

**REQUEST FOR PROPOSAL (RFP)
FOR THE
TEXAS DEPARTMENT OF TRANSPORTATION
RAIL DIVISION**

RFP 83-1XXPA001

**ISSUED BY THE
TEXAS DEPARTMENT OF TRANSPORTATION
RAIL DIVISION (RRD)**

Proposals must be submitted no later than:

December 8, 2010 at 1:00 P.M. Central Standard Time (CST)

LATE PROPOSALS MAY BE REJECTED

Date Issued: October 29, 2010

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1.0 SCOPE

The statutory authority for the Texas Department of Transportation (TxDOT) to enter into a contract with a private consultant is contained in the Government Code, Chapter 2254, Subchapter B, Sections 2254.021 et. seq. Consulting Services.

1.1 Background

In 1991, Congress required the Federal Transit Administration (FTA) to establish a program providing for the state-conducted oversight of the safety and security of rail systems not regulated by the Federal Railroad Administration (FRA), by enacting a statute in Title 49 United States Code (USC) §5330. FTA published final regulations, Title 49 Code of Federal Regulations (CFR) Part 659, to implement the federal statute. The final rule is located at <http://edocket.access.gpo.gov/2005/pdf/05-8567.pdf>.

Every three (3) years, beginning with the initiation of passenger operations, TxDOT or its Consultant must conduct an on-site review of each Rail Transit Agency's (RTA) implementation of its System Safety Program Plan (SSPP) and System Security Plan (SSP). At the conclusion of each on-site review, the Consultant must prepare and issue a report containing findings and recommendations resulting from that review which includes an analysis of the effectiveness of TxDOT's SSPP and the SSP and a determination of whether either plan should be updated. The Consultant must work with their respective rail fixed guideway system to resolve all outstanding issues resulting from the review on or before August 31, 2011.

TxDOT is seeking the services of one (1) or more Consultants to conduct an on-site safety and security review of two (2) separate rail fixed guideway systems within the state of Texas in accordance with 49 CFR Part 659.29, FTA guidance entitled Recommended Best Practices for States Conducting Three-Year Safety Reviews, dated March 2009 and TxDOT's System Safety Program Plan and Security Program Plan. The rail fixed guideway systems are the Metropolitan Transit Authority of Harris County (METRORail) and the Dallas Area Rapid Transit (DART). TxDOT will award and issue a separate contract for each safety and security review. There is no expectation or requirement that a proposer bid on both reviews.

1.2 Regulations

All work must be performed in compliance with applicable federal and state regulations.

1.3 Conflict of Interest

No individual or entity may provide services to both the TxDOT as the State Safety Oversight Agency (SSOA) and the RTA when there is a conflict of interest or an appearance of a conflict. A conflict of interest occurs when an individual or entity performing work for an SSOA or the RTA is unable, or potentially unable, to render impartial assistance or advice on the development or implementation of the standards and provisions of this State Safety Oversight (SSO) manual, or to objectively perform such work without bias. A third party contractor to the SSOA or an RTA may not have an unfair competitive advantage over other contractors. Each contractor is subject to full disclosure on all present and potential conflicts of interest in its activities or relationships prior to the award of a contract with the SSOA or an RTA.

1.4 Confidentiality of Investigation Reports, Security Plans, and Review Documents

All internal investigational reports, the SSP, and supporting documentation collected by TxDOT or its Consultant are confidential and shall not be released except as provided in the Agreement. All final review reports and supporting documentation remain the property of TxDOT and each RTA.

1.5 Procuring and Contracting Agency

TxDOT issues this Request for Proposal (RFP), and is the sole point of contact for the State of Texas during the selection process.

1.6 Definitions

The following definitions are used in this RFP:

- “Consultant” means the firm selected from this RFP.
- “Division” means the Rail Division of the Texas Department of Transportation.
- “Proposer” means a firm submitting a proposal in response to this RFP.
- “RTA” means Rail Transit Agency.
- “SSP” means System Security Plan.
- “SSPP” means System Safety Program Plan.
- “RFP” means Request for Proposal.
- “TxDOT” means the Texas Department of Transportation.

1.7 Contract Term

The contract shall terminate on August 31, 2011 and may not be extended.

1.8 Insurance

Prior to beginning work the successful Proposer shall have on file with TxDOT’s General Services Division - Contract Services the attached, completed TxDOT Certificate of Insurance form (Attachment E) covering worker's compensation, commercial general liability, and business auto.

2.0 PROPOSAL INFORMATION

2.1 Evaluation and Selection

The evaluation and selection of a Consultant will be based on the information submitted in the proposal, references, interviews, and negotiations. Proposers should respond clearly and completely to all requirements. Failure to respond completely may be the basis for rejecting a proposal.

2.2 Incurring Costs

TxDOT is not liable for any expenses incurred by Proposers relating to the response development in replying to this RFP.

2.3 Payment Schedule

Payments will be periodic based on the receipt of correct invoices for reimbursable expenses to be judged and acceptable by the TxDOT Project Manager. With the approval

of the TxDOT Project Manager, the Consultant may structure the project for one payment at the full completion of the project, or a series of payments for approved interim billings. Billings may be made no more frequently than monthly. Payment will be made within thirty (30) days after receipt and acceptance of a correct invoice. The TxDOT Project Manager may, at their discretion, approve, approve with questions, disapprove with questions, or reject an invoice.

As part of the negotiations for an agreement, all deliverables and their due dates will be determined and approved. A deliverable is a specific product, such as a report or a database, as opposed to a reimbursable expense. Invoices for deliverables may be submitted only after the deliverable is approved in writing by the TxDOT Project Manager.

2.4 Cancellation

The contract may be cancelled by either party by providing thirty (30) days written notice to the other party. TxDOT will pay the Consultant the price for reimbursable expenses and deliverables specified in the scope of work and accepted by the TxDOT Project Manager up to the date specified in the notice of cancellation. Termination under this paragraph shall not relieve the Consultant of any obligation or liability that has occurred prior to cancellation.

If the Consultant does not demonstrate a significant start to the work within -five (45) days of the execution of the contract, the contract may be cancelled at the sole discretion of TxDOT. The thirty (30) days' notice stipulation will be followed. TxDOT may, at its sole discretion, impose a Stop Work Order during the thirty (30) days' notice period.

Failure to comply with the terms of the approved contract with reference to deliverables, schedule, on-site review, or communication is grounds for cancellation of the contract at the sole discretion of TxDOT. The thirty (30) days' notice stipulation will be followed. TxDOT may, at its sole discretion, impose a Stop Work Order during the thirty (30) days' notice period.

2.5 Timetable

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

Event	Date
RFP issued	October 29, 2010
Deadline for Submission of Questions	November 29, 2010
Deadline for Submission of Proposals	December 8, 2010 1:00 PM CST
Expected Completion of Scoring and Negotiations	January 14, 2011
Expected Award of Contract	January 21, 2011

2.6 Project Manager

The TxDOT Rail Division (RRD) will administer the contract resulting from this RFP. The TxDOT Project Manager is Susan Hausmann, Rail Division (RRD), Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The TxDOT Project Manager will serve as the point of contact between TxDOT and the Consultant. The Project

Manager shall supervise TxDOT’s review of the Consultant’s technical work, deliverables, draft report, final report, payment requests, schedules, and similar matters.

2.7 Clarification of the Specifications and Requirements

All requests for clarification shall be submitted to the following web address: RRD_ProposalRequests@txdot.gov no later than November 29, 2010 by 5:00 p.m. Central Standard Time (CST) to receive a response. All responses to questions submitted will be posted on TxDOT’s Rail Division web page <http://www.txdot.gov/safety/rail.htm>.

2.8 Proposal Submission

The Proposer must submit one (1) original plus three (3) copies of the proposal to TxDOT. All proposals must be packaged, sealed, marked confidential and have the following information written on the outside of the package:

- RFP Title and number;
- Proposer Organization name; and
- Organization contact information to include street address, email address, and telephone number.

The proposal packages shall be delivered to TxDOT by one of the following methods:

Via United States Postal Service	Via Courier or Overnight Delivery:
Susan Hausmann Texas Department of Transportation Rail Division (RRD) 125 East 11 th Street Austin, Texas 78701-2483	Susan Hausmann Texas Department of Transportation Rail Division (RRD) 118 E. Riverside Drive Austin, Texas 78704-2409

All proposals shall be received at TxDOT prior to 1:00 P.M. Central Standard Time (CST) on December 8, 2010. Proposers submitting their proposals must allow sufficient time for delivery of their proposal by the time and date specified. Email and facsimile proposals will not be accepted. Late proposals may be rejected.

3.0 PROPOSAL REQUIREMENTS AND EVALUATION

3.1 Response Submission

Proposer shall submit all documentation. TxDOT will not be responsible for any expenses relating to response development, documentation, or presentation that may result from this RFP. Response shall be tab indexed. Failure to submit all of the following response information in the following order may result in disqualification of the proposal. Proposer shall submit a separate budget for each safety – security review.

TAB 1- RFP Signature Cover Page

Include a submission letter signed by an authorized member of the Proposer.

TAB 2- Work Plan

- Include an executive summary to condense and highlight the contents of the work plan.
- Include a detailed project schedule and work plan for each deliverable. The work plan shall include but is not limited to the following:
 - An Implementation Schedule
 - A schedule of milestones for each deliverable.
 - Checklists containing recommended verification activities for each of the 21 SSPP and 5 SSP elements.
 - A logical sequence of tasks for each deliverable.
 - A clear definition of each deliverable.
 - Staff requirements for each deliverable.
 - A specific completion date for deliverable.
 - Deliverable relationships and interdependencies.
- Include information on how the work is to be organized and managed.
- Demonstrate the ability of the Proposer to successfully produce the required deliverables.
- Demonstrate an understanding of the scope of the SSO safety and security review requirements.
- Demonstrate transit safety and security technical knowledge.
- Document the ability of the Proposer to complete the work on this project by August 31, 2011.

TAB 3- Company Information and History

- Document the experience of the Proposer in conducting SSO rail safety and security specific reviews within the previous three (3) years.
- Demonstrate the Proposer's SSO rail safety and security subject matter expertise within the previous three (3) years.
- Proposer Data Sheet (Attachment A)
- Proposer References (Attachment B).

TAB 4- Key Personnel Skills and Qualifications

- Document the skills and qualifications of key personnel assigned to the project.
- Demonstrate successful past performance during the previous three (3) years.
- Document the level of staffing.
- Team Leader Qualifications (Attachment C).
- Personnel Qualifications (Attachment C).

TAB 5- Cost Proposal

- Cost (Attachment D).

TAB 6- State and Federal Certifications

Signed copies of the TxDOT:

- Certification of Insurance Coverage.

3.2 Schedule Adherence

Proposers shall indicate their ability to complete work on this project by August 31, 2011 and propose a schedule of milestones for each deliverable. The funding for these projects expires on August 31, 2011.

3.3 Proposal Scoring and Selection

TxDOT shall award a contract to a Consultant whose proposal is considered to provide the best value to the State of Texas. A team composed of the TxDOT Program Manager and the TxDOT review panel will evaluate and rank the proposals. After the panel completes the review of all responsive proposals, the panel will meet to discuss the scores they assigned and the technical merit of each proposal. The panel will assemble an initial ranked list of proposals. Proposers whose proposals that are reasonably apt to be selected are required to interview with the TxDOT Program Manager and the TxDOT review panel. During the proposal review phase, TxDOT reserves the right to conduct formal negotiations pertaining to a Proposer's initial responses, specifications, and prices. The TxDOT Project Manager will conduct the formal negotiations as necessary.

3.4 Proposal Evaluation

All proposals submitted in response to this RFP will be evaluated based on the following criteria:

	Proposal Evaluation Criteria	Weight
Qualifications		60%
	<ul style="list-style-type: none">▪ Responsiveness to the RFP Requirements/ Technical Approach - Quality of Package Provided<ul style="list-style-type: none">○ Completeness and Thoroughness of Proposal○ Understanding of Safety and Security Reviews○ Responsiveness to Terms and Conditions○ Quality and Organization of Proposal○ Approach to Review Parameters○ Quality and Quantity of Services to be Delivered○ Proposed Schedule▪ Organization, Personnel, and Experience<ul style="list-style-type: none">○ Qualifications and Related Experience of Personnel○ Qualifications and Related Experience of the Proposer○ Qualifications and Related Experience of the Team Leader○ Qualifications and Related Experience of the Team Members○ Experience with Rail Safety and Security Reviews within the previous three (3) years	
Cost		<hr/> 40%
		<hr/> <hr/> 100%

3.5 Proposal Organization and Format

The proposal font shall be Arial 12 point and all pages shall be numbered in the footer. Proposals should be submitted on 8.5 by 11-inch paper bound securely. Each heading should be clearly marked and separated by tabs. There is not a page limit for each proposal.

3.6 Interviews

Interviews may be conducted with the top scoring Proposers by the TxDOT Program Manager and or the TxDOT review panel to clarify and verify the written proposals. TxDOT will schedule a time and location for each interview it requests. Interviews may be conducted in person at TxDOT's Riverside Annex location or via telephone. Subsequent negotiations may be conducted in person at TxDOT's Riverside Annex location or via telephone.

3.7 Award and Final Offers

The award will be made based on the results of the RFP, references, interviews, and negotiations.

3.8 Right to Reject Proposals and Negotiate Contract Terms

TxDOT reserves the right to reject any and all proposals. Negotiations may be undertaken with Proposers whose proposals as to price and other factors show them to be qualified, responsible, and capable of performing the work. TxDOT reserves the right to negotiate the terms of the contract, with the selected Proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring Proposer, TxDOT may negotiate a contract with the next highest scoring Proposer.

3.9 Hub Subcontracting Plan: Attachment H of the contract contains form instructions for filing the Hub Subcontracting Plan.

4.0 PROJECT REQUIREMENTS AND DELIVERABLES

4.1 On-Site Safety and Security Review Process

Under the overall direction of the TxDOT Program Manager, the Consultant(s) will perform the on-site safety and security review of METRORail's and DART's rail fixed guideway system in accordance with 49 CFR Part 659.29; FTA guidance entitled Recommended Best Practices for States Conducting Three-Year Safety Reviews, dated March 2009 and TxDOT's System Safety Program Plan and Security Program Plan. There is no expectation or requirement that a proposer bid on both reviews.

- Each review shall be conducted as a single on-site scheduled visit.
- TxDOT has not specified a minimum or a maximum number of days in which either review should be accomplished.
- The Consultant will be knowledgeable of the TxDOT SSO Program Plan.
- The Consultant will prepare the actual review checklists based on the RTA's SSPP, SSP, supporting documents, rules, and procedures.
- Assessment and verification of checklist items will occur through on-site interviews, document reviews, data analysis, field observations, testing and measurements, spot checks, and demonstrations provided by the RTA.

4.2 Project Oversight

Throughout the course of the project, the Consultant will work with the TxDOT Program Manager who will review all materials developed by the Proposer and provide project oversight. The Consultant shall keep the TxDOT Program Manager apprized of the accomplishments to-date by submitting twice-monthly reports detailing their work accomplishments for the previous two weeks.

4.3 Project Deliverables

The Consultant shall complete four (4) project deliverables:

Prior to the On-Site Review:

- Develop the review schedule in coordination with the RTA safety and security points-of-contact, no less than thirty (30) days before the review is scheduled.
- Develop the interview schedule in coordination with the RTA safety and security points-of-contact, no less than thirty (30) days before the review is scheduled.
- Prepare a review plan that includes all elements identified in the RTA's SSPP, SSP, and supporting documents and procedures and submit to the Division for approval.
- Convert the RTA goals/objectives into performance criteria to assess the effectiveness of the SSPP, SSP, and supporting procedures and submit to Division for approval.
- Prior to the on-site review, request and receive from the RTA pertinent safety and security documents.
- Prepare review checklists and forms, based on the RTA SSPP, SSP, and supporting procedures and submit to TxDOT and the RTA safety and security points-of-contact a minimum of 30 days prior to the on-site review.
- Identify methods of verification appropriate to each checklist item, to include interviews, document review, on-site observation, tests and measurements, and spot checks.

Conducting the On-Site Review:

- Conduct an entrance meeting with RTA management.
- Conduct interviews with appropriate RTA personnel and contractors.
- Evaluate documents and data maintained by the RTA.
- Observe on-site operations of the RTA.
- Take measurements and conduct spot checks as appropriate.
- Rate checklist items for compliance.
- Conduct a debriefing with RTA management at the conclusion of the review to provide an overview of initial findings and observations.

Preparing the Review Report:

- Cite authority and purpose of review.
- State principal findings and observations.
- Evaluate the implementation of the SSPP and SSP and supporting procedures.
- Identify deficiency findings and areas of concern.
- Include an analysis of the effectiveness of the SSPP and SSP and a determination of whether either plan should be updated.
- Include an analysis of the effectiveness of supporting procedures and a determination if they should be updated.
- Prepare the final report and submit to the TxDOT Program Manager within fourteen (14) working days of the completion of the on-site reviews for approval prior to submission to the RTA.

Final Report Submission and Review Closeout:

- Upon approval by the TxDOT Program Manager, issue a cover letter along with the final report and submit to the RTA safety and security points-of-contact within thirty (30) working days of the completion of the on-site reviews.
- Require the RTA to respond within forty-five (45) working days to the review report and to prepare corrective actions to address identified areas of deficiency.
- Review and approve corrective action plans and track RTA responses to deficiency findings and areas of concern until implemented.
- Review and approve the RTA corrective action plans and revised safety and/or security program materials (SSPP, SSP, and/or supporting procedures).
- Resolve all outstanding issues within ninety (90) working days of the conclusion of the on-site review.

5.0 COST PROPOSAL

5.1 General Instructions on Preparing Cost Proposals

A Fixed Rate method will be used. Various costing methodologies and models may be used to analyze the cost information submitted to determine the best value to TxDOT.

5.2 Format for Submitting Cost Proposals

The cost proposal shall include a fixed-price budget that lists total cost per deliverable and estimated travel expense.

Eligible travel costs will be reimbursed at the prevailing United States General Services Administration Per Diem travel rates. These rates are the maximum reimbursement amounts that may not be exceeded.

Reimbursable expenses are as follows:

- Meals
- Lodging
- Lodging Occupancy Tax
- Airfare - Coach
- Rental Car
- Parking
- Public Transportation

5.3 Fixed Price Period

All prices, costs, and conditions outlined in the proposal shall remain fixed and valid for acceptance for ninety (90) days starting on the due date for proposals.

6.0 CONSULTANT RESPONSIBILITIES

The Consultant is responsible for Federal and State Unemployment Insurance coverage and Standard Workers Compensation Insurance coverage. Consultant shall comply with all Federal and State tax laws and withholding requirements.

- The Consultant shall provide all labor, material, and equipment to provide the proposed service and deliverables.
- Submit deliverables in accordance with timelines agreed to by the TxDOT Program Manager throughout the project.
- Meet with the TxDOT project manager to review and approve deliverables throughout the project.
- Provide written twice-monthly status reports and verbal updates as requested by the TxDOT Program Manager.
- The Consultant shall submit all interim and final deliverables in an electronic format compatible with the Microsoft Office XP Suite of software.

7.0 REPLACEMENT PERSONNEL

If TxDOT determines that the selected Consultant is unable to perform satisfactorily or to communicate effectively, TxDOT may cause their immediate removal from the contract.

- Replacement Consultant personnel will require the approval of TxDOT. The replacement Consultant personnel must have comparable qualifications and be provided at the contracted rate.
- A request by the Consultant to replace the selected Consultant personnel shall be made in writing to TxDOT. A resume for the proposed replacement shall be submitted to the TxDOT Project Manager. The TxDOT Project Manager may reject the proposed replacement if qualifications, references or past working performance are questionable or unfavorable.

8.0 TxDOT RESPONSIBILITIES

TxDOT shall provide:

- A primary Project Manager to serve as the Consultant point of contact.
- Provide contact information and assist in coordinating the access and schedules of RTA personnel.
- Provide access to appropriate safety and security documents.

9.0 WORK HOURS AND ON-SITE LOCATIONS

To the extent possible, on-site interviews will occur during revenue operations hours of service unless otherwise approved and coordinated with TxDOT and the RTA. The Consultant may be required to work on weekends and off-peak hours. TxDOT has not specified a minimum or a maximum number of days in which either review should be accomplished.

METRORail's hours of revenue rail service are weekdays 4:30 AM until 2:20 AM and weekends 5:30 AM until 11:40 PM.

- All on-site work locations are within Houston, Texas. The primary on-site work location(s) are as follows:
 - Lee P. Brown Administration Building, 1900 Main, 77004;
 - Shirley A. DeLibro Rail Operating Center, 1601 West Bellfort, (SAD-ROC), 77045;
 - Department of Police and Traffic Management, 810 North San Jacinto, 77002;
 - Houston TranStar, 6922 Old Katy Road, 77024.

DART's hours of revenue rail service are weekdays 3:50 AM until 12:54 AM and weekends 3:55 AM until 12:35 AM.

- All on-site work locations are within Dallas, Texas. The primary on-site work location(s) are as follows:
 - Administration Building, 1401 Pacific Avenue, 75266;
 - Safety and Inspection, 3021 Oak Lane, 75226;
 - Department of Police, 1333 Stemmons Freeway, 75207.

10.0 STANDARD CONTRACT TERMS, CONDITIONS, AND REQUIREMENTS

The Consultant and TxDOT will enter into a contract for the services described in this RFP. Failure of the Consultant to accept the obligations of a contractual agreement may result in a cancellation of the award. A copy of the contract template is attached to this RFP

11.0 REQUIRED FORMS

The following forms must be completed and submitted with the proposal.

1. Submission letter signed by authorized member of the organization
2. Proposer Data Sheet (Attachment A)
3. Proposer References (Attachment B). Minimum of three (3) references required.
4. Key Personnel Skills and Qualifications (Attachment C).
5. Total Cost (Attachment D).
6. Certification of Insurance, Form 1560-CSS (Attachment E)

ATTACHMENT A— PROPOSER DATA SHEET

Proposer Name:
Physical Address:
Mailing Address:
Office Telephone Number:
Office Fax Telephone Number:
E-mail address:
Designated Point of Contact for this Proposal:
Type of organization (individual, corporation, partnership, sole proprietorship):
Number of Years in Business and Scope of Operation:
Name and Title of Person Signing this Response:
If applicable, provide the following information on any proposed subcontractor(s):
Name:
Physical Address:
Office Telephone Number:
Office Fax Telephone Number:
E-mail address:
Type of organization (individual, corporation, partnership, sole proprietorship):
Number of Years in Business and Scope of Operation:

MODIFY THIS FORM AS NEEDED TO COMPLY WITH THE REQUIREMENTS OF THIS RFP.

FAILURE TO RETURN THIS PAGE SHALL RESULT IN PROPOSAL BEING CONSIDERED NON-RESPONSIVE.

ATTACHMENT B- PROPOSER REFERENCES

INCLUDE ONLY REFERENCES FOR WHICH RAIL SAFETY AND SECURITY REVIEWS WERE COMPLETED WITHIN THE LAST THREE (3) YEARS.
Name of Organization Reviewed:
Type of Organization Reviewed-(Ex. light rail, heavy rail, freight rail):
Name of Organization Initiating the Review:
Point of Contact for Organization Initiating the Review:
Physical Address:
Office Telephone Number:
E-mail address:
Safety Point of Contact for Organization Reviewed:
Physical Address:
Office Telephone Number:
E-mail address:
Security Point of Contact for Organization Reviewed:
Physical Address:
Office Telephone Number:
E-mail address:
Review Start and End Dates:
Description of the scope of the project:
Description of the Services Provided:

PROPOSER SHALL PROVIDE REFERENCES FROM THREE (3) CUSTOMERS TO WHOM THE PROPOSER HAS PROVIDED SIMILAR SAFETY AND SECURITY REVIEW SERVICES WITHIN THE LAST THREE (3) YEARS.

MODIFY THIS FORM AS NEEDED TO COMPLY WITH THE REQUIREMENTS OF THIS RFP.

FAILURE TO RETURN THIS PAGE SHALL RESULT IN PROPOSAL BEING CONSIDERED NON-RESPONSIVE.

ATTACHMENT C— KEY PERSONNEL SKILLS AND QUALIFICATIONS

Team Leader Name:
Current employer (provide full corporate or entity name):
Physical Address:
Office Telephone Number:
E-mail address:
Number of years of performing work similar to position proposed:
Where work was performed (if work was performed with an entity other than current employer, please list all entities where such work was performed, including location):
Key skill sets relevant to the services requested in this proposal:

Team Member Name:
Current employer (provide full corporate or entity name):
Physical Address:
Office Telephone Number:
E-mail address:
Number of years of performing work similar to position proposed:
Where work was performed (if work was performed with an entity other than current employer, please list all entities where such work was performed, including location):
Key skill sets relevant to the services requested in this proposal:

PROPOSER SHALL PROVIDE REFERENCES FOR EACH TEAM MEMBER.

MODIFY THIS FORM AS NEEDED TO COMPLY WITH THE REQUIREMENTS OF THIS RFP.

FAILURE TO RETURN THIS PAGE SHALL RESULT IN PROPOSAL BEING CONSIDERED NON-RESPONSIVE.

ATTACHMENT D— COST OF SAFETY AND SECURITY DELIVERABLES AND TRAVEL EXPENSES

Transit Agency Name: (check only one)

Dallas Area Rapid Transit

Metropolitan Transit Authority of Harris County

Deliverable #1 - Prep to On-Site Review	
Deliverable #2 - On-Site Review	
Deliverable #3 - Review Report	
Deliverable #4 - Review Close-Out	
Travel	
SAFETY AND SECURITY REVIEW TOTAL	\$

A COMPLETED COPY OF ATTACHMENT D SHOULD BE INCLUDED FOR EACH REVIEW THE PROPOSER IS BIDDING UPON

THE CONSULTANT SHALL BILL TXDOT FOR ACTUAL TRAVEL EXPENSES NOT TO EXCEED THE LIMITS REIMBURSABLE UNDER FEDERAL LAW.

FAILURE TO RETURN THIS PAGE SHALL RESULT IN PROPOSAL BEING CONSIDERED NON-RESPONSIVE

Texas Department of Transportation INSTRUCTIONS

BEFORE YOU SUBMIT THIS FORM, MAKE SURE:

- You have the most current 1560-CSS TxDOT form Revised date (4/2010) (http://www.dot.state.tx.us/business/contractors_consultants/insurance.htm)
- You have entered the 11-digit Vendor Identification Number, which includes your nine-digit FEIN (Federal Identification Number)
- You have entered each authorized agent's complete address, telephone number, policy expiration dates, sign and date
- If more than one agent covers different types of insurance (one writes Workers' Compensation, but another writes Auto), both have issued the certificate in its entirety
- You have provided all requested information on the forms, which may be faxed but must be followed up with the originally signed forms to the address listed below
- The form is being submitted in connection with a professional services contract
- For construction and maintenance contracts see (http://www.txdot.gov/business/contractors_consultants/contractor_insurance.htm) Form 1560 submission requirements

To avoid work suspension, an updated insurance form must reach the address listed below one business day prior to the expiration date. List the contractor's legal company name, including the DBA (doing business as) name as the insured. If a staff leasing service company is providing insurance, the contractor's legal company name must be listed first, and then in parenthesis identify the staff leasing service company name (i.e. ABC Engineering, Inc (XYZ Staff 4 U, Inc – staff leasing service company)). Give contact information (i.e. address, phone number, and etc.) for the insured contractor only; do not list the contact information for either the staff leasing company or the insurance company in these fields. The certificate of insurance, once on file with the department, is adequate for subsequent department contracts provided adequate coverage is still in effect. Do not refer to specific projects or contracts on this form. Over-stamping or over-typing entries on the certificate of insurance are not acceptable if they change the provisions of the certificate in any manner. Stamped, typed, or printed signatures are not acceptable. Pre-printed limits are the minimum required; if higher limits are provided by the policy, enter the higher limit amount and strike through or cross out the pre-printed limit. Binder numbers are not acceptable for policy numbers.

WORKERS' COMPENSATION INSURANCE:

The contractor is required to have Workers' Compensation Insurance if the contractor has any employees, including relatives. The word STATUTORY, under limits of liability, means that the insurer would pay benefits allowed under the Texas Workers' Compensation Law. GROUP HEALTH or ACCIDENT INSURANCE is not an acceptable substitute for Workers' Compensation.

COMPREHENSIVE GENERAL LIABILITY INSURANCE or COMMERCIAL GENERAL LIABILITY INSURANCE:

If coverage's are specified separately, they must be at least these amounts:

Bodily Injury	\$500,000 each occurrence
Property Damage	\$100,000 each occurrence
	\$100,000 for aggregates

MANUFACTURERS' or CONTRACTOR LIABILITY INSURANCE is not an acceptable substitute for Comprehensive General Liability Insurance or Commercial General Liability Insurance.

COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE or TEXAS BUSINESS AUTOMOBILE POLICY:

The coverage amount for a Texas Business Automobile Policy or Comprehensive Automobile Liability may be shown as a minimum of \$600,000 Combined Single Limit by a typed or printed entry and deletion of the specific amounts listed for Bodily Injury and Property Damage. BASIC AUTOMOBILE LIABILITY INSURANCE is not an acceptable substitute for Comprehensive Automobile Liability Insurance or Texas Business Automobile Policy.

MAIL CERTIFICATES TO:
Texas Department of Transportation
General Services Division - Contract Services Section
125 E. 11th St.
Austin, TX 78701-2483
512-374-5120 (V) 512-374-5121 (F)



**Texas Department of Transportation (TxDOT)
CERTIFICATE OF INSURANCE**

Prior to the beginning of work, the Contractor shall obtain the minimum insurance and endorsements specified. Only the TxDOT certificate of insurance form is acceptable as proof of insurance for department contracts. Agents should complete the form providing all requested information then either fax or mail this form directly to the address listed on **page one** of this form. Copies of endorsements listed below are not required as attachments to this certificate.

Insured: _____
Street/Mailing Address: _____
City/State/Zip: _____
Phone Number: Area Code () _____ Vendor Identification Number (11 digits): _____

Workers' Compensation Insurance Coverage:

Endorsed with a Waiver of Subrogation in favor of TxDOT.

Carrier Name:			Carrier Phone #:	
Address:			City, State, Zip:	
Type of Insurance	Policy Number	Effective Date	Expiration Date	Limits of Liability:
Workers' Compensation				Not Less Than: Statutory – Texas

Comprehensive General Liability Insurance:

Endorsed with TxDOT as Additional Insured and with a Waiver of Subrogation in favor of TxDOT.

Carrier Name:			Carrier Phone #:	
Address:			City, State, Zip:	
Type of Insurance:	Policy Number:	Effective Date:	Expiration Date:	Limits of Liability:
Comprehensive General Liability Insurance Bodily Injury Property Damage OR Commercial General Liability Insurance				Not Less Than: \$ 500,000 each occurrence \$ 100,000 each occurrence \$ 100,000 for aggregate OR \$ 600,000 combined single limit

Comprehensive Automobile Liability Insurance:

Endorsed with TxDOT as Additional Insured and with a Waiver of Subrogation in favor of TxDOT.

Carrier Name:			Carrier Phone #:	
Address:			City, State, Zip:	
Type of Insurance:	Policy Number:	Effective Date:	Expiration Date:	Limits of Liability:
Comprehensive Automobile Liability Insurance OR Texas Business Automobile Policy Bodily Injury Property Damage				Not Less Than: \$ 250,000 each person \$ 500,000 each occurrence \$ 100,000 each occurrence

Umbrella Policy (if applicable):

Carrier Name:			Carrier Phone #:	
Address:			City, State, Zip:	
Type of Insurance:	Policy Number:	Effective Date:	Expiration Date:	Limits of Liability:
Umbrella Policy				

Authorized Agent name, address and zip code: _____

This Certificate of Insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by the above insurance policies issued by the named insurance company. Cancellation of the insurance policies shall not be made until THIRTY DAYS AFTER the agent or the insurance company has sent written notice by certified mail to the contractor and the Texas Department of Transportation.

THIS IS TO CERTIFY to the Texas Department of Transportation acting on behalf of the State of Texas that the insurance policies named meet all the requirements stipulated and such policies are in full force and effect. *If this form is sent by facsimile machine (fax), the sender adopts the document received by TxDOT as a duplicate original and adopts the signature produced by the receiving fax machine as the sender's original signature.*

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under sections 555.021 and 553.023 of the Texas Government Code, you also are entitled to receive and review the information. Under section 559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

Area Code () _____
Authorized Agent's Phone Number _____ **Authorized Agent Original Signature** _____ **Date** _____

Federal Project Number _____

Contract Number _____

THE STATE OF TEXAS §**THE COUNTY OF TRAVIS §****CONTRACT FOR PRIVATE CONSULTANT SERVICES**

THIS CONTRACT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the STATE, and **To Be Determined**, hereinafter called the CONSULTANT.

WHEREAS, Government Code, Chapter 2254, Subchapter B, authorizes the STATE to enter into a contract with a CONSULTANT to provide consulting services consisting of studying or advising a STATE agency under a contract that does not involve the traditional relationship of employer and employee; and

WHEREAS, Government Code, Chapter 2254, Subchapter B, establishes notification, fact-finding, and reporting requirements for a major consulting services contract, which is defined as a contract for which it is reasonably foreseeable that the value of the contract will exceed \$15,000; and,

WHEREAS, the STATE desires to engage a consultant **to conduct an on-site safety and security review of two (2) separate rail fixed guideway systems within the state of Texas in accordance with 49 CFR Part 659.29, FTA guidance entitled Recommended Best Practices for States Conducting Three-Year Safety Reviews, dated March 2009 and TxDOT's System Safety Program Plan and Security Program Plan. The rail fixed guideway systems are the Metropolitan Transit Authority of Harris County (METRORail) and the Dallas Area Rapid Transit (DART); and,**

WHEREAS, the STATE published a public notice in the Texas Register dated **October 29, 2010** advertising its intent to solicit proposals **for the purpose of hiring a private consultant;**

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements of the parties to be performed as hereinafter set forth, the STATE and the CONSULTANT do mutually agree as follows.

- I. **STATEMENT OF SERVICES TO BE PERFORMED:** The Consultant will undertake and carry out services described in Attachment A, Scope of Services according to the work schedule described in Attachment B in accordance with Attachment D, General Provisions.
- II. **CONTRACT PAYMENT:** The total amount of this contract shall not exceed **\$TBD**. See Attachment C, Budget, payments shall be billed monthly to the attention of **TBD** at **TBD**.
- III. **TERM OF CONTRACT:** Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party. This contract begins when fully executed by both parties and terminates on **August 31, 2011**.
- IV. **INCORPORATION OF PROVISIONS:** Attachments A - D and attachment H are attached hereto and incorporated into this contract as if fully set forth herein.

v. **CONFLICT OF INTEREST:** The undersigned represents that its firm has no conflict of interest that would in any way interfere with its or its employees' performance of services for the department or which in any way conflicts with the interests of the department. The firm shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the department's interests.

vi. **CERTIFICATION OF STATUS:** The Consultant certifies that it is not:
1. a person required to register as a lobbyist under Chapter 305, Government Code;
2. a public relations firm; or
3. a government consultant.

vii. **AUDIT:** The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

viii. **SIGNATORY WARRANTY:** The signatories to this contract warrant that each has the authority to enter into this contract on behalf of the party represented.

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

THE STATE OF TEXAS

THE CONSULTANT

NAME OF AGENCY

NAME OF AGENCY

BY _____
AUTHORIZED SIGNATURE

BY _____
AUTHORIZED SIGNATURE

DATE _____

DATE _____

TYPED OR PRINTED NAME AND TITLE

TYPED OR PRINTED NAME AND TITLE

LIST OF ATTACHMENTS

Attachment	Title
A	Scope of Services
B	Work Schedule
C	Budget
D	General Provisions
E	Not applicable
F	Not applicable
G	Not Applicable
H-FG	Disadvantaged Business Enterprise (DBE) for Federal Funded Professional or Technical Services Contracts – See Attachment H Instructions
H – FN	Disadvantaged Business Enterprise (DBE) for Race-Neutral Professional or Technical Services Contracts – See Attachment H Instructions
H – SG	Historically Underutilized Business (HUB) Requirements for State Funded Professional or Technical Services Contracts – State of Texas HUB. Subcontracting plan required – See Attachment H Instructions
H – SN	Historically Underutilized Business (HUB) Requirements for State Funded Professional or Technical Services Contracts – No State of Texas HUB
Exhibits	Title
H – 1	Subprovider Monitoring System Commitment Worksheet
H – 2	Subprovider Monitoring System Commitment Agreement
H – 3	Monthly Progress Assessment Report
H - 4	Subprovider Monitoring System Final Report
H - 5	Federal Subproviders and Supplier Information
H - 6	HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report

ATTACHMENT A

Contract for Private Consultant Services

Scope of Services

TxDOT is seeking the services of one (1) or more Consultants to conduct an on-site safety and security review of two (2) separate rail fixed guideway systems within the state of Texas in accordance with 49 CFR Part 659.29, FTA guidance entitled Recommended Best Practices for States Conducting Three-Year Safety Reviews, dated March 2009 and TxDOT's System Safety Program Plan and Security Program Plan. The rail fixed guideway systems are the Metropolitan Transit Authority of Harris County (METRORail) and the Dallas Area Rapid Transit (DART). TxDOT will award and issue a separate contract for each safety and security review. There is no expectation or requirement that a proposer bid on both reviews.

On-Site Safety and Security Review Process

Under the overall direction of the TxDOT Program Manager, the Consultant(s) will perform the on-site safety and security review of METRORail's and DART's rail fixed guideway system in accordance with 49 CFR Part 659.29; FTA guidance entitled Recommended Best Practices for States Conducting Three-Year Safety Reviews, dated March 2009 and TxDOT's System Safety Program Plan and Security Program Plan. There is no expectation or requirement that a proposer bid on both reviews.

- The review shall be conducted as a single on-site scheduled visit.
- TxDOT has not specified a minimum or a maximum number of days in which either review should be accomplished.
- The Consultant will be knowledgeable of the TxDOT SSO Program Plan.
- The Consultant will prepare the actual review checklists based on the RTA's SSPP, SSP, supporting documents, rules, and procedures.
- Assessment and verification of checklist items will occur through on-site interviews, document reviews, data analysis, field observations, testing and measurements, spot checks, and demonstrations provided by the RTA.

Project Oversight

Throughout the course of the project, the Consultant will work with the TxDOT Program Manager who will review all materials developed by the Proposer and provide project oversight. The Consultant shall keep the TxDOT Program Manager apprized of the accomplishments to-date by submitting twice-monthly reports detailing their work accomplishments for the previous two weeks.

Project Deliverables

The Consultant shall complete four (4) project deliverables:

Prior to the On-Site Review:

- Develop the review schedule in coordination with the RTA safety and security points-of-contact, no less than thirty (30) days before the review is scheduled.

- Develop the interview schedule in coordination with the RTA safety and security points-of-contact, no less than thirty (30) days before the review is scheduled.
- Prepare a review plan that includes all elements identified in the RTA's SSPP, SSP, and supporting documents and procedures and submit to the Division for approval.
- Convert the RTA goals/objectives into performance criteria to assess the effectiveness of the SSPP, SSP, and supporting procedures and submit to Division for approval.
- Prior to the on-site review, request and receive from the RTA pertinent safety and security documents.
- Prepare review checklists and forms, based on the RTA SSPP, SSP, and supporting procedures and submit to TxDOT and the RTA safety and security points-of-contact a minimum of 30 days prior to the on-site review.
- Identify methods of verification appropriate to each checklist item, to include interviews, document review, on-site observation, tests and measurements, and spot checks.

Conducting the On-Site Review:

- Conduct an entrance meeting with RTA management.
- Conduct interviews with appropriate RTA personnel and contractors.
- Evaluate documents and data maintained by the RTA.
- Observe on-site operations of the RTA.
- Take measurements and conduct spot checks as appropriate.
- Rate checklist items for compliance.
- Conduct a debriefing with RTA management at the conclusion of the review to provide an overview of initial findings and observations.

Preparing the Review Report:

- Cite authority and purpose of review.
- State principal findings and observations.
- Evaluate the implementation of the SSPP and SSP and supporting procedures.
- Identify deficiency findings and areas of concern.
- Include an analysis of the effectiveness of the SSPP and SSP and a determination of whether either plan should be updated.
- Include an analysis of the effectiveness of supporting procedures and a determination if they should be updated.
- Prepare the final report and submit to the TxDOT Program Manager within fourteen (14) working days of the completion of the on-site reviews for approval prior to submission to the RTA.

Final Report Submission and Review Closeout:

- Upon approval by the TxDOT Program Manager, issue a cover letter along with the final report and submit to the RTA safety and security points-of-contact within thirty (30) working days of the completion of the on-site reviews.
- Require the RTA to respond within forty-five (45) working days to the review report and to prepare corrective actions to address identified areas of deficiency.
- Review and approve corrective action plans and track RTA responses to deficiency findings and areas of concern until implemented.
- Review and approve the RTA corrective action plans and revised safety and/or security program materials (SSPP, SSP, and/or supporting procedures).
- Resolve all outstanding issues within ninety (90) working days of the conclusion of the on-site review.

ATTACHMENT B

Contract for Private Consultant Services

Work Schedule

To Be Determined (TBD)

ATTACHMENT C

Contract for Private Consultant Services

Budget

To Be Determined (TBD)

ATTACHMENT D**INDEX TO GENERAL PROVISIONS**

Article	Title
1	Work Schedule
2	Progress
3	Unsatisfactory Performance
4	Amendments
5	Ownership of Data
6	Public Information
7	Personnel, Equipment and Material
8	Debt to the State
9	Subcontracting
10	Inspection of Work
11	Submission of Reports
12	Violation of Contract Terms
13	Termination
14	Compliance with Laws
15	Indemnification
16	Noncollusion
17	Insurance
18	Gratuities
19	Disadvantaged Business Enterprise or Historically Underutilized Business Requirements
20	Maintenance, Retention and Audit of Records
21	Nepotism Disclosure
22	Lobbying Certification
23	Civil Rights Compliance
24	Child Support Certification
25	Debarment Certification
26	Disputes
27	Successors and Assigns
28	Severability
29	Prior Contracts Superseded
30	Office of Management and Budget Audit Requirements

ATTACHMENT D

General Provisions

ARTICLE 1. WORK SCHEDULE

A. Changes to Work Schedule. If at any time during the contract period the Consultant determines that the authorized services cannot be completed before the end of the contract period, the Consultant shall immediately notify the State. The State at its sole discretion may extend the contract period by written amendment. If the State determines that the contract period will not be extended, the Consultant must complete the work within the original contract period.

ARTICLE 2. PROGRESS

A. Progress meetings. The Consultant shall from time to time during the progress of the work confer with the State. The Consultant shall prepare and present such information as may be pertinent and necessary or as may be requested by the State in order to evaluate features of the work.

B. Conferences. At the request of the State or the Consultant, conferences shall be provided at the Consultant's office, the office of the State, or at other locations designated by the State. These conferences shall also include evaluation of the Consultant's services and work when requested by the State.

C. Inspections. If federal funds are used to reimburse costs incurred under this contract, the work and all reimbursements will be subject to periodic review by the U. S. Department of Transportation.

D. Corrective Action. Should the State determine that the progress of work does not satisfy the milestone schedule, the State shall review the work schedule with the Consultant to determine the nature of corrective action needed.

ARTICLE 3. UNSATISFACTORY PERFORMANCE

If the Consultant submits work that does not comply with the terms of this contract, the State shall instruct the Consultant to make such revisions as are necessary to bring the work into compliance with the contract. No additional compensation shall be paid for this work.

ARTICLE 4. AMENDMENTS

A. Need. The terms of this contract may be modified if the State determines that there has been a significant increase or decrease in the duration, scope, cost, complexity or character of the services to be performed. An amendment will be executed to authorize such significant increases or decreases. Significant is defined to mean a cost increase of any amount and a cost decrease of twenty percent (20%) or more of the original estimated project cost.

B. Compensation. Additional compensation, if appropriate, shall be calculated as set forth in the contract. Significant changes affecting the cost or maximum amount payable shall be defined to include but not be limited to new work not previously authorized or previously authorized services that will not be performed.

C. When to Execute. Both parties must execute an amendment within the contract period.

D. Limitation of Liability. The State shall not be responsible for actions by the Consultant or any costs incurred by the Consultant relating to additional work not directly associated with or prior to the

execution of an amendment.

ARTICLE 5. OWNERSHIP OF DATA

A. Work for Hire. All services provided under this contract are considered work for hire and as such all data, basic sketches, charts, calculations, plans, specifications, and other documents created or collected under the terms of this contract are the property of the State.

B. Disposition of Documents. All documents prepared by the Consultant and all documents furnished to the Consultant by the State shall be delivered to the State upon request by the State. The Consultant, at its own expense, may retain copies of such documents or any other data, which it has furnished the State under this contract, but further use of the data is subject to permission by the State.

ARTICLE 6. PUBLIC INFORMATION AND CONFIDENTIALITY

A. Public Information. The State will comply with Government Code, Chapter 552, the Public Information Act and 43 Texas Administrative Code §3.10 et seq. in the release of information produced under this contract.

B. Confidentiality. The Consultant shall not disclose information developed or received under this contract without the express written consent of the State.

ARTICLE 7. PERSONNEL, EQUIPMENT AND MATERIAL

A. Consultant Resources. The Consultant shall furnish and maintain quarters for the performance of all services, and adequate and sufficient personnel and equipment to perform the services required under the contract. The Consultant certifies that it presently has adequate qualified personnel in its employment for performance of the services required under this contract, or it will be able to obtain such personnel from sources other than the State.

B. Removal of Contractor Employee. All employees of the Consultant assigned to this contract shall have such knowledge and experience as will enable them to perform the duties assigned to them. The State may instruct the Consultant to remove any employee from association with work authorized in this contract if in the sole opinion of the State the work of that employee does not comply with the terms of this contract or if the conduct of that employee becomes detrimental to the work.

C. Removal of Key Personnel. The Consultant must notify the State in writing as soon as possible but no later than three business days after a project manager or other key personnel is removed from association with this contract, giving the reason for removal.

D. State Approval of Replacement Personnel. The Consultant may not replace the project manager or key personnel without prior consent of the State. The State must be satisfied that the new project manager or other key personnel are qualified to provide the authorized services. If the State determines that the new project manager or key personnel is not acceptable, the Consultant may not use that person in that capacity and shall replace him or her with one satisfactory to the State.

E. Ownership of Acquired Property. Except to the extent that a specific provision of this contract states to the contrary, the State shall own all intellectual property acquired or developed under this contract and all equipment purchased by the Consultant or its subcontractors under this contract. All intellectual property and equipment owned by the State shall be delivered to the State when the contract terminates, or when it is no longer needed for work performed under this contract, whichever

occurs first.

ARTICLE 8. DEBT TO THE STATE

If the State Comptroller of Public Accounts is prohibited from issuing a warrant or initiating an electronic funds transfer to the Consultant because of a debt owed to the State, the State shall apply all payment due the Consultant to the debt or delinquent tax until the debt or delinquent tax is paid in full.

ARTICLE 9. SUBCONTRACTING

A. Prior Approval. The Consultant shall not assign, subcontract, or transfer any portion of professional services related to the work under this contract without prior written approval from the State.

B. DBE/HUB Compliance. The Consultant's subcontracting program shall comply with the requirements of Attachment H of the contract (DBE/HUB Requirements).

C. Required Provisions. All subcontracts for professional services shall include this attachment and Federal and State requirements. The Consultant is authorized to pay subconsultants in accordance with the terms of the subcontract, and the basis of payment may differ from the basis of payment by the State to the Consultant.

D. Prior Review. Subcontracts for professional services in excess of \$25,000 may be reviewed by the State prior to performance of work thereunder.

E. Consultant Responsibilities. No subcontract relieves the Consultant of any responsibilities under this contract.

ARTICLE 10. INSPECTION OF WORK

A. Review Rights. The State and the U. S. Department of Transportation, when federal funds are involved, and any of their authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed hereunder and the premises in which it is being performed.

B. Reasonable Access. If any review or evaluation is made on the premises of the Consultant or a subconsultant, the Consultant shall provide and require its subconsultants to provide all reasonable facilities and assistance for the safety and convenience of the state or federal representatives in the performance of their duties.

ARTICLE 11. SUBMISSION OF REPORTS

All applicable study reports shall be submitted in preliminary form for approval by the State before a final report is issued. The State's comments on the Consultant's preliminary report must be addressed in the final report.

ARTICLE 12. VIOLATION OF CONTRACT TERMS

A. Increased Costs. Violation of contract terms, breach of contract, or default by the Consultant shall be grounds for termination of the contract, and any increased or additional cost incurred by the State arising from the Consultant's default, breach of contract or violation of contract terms shall be paid by the Consultant.

B. Remedies. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be

cumulative.

ARTICLE 13. TERMINATION

A. Causes. The contract may be terminated before the stated completion date by any of the following conditions by:

- 1) mutual agreement and consent, in writing from both parties; or
- 2) the State by notice in writing to the Consultant as a consequence of: failure by the Consultant to perform the services set forth herein in a satisfactory manner, or a violation of a contract provision; or
- 3) either party, upon the failure of the other party to fulfill its obligations as set forth herein; or
- 4) the State for reasons of its own and not subject to the mutual consent of the Consultant by giving thirty days notice of termination in writing to the Consultant; or
- 5) satisfactory completion of all services and obligations described herein.

B. Determination of Funds Due. Should the State terminate this contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Consultant. In determining the value of the work performed by the Consultant prior to termination, the State shall be the sole judge. Compensation for work at termination will be based on a percentage of the work completed at that time. Should the State terminate this contract, the Consultant shall not incur costs during the thirty-day notice period in excess of the amount incurred during the preceding thirty days.

C. Value of Completed Work. If the Consultant defaults in the performance of this contract or if the State terminates this contract for fault on the part of the Consultant, the State will give consideration to the following when calculating the value of the completed work:

- (1) the amount of work required which was satisfactorily completed;
- (2) the value of the work which is usable;
- (3) the cost to the State of employing another firm to complete the work;
- (4) the time required to employ another firm to complete the work; and
- (5) other factors which affect the value to the State of the work performed.

D. Surviving Requirements. The termination of this contract and payment of an amount in settlement as prescribed above shall extinguish the rights, duties, and obligations of the State and the Consultant under this contract, except for those provisions that establish responsibilities that extend beyond the contract period.

E. Payment of Additional Costs. If termination of this contract is due to the failure of the Consultant to fulfill its contract obligations, the State may take over the project and prosecute the work to completion, and the Consultant shall be liable to the State for any additional cost to the State.

ARTICLE 14. COMPLIANCE WITH LAWS

The Consultant shall comply with all applicable federal, state and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this contract, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination, and licensing laws and regulations. When required, the Consultant shall furnish the State with satisfactory proof of its compliance therewith.

ARTICLE 15. INDEMNIFICATION

A. Errors, Omissions, Negligent Acts. The Consultant shall indemnify and save harmless the

State and its officers and employees from all claims and liability due to activities of itself, its agents, or employees, performed under this contract and which are caused by or result from error, omission, or act of the Consultant, its agent, or of any person employed by the Consultant.

B. Attorney Fees. The Consultant shall also indemnify and save harmless the State from any and all expense, including, but not limited to, attorney fees which may be incurred by the State in litigation or otherwise resisting said claim or liabilities which may be imposed on the State as a result of such activities by the Consultant, its agents, or employees.

ARTICLE 16. NONCOLLUSION

A. Warranty. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract and that it has not paid or agreed to pay any company or Consultant any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract.

B. Liability. For breach or violation of this warranty, the State shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or compensation, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

ARTICLE 17. INSURANCE

A. Requirement. The Consultant certifies that it has insurance on file with the Contract Services of the Texas Department of Transportation in the amount specified on Texas Department of Transportation Form 1560, Certificate of Insurance, as required by the State. No other proof of insurance is acceptable to the State. The Consultant certifies that it will keep current insurance on file with that office for the duration of the contract period. If insurance lapses during the contract period, the Consultant must stop work until a new certificate of insurance is provided.

ARTICLE 18. GRATUITIES

A. Employees Not to Benefit. Texas Transportation Commission policy mandates that employees of the Texas Department of Transportation shall not accept any benefit, gift or favor from any person doing business with or who reasonably speaking may do business with the State under this contract. The only exceptions allowed are ordinary business lunches and items that have received the advance written approval of the Executive Director of the Texas Department of Transportation.

B. Liability. Any person doing business with or who reasonably speaking may do business with the State under this contract may not make any offer of benefits, gifts or favors to department employees, except as mentioned above. Failure on the part of the Consultant to adhere to this policy may result in the termination of this contract.

ARTICLE 19. DISADVANTAGED BUSINESS ENTERPRISE OR HISTORICALLY UNDERUTILIZED BUSINESS REQUIREMENTS

The Consultant agrees to comply with the requirements set forth in Exhibit 3, Disadvantaged Business Enterprise or Historically Underutilized Business Subcontracting Plan with an assigned goal or a zero goal, as determined by the State.

ARTICLE 20. MAINTENANCE, RETENTION AND AUDIT OF RECORDS

A. Retention Period. The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and services provided. The Consultant shall make the records available at its office during the contract period and for four years from the date of

final payment under this contract, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

B. Availability. The State or any of its duly authorized representatives, the Federal Highway Administration, the United States Department of Transportation, Office of Inspector General, and the Comptroller General shall have access to the Consultant's Records which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts and transcriptions.

ARTICLE 21. NEPOTISM DISCLOSURE

A. In this section the term "relative" means:

- (1) a person's great grandparent, grandparent, parent, aunt or uncle, sibling, niece or nephew, spouse, child, grandchild, or great grandchild, or
- (2) the grandparent, parent, sibling, child, or grandchild of the person's spouse.

B. A notification required by this section shall be submitted in writing to the person designated to receive official notices under this contract and by first-class mail addressed to Contract Services Section, General Services Division, Texas Department of Transportation, 125 East 11th Street, Austin Texas 78701. The notice shall specify the Consultant's firm name, the name of the person who submitted the notification, the contract number, the district, division, or office of TxDOT that is principally responsible for the contract, the name of the relevant Consultant employee, the expected role of the Consultant employee on the project, the name of the TxDOT employee who is a relative of the Consultant employee, the title of the TxDOT employee, the work location of the TxDOT employee, and the nature of the relationship.

C. By executing this contract, the Consultant is certifying that the Consultant does not have any knowledge that any of its employees or of any employees of a subcontractor who are expected to work under this contract have a relative that is employed by TxDOT unless the Consultant has notified TxDOT of each instance as required by subsection (b).

D. If the Consultant learns at any time that any of its employees or that any of the employees of a subcontractor who are performing work under this contract have a relative who is employed by TxDOT, the Consultant shall notify TxDOT under subsection (b) of each instance within thirty days of obtaining that knowledge.

E. If the Consultant violates this section, TxDOT may terminate the contract immediately for cause, may impose any sanction permitted by law, and may pursue any other remedy permitted by law.

ARTICLE 22 - LOBBYING CERTIFICATION/DISCLOSURE

The undersigned certifies to the best of his or her knowledge and belief that:

(1) No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE 23. CIVIL RIGHTS COMPLIANCE

(1) Compliance with Regulations: The Consultant shall comply with the regulations of the Department of Transportation, Title 49, Code of Federal Regulations, Parts 21, 24, 26 and 60 as they relate to nondiscrimination; also Executive Order 11246 titled Equal Employment Opportunity as amended by Executive Order 11375.

(2) Nondiscrimination: The Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

(4) Information and Reports: The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the Texas Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Texas Department of Transportation or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Texas Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the Consultant under the contract until the Consultant complies and/or
- (b) cancellation, termination, or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The Consultant shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the Texas Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including

sanctions for noncompliance provided, however, that in the event an Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Texas Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 24. CHILD SUPPORT CERTIFICATION

Under Section 231.006, Texas Family Code, the Consultant 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. If the above certification is shown to be false, the Consultant is liable to the state for attorney's fees, the cost necessary to complete the contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or the contract. A child support obligor or business entity ineligible to receive payments because of a payment delinquency of more than thirty (30) days remains ineligible until: all arrearages have been paid; the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) of Section 231.006, Texas Family Code, as part of a court-supervised effort to improve earnings and child support payments.

ARTICLE 25. DEBARMENT CERTIFICATIONS

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Consultant certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive Federal funds and, when requested by the State, to furnish a copy of the certification.

ARTICLE 26. DISPUTES

Disputes Not Related to Contract Services. The Consultant shall be responsible for the settlement of all contractual and administrative issues arising out of any procurement made by the Consultant in support of the services authorized herein.

ARTICLE 27. SUCCESSORS AND ASSIGNS

The Consultant and the State do each hereby bind themselves, their successors, executors, administrators and assigns to each other party of this agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this contract. The Consultant shall not assign, subcontract or transfer its interest in this contract without the prior written consent of the State.

ARTICLE 28. SEVERABILITY

In the event any one or more of the provisions contained in this contract shall for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

ARTICLE 29. PRIOR CONTRACTS SUPERSEDED

This contract constitutes the sole agreement of the parties hereto for the services authorized herein and supersedes any prior understandings or written or oral contracts between the parties respecting

the subject matter defined herein.

ARTICLE 30. OFFICE OF MANAGEMENT AND BUDGET AUDIT REQUIREMENTS

The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.

Attachment H Instructions

The following pages contain six (6) different Exhibits to Attachment H covering participation of HUB and DBE providers and subproviders. The correct form to use is determined by whether the contract is funded in whole or part by federal funds or state funds, and whether or not a HUB/DBE goal has been set for the contract. The following pages contain separate reporting forms for federally funded DBE participation and state funded HUB participation. **Select the forms that are appropriate for your contract and delete the rest along with these instructions from the final contract.**

Federally Funded Contracts
<p>Attachment H-FG, Disadvantaged Business Enterprise (DBE) for Federal Funded Professional or Technical Services Contracts</p> <ul style="list-style-type: none"> ◆ This provision is applicable to federally funded contracts with assigned DBE goals. ◆ The appropriate forms for this provision are Exhibits H-1, H-2, H-3 and H-4 and H-5. A copy of each form is required in the contract. ◆ Note: if the contract requires work authorizations, a completed Exhibit H-2 will be required with each Work Authorization, if a DBE will be performing work. If a non-DBE subprovider is used, insert N/A (not applicable) on the line provided on the H-2 form. ◆ Exhibit H-3 must be submitted monthly to the Business Opportunity Programs Office at (512) 486-5519 (fax number) even if there is no invoice being submitted or subcontracting to report. ◆ Exhibit H-3 must be submitted with each invoice to the appropriate agency contact for payment.
<p>Attachment H-FN, Disadvantaged Business Enterprise (DBE) for Race Neutral Professional or Technical Services Contracts</p> <ul style="list-style-type: none"> ◆ This provision is applicable to federally funded contracts with no DBE goal assigned. ◆ If no subcontractors will be used, the appropriate forms for this provision are Exhibits H-3 and H-5. A copy of each form is required in the contract. ◆ Note: If subcontractors are used, the required forms would be Exhibits H-1, H-2, H-3, H-4 and H-5. A copy of each form is required in the contract. ◆ Exhibit H-3 must be submitted monthly to the Business Opportunity Programs Office at (512) 486-5519 (fax number) even if there is no invoice being submitted or subcontracting to report. ◆ Exhibit H-3 must be submitted with each invoice to the appropriate agency contact for payment.
<p>Exhibit H-3, Texas Department of Transportation Subprovider Monitoring System for Federally Funded Contracts. This is a Monthly Progress Assessment Report.</p> <ul style="list-style-type: none"> ◆ Required for all federally funded contracts. ◆ This form is required monthly and must be submitted to the Business Opportunity Programs Office at (512) 486-5519 (fax number) even if there is no invoice being submitted or subcontracting to report. ◆ This form must be submitted with each invoice to the appropriate agency contact for payment.
<p>Exhibit H-5, Federal Subprovider and Supplier Information Required for all federally funded contracts.</p>

State Funded Contracts

Attachment H-SG, Historically Underutilized Business (HUB) for State Funded Professional or Technical Services Contracts, State of Texas HUB Subcontracting Plan Required

- ◆ This provision is applicable to state funded contracts with a HUB goal assigned.
- ◆ The appropriate reporting forms for this provision are Exhibits H-1, H-2, H-4, and H-6 (Texas Building and Procurement Commission [TBPC] State of Texas HUB Subcontracting Plan (HSP), Prime Contractor Assessment Report). A copy of each form is required in the contract.
- ◆ Note: if the contract requires work authorizations, a completed Exhibit H-2 will be required with each Work Authorization, if a HUB will be performing work. If a non-HUB subprovider is used, insert N/A (not applicable) on the line provided on the H-2 form.
- ◆ Exhibit H-6 will be required monthly and must be submitted to the Business Opportunity Programs Office at (512) 486-5519 (fax number) even if there is no invoice being submitted or subcontracting to report.
- ◆ Exhibit H-6 must be submitted with each invoice to the appropriate agency contact for payment.

Attachment H-SN, Historically Underutilized Business (HUB) Participation for State Funded Professional or Technical Services Contracts, No State of Texas HUB Subcontracting Plan Required

- ◆ This provision is applicable to state funded contracts with no HUB subcontracting plan required and no HUB goal assigned. If no subcontractors are used, the appropriate forms for this provision are Exhibits H-1 and H-6.
- ◆ Note: If subcontractors are used, the required forms would be Exhibits H-1, H-2, H-4 and H-6. A copy of each form is required in the contract.
- ◆ Exhibit H-6 must be submitted monthly to the Business Opportunity Programs Office at (512) 486-5519 (fax number) even though there is no invoice being submitted or subcontracting to report.
- ◆ Exhibit H-6 must be submitted with each invoice to the appropriate agency contact for payment.

Exhibit H-6, HUB Subcontracting Plan (HSP) Prime Contractor Professional Assessment Report. This is a Monthly Progress Assessment Report. This is a Texas Building and Procurement Commission (TBPC) form and cannot be altered.

- ◆ Required for all State funded contracts.
- ◆ Exhibit H-6 is required monthly and should be submitted to the Business Opportunity Programs Office through a fax to (512) 486-5519. This is a requirement even though there is no invoice being submitted or subcontracting to report.
- ◆ A copy of Exhibit H-6 must be submitted when supplying an invoice to the appropriate agency contact for payment.
- ◆ The "Object Code" section(s) on this form should remain blank.

ATTACHMENT H-FG
Disadvantaged Business Enterprise (DBE)
for Federal-Aid Professional or Technical Services Contracts

- 1) **PURPOSE.** The purpose of this attachment is to carry out the U.S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT assisted contracts and creating a level playing field on which firms owned and controlled by minority or socially and economically disadvantaged individuals can compete fairly for DOT assisted contracts.
- 2) **POLICY.** It is the policy of the DOT and the Texas Department of Transportation (henceforth the "Department") that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, Subpart A and the Department's Disadvantaged Business Enterprise Program, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the Disadvantaged Business Enterprise requirements of 49 CFR Part 26, and the Department's Disadvantaged Business Enterprise Program, apply to this contract as follows.
 - a. The Provider will offer Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, Subpart A and the Department's Disadvantaged Business Enterprise Program, the opportunity to compete fairly for contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the Provider shall make a good faith effort to meet the Disadvantaged Business Enterprise goal for this contract.
 - b. The Provider and any subprovider(s) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Provider shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. The requirements of this Special Provision shall be physically included in any subcontract.
 - c. When submitting the contract for execution by the Department, the Provider must complete and furnish Exhibit H-1 which lists the commitments made to certified DBE subprovider(s) that are to meet the contract goal and Exhibit H-2 which is a commitment agreement(s) containing the original signatures of the Provider and the proposed DBE(s). For Work Authorization Contracts, Exhibit H-1 is required at the time of submitting the contract for execution by the Department. Exhibit H-2 will be required to be completed and attached with each work authorization number that is submitted for execution, if the DBE will be performing work. Any substitutions or changes to the DBE subcontract amount shall be subject to prior written approval by the Department. If non-DBE subprovider is performing work, insert N/A (not applicable) on the line provided.
 - d. Failure to carry out the requirements set forth above shall constitute a material breach of this contract and may result; in termination of the contract by the Department; in a deduction of the amount of DBE goal not accomplished by DBEs from the money due or to become due to the Provider, not as a penalty but as liquidated damages to the Department; or such other remedy or remedies as the Department deems appropriate.
- 3) **DEFINITIONS.**
 - a. "Department" means the Texas Department of Transportation (TxDOT).
 - b. "Federal-Aid Contract" is any contract between the Texas Department of Transportation and a Provider which is paid for in whole or in part with U. S. Department of Transportation (DOT) financial assistance.
 - c. "Provider" is any individual or company that provides professional or technical services.
 - d. "DBE Joint Venture" means an association a DBE firm and one (1) or more other firm(s) to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks and profits of the joint venture are commensurate with its ownership interest.
 - e. "Disadvantaged Business Enterprise (DBE)" means a firm certified as such by the Department in accordance with 49 CFR Part 26.
 - f. "Good Faith Effort" means efforts to achieve a DBE goal or other requirement of this Special Provision which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

- g. "Race-neutral DBE Participation" means any participation by a DBE through customary competitive procurement procedures.
- 4) **PERCENTAGE GOAL.** The goal for Disadvantaged Business Enterprise (DBE) participation in the work to be performed under this contract is _____% of the contract amount.
- 5) **PROVIDER'S RESPONSIBILITIES.** A DBE prime may receive credit toward the DBE goal for work performed by his-her own forces and work subcontracted to DBEs. A DBE prime must make a good faith effort to meet the goals. In the event a DBE prime subcontracts to a non-DBE, that information must be reported to the Department.
- a. A Provider who cannot meet the contract goal, in whole or in part, shall document the "Good Faith Efforts" taken to obtain DBE participation. The following is a list of the types of actions that may be considered as good faith efforts. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
- (1) Soliciting through all reasonable and available means the interest of all certified DBEs who have the capability to perform the work of the contract. The solicitation must be done within sufficient time to allow the DBEs to respond to it. Appropriate steps must be taken to follow up initial solicitations to determine, with certainty, if the DBEs are interested.
 - (2) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Provider might otherwise prefer to perform the work items with its own forces.
 - (3) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - (4) Negotiating in good faith with interested DBEs by making a portion of the work available to DBE subproviders and suppliers and selecting those portions of the work or material needs consistent with the available DBE subproviders and suppliers.
 - (5) The ability or desire of the Provider to perform the work of a contract with its own organization does not relieve the Provider's responsibility to make a good faith effort. Additional costs involved in finding and using DBEs is not in itself sufficient reason for a Provider's failure to meet the contract DBE goal, as long as such costs are reasonable. Providers are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
 - (6) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
 - (7) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Provider.
 - (8) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
 - (9) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
 - (10) If the Department's Director of the Business Opportunity Programs Office determines that the Provider has failed to meet the good faith effort requirements, the Provider will be given an opportunity for reconsideration by the Director of the appropriate Division.

NOTE: The Provider must not cause or allow subproviders to bid their services.

- b. The preceding information shall be submitted directly to the Chair of the Consultant Selection Team responsible for the project.
- c. The Provider shall make all reasonable efforts to honor commitments to DBE subproviders named in the commitment submitted under Section 2.c. of this attachment. Where the Provider terminates or removes a DBE subprovider named in the initial commitment, the Provider must demonstrate on

a case-by-case basis to the satisfaction of the department that the originally designated DBE was not able or willing to perform.

- d. The Provider shall make a good faith effort to replace a DBE subprovider that is unable or unwilling to perform successfully with another DBE, to the extent needed to meet the contract goal. The Provider shall submit a completed Exhibit H-2 Form for the substitute firm(s). Any substitution of DBEs shall be subject to prior written approval by the Department. The Department may request a statement from the firm being replaced concerning its replacement prior to approving the substitution.
- e. The Provider shall designate a DBE liaison officer who will administer the DBE program and who will be responsible for maintenance of records of efforts and contacts made to subcontract with DBEs.
- f. Providers are encouraged to investigate the services offered by banks owned and controlled by disadvantaged individuals and to make use of these banks where feasible.

6) **ELIGIBILITY OF DBEs.**

- a. The Department certifies the eligibility of DBEs, DBE joint ventures and DBE truck-owner operators to perform DBE subcontract work on DOT financially assisted contracts.
- b. This certification will be accomplished through the use of the appropriate certification schedule contained in this Department's DBE program.
- c. The Department publishes a Directory of Disadvantaged Business Enterprises containing the names of firms that have been certified to be eligible to participate as DBEs on DOT financially assisted contracts. The directory is available from the Department's Business Opportunity Programs Office. The Texas Unified Certification Program DBE Directory can be found on the Internet at:
http://www.dot.state.tx.us/services/business_opportunity_programs/tucp_dbe_directory.htm .
- d. Only DBE firms certified at the time the contract is signed or at the time the commitments are submitted are eligible to be used in the information furnished by the Provider as required under Section 2.c. and 5.d. above. For purposes of the DBE goal on this contract, DBEs will only be allowed to perform work in the categories of work for which they were certified.

7) **DETERMINATION OF DBE PARTICIPATION.**

A firm must be an eligible DBE and perform a professional or technical function relating to the project. Once a firm is determined to be an eligible DBE, the total amount paid to the DBE for work performed with his/her own forces is counted toward the DBE goal. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subprovider is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

A DBE subprovider may subcontract no more than 70% of a federal aid contract. The DBE subprovider shall perform not less than 30% of the value of the contract work with assistance of employees employed and paid directly by the DBE; and equipment owned or rented directly by the DBE. DBE subproviders must perform a commercially useful function required in the contract in order for payments to be credited toward meeting the contract goal. A DBE performs a commercially useful function when it is responsible for executing the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself . When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption.

A Provider may count toward its DBE goal a portion of the total value of the contract amount paid to a DBE joint venture equal to the distinct, clearly defined portion of the work of the contract performed by the DBE.

Proof of payment, such as copies of canceled checks, properly identifying the Department's contract number or project number may be required to substantiate the payment, as deemed necessary by the Department.

8) **RECORDS AND REPORTS.**

- a. After submission of the initial commitment reported (Exhibit H-1), required by Section 2.c. of this attachment, the Provider shall submit Monthly Progress Assessment Reports (Exhibit H-3), after contract work begins, on DBE involvement to meet the goal and for race-neutral participation. One copy of each report is to be sent to the Department's Business Opportunity Programs Office monthly, in addition one copy is to be submitted with the Provider's invoice. **Only actual payments made to subproviders are to be reported.** These reports will be required until all subprovider activity is completed. The Department may verify the amounts being reported as paid to DBEs by requesting copies of canceled checks paid to DBEs on a random basis.
- b. DBE subproviders should be identified on the report by name, type of work being performed, the amount of actual payment made to each during the billing period, cumulative payment amount and percentage of the total contract amount. These reports will be due within fifteen (15) days after the end of a calendar month. Reports are required even when no DBE activity has occurred in a billing period.
- c. All such records must be retained for a period of four (4) years following final payment or until any investigation, audit, examination, or other review undertaken during the four (4) years is completed, and shall be available at reasonable times and places for inspection by authorized representatives of the Department or the DOT.
- d. Prior to receiving final payment, the Provider shall submit a Final Report (Exhibit H-4), detailing the DBE payments. The Final Report is to be sent to the Department's Business Opportunity Programs Office and one (1) copy to be submitted with the Provider's final invoice. If the DBE goal requirement is not met, documentation of the good faith efforts made to meet the goal must be submitted with the Final Report.

- 9) **COMPLIANCE OF PROVIDER.** To ensure that DBE requirements of this DOT-assisted contract are complied with, the Department will monitor the Provider's efforts to involve DBEs during the performance of this contract. This will be accomplished by a review of Monthly Progress Assessment Reports (Exhibit H-3), submitted to the Department's Business Opportunity Programs Office by the Provider indicating his progress in achieving the DBE contract goal, and by compliance reviews conducted by the Department. The Monthly Progress Assessment Report (Exhibit H-3) must be submitted at a minimum monthly to the Business Opportunity Programs Office, in addition to with each invoice to the appropriate agency contact.

The Provider shall receive credit toward the DBE goal based on actual payments to the DBE subproviders with the following exceptions and only if the arrangement is consistent with standard industry practice. The Provider shall contact the Department if he/she withholds or reduces payment to any DBE subprovider.

- (1) A DBE firm is paid but does not assume contractual responsibility for performing the service;
- (2) A DBE firm does not perform a commercially useful function;
- (3) Payment is made to a DBE that cannot be linked by an invoice or canceled check to the contract under which credit is claimed;
- (4) Payment is made to a broker or a firm with a brokering-type operation;
- (5) Partial credit is allowed, in the amount of the fee or commission provided the fee or commission does not exceed that customarily allowed for similar services, for a bona fide service, such as professional, technical, consultant, or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of the contract.

A Provider's failure to comply with the requirements of this Special Provision shall constitute a material breach of this contract. In such a case, the Department reserves the right to terminate the contract; to deduct the amount of DBE goal not accomplished by DBEs from the money due or to become due the Provider, not as a penalty but as liquidated damages to the Department; or such other remedy or remedies as the Department deems appropriate.

ATTACHMENT H-FN**Disadvantaged Business Enterprise (DBE) for Race-Neutral Professional or Technical Services Contracts**

It is the policy of the U. S. Department of Transportation (DOT) that DBEs as defined in 49 CFR Part 26, Subpart A, be given the opportunity to compete fairly for contracts and subcontracts financed in whole or in part with Federal funds and that a maximum feasible portion of the Department's overall DBE goal be met using race-neutral means. Consequently, if there is no DBE goal, the DBE requirements of 49 CFR Part 26, apply to this contract as follows:

The Provider will offer DBEs as defined in 49 CFR Part 26, Subpart A, the opportunity to compete fairly for contracts and subcontracts financed in whole or in part with federal funds. Race-Neutral DBE participation on projects with no DBE goal should be reported on the Exhibit H-3 Form. Payments to DBEs reported on Exhibit H-3 are subject to the following requirements:

DETERMINATION OF DBE PARTICIPATION.

A firm must be an eligible DBE and perform a professional or technical function relating to the project. Once a firm is determined to be an eligible DBE, the total amount paid to the DBE for work performed with his/her own forces must be reported as race-neutral DBE participation. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work should not be reported unless the subcontractor is itself a DBE.

A DBE subprovider may subcontract no more than 70% of a federal aid contract. The DBE subprovider shall perform not less than 30% of the value of the contract work with assistance of employees employed and paid directly by the DBE; and equipment owned or rented directly by the DBE. DBE subproviders must perform a commercially useful function required in the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption.

A Provider must report a portion of the total value of the contract amount paid to a DBE joint venture equal to the distinct, clearly defined portion of the work of the contract performed by the DBE.

Proof of payment, such as copies of canceled checks, properly identifying the Department's contract number or project number may be required to substantiate the payment, as deemed necessary by the Department.

The Provider and any subprovider shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts. These requirements shall be physically included in any subcontract.

Failure to carry out the requirements set forth above shall constitute a material breach of this contract and, may result in termination of the contract by the Department or other such remedy as the Department deems appropriate.

ATTACHMENT H-SG**Historically Underutilized Business
for State Funded Professional or Technical Services Contracts
HUB Goal Assigned-State of Texas Subcontracting Plan Required**

- 1) **POLICY.** It is the policy of the Department to ensure that HUBs shall have an equal opportunity to participate in the performance of contracts; to create a level playing field on which HUBs can compete fairly for contracts and subcontracts; to ensure nondiscrimination on the basis of race, color, national origin, or gender in the award and administration of contracts; to help remove barriers to the participation of HUBs in department contracts; and, to assist in the development of firms that can compete successfully in the market place outside the HUB program. Consequently, the HUB requirements of the Department's HUB Program apply to this contract as follows:
- (1) The Provider agrees to insure that they shall take all necessary and reasonable steps to meet the HUB goal for this contract.
- The Provider and any subprovider(s) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts.
 - When submitting the contract for execution by the Department, the Provider must complete and furnish Exhibit H-1 which lists the commitments made to all subproviders, including certified HUB subprovider(s) that are to meet the contract goal, and Exhibit H-2 which is a commitment agreement(s) containing the original signatures of the Provider and HUB(s) that were indicated in the original submitted State of Texas HUB Subcontracting Plan (HSP) in Section 8. For Work Authorization Contracts, Exhibit H-1 is required at the time of submitting the contract for execution by the Department. Exhibit H-2 will be required to be completed and attach with each work authorization number that is submitted for execution, if the HUB will be performing work. If non-HUB subprovider is performing work, insert N/A (not applicable) on the line provided. A prime must allow a HUB maximum opportunity to perform the work by not creating unnecessary barriers or artificial requirements for the purpose of hindering a HUB's performance under the contract. Any substitutions or changes to the HSP, in addition to any changes to the original contract award, shall be subject to prior written approval by the Department. If there are any changes to the subproviders during the contract term, the Provider must furnish a Revised Exhibit H-1 showing the revised commitment of all subproviders.
 - Failure to carry out the requirements set forth above shall constitute a breach of contract and may result in a letter of reprimand; in termination of the contract by the Department; in a deduction from money due or to become due to the Provider, not as a penalty but as damages to the Department's HUB Program; or such other remedy or remedies as the Department deems appropriate.
- 2) **DEFINITIONS.**
- "Department" means the Texas Department of Transportation (TxDOT).
 - "Contract" is the agreement between the Texas Department of Transportation and a Provider.
 - "Provider" is any individual or company that provides professional or technical services.
 - "Joint Venture" means an association of two or more businesses to carry out a single business enterprise for profit which combines their property, capital, efforts, skills and knowledge.
 - "Historically Underutilized Business (HUB)" means any business so certified by the Texas Building and Procurement Commission.
- 3) **PERCENTAGE GOAL.** The goal for Historically Underutilized Business (HUB) participation in the work to be performed under this contract is _____% of the contract amount.
- 4) **PROVIDER'S RESPONSIBILITIES.** A Provider (HUB or non-HUB) must perform a minimum of 30% of the contract with its employees (as defined by the Internal Revenue Service). The contract is subject to the HSP Good Faith Effort Requirements.

- a. A Provider who cannot meet the contract goal, in whole or in part, should have documented any of the following and other efforts made as a "Good Faith Effort" to obtain HUB participation.
 - (1) Whether the prime advertised in general circulation, trade association, and/or minority/women focus media concerning subcontracting opportunities.
 - (2) Whether the prime provided written notice to at least three (3) qualified HUBs allowing sufficient time for HUBs to participate effectively.
 - (3) Whether the prime documented reasons for rejection or met with the rejected HUB to discuss the rejection.
 - (4) Whether the prime provided qualified HUBs with adequate information about bonding, insurance, the plans, the specifications, scope of work and requirements of the contract.
 - (5) Whether the prime negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who are also the lowest responsive bidder.
 - (6) Whether the prime used the services of available minority and women community organizations, contractor's groups, local, state, and federal business assistance offices, and other organizations that provide support services to HUBs.

NOTE: The Provider must not cause or allow subproviders to bid their services.

- b. The preceding information shall be submitted directly to the Chair of the Consultant Selection Team responsible for the contract.
- c. The Provider shall make all reasonable efforts to honor commitments to HUB subproviders named in the original HSP in Section 8. Where the Provider terminates or removes a HUB subprovider named in the initial commitment, the Provider must demonstrate on a case-by-case basis to the satisfaction of the Department that the originally designated HUB was not able or willing to perform. The term "unable" includes, but is not limited to, a firm that does not have the resources and expertise to finish the work and/or a firm that substantially increases the time to complete the project.
- d. The Provider shall make all reasonable efforts to replace a HUB subprovider that is unable or unwilling to perform successfully with another HUB and must meet the HSP Good Faith Effort Requirements. Any substitution of HUBs shall be subject to prior written approval by the Department. The Department will request a statement from the firm being replaced concerning its replacement prior to approving the substitution. If there are any changes to the subproviders during the contract term, the Provider must furnish a Revised Exhibit H-1 showing the revised commitment of all subproviders.
- e. The Provider shall designate a HUB liaison officer who will administer the Provider's HUB program and who will be responsible for maintenance of records of efforts and contacts made to subcontract with HUBs.

5) **ELIGIBILITY OF HUBs.**

- a. The Texas Building and Procurement Commission (TBPC) certifies the eligibility of HUBs.
- b. The TBPC maintains a directory of certified HUBs. The HUB Directory is available through the Department's Business Opportunity Programs Office and through the Internet at the TBPC's Website (<http://www2.tbpc.state.tx.us/cmb1/hubonly.html>).
- c. Only HUB firms certified and identified in specific categories and classes at the time the contract is signed or at the time the commitments are submitted are eligible to be used in the information furnished by the Provider as required under Section 2.c. above.
- d. If during the course of the contract it becomes necessary to substitute another HUB firm for a firm named in the information submitted by the Provider as required by Section 2.c. above, then only certified HUBs will be considered eligible as a substituted firm. The Provider's written request for substitutions of HUB subproviders shall be accompanied by a detailed explanation, which should substantiate the need for a substitution. The Department will verify the explanation with the HUB firm being replaced before giving approval of the substitution. If there are any changes to the subproviders during the contract term, the Provider must furnish a Revised Exhibit H-1 showing the revised commitment of all subproviders.
- e. The 73rd Legislature passed Texas Civil Statutes, Article 601i, relative to contracts between governmental entities and certain disadvantaged businesses. The Statute provides for civil

penalties for persons who falsely claim disadvantaged business status and for the general contractor who knowingly contracts with a person claiming to be a disadvantaged business.

6) **DETERMINATION OF HUB PARTICIPATION.**

A firm must be an eligible HUB and perform a professional or technical function relating to the project. Proof of payment, such as copies of canceled checks, properly identifying the Department's contract number or project number may be required to substantiate the payment, as deemed necessary by the Department. A HUB subprovider, with prior written approval from the Department, may subcontract 70% of a contract as long as the HUB subprovider performs a commercially useful function. All subcontracts shall include the provisions required in the subcontract and shall be approved as to form, in writing, by the Department prior to work being performed under the subcontract. A HUB performs a commercially useful function when it is responsible for a distinct element of the work of a contract; and actually manages, supervises, and controls the materials, equipment, employees, and all other business obligations attendant to the satisfactory completion of contracted work. If the subcontractor uses an employee leasing firm for the purpose of providing salary and benefit administration, the employees must in all other respects be supervised and perform on the job as if they were employees of the subcontractor.

7) **COMPLIANCE OF PROVIDER.**

- 8) To ensure that HUB requirements of this contract are complied with, the Department will monitor the Provider's efforts to involve HUBs during the performance of this contract. This will be accomplished by a review of the monthly State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) submitted to the Business Opportunity Programs Office by the Provider indicating his/her progress in achieving the HUB contract goal, and by compliance reviews conducted by the Department. The State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) must be submitted at a minimum monthly to the Business Opportunity Programs Office, in addition to with each invoice to the appropriate agency contact.

The Provider shall receive credit toward the HUB goal based on actual payments to the HUB subproviders with the following exceptions and only if the arrangement is consistent with standard industry practice.

- (1) Payments to brokers or firms with a brokering type operation will be credited only for the amount of the commission;
- (2) Payments to a joint venture will not be credited unless all partners in the joint venture are HUBs;
- (3) Payments to a HUB subprovider who has subcontracted a portion of the work required under the subcontract will not be credited unless the HUB performs a commercially useful function;
- (4) Payments to a HUB will not be credited if the firm does not provide the goods or perform the services paid for;
- (5) Payments made to a HUB that cannot be linked by an invoice or canceled check to the contract under which credit is claimed will not be credited.

A Provider must not withhold or reduce payments to any HUB without a reason that is accepted as standard industry practice. A HUB prime or subprovider must comply with the terms of the contract or subcontract. Work products, services, and commodities must meet contract specifications whether performed by a prime or subprovider.

A Provider's failure to meet the HUB goal and failure to demonstrate to the Department's satisfaction sufficient "Good Faith Effort" on his/her part to obtain HUB participation shall constitute a breach of contract. In such a case, the Department reserves the right to issue a letter of reprimand; to deduct the amount of HUB goal not accomplished by HUBs from the money due or to become due the Provider, not as a penalty but as damages to the Department's HUB program; or such other remedy or remedies as the Department deems appropriate.

9) **RECORDS AND REPORTS.**

- a. After submission of the initial commitment (Exhibit H-1), required by Section 2.c. of this attachment, the Provider shall submit State of Texas HUB Subcontracting Plan Prime Contractor Progress

Assessment Report (Exhibit H-6) at a minimum monthly, after contract work begins, on subcontracting involvement. One copy of the State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) is to be sent to the Business Opportunity Programs Office of the Department monthly. In addition, the State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) must be submitted with the Provider's invoice. All payments made to subproviders are to be reported. **These State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Reports are required monthly even during months when no payments to subproviders have been made.** The State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report will be required until all work on the contract has been completed. The Department may verify the amounts being reported as paid to HUBs by requesting copies of canceled checks paid to HUBs on a random basis.

- b. Subproviders should be identified on the State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) by name, the amount of actual payment made to each during the billing period, cumulative payment amount and percentage of the total contract amount.
- c. All such records must be retained for a period of four years following final payment, or until an investigation, audit, examination, or other review undertaken during the four years, and shall be available at reasonable times and places for inspection by authorized representatives of the Department and other agencies.
- d. Prior to receiving final payment, the Provider shall submit a Final Report (Exhibit H-4), detailing the subprovider payments to the Business Opportunity Programs Office of the Department, and one copy to the Department with the Provider's final invoice.

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ATTACHMENT H-SN

Historically Underutilized Business (HUB) for State Funded Professional or Technical Services Contracts No State of Texas HUB Subcontracting Plan Required

POLICY

It is the policy of the Department to ensure that HUBs shall have an equal opportunity to participate in the performance of contracts; to create a level playing field on which HUBs can compete fairly for contracts and subcontracts; to ensure nondiscrimination on the basis of race, color, national origin, or gender in the award and administration of contracts; to help remove barriers to the participation of HUBs in department contracts; and, to assist in the development of firms that can compete successfully in the market place outside the HUB program.

Subcontracting participation on projects with no HUB Subcontracting Plan Required should be reported on the State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report, the Exhibit H-6 Form. Payment to non-HUBs subproviders must be reported on Exhibit H-6. Payments to HUBs reported on Exhibit H-6 are subject to the following requirements:

DETERMINATION OF HUB PARTICIPATION.

A firm must be an eligible HUB and perform a professional or technical function relating to the project. Once a firm is determined to be an eligible HUB, the total amount paid to the HUB should be reported as race-neutral HUB participation.

A HUB subprovider may subcontract no more than 70% of a contract. The HUB subprovider shall perform not less than 30% of the value of the contract work with assistance of employees employed and paid directly by the HUB; and equipment owned or rented directly by the HUB.

A provider must report a portion of the total value of the contract amount paid to a HUB joint venture equal to the distinct, clearly defined portion of the work of the contract performed by the HUB.

Proof of payment, such as copies of canceled checks, properly identifying the Department's contract number or project number may be required to substantiate the payment, as deemed necessary by the Department.

The provider and any subprovider shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts. These requirements shall be physically included in any subcontract.

REQUIRED FORMS.

If subcontractors are used under the contract that has no stated HUB goal, Exhibits H-1, H-2, H-4 and H-6 are required. Exhibits H-1 and H-6 are required if no subcontractors are being used to perform work under this contract.

State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) **is required monthly even when no subcontracting activity has occurred.** In addition, State of Texas HUB Subcontracting Plan Prime Contractor Progress Assessment Report (Exhibit H-6) should be submitted with the Provider's invoice.

EXHIBIT H-1

**Texas Department of Transportation
Subprovider Monitoring System
Commitment Worksheet**

Contract #: _____ Assigned Goal: ___% Federally Funded _____ State Funded _____

Prime Provider: _____ Total Contract Amount: _____

Prime Provider Info: DBE ___ HUB ___ Both ___

Vendor ID #: _____ DBE/HUB Expiration Date: _____

(First 11 Digits Only)

If no subproviders are used on this contract, please indicate by placing "N/A" on the 1st line under Subproviders.

Subprovider(s) (List All)	Type of Work	Vendor ID # (First 11 Digits Only)	D=DBE H=HUB	Expiration Date	\$ Amount or % of Work *
Subprovider(s) Contract or % of Work* Totals					

*For Work Authorization Contracts, indicate the % of work to be performed by each subprovider.

Total DBE or HUB Commitment Dollars \$ _____

Total DBE or HUB Commitment Percentages of Contract _____%

(Commitment Dollars and Percentages are for Subproviders only)

EXHIBIT H-2 Texas Department of Transportation Subprovider Monitoring System Commitment Agreement

This commitment agreement is subject to the award and receipt of a signed contract from the Texas Department of Transportation (TxDOT). **NOTE: Exhibit H-2 is required to be attached to each contract that does not include work authorizations. Exhibit H-2 is required to be attached with each work authorization. Exhibit H-2 is also required to be attached to each supplemental work authorization. If DBE/HUB Subproviders are used, the form must be completed and signed. If no DBE/HUB Subproviders are used, indicate with "N/A" on this line: _____ and attach with the work authorization or supplemental work authorization.**

Contract #: _____ Assigned Goal: _____% Prime Provider: _____

Work Authorization (WA)#: _____ WA Amount: _____ Date: _____

Supplemental Work Authorization (SWA) #: _____ to WA #: _____ SWA Amount: _____

Revised WA Amount: _____

Description of Work <i>(List by category of work or task description. Attach additional pages, if necessary.)</i>	Dollar Amount <i>(For each category of work or task description shown.)</i>
Total Commitment Amount <i>(Including all additional pages.)</i>	\$ _____

IMPORTANT: The signatures of the prime and the DBE/HUB and Second Tier Subprovider, if any (both DBE and Non-DBE) and the total commitment amount must always be on the same page.

Provider Name: Address: Phone # & Fax #: Email:	Name: _____ <i>(Please Print)</i> Title: _____ <hr/> <div style="display: flex; justify-content: space-between;"> Signature Date </div>
DBE/HUB Sub Provider Subprovider Name: VID Number: Address: Phone # & Fax #: Email:	Name: _____ <i>(Please Print)</i> Title: _____ <hr/> <div style="display: flex; justify-content: space-between;"> Signature Date </div>
Second Tier Sub Provider Subprovider Name: VID Number: Address: Phone # & Fax #: Email:	Name: _____ <i>(Please Print)</i> Title: _____ <hr/> <div style="display: flex; justify-content: space-between;"> Signature Date </div>
VID Number is the Vendor Identification Number issued by the Comptroller. If a firm does not have a VID Number, please enter the owner's Social Security or their Federal Employee Identification Number (if incorporated).	

EXHIBIT H-4

**Texas Department of Transportation
Subprovider Monitoring System
Final Report**

The Final Report Form should be filled out by the Prime Provider and submitted to the Contract Manager and the Business Opportunity Programs Office for review upon completion of the contract. The report should reflect **all subcontract activity** on the project. The report will aid in expediting the final estimate for payment. If the HUB or DBE goal requirements were not met, documentation supporting good faith efforts must be submitted.

DBE Goal: ____% **OR** HUB Goal: ____%

Total Contract Amount: \$_____ Total Contract Amount: \$_____

Contract Number: _____

Vendor ID #	Subprovider	Total \$ Amt Paid to Date
TOTAL		

This is to certify that ____% of the work was completed by the HUB or DBE subproviders as stated above.

By: Prime Provider

Per: Signature

Subscribed and sworn to before me, this _____ day of _____, 20__

_____ Notary Public _____ County

My Commission expires: _____

