonds. The TABC shall be the sole and final judge as to the adequacy of any substitute form of insurance coverage.

ARTICLE IX. SUBMISSION CHECKLIST

This checklist is provided for Respondent's convenience only and identifies documents are requested in this Solicitation.

Original Solicitation Response Package

The Solicitation Package must include the Original Solicitation Response consisting of three parts described in detail below. Each of the three main parts should be in a separate electronic file or files clearly labeled.

1. Narrative Proposal and Respondent Information and forms

- | | | |
|--|---------------|-------|
| a. Narrative Proposal | (Section 5.1) | _____ |
| b. Company Information | (Section 6.1) | _____ |
| c. Major Subcontractor Information | (Section 6.3) | _____ |
| d. Litigation and Contract History | (Section 6.4) | _____ |
| e. Conflicts | (Section 6.5) | _____ |
| f. Respondent Affirmations and Solicitation Acceptance | (Section 6.6) | _____ |
| g. Addendums | | _____ |

2. Cost Proposal (Article 7) _____

ONLY THOSE EXHIBITS REQUIRING SIGNATURES MUST BE RETURNED TO TABC AT THIS TIME. THESE EXHIBITS WILL BE INCORPORATED INTO ANY RESULTING CONTRACT.

EXHIBIT A- SCOPE OF SERVICES (STATEMENT OF WORK)

EXHIBIT B- UNIFORM TERMS AND CONDITIONS (UTC)

EXHIBIT C- AFFIRMATIONS AND SOLICITATION ACCEPTANCE

EXHIBIT A - SCOPE OF SERVICES

A. Direct Services

Contractor will be responsible for providing or having provided: short-term counseling, assessment, and treatment referral services to Participants. Contractor will be responsible for referring Participants for additional services where assessment indicates the need for services beyond the scope of this Contract. To the extent possible, referrals should be made to service providers that result in minimal additional cost to Participant, including to entities within the Participant's health insurance network.

1. Contractor will provide the Participants with an assessment and, if appropriate, refer the Participant for additional services. Referrals should be made within forty-eight (48) hours from the first EAP contact or identified need.
2. Contractor will provide short-term counseling services relating to substance abuse, marital or family problems, psychological or emotional problems, financial problems, legal concerns, vocational problems, health-related problems, or other topics within the scope of the license of Contractor.

B. Counseling

The Contractor will provide up to five (5) counseling sessions per issue for the purpose of identifying areas of concern and for problem-solving. There will be no limit to the number of issues for which Participants can request services. Group counseling will be provided for critical incident stress debriefings at the request of management.

Contractor must:

1. Provide up to five (5) counseling sessions per issue with no limit to the number of issues.
2. Provide counselors within all major cities and within a reasonable driving distance for participants who do not reside within geographical boundaries.
3. Ensure the facilities where counseling services are provided comply with all applicable laws, including the architectural requirements under the ADA.
4. Provide a list of available counselors to Eligible Individuals requesting service.
5. Schedule face-to-face counseling sessions or a mutually acceptable alternative method of communication.
6. Provide primary consideration to the Participant's preferred mode of communication, which shall be adhered to when providing services to Eligible Individuals who are deaf or hard of hearing or speech impaired.
7. Counseling sessions should be available within three (3) business days of the first contact with the EAP direct services provider. Attempts will be made to see participants in need of more urgent care within a shorter timeframe. Participants in crisis will be connected directly by

phone to a mental health professional for crisis counseling.

8. All written, printed or electronic documents, websites or materials shall be available in an accessible electronic format.

C. Referrals

When a referral is indicated, the counselor will assist in locating the most appropriate resource for and in the best interest of the Participant. Additional resources may need to be referred in the event the Participant has exhausted the five (5) sessions per issue, or the service needed is specialized and outside of the counselor's area of expertise.

Contractor must:

1. Counselors will assist in locating the most appropriate resources for and in the best interest of the Participant.
2. Resources covered by the Participant's insurance or health coverage should be identified if possible.
3. Counselors will assist with accessing resources if required.
4. The counselor will assist in accessing the resources and will follow up to determine services are received and the appropriateness and usefulness of the service.

D. 24-Hour Helpline

The Contractor will provide two (2) toll-free helplines. The helplines must be always be available. The helpline must be staffed by licensed and trained counselors.

1. One of the helplines should be able to provide assistance to teenagers.
2. Contractor will be required to accommodate deaf, hard of hearing, and speech-impaired Participants. **Respondents should describe how they would meet this requirement if awarded a contract.**
3. To the extent Contractor assesses an individual to be a threat to the caller or to another person, Contractor must immediately take action to bring the appropriate resources to address the threat.
4. Contractor will be required to follow up after initial helpline contact within 48 hours to ensure referrals were successfully connected to the appropriate resources.

E. Training and Seminars

Contractor will provide training and seminars that cover a wide range of work life, wellness, and other topics. Respondent should state the manner in which training and seminars will be delivered, with both web-based and classroom options available. Respondents should provide a list of training offered with topic descriptions that be included with the proposal response.

All of Contractor's training materials must meet ADA guidelines and requirements. Examples of training topics TABC would like for Contractor to address include:

1. New Employee EAP Orientation and Supervisor Orientation.
2. Workplace Issues and Resources
3. Conducting Performance Evaluation and Resources

4. Conducting Interviews and Resources
5. Stress Management
6. Leadership Topics
7. Communication Skills and Resources
8. Conflict Resolution and Resources

F. Additional Services

TABC prefers, but does not require, that the Contractor provide:

1. Connecting employees with safe ride options,
2. Assistance with locating elderly-care services, and
3. Assistance with locating childcare services.

G. Standards of Performance

Staff delivering counseling services must have at least a master's degree from an accredited college or university in a behavioral science, counseling, psychology, social work, and certified and licensed in their particular licensing specialization such as addictions counseling, and must be licensed or certified by one or more of the following state regulating agencies or as is customarily required by that counselor's specialized field:

Texas Medical Board

Texas State Board of Examiners of Psychologists

Texas State Board of Social Workers Examiners

Texas State Board of Examiners of Professional Counselors

Texas State Board of Examiners of Marriage and Family Therapists

Texas Department of State Health Services

Exception to the master's degree requirement may be made for licensed, accredited, or certified staff in fields requiring specialized knowledge, training, and expertise obtained through professional training programs that do not award academic degrees. Exceptions include, but are not limited to, Certified Alcoholism and Drug Abuse Counselor (CADAC). Any other exceptions must be approved in advance by TABC.

Staff delivering counseling must have a minimum of two (2) years of practical related work experience.

Respondents must:

1. **Describe how it will recruit and ensure counselors meet the education and professional experience described in this section.**
2. **Describe how they will maintain a network of diverse, qualified counselors available statewide who meet the educational and professional experience standard.**
3. **Provide documentation of Respondent's provider network and the network's location.**

Contractor must:

1. Ensure all counseling is compliant with the ADA.

2. Provide an annual list of all affiliates/providers utilized for services to the TABC, within thirty (30) calendar days prior to the end of each operational year or as requested by TABC, to select a sample for licensing verification.
3. Have a procedure to conduct due diligence to ensure counselors providing services have appropriate credentials and are not precluded by law or best practice from providing counseling services under the Contract.

H. Grievance Procedure

The Contractor shall have a formal operational grievance procedure to be distributed to Participants. Respondents must describe how the Contractor will provide services for the following requirements:

1. Contractor shall provide formal grievance procedures to Participants at the time services are provided.
2. All grievances must be resolved within thirty (30) days of the complaint.
3. Contractor will provide a quarterly report regarding grievances filed and resolved in the format specified by TABC.
4. Contractor will provide participants with resources and contact information to provide their complaints and grievances to regulating entities with appropriate jurisdiction and to TABC.
5. **A printed copy of the grievance procedure shall be submitted with the proposal response.**

I. Ancillary Contract Duties

1. Promotional Materials

Education and information services are important to ensure awareness of the EAP and the related services. Awareness is often promoted through a variety of media to ensure effective communication is accomplished. Promotional and educational materials are to be developed and produced by the EAP Contractor and provided to TABC within five (5) business days after the request is made. Materials may be tailored to target audiences. In addition, the Contractor will maintain a website that will serve as a repository for education and information as a valuable resource for employees.

2. Surveys

The Contractor is responsible for developing and distributing satisfaction surveys. Surveys must allow TABC to assess the quality of services provided by the Contractor. Information from the surveys must be included in the utilization reports.

Surveys must collect Participant's demographics and information relevant to the evaluation of EAP services such as:

- a) Participant
- b) Agency
- c) Date Service Requested and Received
- d) Type of Service Received

- e) Ease of Accessing Services
- f) Initial Telephone Triage
- g) Availability of Appointment
- h) Convenience of Location
- i) Educational Materials
- j) Responsiveness, Professionalism, and Knowledge of Provider
- k) Referrals
- l) EAP Contractor Website Navigation
- m) Overall Satisfaction

3. Reports

Timely and accurate reporting of EAP utilization and customer feedback is crucial to the monitoring and measurement of the success of the TABC EAP. Information collected through assessments, surveys, and other sources must be incorporated into the utilization reports. The following TABC reporting categories must be included in the quarterly reports:

- a) Demographics of Participants using EAP services;
- b) Utilization rate for counseling and other EAP services;
- c) Utilization rate specific to Participant's type (including whether employee, dependent, full-time, part-time, or retiree, etc.) and case status;
- d) Utilization rate per activity type and primary presenting issues;
- e) Detailed summary of organizational services performed such as in-service trainings, seminars, webinars, and critical incident stress debriefings;
- f) Percentage of short-term issues that receive five (5) counseling sessions;
- g) Percentage of issues that are referred for long-term counseling;
- h) Number of surveys provided to Participants after completion of counseling and other services; and
- i) Survey responses including comments.

Contractor shall provide specific statistical and evaluative data in the format agreed upon by the Contractor and TABC.

J. Referrals

When a referral is indicated, Contractor will assist in locating the most appropriate resource for and in the best interest of the Participant. Additional resources may need to be referred in the event the Participant has exhausted the five (5) sessions per issue, or the service needed is specialized and outside of the counselor's area of expertise.

Contractor must:

1. Counselors will assist in locating the most appropriate resources for and in the best interest of the Participant.
2. Resources covered by the Participant's insurance or health coverage should be identified if possible.
3. Counselors will assist with accessing resources if required.

4. The counselor will assist in accessing the resources and will follow up to determine services are received and the appropriateness and usefulness of the service.

K. 24-Hour Helpline

The Contractor will provide two (2) toll-free helplines. The helplines must be always be available. The helpline must be staffed by licensed and trained counselors.

1. One of the helplines should be able to provide assistance to teenagers.
2. Contractor will be required to accommodate deaf, hard of hearing, and speech-impaired Participants. Respondents should describe how they would meet this requirement if awarded a contract.
3. To the extent Contractor assess an individual to be a threat to the caller or to another person, Contractor must immediately take action to bring the appropriate resources to address the threat.
4. Contractor will be required to follow up after initial helpline contact within 48 hours to ensure referrals were successfully connected to the appropriate resources.

L. Training and Seminars

Contractor will provide training and seminars that cover a wide range of work-life, wellness, and other topics. **Respondent should state the manner in which training and seminars will be delivered, with both web-based and classroom options available. Respondents should provide a list of training offered with topic descriptions that be included with the proposal response.**

All of Contractor's training materials must meet ADA guidelines and requirements. Examples of training topics TABC would like for Contractor to address include:

1. New Employee EAP Orientation and Supervisor Orientation.
2. Workplace Issues and Resources
3. Conducting Performance Evaluation and Resources
4. Conducting Interviews and Resources
5. Stress Management
6. Leadership Topics
7. Communication Skills and Resources
8. Conflict Resolution and Resources

M. Additional Services

TABC prefers that the Contractor provide the following services but may award the Contract to a Respondent who does not offer them.

1. Reimbursement of safe ride options;
2. Assistance with locating elderly services; and
3. Assistance with locating childcare services.



TEXAS ALCOHOLIC BEVERAGE COMMISSION

UNIFORM TERMS AND CONDITIONS

PUBLISHED AND EFFECTIVE FEBRUARY 1, 2020

RESPONSIBLE OFFICE: GENERAL COUNSEL

TABLE OF CONTENTS

Article I. Definitions and Interpretations.....4

 1.1 Definitions4

 1.2 Interpretive Provisions.....6

Article II. Consideration.....6

 2.1 Prompt Payment.....6

 2.2 Expenses6

 2.3 Work Orders7

Article III. State and Federal Funding.....7

 3.1 Funding7

 3.2 No Debt Against the State7

 3.3 Debt to State7

 3.4 Recapture of Funds7

Article IV. Warranty, Affirmations, Assurances and Certifications.....8

 4.1 Warranty8

 4.2 General Affirmations8

 4.3 Federal Assurances8

 4.4 Federal Certifications.....8

Article V. Ownership and Intellectual Property8

 5.1 Ownership.....8

 5.2 Intellectual Property.....8

Article VI. Records, Audit, and Disclosure.....9

 6.1 Books and Records9

 6.2 Access to Records, Books, and Documents.....9

 6.3 Response/Compliance with Audit or Inspection findings10

 6.4 SAO Audit10

 6.5 Confidentiality10

 6.6 Public Information Act10

Article VII. Contract Management and Early Termination.....10

 7.1 Contract Management.....10

 7.2 Termination for Convenience11

 7.3 Termination for Cause11

 7.4 Contractor Responsibility for Associated Costs.....11

 7.5 Equitable Settlement.....11

Article VIII. Miscellaneous Provisions.....11

 8.1 Amendment.....11

8.2	Insurance.....	12
8.3	Legal Obligations.....	12
8.4	E-Verify	12
8.5	Permitting and Licensure.....	12
8.6	Indemnity.....	12
8.7	Assignments.....	13
8.8	Subcontracts.....	13
8.9	HUB/Mentor Protégé.....	14
8.10	Relationship of the Parties.....	14
8.11	Technical Guidance Letters	14
8.12	Governing Law and Venue.....	15
8.13	Severability	15
8.14	Survivability	15
8.15	Force Majeure.....	15
8.16	Dispute Resolution.....	16
8.17	No Waiver of Provisions	16
8.18	Publicity.....	16
8.19	Prohibition on Non-compete Restrictions	16
8.20	No Waiver of Sovereign Immunity	16
8.21	Entire Contract and Modification	16
8.22	Counterparts.....	16
8.23	Proper Authority	16
8.24	Notice of Legal Matter or Litigation	16
8.25	Information Management Standards.....	16
8.26	Ethics Commission Filing – Disclosure of Interested Parties	16
8.27	Consulting Reports	16

ARTICLE I. DEFINITIONS AND INTERPRETATIONS

1.1 DEFINITIONS

As used in the Contract, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“Amendment” means a written agreement, signed by the parties hereto, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters, as herein defined.

“Attachment” means documents, terms, conditions, or additional information physically added to the Contract following the Signature Document, or included by reference within the body of the Contract, as if physically attached.

“Contract” means the Signature Document, these Uniform Terms and Conditions, and all Attachments, Amendments, purchase orders, Work Orders, and Technical Guidance Letters that may be issued by the Texas Alcoholic Beverage Commission (“TABC”), to be physically attached, or incorporated by reference for all purposes in their entirety, as if physically attached.

“Contractor” means the Party selected to provide the goods or services under the Contract, if any.

“Deliverable” means a work product prepared, developed, or procured by Contractor as part of the Services under the Contract for the use or benefit of the TABC or the State of Texas.

“Effective Date” means the date agreed to by the Parties on which the Contract takes effect.

“Federal Fiscal Year” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“Intellectual Property” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights, and all applications and worldwide registration of such; and schematics, industrial models, inventions, know-how, trade secrets, computer software programs, and other intangible proprietary information.

“Mentor Protégé” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.

“Parties” means the TABC and Contractor, collectively.

“Party” means either the TABC or Contractor, individually.

“[Project](#)” means the goods or Services described in the Signature Document or in a Work Order of the Contract, if any.

“[Public Information Act](#)” or “[PIA](#)” means Chapter 552 of the Texas Government Code.

“[Services](#)” means the tasks, functions, and responsibilities assigned and delegated to Contractor under the Contract.

“[Signature Document](#)” means the document executed by both Parties that specifically sets forth all of the documents that constitute the Contract.

“[Solicitation](#)” means the document issued by the TABC, under which the goods or services provided under the Contract were initially requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.

“[Solicitation Response](#)” means Contractor’s full and complete response to the Solicitation, which is incorporated herein by reference for all purposes in its entirety, including any Attachments and Addenda.

“[State Fiscal Year](#)” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“[Statement of Work](#)” means the description of Services and Deliverables specified in the Contract, as may be amended.

“[State of Texas Textravel](#)” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under the Contract, if any.

“[Subcontract](#)” means any written agreement between Contractor and a third party to fulfill the requirements of the Contract. All Subcontracts are required to be in writing.

“[Subcontractor](#)” means any individual or entity that enters a contract with Contractor to perform part or all of the obligations of Contractor under the Contract.

“[TABC](#)” means the Texas Alcoholic Beverage Commission, by authority granted under State law, and its officers, employees, and designees.

“[Technical Guidance Letter](#),” or “[TGL](#),” is issued by the TABC to Contractor, and means an instruction, clarification, or interpretation of the requirements of the Contract.

“[Work](#)” means all Services to be performed, goods to be delivered, and any appurtenant actions performed and items produced, conceived, or developed, including Deliverables.

“[Work Order](#)” means an individually negotiated document that is executed by both Parties and which authorizes a Project, if any, in an indefinite quantity Contract.

Remainder of Page Intentionally Left Blank

1.2 INTERPRETIVE PROVISIONS

- a. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- b. The words “hereof,” “herein,” “hereunder,” and similar words refer to the Contract as a whole and not to any particular provision, section, Attachment, or schedule of the Contract unless otherwise specified.
- c. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in the Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of the Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.
- d. Any references to “sections,” “appendices,” or “attachments” are references to sections, appendices, or Attachments of the Contract.
- e. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Contract are references to these documents as amended, modified, or supplemented from time to time during the term of the Contract.
- f. The captions and headings of the Contract are for convenience of reference only and do not affect the interpretation of the Contract.
- g. All Attachments within the Contract, including those incorporated by reference as if physically attached, and any Amendments are considered part of the terms of the Contract.
- h. The Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each will be performed in accordance with its terms.
- i. Unless otherwise expressly provided, reference to any action of the TABC or by the TABC by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- j. Time is of the essence in the Contract.

ARTICLE II. CONSIDERATION

2.1 PROMPT PAYMENT

The TABC will pay Contractor in accordance with the Prompt Payment Act, Texas Government Code, Chapter 2251.

2.2 EXPENSES

Except as otherwise provided in the Contract, no ancillary expenses incurred by Contractor in connection with its provision of the Services or Deliverables will be reimbursed by the TABC. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each Deliverable.

When reimbursement of travel expenses is authorized by the Contract, all such expenses will be reimbursed in accordance with the rates set by the State of Texas Textravel.

2.3 WORK ORDERS

To the extent the Contract is for indefinite quantities of services, as specified in the Signature Document, all Work will be performed in accordance with Work Orders.

Upon identification of a Project, the TABC will request that Contractor submit to the TABC a proposal, including pricing and a Project plan. If Contractor is selected to carry out an individual Project, a Work Order will be issued. Multiple Work Orders may be issued during the term of the Contract, all of which will be in writing and signed by the Parties. Each Work Order will include a Statement of Work; a list of tasks required; a time schedule; a list of Deliverables, if any; a detailed Project Budget; and such other information or special conditions as may be necessary for the work assigned.

Nothing in the Contract expresses or guarantees that the TABC will issue Work Orders to Contractor for any of the tasks set forth in the Contract or any of its Attachments. All work requested under the Contract will be required on an irregular and as needed basis throughout the Contract term, and the TABC makes no guarantee of volume or usage under the Contract.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 FUNDING

The Contract is contingent upon the availability of sufficient and adequate funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the Texas General Appropriations Act, agency consolidation, or any other disruptions of current funding for the Contract, the TABC may restrict, reduce, or terminate funding under the Contract. The Contract is also subject to immediate cancellation or termination, without penalty to the TABC, if sufficient and adequate funds are not available. Contractor will have no right of action against the TABC if the TABC cannot perform its obligations under the Contract as a result of lack of funding for any activities or functions contained within the scope of the Contract. In the event of cancellation or termination under this Section, the TABC will not be required to give notice and will not be liable for any damages or losses caused or associated with such termination or cancellation.

3.2 NO DEBT AGAINST THE STATE

The Contract will not be construed as creating any debt by or on behalf of the State of Texas.

3.3 DEBT TO STATE

If a payment law prohibits the Texas Comptroller of Public Accounts from making a payment due to a debt owed to the State by Contractor, Contractor acknowledges that the TABC's payments under the Contract will be applied toward eliminating the debt or delinquency. This requirement specifically applies to any debt or delinquency, regardless of when it arises.

3.4 RECAPTURE OF FUNDS

The TABC may withhold all or part of any payments made pursuant to the Contract to offset overpayments made to Contractor. Overpayments as used in this Section include payments (i) made by the TABC that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with the Contract, including any unapproved expenditures. Contractor understands and agrees that it will be liable to the TABC for any costs disallowed pursuant to financial and compliance audit(s) of funds

received under the Contract. Contractor further understands and agrees that reimbursement of such disallowed costs will be paid by Contractor from funds which were not provided or otherwise made available to Contractor under the Contract.

ARTICLE IV. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

4.1 WARRANTY

Contractor warrants that all Work under the Contract will be completed under the terms of the Contract in a manner consistent with standards in the applicable trade, profession, or industry; will conform to or exceed the specifications set forth in the Contract; and will be fit for ordinary use, of good quality, and with no material defects. If Contractor fails to complete Work timely or to perform satisfactorily under conditions required by the Contract, the TABC may require Contractor, at its sole expense, to:

- a. repair or replace all defective or damaged Work;
- b. refund any payment received for all defective or damaged Work and, in conjunction therewith, require Contractor to accept the return of such Work; and
- c. take necessary action to ensure that future performance and Work conform to the Contract requirements.

4.2 GENERAL AFFIRMATIONS

Contractor further certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the General Affirmations have been reviewed and that Contractor is in compliance with each of the requirements reflected therein.

4.3 FEDERAL ASSURANCES

Contractor further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Federal Assurances have been reviewed and that Contractor is in compliance with each of the requirements reflected therein.

4.4 FEDERAL CERTIFICATIONS

Contractor further certifies, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, that the Federal Certifications have been reviewed, and that Contractor is in compliance with each of the requirements reflected therein. **In addition, Contractor certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to the Contract.**

ARTICLE V. OWNERSHIP AND INTELLECTUAL PROPERTY

5.1 OWNERSHIP

The TABC will own, and Contractor hereby assigns to the TABC, all right, title, and interest in all Work.

5.2 INTELLECTUAL PROPERTY

To the extent any Work results in the creation of Intellectual Property, all right, title, and interest in and to such Intellectual Property will vest in the TABC upon creation, and will be deemed to be a “work made for hire” and made in the course of the services rendered pursuant to the Contract.

To the extent that title to any such Intellectual Property may not by law vest in the TABC, or such Intellectual Property may not be considered a “work made for hire,” all rights, title, and interest therein are hereby irrevocably assigned to the TABC. The TABC will have the right to obtain and to hold in its name any and all patents, copyrights, trademarks, service marks, registrations, or such other protection as may be appropriate to the subject matter, including extensions and renewals thereof.

Contractor must give the TABC and the State of Texas, as well as any person designated by the TABC or the State of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond the stated amount payable to Contractor for the services authorized under the Contract.

ARTICLE VI. RECORDS, AUDIT, AND DISCLOSURE

6.1 BOOKS AND RECORDS

Contractor will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the TABC, the Texas State Auditor’s Office, the United States Government, and their authorized representatives information sufficient to determine compliance with the terms and conditions of the Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in the Contract, Contractor will maintain legible copies of the Contract and all related documents for a minimum of seven (7) years after the termination of the contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

6.2 ACCESS TO RECORDS, BOOKS, AND DOCUMENTS

In addition to any right of access arising by operation of law, Contractor and any of Contractor’s affiliate or subsidiary organizations or Subcontractors will permit the TABC or any of its duly authorized representatives, as well as duly authorized federal, state, or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client, and patient records, books, papers, or documents related to the Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the TABC's contracted examiners, the State Auditor’s Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the TABC or any duly authorized authority, for the purpose of investigation or hearing, Contractor will produce original documents related to the Contract. The TABC and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Contractor will include this provision concerning the right of access to, and examination of, sites and information related to the Contract in any Subcontract it awards.

6.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- a. Contractor must act to ensure its and its Subcontractor's compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the goods or services provided hereunder. Any such correction will be at Contractor or its Subcontractor's sole expense. Whether Contractor's action corrects the noncompliance will be solely the decision of the TABC.
- b. As part of the Services, Contractor must provide to the TABC upon request a copy of those portions of Contractor's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

6.4 SAO AUDIT

Contractor understands that 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's Office ("SAO"), or any successor agency, 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 SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Contractor agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Contractor and the requirement to cooperate is included in any Subcontract it awards.

6.5 CONFIDENTIALITY

Any specific confidentiality agreement between the Parties takes precedent over the terms of this section. To the extent permitted by law, Contractor agrees to keep all information confidential, in whatever form produced, prepared, observed, or received by Contractor. The provisions of this section remain in full force and effect following termination or cessation of the services performed under the Contract.

6.6 PUBLIC INFORMATION ACT

Information related to the performance of the Contract may be subject to the Public Information Act ("PIA") and will be withheld from public disclosure or released only in accordance therewith. Contractor must make all information not otherwise excepted from disclosure under the PIA available in portable document format (".pdf") or any other format agreed between the Parties.

ARTICLE VII. CONTRACT MANAGEMENT AND EARLY TERMINATION

7.1 CONTRACT MANAGEMENT

To ensure full performance of the Contract and compliance with applicable law, the TABC may take actions including:

- a. Suspending all or part of the Contract
- b. Requiring Contractor to take specific corrective actions in order to remain in compliance with the terms of the Contract

- c. Recouping payments made to Contractor found to be in error
- d. Suspending, limiting, or placing conditions on the continued performance of Work
- e. Imposing any other remedies authorized under the Contract
- f. Imposing any other remedies, sanctions, or penalties permitted by federal or state statute, law, regulation, or rule

7.2 TERMINATION FOR CONVENIENCE

The TABC may terminate the Contract, in whole or in part, at any time when, in its sole discretion, the TABC determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in TABC's notice of termination.

7.3 TERMINATION FOR CAUSE

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the TABC may terminate the Contract, in whole or in part, upon either of the following conditions:

a. **Material Breach**

The TABC will have the right to terminate the Contract in whole or in part if the TABC determines, at its sole discretion, that Contractor has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Contractor's duties under the Contract. Contractor's misrepresentation in any aspect of Contractor's Solicitation Response, if any, or Contractor's presence on the excluded parties list system, in the U.S. General Service Administration's "System Award Management" procurement information, shall also be considered a material breach of the Contract.

b. **Failure to Maintain Financial Viability**

The TABC may terminate the Contract if, in its sole discretion, the TABC believes, in good faith, that Contractor no longer maintains the financial viability required to complete the Services and Deliverables, or to otherwise fully perform its responsibilities under the Contract.

7.4 CONTRACTOR RESPONSIBILITY FOR ASSOCIATED COSTS.

If the TABC terminates the Contract for Cause, Contractor will be responsible to the TABC for all costs incurred by the TABC and the State of Texas to replace Contractor. These costs include, but are not limited to, the costs of procuring a substitute vendor and the cost of any claim or litigation that is reasonably attributable to Contractor's failure to perform any Work in accordance with the terms of the Contract.

7.5 EQUITABLE SETTLEMENT

Any early termination under this Article will be subject to the equitable settlement of the respective interests of the Parties up to the date of termination.

ARTICLE VIII. MISCELLANEOUS PROVISIONS

8.1 AMENDMENT

The Contract may only be amended by a written Amendment, executed by both Parties.

8.2 INSURANCE

Unless otherwise specified in the Contract, Contractor will acquire and maintain, for the duration of the Contract, insurance coverage necessary to ensure proper fulfillment of the Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry, as determined by the TABC. Contractor will provide evidence of insurance as required under the Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the TABC the nature and extent of coverage granted by each such policy, upon request by the TABC. In the event that any policy is determined by the TABC to be deficient to comply with the terms of the Contract, Contractor will secure such additional policies or coverage as the TABC may reasonably request or that are required by law or regulation. If coverage expires during the term of the Contract, Contractor must produce renewal certificates for each type of coverage.

These and all other insurance requirements under the Contract apply to both Contractor and its Subcontractors, if any. Contractor is responsible for ensuring its Subcontractors' compliance with all requirements.

8.3 LEGAL OBLIGATIONS

Contractor will comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use of information and communication technology. Contractor will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them. In addition to any other act or omission that may constitute a material breach of the Contract, failure to comply with this Section may also be a material breach of the Contract.

8.4 E-VERIFY

By entering into the Contract, Contractor certifies and ensures that it utilizes and will continue to utilize for the term of the Contract, the U.S. Department of Homeland Security's e-Verify system to determine the eligibility of:

- a. all persons employed during the Contract term to perform duties within Texas; and
- b. all persons (including subcontractors) assigned by Contractor to perform Work pursuant to the Contract.

8.5 PERMITTING AND LICENSURE

At Contractor's sole expense, Contractor will procure and maintain for the duration of the Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification, or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or Services required by the Contract. Contractor will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses

required by law. Contractor agrees to be responsible for payment of any such government obligations not paid by its Subcontractors during performance of the Contract.

8.6 INDEMNITY

TO THE EXTENT ALLOWED BY LAW, CONTRACTOR WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE TABC AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:

- **CONTRACTOR'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY CONTRACTOR, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF CONTRACTOR, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- **EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST CONTRACTOR, ITS OFFICERS, OR ITS AGENTS; OR**
- **WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

CONTRACTOR WILL COORDINATE ITS DEFENSE WITH TABC AND ITS COUNSEL. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR TABC FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF TABC OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.

8.7 ASSIGNMENTS

Contractor may not assign all or any portion of its rights under, interests in, or duties required under the Contract without prior written consent of the TABC, which may be withheld or granted at the sole discretion of the TABC. Except where otherwise agreed in writing by the TABC, assignment will not release Contractor from its obligations under the Contract.

Contractor understands and agrees the TABC may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

8.8 SUBCONTRACTS

Contractor will be responsible to the TABC for all performance by Subcontractors under the Contract. Nothing in the Contract will be construed to relieve Contractor of the responsibility for ensuring that the goods delivered or services rendered by Contractor or any of its Subcontractors comply with all the terms and provisions of the Contract. Contractor will provide written notification to the TABC of any Subcontractor receiving compensation of fifteen thousand dollars (\$15,000.00) or more of the Work under the Contract, a copy of the

Subcontract that includes the name and taxpayer identification number of Subcontractor, the task(s) being performed, and the number of Subcontractor employees expected to perform Services. The TABC reserves the right to:

- a. Reject the Subcontract or require changes to any provisions that do not comply with the requirements, duties, or responsibilities of the Contract or that create significant barriers for the TABC to monitor compliance with the Contract;
- b. Object to the selection of the Subcontractor; or
- c. Object to the subcontracting of the Work proposed to be subcontracted.

8.9 HUB/MENTOR PROTÉGÉ

In accordance with State law, it is the TABC's policy to assist Historically Underutilized Businesses ("HUBs") whenever possible in providing goods and services to the TABC. The TABC encourages those parties with whom it contracts for the provision of goods and services to adhere to this same philosophy in selecting Subcontractors to assist in fulfilling their obligations with the TABC. In addition to information required by the Contract, Contractor will provide the procurement department of the TABC with pertinent details of any participation by a HUB in fulfilling the duties and obligations arising hereunder.

In addition, the TABC encourages the parties it contracts with to partner with certified HUBs that participate in the Texas Comptroller of Public Accounts' Mentor Protégé Program.

8.10 RELATIONSHIP OF THE PARTIES

Contractor is, and will be, an independent contractor and, subject only to the terms of the Contract, will have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under the Contract. Nothing contained in the Contract will be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the TABC any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party.

Contractor will be solely responsible for, and the TABC will have no obligation with respect to:

- a. Payment of Contractor's employees for all Services performed
- b. Ensuring each of its employees, agents, or Subcontractors who provide Services or Deliverables under the Contract are properly licensed, certified, or have proper permits to perform any activity related to the Work
- c. Withholding of income taxes, FICA, or any other taxes or fees
- d. Industrial or workers' compensation insurance coverage
- e. Participation in any group insurance plans available to employees of the State of Texas
- f. Participation or contributions by the State to the State Employees Retirement System;
- g. Accumulation of vacation leave or sick leave
- h. Unemployment compensation coverage provided by the State

8.11 TECHNICAL GUIDANCE LETTERS

In the sole discretion of the TABC, and in conformance with federal and state law, the TABC may issue instructions, clarifications, or interpretations as may be required during Work

performance in the form of a Technical Guidance Letter (“TGL”). A TGL must be in writing, and may be delivered by regular mail, electronic mail, or facsimile transmission. Any TGL issued by the TABC will be incorporated into the Contract by reference for all purposes in its entirety, as if physically attached, when it is issued.

8.12 GOVERNING LAW AND VENUE

The Contract and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under the Contract will be in a court of competent jurisdiction in Travis County, Texas, unless otherwise elected by the TABC. Contractor irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have, to the bringing of any action or proceeding in such jurisdiction in respect of the Contract or any document related hereto.

8.13 SEVERABILITY

If any provision contained in the Contract is held to be unenforceable by a court of law or equity, the Contract will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of the Contract unenforceable.

8.14 SURVIVABILITY

Termination or expiration of the Contract for any reason will not release either Party from any liabilities or obligations in the Contract that (i) the Parties have expressly agreed will survive any such termination or expiration; (ii) remain to be performed; or (iii) by their nature would be intended to be applicable following any such termination or expiration, including maintaining confidentiality of information and records retention.

8.15 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a “Force Majeure”), then, while so prevented, the affected Party’s obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof

8.16 DISPUTE RESOLUTION

If a Contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision will not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

8.17 NO WAIVER OF PROVISIONS

Neither failure to enforce any provision of the Contract nor payment for services provided under it constitute waiver of any provision of the Contract.

8.18 PUBLICITY

Except as provided in the paragraph below, Contractor must not use the name of, or directly or indirectly refer to, the TABC, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject matter, including in any promotional or marketing materials, customer lists, or business presentations.

8.19 PROHIBITION ON NON-COMPETE RESTRICTIONS

Contractor will not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

8.20 NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in the Contract will be construed as a waiver of sovereign immunity by the TABC.

8.21 ENTIRE CONTRACT AND MODIFICATION

The Contract constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Contract will be harmonized by the TABC with the Contract to the extent possible.

8.22 COUNTERPARTS

The Contract may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Contract.

8.23 PROPER AUTHORITY

Each Party hereto represents and warrants that the person executing the Contract on its behalf has full power and authority to enter into the Contract. With respect to compensation, any Services or Work performed by Contractor before the Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

8.24 NOTICE OF LEGAL MATTER OR LITIGATION

Contractor shall notify the TABC contract manager assigned to the Contract of any litigation or legal matter related to or affecting the Contract within seven (7) calendar days of becoming aware of the litigation or legal matter.

8.25 INFORMATION MANAGEMENT STANDARDS

Contractor agrees that it will conform to TABC standards for data management as described in the appendices to the Statement of Work.

8.26 ETHICS COMMISSION FILING- DISCLOSURE OF INTERESTED PARTIES

Contractor certifies that it has filed, or is exempt from filing, Texas Ethics Commission Form 1295 found at <https://www.ethics.state.tx.us/filinginfo/1295/> in accordance with Tex. Gov't Code Chapter 2252.908.

8.27 CONSULTING REPORTS

TABC and other state agencies have the right to distribute any report create by consultant and to post such reports to the agency's website or any other state agency or legislative website.

Exhibit C. AFFIRMATIONS AND SOLICITATION ACCEPTANCE

Respondent affirms, without exception, as follows:

1. Respondent represents and warrants that all certifications, representations, warranties, and other provisions in this Affirmations and Solicitation Acceptance apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Solicitation or any contract resulting from this Solicitation.
2. Respondent represents and warrants that all statements and information provided to TABC are current, complete, and accurate. This includes all statements and information in this Solicitation Response.
3. Respondent acknowledges that its Solicitation Response and subsequent documents submitted are subject to the Texas Public Information Act.
4. Respondent acknowledges its obligation to specifically identify information it contends to be confidential or proprietary and, if Respondent designated substantial portions of its Solicitation Response or its entire Solicitation Response as confidential or proprietary, the Solicitation Response is subject to being disqualified.
5. Respondent's Solicitation Response will remain a firm and binding offer for 180 days from the date the Solicitation Response is due.
6. Respondent accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation. Respondent agrees that all exceptions to the Solicitation are rejected unless expressly accepted by TABC. Any additional terms and conditions, proposed by Respondent, attached to a Response will not be considered unless specifically referred to in the Response.
7. Respondent agrees that TABC has the right to use, produce, and distribute copies of and to disclose to TABC employees, agents, and contractors and other governmental entities all or part of Respondent's Solicitation Response as TABC deems necessary to complete the procurement process or comply with state or federal laws.
8. Respondent generally releases from liability and waives all claims against any party providing information about the Respondent at the request of TABC.
9. Respondent acknowledges all addenda and amendments to the Solicitation.
10. Respondent certifies that if a Texas address is shown as the address of Respondent, Respondent qualifies as a Texas Bidder as defined by Tex. Gov't Code §2155.4441. Respondent agrees to comply with §2155.4441 relating to the use of service contracts and the purchase or products and materials produced in the State of Texas.
11. Respondent represents and warrants that it qualifies for all preferences claimed under 34 Texas Administrative Code §20.306 or Chapter 2155, Subchapter H of the Texas Government Code as indicated below (check applicable boxes):
 - Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran

- Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Agricultural products grown in Texas
 - Agricultural products offered by a Texas bidder
 - Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
 - Texas Vegetation Native to the Region
 - USA produced supplies, materials or equipment
 - Products of persons with mental or physical disabilities
 - Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - Energy Efficient Products
 - Rubberized asphalt paving material
 - Recycled motor oil and lubricants
 - Products produced at facilities located on formerly contaminated property
 - Products and services from economically depressed or blighted areas
 - Vendors that meet or exceed air quality standards
 - Recycled or Reused Computer Equipment of Other Manufacturers
 - Foods of Higher Nutritional Value
 - Commercial production company or advertising agency located in Texas
12. Respondent has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Solicitation Response, this Solicitation, or any contract resulting from this Solicitation.
13. Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Respondent 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.
14. Under Section 2155.006, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), Respondent 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.
15. Under Section 2261.053, Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), Respondent 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.

16. Under Section 231.006, Texas Family Code, the vendor or applicant 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 may be terminated and payment may be withheld if this certification is inaccurate.
17. Pursuant to Section 231.006(c), Texas Family Code (relating to delinquent child support), identify below the name and social security number (SSN) of each individual, sole proprietor, partner, shareholder, and owner with an ownership interest of at least 25 percent (25%) of the business entity submitting this Solicitation Response:

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

Name: _____ SSN: _____

FEDERAL PRIVACY ACT NOTICE: Disclosure of requested Social Security Numbers (SSNs) is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSNs will be used to identify persons that may owe child support. The SSNs will be kept confidential to the fullest extent permitted by law. Failure by a Respondent to provide the required SSNs may result in disqualification of the Respondent's Solicitation Response.

18. Respondent certifies that: (a) the entity executing this Solicitation Response; (b) its principals; (c) its subcontractors; and (d) any personnel designated to perform services related to any contract resulting from this Solicitation are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal Department or Agency. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's Subcontracts if payment in whole or in part is from federal funds.
19. Respondent certifies that it, its principals, its subcontractors, and any personnel designated to perform services related to any contract resulting from this Solicitation are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity.
20. Respondent certifies it is in compliance with all State of Texas statutes and rules relating to procurement; and that (a) the entity executing this Solicitation Response; (b) its principals; (c) its subcontractors; and (d) any personnel designated to perform services related to any contract resulting from this Solicitation are not listed on the federal government's terrorism watch list described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://sam.gov/SAM/>, which Respondent may review in making this certification.
21. In accordance with Texas Government Code Section 669.003 (relating to contracting with the executive head of a state agency), Respondent certifies that it (1) is not the executive

- head of TABC; (2) was not at any time during the past four years the executive head of TABC; and (3) does not employ a current or former executive head of TABC.
22. Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
 23. Respondent represents and warrants that payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).
 24. Respondent represents and warrants that it will comply with Texas Government Code Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.
 25. Respondent represents and warrants that none of its employees, including but not limited to, those authorized to provide services under the contract, were former employees of the Agency during the twelve (12) month period immediately prior to the date of execution of the contract.
 26. Respondent acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of TABC who during the period of state service or employment participated on behalf of TABC in a procurement or contract negotiation involving Respondent may not accept employment from respondent before the second anniversary of the date the officer's or employee's service or employment with TABC ceased.
 27. Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to TABC under this Solicitation and any resulting contract and that Respondent's provision of the requested goods and/or services under this Solicitation and any resulting contract would not reasonably create an appearance of impropriety.
 28. Respondent understands that TABC does not tolerate any type of fraud. The agency's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. All employees or contractors who suspect fraud, waste or abuse (including employee misconduct that would constitute fraud, waste, or abuse) are required to immediately report the questionable activity to both the TABC Office of the Inspector General at 512-206-3405 and the State Auditor's Office. Respondent agrees to comply with all applicable laws, rules, regulations, and TABC policies regarding fraud.
 29. Respondent represents and warrants that in accordance with Section 2155.005 of the Texas Government Code, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal anti-trust laws, or (2) communicated directly or indirectly the contents of this Response to any competitor or

any other person engaged in such line of business as Respondent. Respondent hereby assigns to TABC any claims for overcharges associated with any contract resulting from this Solicitation under 15 U.S.C. § 1, *et seq.*, and Texas Business and Commerce Code § 15.01, *et seq.*

30. Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Respondent or any of the individuals or entities included numbered paragraph 1 of this Affirmations and Solicitation Acceptance within the five (5) calendar years immediately preceding the submission of this Solicitation response that would or could impair Respondent's performance under any contract resulting from this Solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to TABCs consideration of entering into a contract. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has provided to TABC a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Respondent's performance under a contract awarded as a result of this solicitation, relate to the contracted or similar goods or services, or otherwise be relevant to the TABCs consideration of entering into a contract. In addition, Respondent represents and warrants that, if awarded a contract as a result of this Solicitation, Respondent shall notify TABC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update TABC shall constitute breach of contract and may result in immediate contract termination.
31. Respondent represents and warrants that pursuant to Texas Government Code §2270.002, Respondent affirms that it: (a) does not boycott Israel; and (b) will not boycott Israel during the term of any Contract awarded.
32. Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization as prohibited by Section 2251.152 of the Texas Government Code.
33. Respondent understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Respondent is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of any contract resulting from this Solicitation.
34. Respondent represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to any contract resulting from this Solicitation.
35. Respondent certifies that for all contracts for services, Respondent shall utilize the U.S. Department of Homeland Securities E-Verify system during the term of the contract to determine the eligibility of: 1) all persons employed by respondent to perform duties within Texas; and 2) all persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.

- 36. By submitting this Response, Respondent represents and warrants that the individual signing this Solicitation response is authorized to submit and sign on behalf of Respondent and to bind Respondent.
- 37. Respondent certifies its compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
- 38. Respondent affirms its compliance with Chapter 2274 of the Texas Government Code, and that, to the extent applicable, Respondent does not and will not during the term of any Contract awarded pursuant to this Solicitation: 1) boycott energy companies or companies that do business with energy companies, as defined and specified by the statute; or 2) discriminate against firearms entities, as defined and specified by the statute.

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

Legal Name of Respondent: _____

Signature of Authorized Representative

Date Signed

Printed Name and Title of Authorized Representative

Phone Number

Federal Employer Identification Number

Fax Number

DUNS Number

Email Address

Physical Street Address

City, State, Zip Code

Mailing Address, if different

City, State, Zip Code