

STATE OF TEXAS §  
§  
COUNTY OF FORT BEND §

**ADDENDUM TO DATAVOX, INC.'S AGREEMENT  
PURSUANT TO TIPS RFP NO. 230105**

**THIS ADDENDUM** ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Datavox, Inc., ("DATA"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

**WHEREAS**, subject to the changes herein, the parties have executed and accepted DATA's Proposal (DVXA-13432) and TIPS Vendor Agreement, (collectively the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for the purchase of specified equipment and installation services (collectively the "Services"); and

**WHEREAS**, County desires that DATA provide Services as will be more specifically described in this Agreement; and

**WHEREAS**, DATA represents that it is qualified and desires to perform such Services; and

**WHEREAS**, the parties wish to utilize TIPS RFP No. 230105, incorporated fully by reference, for the purchase of the Services; and

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

**AGREEMENT**

- 1. Scope of Services.** Subject to this Addendum, DATA will render Services to County as described in Exhibit A and in accordance with the requirements of TIPS RFP No. 230105. The Services shall be scheduled at a time that is mutually agreeable between the parties but without reasonable delay. All performance of the Scope of Services by DATA including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.
- 2. Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE. Mutually approved travel and mileage expenses incurred in the performance of required

Services will be compensated only in accordance with the County's Travel Policy, a copy of which will be provided upon request.

3. **Limit of Appropriation.** DATA clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Fifty-One Thousand, Four Hundred Sixty-Nine and 46/100 dollars (\$51,469.46), specifically allocated to fully discharge any and all liabilities County may incur. DATA does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that DATA may become entitled to and the total maximum sum that County may become liable to pay to DATA shall not under any conditions, circumstances, or interpretations thereof exceed Fifty-One Thousand, Four Hundred Sixty-Nine and 46/100 dollars (\$51,469.46). In no event will the amount paid by the County for all Services under this Agreement exceed this Limit of Appropriation without an amendment executed by the parties.
4. **Public Information Act.** DATA expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by DATA shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless DATA for any reason are hereby deleted. DATA shall indemnify and defend County against all losses, liabilities, claims, causes of action, and other expenses, including reasonable attorney's fees, arising from activities of DATA, its agents, servants or employees, performed under this agreement that result from the negligent act, error, or omission of DATA or any of DATA's agents, servants or employees.
6. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees or any damages incurred by DATA in any way associated with the Agreement.

7. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, DATA hereby verifies that DATA and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
  - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
  - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, DATA does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
  - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, DATA does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
  - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, DATA does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
  
8. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute. No other provisions to this Agreement apply except for the terms which appear and/or are incorporated in this Addendum and Exhibit A.
  
9. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, DATA ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
  
10. **Use of Customer Name.** DATA may use County's name without County's prior written consent only in any of DATA's customer lists, any other use must be approved in advance by County.

11. **Conflict.** In the event there is a conflict between this Addendum and Exhibit A, this Addendum controls. In the event there is a conflict between this Addendum and the terms and conditions of TIPS RFP No. 230105, then the terms and conditions of TIPS RFP No. 230105 controls to the extent of the conflict.
12. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
13. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.
14. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
15. **Personnel.** DATA represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Services required under this Agreement and that DATA shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Services when and as required and without delays.

All employees of DATA shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of DATA or agent of DATA who, in the opinion of County, is incompetent or by his conduct becomes detrimental to providing Services pursuant to this Agreement shall, upon request of County, immediately be removed from association with the Services required under this Agreement.

When performing Services on-site at the County, DATA shall comply with, and ensure that all DATA Personnel comply with, all rules, regulations and policies of County that are communicated to DATA, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by County to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.

16. **Compliance with Laws.** DATA shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, DATA shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
17. **Confidential Information.** DATA acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or

acquire information that is confidential to County. Any and all information of any form obtained by DATA or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by DATA shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by DATA) publicly known or is contained in a publicly available document; (b) is rightfully in DATA's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of DATA who can be shown to have had no access to the Confidential Information.

DATA agrees to hold Confidential Information in strict confidence, using at least the same degree of care that DATA uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. DATA shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, DATA shall advise County immediately in the event DATA learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and DATA will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or DATA against any such person. DATA agrees that, except as directed by County, DATA will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, DATA will promptly turn over to County all documents, papers, and other matter in DATA's possession which embody Confidential Information.

DATA acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. DATA acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

DATA in providing all Services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

18. **Independent Contractor.** In the performance of work or services hereunder, DATA shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of DATA or,

where permitted, of its subcontractors. DATA and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

19. **Third Party Beneficiaries.** This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

20. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

21. **Insurance.**

A. Prior to commencement of the Services, DATA shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. DATA shall provide certified copies of insurance endorsements and/or policies if requested by County. DATA shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. DATA shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

1. Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
2. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
3. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
4. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

B. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of DATA shall contain a waiver of subrogation in favor of County and members of Commissioners Court. For Commercial

General Liability, the County shall be named as an Additional Insured on a Primary & Non-Contributory basis.

- C. If required coverage is written on a claims-made basis, DATA warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Contract and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Contract is completed.
- D. DATA shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- E. No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to Fort Bend County.
- F. Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of DATA.

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*{Execution Page to Follow}*

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Agreement is effective upon execution by both parties.

FORT BEND COUNTY

DATAVOX, INC. Signed by:

\_\_\_\_\_  
KP George  
Fort Bend County Judge

  
\_\_\_\_\_  
Authorized Agent – Signature

John Layton

\_\_\_\_\_  
Authorized Agent- Printed Name

\_\_\_\_\_  
Date

VP Audio Visual Solutions

REVIEWED:

\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Information Technology Department

12/19/2024 | 8:19 AM CST

\_\_\_\_\_  
Date

**AUDITOR'S CERTIFICATE**

I hereby certify that funds in the amount of \$\_\_\_\_\_ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

Exhibit A: DATA's Proposal (DVXA-13432) and TIPS Vendor Agreement

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# Exhibit A

# Audio Visual Proposal

for

## Fort Bend County Sheriff's Office

1410 Williams Way  
Richmond, TX 77469

## Richmond Briefing Room AV Upgrade (TIPS)

**DVXA-13432**

Revision : 4

Last Modified : 11/22/2024

*Note: This proposal is valid until 12/22/2024*

Account Manager

**Agustin Zentay**

System Design

**Johnny Kelly-Flemings, CTS**



THE INTERLOCAL PURCHASING SYSTEM

**TIPS Contract Number: 230105**

# DataVox

6650 W. Sam Houston Pkwy S. | Houston, TX 77072 | 713-881-5300

1701 East Lamar Blvd. Suite 170, | Arlington, TX 76006 | 817-288-2700

# DataVox Corporate Profile



*Advanced Technology Solution Partner Since 1988*

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*Since 1988, thousands of businesses have counted on DataVox to be their trusted advanced technology partner. With DataVox, your organization can enjoy the convenience of working with a single company to design, implement and maintain all aspects of their technology needs. From audio visual, to data center, cloud, network technology, network cabling, phone systems and physical security solutions. Our award-winning customer service team is here to assist your organization 24 hours a day, 7 days a week.*



## Our Mission Statement

*"Customer Success Drives Us"*

*This statement drives our everyday decisions. We pride ourselves on providing highly skilled and diverse professionals with expert knowledge across multiple technologies to bring the most innovative solutions to our clients.*

*We develop comprehensive strategies to deliver successful business outcomes using our customer-first approach. Our mission is to positively impact our employees, customers, and community.*

*Our work contributes to the prosperity of organizations by promoting innovation through technology, mitigating risk, and providing critical infrastructure for essential services.*

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# SCOPE OF WORK

This section describes the standard Audio Visual services that DataVox will provide the Customer. The services are described by typical location or room.

**Key AV Acronyms:**

OFE (Owner Furnished Equipment)	POE (Power Over Ethernet)
OFOI (Owner Furnished, Owner Installed)	PDU (Power Distribution Unit)
OFCI (Owner Furnished, Contractor Installed)	UPS (Universal Power Supply)
MTR (Microsoft Teams Room)	DSP (Digital Signal Processor)
VC (Video Conferencing)	TPS (Technical Project Supervisor)
BYOD (Bring Your Own Device)	PC (Project Coordinator)

**PROJECT SPECIFIC ASSUMPTIONS AND CONSIDERATIONS:**

- DataVox assumes all owner furnished equipment is fully functional and in good working order prior to on-site services. All OFE equipment is required to be located inside proposed installation room prior to on-site services.
- Customer is responsible for transportation, storage, or disposal of decommissioned AV equipment.
- Customer must provide plywood backing for each wall mounted display 75" diagonal or larger, or any size display with an articulating swing arm wall mount.
- Customer must provide (1) 15-amp circuit with duplex outlet at each display location.
- Customer must provide (1) dedicated 20-amp circuit with duplex outlet at each AV equipment rack location.
- DataVox has included Provisioning services for ClickShare XMS Cloud Management. This will provide remote device management for all ClickShares devices and other support devices.

**Richmond Briefing Room**

This AV solution consists of (2) 65" & (2) 43" displays with wireless BYOD video conferencing, wired presentations, and cable TV. The VC peripherals will include wireless handheld mics, a PTZ camera, and in-ceiling speakers. Control for the room will be provided from a 10" touch panel.

- **Displays & Mounts:**
  - DataVox will provide and install (2) 65" Samsung 4K displays on Chief tilt mounts.
  - DataVox will provide and install (2) 43" Samsung 4K displays on Chief tilt mounts.
- **Audio - Microphones:**
  - DataVox will provide and install (2) Shure Microflex Wireless handheld microphones for voice lift and voice pickup during video conferencing calls.
  - DataVox will provide and install (1) Shure Microflex Wireless four-channel Dante access point transceiver in the ceiling for microphone wireless connectivity. (1) Cat6 cable run to the AV network switch has been included.
  - DataVox will provide and install (1) Shure Microflex Wireless four-channel tabletop charging station for microphone charging. (1) Cat6 cable run to the AV network switch has been included.
- **Audio Components:**
  - DataVox will provide and install (1) Shure P300 audio processor in the AV rack with a USB connection into the ClickShare. This device will be connected to the AV network switch via Cat6.
  - DataVox will utilize and install (1) OFE Extron mono-channel 200 watt amp in the AV rack to power the speakers.
  - DataVox will utilize (6) OFOI in-ceiling speakers within the room. The speakers will continue to be configured on a single zone and tapped at the same wattage.
- **Video Conferencing:**

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**Richmond Briefing Room AV Upgrade (TIPS)**

DVXA-13432

- DataVox will provide and install (1) AVer PTZ camera wall mounted in the room to capture the room. (1) SCT camera extender has been included to extend USB into the ClickShare. (1) Cat6 cable run between the camera and the AV rack for the SCT extender has been included.
- DataVox will provide and install (1) Barco ClickShare CX-50 Gen2 wireless BYOD video conference system in the AV rack and connected to the 4x4 via HDMI. The system includes (2) USB-C buttons and a tray accessory. This device will utilize an OFOI network connection in the AV rack.
- **Video Sources:**
  - DataVox will utilize and install (1) OFOI cable box in the AV rack connected via HDMI to the 4x4. IR controls will be connected to the Crestron processor via an IR Bud.
- **Video Distribution:**
  - DataVox will provide and install (1) Crestron 4x4 HDMI video switcher in the AV rack which will provide video switching between the sources in the room. This device will be connected to the AV network switch via Cat6.
  - DataVox will provide and install (1) Crestron HDMI wall plate in the room and (1) Crestron HDMI receiver in the AV rack into the 4x4 switcher. A shielded DM cable run has been included.
  - DataVox will provide and install (4) Monoprice HDMI transmitters from the 4x4 outputs and the (4) HDMI receivers behind the (4) displays. The receivers will connect to the displays via HDMI & RS-232. (4) Shielded DM cable runs have been included.
- **Control Systems:**
  - DataVox will provide and install (1) Netgear 10 port POE+ network switch in the AV rack for IP connectivity. This device will utilize an OFOI network connection.
  - DataVox will provide and install (1) Crestron CP4N control processor in the AV rack for Crestron control processing. This device will be connected to the AV network switch via Cat6 and connected to (3) Monoprice transmitters via RS-232.
  - DataVox will provide and install (1) Crestron Wired Ethernet Module with (2) RS-232 COM ports to control the display. The device will connect to the AV network switch via Cat6 and connected to (1) Monoprice transmitter via RS-232.
  - DataVox will provide and install (1) Crestron 10" tabletop touch panel on the wall for AV controls. (1) Cat6 cable run to the AV network switch has been included. The touch panel will be programmed as follows:
    - System On/Off (Displays On/Off)
    - Video Source Selection (ClickShare, HDMI wall plate, Cable TV)
    - Cable Box Controls
    - PTZ Camera Controls/Presets
    - Microphone Mute On/Off
    - Program Volume Up/Down/Mute
- **Equipment Racks:**
  - DataVox will provide and install (1) Middle Atlantic PTRK Series 14RU portable equipment rack to house rack mounted AV devices. DataVox has included a horizontal PDU, rack rails, and rack shelves as required.

**Stored Materials**

DataVox shall bill Customer for one hundred percent (100%) of all materials and equipment not incorporated into the work but delivered and suitably stored on- or offsite, and if applicable, a reasonable storage fee, as described in a SOW. Payment for such materials and equipment shall be made in accordance with the payment terms described herein. If requested, DataVox will provide:

- Bill of Sale identifying the materials and equipment as the property of Customer
- Evidence that all materials and equipment are insured for loss of any kind either at the stored location
- Certificate of insurance; and
- Photographic evidence of the stored materials and equipment.

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## Richmond Briefing Room AV Upgrade (TIPS)

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### Equipment Lead Times

Upon execution of an SOW, DataVox will communicate lead times on material and equipment delivery. These lead times are outside of DataVox's control and may impact project schedule and postpone project completion. Such lead times are provided by manufacturers and are subject to change based on product availability. DataVox may replace current product specifications with products of equal or greater functionality to meet Customer's project schedule. The SOW will be revised as appropriate to account for any change in the price quoted in the SOW. If Customer declines to utilize substitute product(s), it shall accept the current lead times provided by DataVox.

### Training

DataVox will provide one hands-on training session as coordinated with the Customer. All users of the system should be present at this training session to learn basic operation and light maintenance. Additional training sessions are available upon request at additional charge.

### Out of Scope Services

The following services are outside the scope of work:

- All conduits, such as high voltage wiring panels, breakers, relays boxes, and receptacles
- Any related electrical work, including but not limited to 110VAC, conduit, core drilling, raceway and boxes
- Concrete saw cutting and core drilling
- Firewall, ceiling, roof and floor penetration patching, removal or fire stopping
- Any audio visual consulting services to configure existing audio visual devices outside the audio visual devices provided within this SOW and the Audio Visual Proposal.
- Necessary sheet rock replacement and repair
- Necessary ceiling tile or T-bar modifications, replacement and repair
- Any and all millwork (for example, molding and trim). All millwork or modifications to project millwork to accommodate equipment
- Permits (unless specifically provided for in this SOW.)
- HVAC and plumbing relocation
- Rough-in, bracing, framing, or finish trim carpentry for installation
- Cutting, structural welding, or reinforcement of structural steel members required for support of assemblies, if required
- Any applicable taxes, permits, or bonds related to the project
- Unless specified in this SOW, the warranty provisions in this contract do not cover owner furnished equipment. Additionally, owner furnished equipment will not be controlled unless specifically stated in this SOW

*Acknowledged and Accepted*

\_\_\_\_\_ *Initial*

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# BASELINE RESPONSIBILITIES

## DataVox Responsibilities

This section lists DataVox's responsibilities for this Audio Visual proposal.

- **Building Codes:** Install all equipment according to manufacturers' specifications, national and local building codes and regulations, and will be in conformity with good engineering practices as outlined by the international Communications Industries Association (ICIA) and best practices as outlined by AVIXA.
- **ADA:** All equipment will be installed with provisions for the safety of the operator in accordance with the Americans with Disability Act (ADA) guidelines.
- **Dress Code:** All DataVox staff will dress in a professional manner displaying the DataVox logo. All DataVox staff will wear required Personal Protection Equipment (PPE). They will conduct themselves in a professional, courteous and respectful manner to all others present.
- **Work Environment:** DataVox will maintain a clean working environment, storing tools and equipment when not in use and discarding refuse as often as reasonably possible. While DataVox cannot take responsibility for furniture or Customer furnished equipment in the workspace, DataVox will take reasonable precautions to protect all Customer furnished equipment, floors, walls, ceiling tiles, windows and window coverings, and furniture and other surfaces from damage, staining or unreasonable breakage while on site.
- **Electrical and Radio Interference:** DataVox will notify the Customer of any hum, distortion, and RF Interference caused by the local RF environment, building structure, electrical systems, telecommunications systems, wireless RF systems which are beyond the control of DataVox, and will advise the Customer of possible remedies.
- **Supervision:** DataVox will appoint a Project Manager (PM) and/or Lead Technician (LT) to oversee the installation. During system implementation, please direct all communications through this designated contact. PM or LT will coordinate with other trades to facilitate and expedite project progress. DataVox will inform the Customer of any interference or potential delays which could impede implementation of the AV system, thereby helping to avoid any additional charges.
- **Change Orders:** DataVox will provide written documentation of any Change Orders (CO) for work requested by the Customer which deviates from the original, approved Proposal and Scope of Works. CO's will be billed at our published labor rates plus materials, shipping, handling, restocking and other charges imposed by suppliers.
- **Coordination Meetings:** DataVox recommends weekly coordination meetings between the Customer, DataVox and all other trades in which we will report to the Customer the status of the project. Any identified foreseeable restrictions or insurmountable issues outside our control that could impact the overall project schedule will be reviewed with the Customer.

*Acknowledged and Accepted*

\_\_\_\_\_ *Initial*

## Customer Responsibilities

This section lists the Customer responsibilities for this Audio Visual proposal.

- **Safe Work Environment:** Provide DataVox staff, contractors and others working on-site a safe working environment. DataVox reserves the right to refuse to work or install any equipment in an area where, at the sole discretion of DataVox, the safety of those involved is of concern.
- **Access to worksite:** provide access to the worksite, and all work will typically take place between the hours of 07:00 and 17:00 Monday through Friday, except on public holidays, unless specified otherwise in the DataVox Proposal. Work completed at any other time will be billed at OT rates published in **Change Order Labor Rates**. For the safety of all concerned, it is requested that the work area be free and clear, for example, of other trades, clients of the Customer, and employees during the installation period.
- **Ingress/Egress from Loading Dock to Work Site:** ensure unobstructed access to the loading/unloading dock and between the dock and the worksite so that the loading/unloading of large objects such as racks, screens, and large flat panels is safe and unencumbered.
- **Secure Storage:** provide a secure, climate controlled area on-site to store equipment during the installation period. Delivery of goods,

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**Richmond Briefing Room AV Upgrade (TIPS)**

**DVXA-13432**

supplies and equipment to this on-site storage location, or equipment that has been installed in its designated location will be considered as 'Delivered' for billing purposes and will be invoiced accordingly. Responsibility for the equipment passes to the Customer immediately upon installation or delivery to the on-site storage. Any loss due to vandalism, theft, burglary, fire, water ingress, or any other means outside the direct control of DataVox shall be replaced at the Customer's expense.

- **Uninterrupted Work Flow:** avail DataVox of continuous, uninterrupted workflow in the environment in which the AV system will be installed. Delays in work caused by interference of other trades, inability to access the work space during the stated hours, inability to access equipment stored on site, or other reasons caused by the Customer will be charged at rates published in **Change Order Labor Rates**. If DataVox crew arrives to work on-site at the appointed time and work cannot proceed due to dangerous conditions, inability to access the site, lack of power, interference by others which are within direct, reasonable control of the Customer, it will result in a half day charge for the crew.
- **Electrical:** all installation, termination and connection of any high voltage services (greater than or equal to 70VAC). It is strongly recommended that all AV system components shall be connected to Technical Power - using the same phase of building power to all AV system points.
- **Subscription-Based Services:** any services such as Cable TV, Satellite, ISDN, High-speed internet or other network services to be provided by others. Any such services are to be delivered to the desired location and appropriately terminated as coordinated with DataVox.
- **Floor Penetrations/Coverings:** any floor coring, installation of floor box, poke-thru wire path, or other devices which require modification of the floor surface or floor covering required for the cable path. Any carpet work such as cutting, repairing or vulcanizing or re-bonding due to the use of under-the-carpet AVTrac or similar cabling system.
- **Wall Structure:** any demolition, painting, or structural modification work to be provided by the Customer unless otherwise specifically noted in DataVox proposal. All wall-mounted displays 65" or above, all interactive displays and all displays with an articulating mount will require blocking and/or suitable backing as coordinated with DataVox.
- **Wall Finish & Ceiling Tile/Ceiling Grid work:** repair and/or finish-out of any wall covering, wall finishing, painting, sealing, masonry work, etc., and any modifications to ceiling tiles or ceiling grids required as a result of installation of projector screens, lifts, speakers, cameras, mounts, etc. unless specifically provided for in the DataVox proposal.
- **Cabling Paths:** all provided cabling paths and raceways will be accessible, clear, dry and unobstructed. They shall be sized as recommended by NEC and AVIXA.
- **Vibration Dampening:** isolation of any unwanted vibration of building, building structure, floors, ceilings, walls or any other surface to which AV equipment is to be mounted. All mounting surfaces must be free of vibration, whether caused by pedestrian traffic, HVAC system components, Mechanical or Electrical System components or any other cause.
- **Furniture Modifications:** provide all modifications necessary to table tops, credenzas, cabinets and other furniture to accommodate the specified AV equipment, unless specified otherwise in our proposal. All existing OFE furniture shall have sufficient space and cooling capacity to accommodate all new AV system components. Any modifications to any of the above services required by the proposed AV system will be clearly enumerated by DataVox upon acceptance of the final proposal by the Customer. Delays in providing the above services beyond the projected start date will commensurately delay the contracted project completion date, and may incur additional charges at the rates published in **Change Order Labor Rates**.
- **Lights and Lighting Control Systems:** All integrated lights and lighting control systems provided by others must be able to accommodate third party control connections and protocols.
- **Drape and Shade Controls Systems:** All integrated drape and shade controls systems provided by other must be able to accommodate third party control connections and protocols.

*Acknowledged and Accepted*

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# LOCATION SUMMARY

\* Location Pricing Excludes all Optional and Alternate Components

Location	Price
Fort Bend County Sheriff's Office: Richmond Briefing Room	\$51,469.46
<b>Total Price (Excludes Sales Tax):</b>	<b>\$51,469.46</b>

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# BILL OF MATERIALS

Fort Bend County Sheriff's Office: Richmond Briefing Room		Equipment	Labor
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**Displays & Mounts**

2	<b>Samsung QB43C</b> Samsung 43-inch Commercial 4K UHD Display, 350 NIT -	\$1,317.50	\$874.00
2	<b>Chief MTM1U</b> Medium Fusion Micro-Adjustable Tilt Wall Display Mount	\$343.00	\$437.00
2	<b>Samsung QB65C</b> 65" 3840x2160 4K UHD LED LCD Display, 350 nit 16/7 - Black	\$2,191.96	\$1,748.00
2	<b>Chief FHB5147</b> Universal Flat Panel Mount Hardware Kit	\$23.12	\$54.62
2	<b>Chief LTM1U</b> Large Fusion Micro-Adjustable Tilt Wall Mount	\$537.60	\$437.00
		<b>Displays &amp; Mounts</b>	<b>\$7,963.80</b>

**Audio - Microphones**

2	<b>Shure MXW2/SM58=-Z10</b> Wireless Handheld Microphone	\$1,007.72	\$218.50
1	<b>Shure MXWAPT4=-Z10</b> 4-Channel Access Point Transceiver	\$2,433.16	\$218.50
150	<b>Belden 2413 D15U1000</b> CAT6+ (350 MHz), 4-Pair, U/UTP-Unshielded, Plenum-CMP, Premise Horizontal Cable - Blue	\$51.00	\$327.75
1	<b>Shure MXWNCS4</b> Networked charging station - 4 port	\$1,273.22	\$54.63
1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
		<b>Audio - Microphones</b>	<b>\$5,617.28</b>

**Audio Components**

1	<b>Extron XPA 2001-70V</b> [OFE] - Mono 70v Power Amplifier - 200 WATTS	\$0.00	\$0.00
6	<b>OFE IN-CEILING SPEAKER</b> [OFE] - Owner Furnished and Installed In-Ceiling Speaker	\$0.00	\$0.00
1	<b>Shure P300-IMX</b> IntelliMix Dante Audio Conferencing Processor - 8 Channels Of Acoustic Echo Cancellation, Noise Reduction And Automatic Gain Control	\$1,528.10	\$437.00
1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
1	<b>C2G 28103</b> 3m USB 2.0 A/B Cable - Black (9.8ft)	\$3.50	\$21.85

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**Fort Bend County Sheriff's Office**



**Richmond Briefing Room AV Upgrade (TIPS)**

**DVXA-13432**

1	<b>DataVox PROGRAMMING - DSP</b> Programming & Commissioning of Audio Systems and Digital Signal Processors	\$0.00	\$1,520.00
		<b>Audio Components</b>	<b>\$3,543.25</b>

**Video Conferencing**

1	<b>Aver CAM520 Pro3</b> Advanced USB Conference Camera - 18X Zoom, 1080p, Smart Framing, USB 3.0, IP Streaming, RS-232	\$1,229.93	\$218.50
150	<b>Belden 2413 D15U1000</b> CAT6+ (350 MHz), 4-Pair, U/UTP-Unshielded, Plenum-CMP, Premise Horizontal Cable - Blue	\$51.00	\$327.75
1	<b>SCT RCU2S-B20</b> USB Camera Extension Kit	\$1,322.50	\$437.00
1	<b>Barco ClickShare CX-50 Gen 2</b> CX-50 Gen 2 Barco ClickShare Wireless Conferencing System - Dual Screen Support, Supports BYOD Video Conferencing, 4K UHD, 1 HDMI Input, 1 HDMI Output, 1-USB-C Output, Interactivity & Moderation, Includes 2 USB-C ClickShare Buttons	\$2,977.11	\$437.00
1	<b>Barco ClickShare Tray &amp; Button Package - CX &amp; C Series</b> (1) ClickShare USB Button Holding Tray and (2) ClickShare USB-C Conferencing Buttons for CX & C Series Systems Only	\$268.89	\$18.20
1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
1	<b>C2G 50185</b> 12Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$24.17	\$21.85
1	<b>DataVox PROVISIONING - XMS CLOUD</b> Provisioning Services For Setup, Configuration, and Deployment of Barco ClickShare XMS Cloud Management	\$0.00	\$218.50
1	<b>OFE CAT5e/CAT6 CABLE DROP - OFOI</b> [OFE] - Owner Furnished and Installed Cat6 Cable Drop with Network Connection	\$0.00	\$0.00
		<b>Video Conferencing</b>	<b>\$7,585.20</b>

**Video Sources**

1	<b>OFE CABLE BOX</b> [OFE] - Owner Furnished Cable TV Box With HDMI Output - Includes Labor To Mount Behind Display NOTE: Cable Box must be available at time of TV installation. If not, additional charges will apply to dismount the TV, install the cable box and then re-mount the TV.	\$0.00	\$54.63
1	<b>C2G 50182</b> 6Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$16.16	\$21.85
1	<b>Crestron Electronics IRP2</b> Infrared Emitter Probe	\$13.56	\$21.85
1	<b>OFE COAX</b> [OFE] - Owner Furnished and Installed Coax Cable TV Feed	\$0.00	\$0.00

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		Video Sources	\$128.05
<b>Video Distribution</b>			
1	<b>Crestron Electronics HD-MD4X4-4KZ-E</b> 4x4 4K60 4:4:4 HDR AV Switcher	\$1,777.49	\$218.50
1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
1	<b>C2G 50185</b> 12Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$24.17	\$21.85
1	<b>Crestron Electronics HD-TXC-4KZ-101-1G-W</b> DM Lite® 4K60 4:4:4 Transmitter for HDMI®, RS-232, and IR Signal Extension over CATx Cable, Wall Plate, White	\$305.10	\$109.25
150	<b>Belden 1213F-D15A1000</b> CAT5e+ (350MHz), 4-Pair, F/UTP-foil Shielded, Plenum-CMP, Premise Horizontal cable, Blue	\$87.00	\$327.75
1	<b>C2G 50182</b> 6Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$16.16	\$21.85
1	<b>C2G 50185</b> 12Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$24.17	\$21.85
2	<b>Crestron Electronics DM-8G-CONN-WG-1</b> Connector with wire guide for DM-CBL-8G DigitalMedia 8G cable, Single Unit	\$6.22	\$43.70
1	<b>Crestron Electronics HD-RXC-4KZ-101</b> DM Lite® 4K60 4:4:4 Receiver for HDMI®, RS-232, and IR Signal Extension over CATx Cable	\$265.55	\$109.25
4	<b>Monoprice 21609</b> 4K Pro HDMI Over HDBaseT Extender Kit, IR, 70m with PoC, RS232, HDCP 2.2	\$555.68	\$874.00
600	<b>Belden 1213F-D15A1000</b> CAT5e+ (350MHz), 4-Pair, F/UTP-foil Shielded, Plenum-CMP, Premise Horizontal cable, Blue	\$348.00	\$1,311.00
4	<b>C2G 50182</b> 6Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$64.64	\$87.40
4	<b>C2G 50185</b> 12Ft Premium High Speed HDMI Cable With Ethernet - 4K 60Hz	\$96.68	\$87.40
8	<b>Crestron Electronics DM-8G-CONN-WG-1</b> Connector with wire guide for DM-CBL-8G DigitalMedia 8G cable, Single Unit	\$24.88	\$174.80
4	<b>Monoprice ~21609 RX</b> [NB] - 4K Pro HDMI Over HDBaseT Extender Kit, IR, 70m with PoC, RS232, HDCP 2.2	\$0.00	\$0.00
		<b>Video Distribution</b>	<b>\$7,037.14</b>

**Control Systems**

1	<b>Crestron Electronics CEN-IO-COM-102</b> Wired Ethernet Module with 2 COM Ports	\$230.51	\$109.25
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**Fort Bend County Sheriff's Office**



**Richmond Briefing Room AV Upgrade (TIPS)**

**DVXA-13432**

1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
1	<b>Crestron Electronics CP4N</b> 4-Series™ Control System	\$1,740.11	\$218.50
1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
10	<b>Liberty Cable 22-2C-PSH-WHT</b> White Audio And Control 22 AWG 1 Pair Shielded Plenum Cable	\$1.40	\$21.85
1	<b>Crestron Electronics TSW-1070-B-S</b> 10.1 in. Wall Mount Touch Screen, Black Smooth	\$1,723.25	\$218.50
100	<b>Belden 2413 D15U1000</b> CAT6+ (350 MHz), 4-Pair, U/UTP-Unshielded, Plenum-CMP, Premise Horizontal Cable - Blue	\$34.00	\$218.50
1	<b>DataVox PROGRAMMING - CONTROL</b> Programming & Commissioning of Control System and User Interfaces	\$0.00	\$3,800.00
1	<b>Netgear M4250-10G2F-POE+</b> 10 Port 1GB Managed AV Network Switch - POE+	\$554.30	\$218.50
1	<b>C2G 27153</b> 10ft Cat6 Snagless Unshielded (UTP) Ethernet Network Patch Cable - Black	\$5.49	\$27.31
1	<b>Netgear AGM734-10000S</b> SFP 1G Ethernet RJ45 Module, up to 100m distance for Managed Switches	\$110.19	\$54.63
<b>Control Systems</b>			<b>\$9,351.89</b>

**Equipment Racks**

1	<b>Middle Atlantic PTRK-14</b> PTRK Series Portable Rack, 14 Space, 23" Deep	\$698.49	\$437.00
1	<b>DataVox OVERSIZE SHIPPING (By Parent Item)</b> Oversized Shipping	\$38.27	\$0.00
1	<b>DataVox RACK DRESSING</b> Labor to Dress Rack Cable, Label, and Redline Drawings	\$0.00	\$874.00
1	<b>Middle Atlantic PD-915R</b> Rackmount Power, 9 Outlet, 15A, Basic Surge	\$128.70	\$54.63
1	<b>Middle Atlantic RK-RR14</b> 14 Space, 24.5" rail kit, RK/BRK	\$35.39	\$54.63
3	<b>Middle Atlantic U1V</b> 1 Space vented rackshelf	\$132.48	\$65.55
<b>Equipment Racks</b>			<b>\$2,519.14</b>

**General & Administrative**

1	<b>DataVox CAD SERVICES</b> CAD and Revit Drawings, One-Lines and As-Built Documentation	\$0.00	\$760.00
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**Fort Bend County Sheriff's Office**



**Richmond Briefing Room AV Upgrade (TIPS)**

**DVXA-13432**

1	<b>DataVox COMMISSIONING</b> Commissioning Services, Testing and Tuning	\$0.00	\$874.00
1	<b>DataVox DESIGN</b> AV Design and Engineering Services	\$0.00	\$380.00
1	<b>DataVox DVX-MISC-CABL (By Project)</b> Miscellaneous Cables, Connectors, and Hardware	\$1,428.64	\$0.00
1	<b>DataVox PROJECT MANAGEMENT</b> Project Management - Planning, Scheduling, Order Processing, Construction Meetings and Wrap Up	\$0.00	\$1,520.00
1	<b>DataVox SHIPPING (By Project)</b> Shipping and Handling Charges	\$2,381.07	\$0.00
1	<b>DataVox TRAINING</b> User Documentation and Hands-On Training	\$0.00	\$380.00
<b>General &amp; Administrative</b>			<b>\$7,723.71</b>
		<b>Total:</b>	<b>\$51,469.46</b>

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# PROJECT PRICING SUMMARY

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Total Installation Price:	\$51,469.46
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<b>Grand Total:</b>	<b>\$51,469.46</b>
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# PURCHASE OPTIONS

**Cash Purchase Terms of Payment:**

<i>Billing Milestones</i>		<i>Amount Due</i>
Billed Upon Substantial Completion (Net 30)	100.00 %	\$51,469.46
<b>Total Payments (Excluding Sales Tax):</b>		<b>\$51,469.46</b>

**Support Options (Select One):**

<i>Description ( For details see Terms &amp; Conditions Support Agreement Obligations):</i>	<i>Annual Charge</i>
<input type="checkbox"/> Standard Support Agreement (90 days) (90 day warranty on workmanship, manufacture warranties still apply, all other labor billable after 90 days)	Included
<input type="checkbox"/> 3 Year Extended Support Agreement (Years 2-3) (1st year free, Excludes sales tax, Billed annually, Extended support begins 1 year after first substantial use)	\$3,602.86
<input type="checkbox"/> 5 Year Extended Support Agreement (Years 2-5) (1st year free, Excludes sales tax, Billed annually, Extended support begins 1 year after first substantial use)	\$3,088.17

**Technology Payment (Includes Extended Support Agreement) :**

<input type="checkbox"/> 36 Month Lease (FMV):	
* Payment per month	\$1,856.89
* Deposit (2) months	\$3,713.79
* Payment Excludes Sales Tax	
<input type="checkbox"/> 60 Month Lease (FMV):	
* Payment per month	\$1,344.96
* Deposit (2) months	\$2,689.91
* Payment Excludes Sales Tax	

*Acknowledged and Accepted*

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*Initial*

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# ACCEPTANCE OF PROPOSAL

When (but only when) signed by buyer and an authorized representative of DataVox this shall be a binding, legal contract.

The prices, specifications, and conditions in this proposal are satisfactory, and are hereby accepted in their entirety. Buyer hereby agrees to purchase the Equipment and authorizes DataVox to do the work, and provide the materials specified, and payment will be made as outlined above. The price quoted in this Audio Visual Proposal is based upon the Equipment included in this Audio Visual Proposal. Any changes in the Equipment or installation may result in a change in the price. Any such change must be in writing, signed by all parties.

DataVox reserves the right to modify payment terms at any time based on a review of the Customer's credit.

THIS AGREEMENT, WHEN SIGNED BY BOTH PARTIES (BELOW), SHALL BE GOVERNED BY THE TERMS AND CONDITIONS IN THIS AUDIO VISUAL PROPOSAL. THERE ARE NO OTHER AGREEMENTS, OR WARRANTIES, ORAL OR WRITTEN, EXCEPT AS EXPRESSLY STATED IN THIS AUDIO VISUAL PROPOSAL. THIS AGREEMENT CANNOT BE MODIFIED EXCEPT IN WRITING SIGNED BY BOTH PARTIES.

Buyer acknowledges having read and understood all of the terms and conditions printed in this Audio Visual Proposal and acknowledges receipt of a complete executed copy of this Agreement. Buyer understands and agrees that this Audio Visual Proposal and all of the terms and conditions hereof shall be a binding, enforceable contract when signed by Buyer and by an authorized representative of DataVox.

## Approval Signatures

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have caused this Proposal to be duly executed.

**DataVox, Inc.**

**Fort Bend County Sheriff's Office**

**By:** \_\_\_\_\_  
(Signature)

**By:** \_\_\_\_\_  
(Signature)

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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# TERMS AND CONDITIONS

This document defines additional terms and conditions that shall govern the execution of all scopes of work.

## 1. Construction

This writing constitutes additional terms and conditions between DataVox and Customer and is in addition to the terms and conditions set forth in the TIPS contract with DataVox which is incorporated by reference. A copy of this contract may be found online at <https://www.datavox.net/state-purchasing-cooperatives/tips/>. No course of prior dealings between the parties or trade usage shall be relevant to determine the meaning of this Agreement. This Agreement is entered into and shall be performable in the State of Texas.

## 2. Software Defect Resolution

DataVox shall use its best commercial efforts to troubleshoot software issues that may arise during the project. If a software issue is determined to be a software defect (previously documented or newly discovered), resolution of said issue is expressly outside of the scope of work. Issues of this kind do not constitute a valid reason for non-payment in full.

It is the responsibility of the customer and software manufacturer to resolve the issue. Should the Customer want DataVox to be involved in the process to downgrade, update, upgrade and/or test software releases, the Customer may authorize the out of scope expenses using the standard project change request process.

## 3. Limitation and Exclusion of Warranties

Except as otherwise provided herein, DataVox hereby warrants the described equipment against defective parts from the date of installation for the period specified by the manufacturer; and warrants that the installation of said equipment shall be performed in a workmanlike manner. Customer acknowledges that DataVox may provide products and services manufactured or provided by others. DataVox makes no independent warranty with respect to such products and services provided by third parties. Customer acknowledges and agrees that DataVox shall have no responsibility or liability for products or services manufactured or provided by any third party. Subject to payment by Customer of all amounts due under this Agreement, DataVox hereby transfers any transferable warranties from the manufacturers of products and services provided under this Agreement. Customer's exclusive remedy under these warranties shall be the repair and replacement by DataVox at the expense of DataVox of non-conforming equipment or parts thereof with reasonably equivalent equipment or parts; unless, however, the equipment or any part thereof is damaged or rendered unserviceable as a result of Customer's negligence, abuse, mishandling, attempting to connect the equipment to direct current, or damaged by lightning or acts of God in any of which case or cases, DataVox shall have no obligations to Customer.

DataVox recommends that all DataVox installed systems be equipped with battery backups. If the Customer disregards this recommendation; and a failure is directly attributed to not having a battery backup, such service as may be required will be billed for time and materials, as a TIPS contract sale, billed at the agreed upon TIPS prices.

THIS WARRANTY IS THE ONLY WARRANTY GIVEN BY DATAVOX, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED ARE EXCLUDED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE HEREOF.

Voice and data transmission are provided by third parties, such as a telephone company or over the internet. Accordingly, DataVox cannot warrant that such transmission will always be available or will be of acceptable quality. In particular, if Customer elects to use the Voice over Internet Protocol (VoIP) to transmit voice over the internet, Customer may experience (i) transmission that is not of uniform, reliable or acceptable quality; (ii) inability to connect directly to emergency and "911" services; and (iii) inability to connect to directory and operator assistance. Customer should be aware that VoIP service is not regulated by the Federal Communications Commission (FCC) and the FCC does not provide certain consumer safeguards that are available in the traditional telephone environment.

Only DataVox may perform service or maintenance on equipment covered by this warranty. IT IS EXPRESSLY AGREED AND

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UNDERSTOOD THAT THIS WARRANTY WILL BE NULL AND VOID IF ANY PERSON OTHER THAN A DATAVOX EMPLOYEE PERFORMS ANY SERVICE OR MAINTENANCE WORK ON THE EQUIPMENT COVERED BY THIS WARRANTY. In such event, DataVox shall have no further obligation or liability under this warranty.

#### **4. Waiver, Amendment, Notice, Termination**

Any waiver of rights hereunder or any amendment or requirement of notice of termination hereof shall not be effective unless made in writing and signed by the party against whom such waiver, amendment, notice or termination is sought to be enforced.

#### **5. Risk of Loss; Non-Performance by Telephone Company and Others**

Upon installation of the Equipment, Customer shall bear the risk of loss regardless of any breach by DataVox of any provisions hereof. Although DataVox, Inc. will or may assist Customer by coordinating initiation or transfer of service through telephone companies or other third parties, Customer assumes all risk of non-performance, including untimely or otherwise improper performance, of any such third parties; DataVox, Inc. and its employees assume no responsibility for any failings of these third parties or their service and equipment. With regard to VOICE MAIL systems, if any, Customer further assumes all risk of malfunction and deficient or substandard performance caused by third party telecommunication transmission equipment, lines and systems, including pay phones, cellular phones and long distance services; DataVox, Inc. and its employees assume no responsibility for any failings of these third parties or their service and equipment.

#### **6. Limitations of Liability**

In no event will either party be liable or responsible to the other for any type of incidental, exemplary, special, punitive, indirect or consequential damages, including, but not limited to, lost revenue, lost profits, replacement goods, loss of technology, rights or services, loss of data, or interruption or loss of use of service or equipment, even if advised of the possibility of such damages, whether arising under theory of contract, tort (including negligence), strict liability or otherwise. Further, no cause of action which accrued more than two (2) years prior to the filing of a suit alleging such cause of action may be asserted against DataVox.

#### **7. Virus Protection**

Customer agrees and understands it is Customer's responsibility to install and run an antivirus program on all workstations and servers at/or prior to installation. Customer agrees to take whatever steps Customer deems appropriate to ensure there is adequate and up to date virus protection on all workstations and servers. Customer expressly agrees that DataVox, Inc. shall have no liability for the loss of any such data, downtime or other damage caused by a computer virus.

#### **8. Data Back-up**

Customer agrees to take whatever steps Customer deems appropriate to ensure there are adequate, up to date back-ups made of all data on any computer, server, hard drive, or other storage device of Customer. In the event of failure, it is expressly understood that DataVox will restore the most recent back-up for systems covered under warranty or maintenance. Any additional programming due to out of date database will not be covered under warranty or maintenance and will be billed on an hourly basis as a TIPS contract sale, at the agreed upon TIPS prices. Customer expressly agrees that DataVox shall have no liability for the loss of any such data, which may occur during or after the installation process, or for any consequential damage resulting from any such loss of data.

#### **9. Attorney's Fees**

Only if ordered by a court of competent jurisdiction, Customer shall pay to DataVox all attorney's fees, court costs, and all other expense, which may be incurred by DataVox in enforcing, or attempting to enforce, any of its rights under this Agreement, or against any guarantors hereof, or with respect to any matters connected with the subject matter hereof.

#### **10. Severability**

This Agreement and all provisions hereof are intended to be severable, and this Agreement shall remain enforceable in the event any provision hereof is declared invalid.

#### **11. Payment Terms**

The balance due after required deposit will be progress-billed based on achieved milestones determined by DataVox. All DataVox invoices to the Customer are due and payable net 30 days from the invoice date, or as provided by the Texas Prompt

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***This document is confidential and the property of DataVox. Any copy or reuse of this document, its contents, recommendations and/or solutions in whole or part is strictly prohibited without prior written consent of DataVox.***

**Richmond Briefing Room AV Upgrade (TIPS)**

Payment Act, Texas Gov't Code §2251 et seq. The Customer agrees to pay DataVox interest on all past due amounts at a rate of 1.5% per month (18% per annum), but not to exceed the amount permitted by the applicable law of the jurisdiction where Customer resides. Deposit payments must be received by DataVox before commencement of a project. The payment terms of this contract are subject to change by DataVox at any time based on a review of the customer's credit.

**12. Work Hours**

DataVox has priced the professional service proposal assuming that all work will be done during normal business hours which DataVox defines as Monday through Friday, 8:00am to 5:00pm, excluding holidays. The go live activity is the only activity in which DataVox will work after business hours. This project milestone activity can be scheduled outside of normal business hours Monday through Friday, excluding holidays. The start time for the go live activity can be scheduled to start no later than 7:00pm. Any request to perform the system go live or any other activity outside of normal business hours is considered outside the scope of work and will result in additional project costs which shall not exceed the pricing proposed to TIPS. Scheduling and availability of resources outside of normal business hours is not guaranteed unless the Project Manager/Coordinator has approved it.

**13. Travel**

The Customer will be billed for time travelled and travel Expenses greater than 70 miles one way from the nearest DataVox facility. The Customer will be billed for the Time Travelled by each DataVox employee at half the cost of the DataVox billable rate per hour. This includes, for example, time spent on an airplane or driving in a car, or as proposed and awarded per the SOW.

Travel Expenses will be billed back to the Customer as incurred. These expenses will include airfare (coach) and mileage reimbursement (lodging, transportation, parking, and per diem.) DataVox adheres to the mileage reimbursement and per diem rates determined by the U.S. General Services Administration (GSA). These rates can be referenced on the GSA website, or as proposed and awarded per the SOW.

**14. Return Material Authorization**

DataVox has a Return Material Authorization policy that explains product returns. Approval to return defective and non-defective products is at the sole discretion of DataVox. Products that are defective or dead on arrival (DOA) will be repaired, replaced, or credited according to the manufacturer's warranty. Products that are non-defective that are unopened and unused and can be resold as new may be returned subject to a fifteen percent (15%) restocking fee. Any custom ordered product cannot be returned. Additional detail concerning the DataVox Return Material Authorization policy is available upon request.

**15. Currency**

Unless otherwise specified, all currency listed in DataVox documentation is in US dollars.

## TIPS VENDOR AGREEMENT

### TIPS RFP 230105 Technology Solutions, Products, and Services

The following Vendor Agreement (“Agreement”) creates a legal agreement between The Interlocal Purchasing System (“TIPS”), a government purchasing cooperative and Department of Texas Region 8 Education Service Center and (INSERT ENTITY NAME):

DataVox, Inc.

(ENTER ENTITY NAME]

its owners, agents, subsidiaries, and affiliates (together, “Vendor”) (individually, “Party”, and collectively the “Parties”) and this agreement shall exclusively govern the contractual relationship (“Agreement”) between the Parties.

TIPS, a governmental entity and a national purchasing cooperative seeks to provide a valuable and necessary solution to public entities and qualifying non-profits by performing the public procurement solicitation process and awarding compliant contracts to qualified vendors. Then, where the law of a customer’s jurisdiction allows, instead of public entities and qualifying non-profits expending time, money, and resources on the extensive public procurement process, the use of TIPS allows public entities to quickly select and purchase their preferred products or services from qualified, competitively evaluated vendors through cooperative purchasing.

1. **Purpose.** The purpose of this Agreement is to identify the terms and conditions of the relationship between TIPS and Vendor. Public entities and qualifying non-profits that properly join or utilize TIPS “(TIPS Members”) may elect to “piggyback” off of TIPS’ procurements and agreements where the laws of their jurisdiction allow. TIPS Members are not contractual parties to this Agreement although terms and conditions of this Agreement may ensure benefits to TIPS Members.
2. **Authority.** The Parties agree that the signatories below are individual authorized to enter into this Agreement on behalf of their entity and that they are acting under due and proper authority under applicable law.
3. **Definitions.**
  - a. **TIPS Pricing:** The specific pricing, discounts, and other pricing terms and incentives which Vendor submitted and TIPS approved for each respective TIPS Contract awarded to Vendor and all permissible, subsequent pricing updates submitted by Vendor and accepted by TIPS, if any.
  - b. **Authorized Reseller:** A reseller or dealer authorized and added by a Vendor through their online TIPS Vendor Portal to make TIPS sales according to the terms and conditions herein.
4. **Entire Agreement.** This Agreement resulted from TIPS posting a “TIPS Solicitation” (RFP, RCSP, RFQ, or other) and Vendor submitting a proposal in response to that posted TIPS Solicitation for evaluation and award. The Parties agree that this Agreement consists of the provisions set forth herein and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor’s entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, pricing, accepted responses to questions, and accepted written clarifications of Vendor’s proposal, and; any properly included attachments to this Agreement. All documentation and information listed is hereby incorporated by reference as if set forth herein verbatim. In the event of conflict between the terms herein and one of the incorporated documents the terms and conditions herein shall control.
5. **Vendor’s Specific Warranties, Terms, and License Agreements.** Because TIPS serves public entities and non-profits throughout the nation all of which are subject to specific laws and policies of their jurisdiction, as a matter of standard practice, TIPS does not typically accept a Vendor’s specific “Sale Terms” (warranties, license agreements, master agreements, terms and conditions, etc.) on behalf of all TIPS Members. TIPS may permit Vendor to attach those to this Agreement to display to interested customers what terms may apply to their Supplemental Agreement with Vendor (if submitted by Vendor for that purpose). However, unless this term of the Agreement is negotiated and modified to state otherwise, those specific Sale Terms are not accepted by TIPS on behalf of all TIPS Members and each Member may choose whether to accept, negotiate, or reject those specific Sale Terms, which must be reflected in a separate agreement between Vendor and the Member in order to be effective.

- 6. Vendor Identity and Contact Information.** It is Vendor's sole responsibility to ensure that all identifying vendor information (name, EIN, d/b/a's, etc.) and contact information is updated and current at all times within the TIPS eBid System and the TIPS Vendor Portal. It is Vendor's sole responsibility to confirm that all e-correspondence issued from tips-usa.com, ionwave.net, and tipsconstruction.com to Vendor's contacts are received and are not blocked by firewall or other technology security. Failure to permit receipt of correspondence from these domains and failure to keep vendor identity and contact information current at all times during the life of the contract may cause loss of TIPS Sales, accumulating TIPS fees, missed rebid opportunities, lapse of TIPS Contract(s), and unnecessary collection or legal actions against Vendor. It is no defense to any of the foregoing or any breach of this Agreement that Vendor was not receiving TIPS' electronic communications issued by TIPS to Vendor's listed contacts.
- 7. Initiation of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Once verified, Vendor must include the TIPS Contract Number on all purchase communications and sales documents exchanged with the TIPS Member.
- 8. TIPS Sales and Supplemental Agreements.** The terms of the specific TIPS order, including but not limited to: shipping, freight, insurance, delivery, fees, bonding, cost, delivery expectations and location, returns, refunds, terms, conditions, cancellations, order assistance, etc., shall be controlled by the purchase agreement (Purchase Order, Contract, Invoice, etc.) (hereinafter "Supplemental Agreement") entered into between the TIPS Member Customer and Vendor only. TIPS is not a party to any Supplemental Agreement. All Supplemental Agreements shall include Vendor's Name, as known to TIPS, and TIPS Contract Name and Number. Vendor accepts and understands that TIPS is not a legal party to TIPS Sales and Vendor is solely responsible for identifying fraud, mistakes, unacceptable terms, or misrepresentations for the specific order prior to accepting. Vendor agrees that any order issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. When Vendor accepts or fulfills an order, even when processed through TIPS, Vendor is representing that Vendor has carefully reviewed the order for legality, authenticity, and accuracy and TIPS shall not be liable or responsible for the same. In the event of a conflict between the terms of this TIPS Vendor Agreement and those contained in any Supplemental Agreement, the provisions set forth herein shall control unless otherwise agreed to and authorized by the Parties in writing within the Supplemental Agreement.
- 9. Right of Refusal.** Vendor has the right not to sell to a TIPS Member under the awarded agreement at Vendor's discretion unless otherwise required by law.
- 10. Reporting TIPS Sales.** Vendor must report all TIPS Sales to TIPS. If a TIPS sale is initiated by Vendor receiving a TIPS Member's purchase order from TIPS directly, Vendor may consider that specific TIPS Sale reported. Otherwise, with the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either: (1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com) with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or; (2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement. No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com).
- 11. TIPS Administration Fees.** The collection of administrative fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The administration fee ("TIPS Administration Fee") is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of the amount paid by the TIPS Member for each TIPS Sale, less shipping cost, bond cost, and taxes if applicable and identifiable, which is legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding solicitation and is incorporated herein by reference. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. Upon receipt of payment for a TIPS Sale, including partial payment (which renders TIPS Administration Fees immediately due), Vendor shall issue to TIPS the corresponding TIPS Administration Fee payment as soon as possible but not later than thirty-one calendar days following Vendor's receipt of payment. Vendor shall pay TIPS via check unless otherwise agreed to by the Parties in writing. Vendor shall include clear documentation with the issued payment dictating to which sale(s) the amount should be applied. Vendor may create a payment report within their TIPS Vendor Portal which is the preferred documentation dictating to which TIPS Sale(s) the amount should be applied. Failure to pay all TIPS Administration Fees pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion as well as the initiation of collection and legal actions by TIPS against Vendor to the extent permitted by law. Any overpayment of participation fees to TIPS by Vendor will be refunded to the Vendor

within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date that TIPS received the payment will render the overpayment non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect TIPS Administration Fees due to TIPS pursuant to this Agreement.

- 12. Term of the Agreement.** This Agreement with TIPS is for approximately five years with a one-year, consecutive option for renewal as described herein. Renewal options are not automatic and shall only be effective if offered by TIPS at its sole discretion. If TIPS offers a renewal option, the Vendor will be notified via email issued to Vendor’s then-listed Primary Contact. The renewal option shall be deemed accepted by Vendor unless Vendor notifies TIPS of its objection to the renewal option in writing and confirms receipt by TIPS.

**Actual Effective Date:** Agreement is effective upon signature by authorized representatives of both Parties. The Effective Date does not affect the “Term Calculation Start Date.”

**Term Calculation Start Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, Vendor shall calculate the foregoing term as starting on the last day of the month that “Award Notifications” are anticipated as published in the Solicitation, regardless of the actual Effective Date.

**Example of Term Calculation Start Date:** If the anticipated “Award Date” published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 in this example.

**Contract Expiration Date:** To keep the contract term consistent for all vendors awarded under a single TIPS contract, the term expiration date shall be five-years from the Term Calculation Start Date.

**Example of Contract Expiration Date:** If the anticipated “Award Date” published in the Solicitation is May 22, 2023, but extended negotiations delay award until June 27, 2023 (Actual Effective Date), the Term Calculation Start Date shall be May 31, 2023 and the Contract Expiration Date of the resulting initial “five-year” term, (which is subject to an extension(s)) will be May 31, 2028 in this example.

**Option(s) for Renewal:** Any option(s) for renewal shall begin on the Contract Expiration Date, or the date of the expiration of the prior renewal term where applicable, and continue for the duration specified for the renewal option herein.

**Example of Option(s) for Renewal:** In this example, if TIPS offers a one-year renewal and the Contract Expiration Date is May 31, 2028, then the one-year renewal is effective from May 31, 2028 to May 31, 2029.

TIPS may offer to extend Vendor Agreements to the fullest extent the TIPS Solicitation resulting in this Agreement permits.

- 13. TIPS Pricing.** Vendor agrees and understands that for each TIPS Contract that it holds, Vendor submitted, agreed to, and received TIPS’ approval for specific pricing, discounts, and other pricing terms and incentives which make up Vendor’s TIPS Pricing for that TIPS Contract (“TIPS Pricing”). Vendor confirms that Vendor will not add the TIPS Administration Fee as a charge or line-item in a TIPS Sale. Vendor hereby certifies that Vendor shall only offer goods and services through this TIPS Contract if those goods and services are included in or added to Vendor’s TIPS Pricing and approved by TIPS. TIPS reserves the right to review Vendor’s pricing update requests as specifically as line-item by line-item to determine compliance. However, Vendor contractually agrees that all submitted pricing updates shall be within the original terms of the Vendor’s TIPS Pricing (scope, proposed discounts, price increase limitations, and other pricing terms and incentives originally proposed by Vendor) such that TIPS may accept Vendors price increase requests as submitted without additional vetting at TIPS discretion. Any pricing quoted by Vendor to a TIPS Member or on a TIPS Quote shall never exceed Vendor’s TIPS Pricing for any good or service offered through TIPS. Vendor certifies by signing this agreement that Vendor’s TIPS Pricing for all goods and services included in Vendor’s TIPS Pricing shall either be equal to or less than Vendor’s current pricing for that good or service for any other customer. TIPS Pricing price increases and modifications, if permitted, will be honored according to the terms of the solicitation and Vendor’s proposal, incorporated herein by reference.

- 14. Indemnification of TIPS.** VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND TIPS, TIPS MEMBERS, TIPS OFFICERS, TIPS EMPLOYEES, TIPS DIRECTORS, AND TIPS TRUSTEES (THE “TIPS INDEMNITEES”) FROM AND AGAINST ALL CLAIMS AND SUITS BY THIRD-PARTIES FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGES, LOSSES, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY’S FEES, AND EXPERT FEES, ARISING OUT OF OR RELATING TO VENDOR’S PERFORMANCE UNDER THIS AGREEMENT (INCLUDING THE PERFORMANCE OF VENDOR’S OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES), REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION,

**INCLUDING WITHOUT LIMITATION CAUSES OF ACTION BASED UPON COMMON, CONSTITUTIONAL, OR STATUTORY LAW OR BASED IN WHOLE OR IN PART UPON ALLEGATIONS OF NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS ON THE PART OF VENDOR, ITS OFFICERS, EMPLOYEES, AGENTS, AUTHORIZED RESELLERS, SUBCONTRACTORS, LICENSEES, OR INVITEES. NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED TO BY TIPS. APART FROM THIS INDEMNIFICATION PROVISION REQUIRING INDEMNIFICATION OF THE TIPS INDEMNITEES' ATTORNEY'S FEES AS SET FORTH ABOVE, RECOVERY OF ATTORNEYS' FEES BY THE PREVAILING PARTY IS AUTHORIZED ONLY IF AUTHORIZED BY TEX. EDUC. CODE § 44.032(F). HOWEVER, IN NO INSTANCE SHALL VENDOR BE RESPONSIBLE FOR DEFENDING OR LIABLE FOR THE WILLFUL MISCONDUCT, NEGLIGENCE, OR GROSS NEGLIGENCE OF ANY THIRD PARTY.**

15. **Indemnification and Assumption of Risk – Vendor Data.** **VENDOR AGREES THAT IT IS VOLUNTARILY PROVIDING DATA (INCLUDING BUT NOT LIMITED TO: VENDOR INFORMATION, VENDOR DOCUMENTATION, VENDOR'S PROPOSALS, VENDOR PRICING SUBMITTED OR PROVIDED TO TIPS, TIPS CONTRACT DOCUMENTS, TIPS CORRESPONDENCE, VENDOR LOGOS AND IMAGES, VENDOR'S CONTACT INFORMATION, VENDOR'S BROCHURES AND COMMERCIAL INFORMATION, VENDOR'S FINANCIAL INFORMATION, VENDOR'S CERTIFICATIONS, AND ANY OTHER VENDOR INFORMATION OR DOCUMENTATION, INCLUDING WITHOUT LIMITATION SOFTWARE AND SOURCE CODE UTILIZED BY VENDOR, SUBMITTED TO TIPS BY VENDOR AND ITS AGENTS) ("VENDOR DATA") TO TIPS. FOR THE SAKE OF CLARITY, AND WITHOUT LIMITING THE BREADTH OF THE INDEMNITY OBLIGATIONS IN SECTION 13 ABOVE, VENDOR AGREES TO PROTECT, INDEMNIFY, AND HOLD THE TIPS INDEMNITEES HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, ACTIONS, DEMANDS, ALLEGATIONS, SUITS, JUDGMENTS, COSTS, EXPENSES, FEES, INCLUDING COURT COSTS, ATTORNEY'S FEES, AND EXPERT FEES AND ALL OTHER LIABILITY OF ANY NATURE WHATSOEVER ARISING OUT OF OR RELATING TO: (I) ANY UNAUTHORIZED, NEGLIGENT OR WRONGFUL USE OF, OR CYBER DATA BREACH INCIDENT AND VIRUSES OR OTHER CORRUPTING AGENTS INVOLVING, VENDOR'S DATA, PRICING, AND INFORMATION, COMPUTERS, OR OTHER HARDWARE OR SOFTWARE SYSTEMS, AND; (II) ALLEGATIONS OR CLAIMS THAT ANY VENDOR DATA INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD-PARTY OR VENDOR.**
  
16. **Procedures Related to Indemnification.** In the event that an indemnity obligation arises, Vendor shall pay all amounts set forth in Section 13 and 14 above (including any settlements) and – if it has accepted its indemnity obligation without qualification – control the legal defense to such claim or cause of action, including without limitation attorney selection, strategy, discovery, trial, appeal, and settlement, and TIPS shall, at Vendor's cost and expense (with respect to reasonable out of pocket costs and expenses incurred by TIPS which shall be reimbursed to TIPS by Vendor), provide all commercially reasonable assistance requested by Vendor. In controlling any defense, Vendor shall ensure that all assertions of governmental immunity and all applicable pleas and defenses shall be promptly asserted.
  
17. **Indemnity for Underlying Sales and Supplemental Agreements.** Vendor shall be solely responsible for any customer claims or any disputes arising out of TIPS Sales or any Supplemental Agreement as if sold in the open-market. The Parties agree that TIPS shall not be liable for any claims arising out of Vendor's TIPS Sales or Supplemental Agreements, including but not limited to: allegations of product defect or insufficiency, allegations of service defect or insufficiency, allegations regarding delivery defect or insufficiency, allegations of fraud or misrepresentation, allegations regarding pricing or amounts owed for TIPS sales, and/or allegations regarding payment, over-payment, under-payment, or non-payment for TIPS Sales. Payment/Drafting, overpayment/over-drafting, under-payment/under-drafting, or non-payment for TIPS Sales between customer and Vendor and inspections, rejections, or acceptance of such purchases shall be the exclusive respective obligations of Vendor/Customer, and disputes shall be handled in accordance with the terms of the underlying Supplemental Agreement(s) entered into between Vendor and Customer. Vendor acknowledges that TIPS is not a dealer, subcontractor, agent, or reseller of Vendor's goods and services and shall not be responsible for any claims arising out of alleged insufficiencies or defects in Vendor's goods and services, should any arise.
  
18. **Confidentiality of Vendor Data.** Vendor understands and agrees that by signing this Agreement, all Vendor Data is hereby released to TIPS, TIPS Members, and TIPS third-party administrators to effectuate Vendor's TIPS Contract except as provided for herein. The Parties agree that Vendor Data is accessible by all TIPS Members as if submitted directly to that TIPS Member Customer for purchase consideration. If Vendor otherwise considers any portion of Vendor's Data to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code (the "Public Information Act") or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form which is required to be submitted as part of Vendor's proposal resulting in this Agreement and incorporated by reference. The Confidentiality Claim Form included in Vendor's proposal and incorporated herein by reference is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a Public Information Request. If TIPS receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor Data deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion. In the event that TIPS receives a written request for information pursuant to the Public Information Act that affects Vendor's interest in any information or data furnished to TIPS by Vendor, and TIPS requests an opinion from the Attorney General, Vendor may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the



Public Information Act. Vendor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Public Information Act. Notwithstanding any other information provided in this solicitation or Vendor designation of certain Vendor Data as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's Data, including any information deemed confidential or proprietary, to TIPS Members or as ordered by a Court or government agency, including without limitation the Texas Attorney General. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or as required by law.

- 19. Vendor's Authorized Resellers.** TIPS recognizes that many vendors operate in the open market through the use of resellers or dealers. For that reason, TIPS permits Vendor to authorize Authorized Resellers within its Vendor Portal and make TIPS Sales through the Authorized Reseller(s). Once authorized by Vendor in the Vendor Portal, the Authorized Reseller(s) may make TIPS sales to TIPS Members. However, all purchase documents must include: (1) Authorized Reseller's Name; (2) Vendor's Name, as known to TIPS, and; (3) Vendor's TIPS Contract Name and Number under which it is making the TIPS Sale. Either Vendor or Reseller may report the sale pursuant to the terms herein. However, Vendor agrees that it is legally responsible for all reporting and fee payment as described herein for TIPS Sales made by Authorized Resellers. The TIPS Administration Fee is assessed on the amount paid by the TIPS Member, not on the Vendor's cost or on the amount for which the Vendor sold the item to a dealer or Authorized Reseller. The Parties intend that Vendor shall be responsible and liable for TIPS Sales made by Vendor's Authorized Resellers. Vendor agrees that it is voluntarily authorizing this Authorized Reseller and in doing so, Vendor agrees that it is doing so at its own risk and agrees to protect, indemnify, and hold TIPS harmless in accordance with Sections 14-17 above related to Authorized Reseller TIPS Sales made pursuant to this Agreement or purporting to be made pursuant to this Agreement that may be asserted against Vendor whether rightfully brought or otherwise. The Parties further agree that it is no defense to Vendor's breach of this Agreement that an Authorized Reseller caused Vendor of breach this Agreement.
- 20. Circumvention of TIPS Sales.** When a public entity initiates a purchase with Vendor, if the Member inquires verbally or in writing whether Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether the Member is seeking a TIPS purchase. Any request for quote, customer communication, or customer purchase initiated through or referencing a TIPS Contract shall be completed through TIPS pursuant to this Agreement. Any encouragement or participation by Vendor in circumventing a TIPS sale being completed may result in immediate termination of Vendor's TIPS Contract(s) for cause as well as preclusion from future TIPS opportunities at TIPS sole discretion.
- 21. State of Texas Franchise Tax.** By signature hereon, Vendor hereby certifies that Vendor is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171 of the Texas Tax Code.
- 22. Termination.**
- A) Termination for Convenience. TIPS may, by written notice to Vendor, terminate this Agreement for convenience, in whole or in part, at any time by giving thirty (30) days' written notice to Vendor of such termination, and specifying the effective date thereof.
  - B) Termination for Cause. If Vendor fails to materially perform pursuant to the terms of this Agreement, TIPS shall provide written notice to Vendor specifying the default. If Vendor does not cure such default within thirty (30) days, TIPS may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - C) Vendor's Termination. If TIPS fails to materially perform pursuant to the terms of this Agreement, Vendor shall provide written notice to TIPS specifying the default ("Notice of Default"). If TIPS does not cure such default within thirty (30) days, Vendor may terminate this Agreement, in whole or in part, for cause. If TIPS terminates this Agreement for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience.
  - D) Upon termination, all TIPS Sale orders previously accepted by Vendor shall be fulfilled and Vendor shall be paid for all TIPS Sales executed pursuant to the applicable terms. All TIPS Sale orders presented to Vendor but not fulfilled by Vendor, prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. TIPS shall submit to Vendor an invoice for any outstanding TIPS Administration Fees and approved expenses and Vendor shall pay such fees and expenses within 30 calendar days of receipt of such valid TIPS invoice. Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS' sole

discretion and that any Vendor may be removed from the TIPS program at any time with or without cause. This termination clause does not affect TIPS Sales Supplemental Agreements pursuant to this term regarding termination and the Survival Clause term

- E) Vendor hereby waives any and all claims for damages, including, but not limited, to consequential damages or lost profits, that might arise from TIPS' act of terminating this Agreement.

- 23. Survival Clause.** It is the intent of the Parties that this Agreement and procurement method applies to any TIPS Sale made during the life of this Agreement even if made on or near the Contract Expiration Date as defined herein. Thus, all TIPS Sales, including but not limited to: leases, service agreements, license agreements, open purchase orders, warranties, and contracts, even if they extend months or years past the TIPS Contract Expiration Date, shall survive the expiration or termination of this Agreement subject to the terms and conditions of the Supplemental Agreement between Customer and Vendor or unless otherwise specified herein.
- 24. Audit Rights.** Due to transparency statutes and public accountability requirements of TIPS and TIPS Members, Vendor shall at their sole expense, maintain documentation of all TIPS Sales for a period of three years from the time of the TIPS Sale. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Vendor's TIPS Pricing or TIPS Sales with thirty-days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without said notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with Vendor's TIPS Pricing, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non-compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format, and at the location acceptable to TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member. These audit rights shall survive termination of this Agreement for a period of one (1) year from the effective date of termination.
- 25. Conflicts of Interest.** The Parties confirm that they have not offered, given, or accepted, nor intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service to the other in connection with this Agreement. Vendor affirms that, to the best of Vendor's knowledge, this Agreement has been arrived at independently, and is awarded without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement. Vendor agrees that it has disclosed any necessary affiliations with Region 8 Education Service Center and the TIPS Department, if any, through the Conflict of Interest attachment provided in the solicitation resulting in this Agreement.
- 26. Volume of TIPS Sales.** Nothing in this Agreement or any TIPS communication may be construed as a guarantee that TIPS or TIPS Members will submit any TIPS orders to Vendor at any time.
- 27. Compliance with the Law.** The Parties agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations applicable to their entity in connection with the programs contemplated under this Agreement.
- 28. Severability.** If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such term(s) or provision(s) shall be deemed restated to reflect the original intention of the Parties as nearly as possible in accordance with applicable law and the remainder of this Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated, unless such holding causes the obligations of the Parties hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Parties hereto.
- 29. Force Majeure.** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement through no fault of its own then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon. Upon delivering such notice, the obligation of the affected party, so far as it is affected by such Force Majeure as described, shall be suspended during the continuance of the inability then claimed but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. In the event that Vendor's obligations are suspended by reason of Force Majeure, all TIPS Sales accepted prior to the Force Majeure event shall be the legal responsibility of Vendor and the terms of the TIPS Sale Supplemental Agreement shall control Vendor's failure to fulfill for a Force Majeure event.
- 30. Immunity.** Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education

Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

- 31. Insurance Requirements.** Vendor agrees to maintain the following minimum insurance requirements for the duration of this Agreement. All policies held by Vendor to adhere to this term shall be written by a carrier with a financial size category of VII and at least a rating of "A-" by A.M. Best Key Rating Guide. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member. Vendor agrees that when Vendor or its subcontractors are liable for any damages or claims, Vendor's policy, shall be primary over any other valid and collectible insurance carried by the Member or TIPS.

General Liability: \$1,000,000 each Occurrence/Aggregate  
Automobile Liability: \$300,000 Includes owned, hired & non-owned  
Workers' Compensation: Statutory limits for the jurisdiction in which the Vendor performs under this Agreement. If Vendor performs in multiple jurisdictions, Vendor shall maintain the statutory limits for the jurisdiction with the greatest dollar policy limit requirement.  
Umbrella Liability: \$1,000,000 each Occurrence/Aggregate

- 32. Waiver.** No waiver of any single breach or multiple breaches of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting regarding any breach of any provision shall be construed to be a waiver of such breach.
- 33. Binding Agreement.** This Agreement shall be binding and inure to the benefit of the Parties hereto and their respective heirs, legal successors, and assigns.
- 34. Headings.** The paragraph headings contained in this Agreement are included solely for convenience of reference and shall not in any way affect the meaning or interpretation of any of the provisions of this Agreement.
- 35. Choice of Law and Venue.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any proceeding, claim, action, or alternative dispute resolution arising out of or relating to this Agreement or involving TIPS shall be brought in a State Court of competent jurisdiction in Camp County, Texas, or if Federal Court is legally required, a Federal Court of competent jurisdiction in the Eastern District of Texas, and each of the Parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or and contemplated transaction in any other court. The Parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the Parties irrevocably to waive any objections to venue or to convenience of forum.
- 36. Relationship of the Parties.** Nothing contained in this Agreement shall be construed to make one Party an agent of the other Party nor shall either party have any authority to bind the other in any respect, unless expressly authorized by the other party in writing. The Parties are independent contractors and nothing in this Agreement creates a relationship of employment, trust, agency or partnership between them.
- 37. Assignment.** No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by a Party hereto without the prior written consent of the other Party. Written consent of TIPS shall not be unreasonably withheld.
- 38. Minimum Condition and Warranty Requirements for TIPS Sales.** All goods quoted or sold through a TIPS Sale shall be new unless clearly stated otherwise in writing. All new goods and services shall include the applicable manufacturers minimum standard warranty unless otherwise agreed to in the Supplemental Agreement.

- 39. Minimum Customer Support Requirements for TIPS Sales.** Vendor shall provide timely and commercially reasonable support for TIPS Sales or as agreed to in the applicable Supplemental Agreement.
- 40. Minimum Shipping Requirements for TIPS Sales.** Vendor shall ship, deliver, or provide ordered goods and services within a commercially reasonable time after acceptance of the order. If a delay in delivery is anticipated, Vendor shall notify the TIPS Member as to why delivery is delayed and provide an updated estimated time for completion. The TIPS Member may cancel the order if the delay is not commercially acceptable or not consistent with the Supplemental Agreement applicable to the order.
- 41. Minimum Vendor License Requirements.** Vendor shall maintain, in current status, all federal, state, and local licenses, bonds and permits required for the operation of the business conducted by Vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the TIPS Agreement. TIPS and TIPS Members reserve the right to stop work and/or cancel a TIPS Sale or terminate this or any TIPS Sale Supplemental Agreement involving Vendor if Vendor's license(s) required to perform under this Agreement or under the specific TIPS Sale have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
- 42. Minimum Vendor Legal Requirements.** Vendor shall remain aware of and comply with this Agreement and all local, state, and federal laws governing the sale of products/services offered by Vendor under this contract. Such applicable laws, ordinances, and policies must be complied with even if not specified herein.
- 43. Minimum Site Requirements for TIPS Sales (*when applicable to TIPS Sale*).**

**Cleanup:** When performing work on site at a TIPS Member's property, Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by the TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Vendor shall not begin a project for which a TIPS Member has not prepared the site, unless Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in the TIPS Sale Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered Sex Offender Restrictions:** For work to be performed at schools, Vendor agrees that no employee of Vendor or a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the TIPS Sale at the TIPS Member's discretion. Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

**Safety Measures:** Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking:** Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes, ordinances, and policies.

- 44. Payment for TIPS Sales.** TIPS Members may make payments for TIPS Sales directly to Vendor, Vendor's Authorized Reseller, or as otherwise agreed to in the applicable Supplemental Agreement after receipt of the invoice and in compliance with applicable payment statutes. Regardless of how payment is issued or received for a TIPS Sale, Vendor is responsible for all reporting and TIPS Administration Fee payment requirements as stated herein.
- 45. Marketing.** Vendor agrees to allow TIPS to use their name and logo within the TIPS website, database, marketing materials, and advertisements unless Vendor negotiates this term to include a specific acceptable-use directive. Any use of TIPS' name and logo or any form of publicity, inclusive of press release, regarding this Agreement by Vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to [tips@tips-usa.com](mailto:tips@tips-usa.com). For marketing efforts directed to TIPS Members, Vendor must request and execute a separate Joint Marketing Disclaimer, at [marketing@tips-usa.com](mailto:marketing@tips-usa.com), before TIPS can release contact information for TIPS Member entities for the purpose of marketing your TIPS contract(s). Vendor must adhere to strict Marketing Requirements once a disclaimer is executed. The Joint Marketing Disclaimer is a supplemental agreement specific to joint marketing efforts and has no effect on the terms of the TIPS Vendor Agreement. Vendor agrees that any images, photos, writing, audio, clip art,

music, or any other intellectual property ("Property") or Vendor Data utilized, provided, or approved by Vendor during the course of the joint marketing efforts are either the exclusive property of Vendor, or Vendor has all necessary rights, license, and permissions to utilize said Property in the joint marketing efforts. Vendor agrees that they shall indemnify and hold harmless TIPS and its employees, officers, agents, representatives, contractors, assignees, designees, and TIPS Members from any and all claims, damages, and judgments involving infringement of patent, copyright, trade secrets, trade or services marks, and any other intellectual or intangible property rights and/or claims arising from the Vendor's (including Vendor's officers', employees', agents', Authorized Resellers', subcontractors', licensees', or invitees') unauthorized use or distribution of Vendor Data and Property.

- 46. Tax Exempt Status of TIPS Members.** Most TIPS Members are tax exempt entities and the laws and regulations applicable to the specific TIPS Member customer shall control.
- 47. Automatic Renewal Limitation for TIPS Sales.** No TIPS Sale may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.
- 48. Choice of Law Limitation for TIPS Sales.** Vendor agrees that if any "Choice of Law" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the TIPS Sale agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.
- 49. Venue Limitation for TIPS Sales.** Vendor agrees that if any "Venue" provision is included in any TIPS Sale Agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.
- 50. Indemnity Limitation for TIPS Sales.** Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any TIPS sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.
- 51. Arbitration Limitation for TIPS Sales.** Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may not require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

In Witness Whereof, the parties hereto, each acting under due and proper authority, have signed this Agreement.

**TIPS VENDOR AGREEMENT SIGNATURE FORM**

**TIPS RFP 230105 Technology Solutions, Products, and Services**

Vendor Name: DataVox, Inc.

Vendor Address: 6650 W. Sam Houston Parkway South

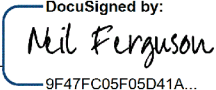
City: Houston State: Texas Zip Code: 77072

Vendor Authorized Signatory Name: Neil Ferguson

Vendor Authorized Signatory Title: Senior Vice President of Marketing

Vendor Authorized Signatory Phone: 713-881-7107

Vendor Authorized Signatory Email: Neil@datavox.net

Vendor Authorized Signature:  Date: 2/15/23

*(The following is for TIPS completion only)*

TIPS Authorized Signatory Name: Dr. David Fitts

TIPS Authorized Signatory Title: Executive Director

TIPS Authorized Signature:  Date: 5/5/2023



**230105**  
**DataVox**  
**DataVox, Inc**  
**Supplier Response**

**Event Information**

Number: 230105  
Title: Technology Solutions, Products, and Services  
Type: Request for Proposal  
Issue Date: 1/5/2023  
Deadline: 2/17/2023 03:00 PM (CT)

Notes: This is a solicitation issued by The Interlocal Purchasing System (TIPS), a department of Texas Region 8 Education Service Center. It is an Indefinite Delivery, Indefinite Quantity ("IDIQ") solicitation. It will result in contracts that provide, through adoption/"piggyback" an indefinite quantity of supplies/services, during a fixed period of time, to TIPS public entity and qualifying non-profit "TIPS Members" throughout the nation. Thus, there is no specific project or scope of work to review. Rather this solicitation is issued as a prospective award for utilization when any TIPS Member needs the goods or services offered during the life of the agreement.

**IF YOU CURRENTLY HOLDS TIPS CONTRACT 200105 TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES ("200105"), YOU MUST RESPOND TO THIS SOLICITATION TO PREVENT LAPSE OF CONTRACT UNLESS YOU HOLD ANOTHER CURRENT TIPS CONTRACT THAT COVERS ALL OF YOUR TECHNOLOGY OFFERINGS. THIS AWARDED CONTRACT WILL REPLACE YOUR EXPIRING TIPS CONTRACT 200105.**

**IF YOU HOLD A TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS,**

**AND SERVICES" CONTRACT OTHER THAN 200105 AND YOU CHOOSE TO RESPOND HEREIN, YOUR EXISTING TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CONTRACT WILL BE TERMINATED AND REPLACED BY THIS CONTRACT.**

**IF YOU HOLD ANOTHER TIPS CONTRACT OTHER THAN 200105 WHICH COVERS ALL OF YOUR TECHNOLOGY OFFERINGS AND YOU ARE SATISFIED WITH IT, THERE IS NO NEED TO RESPOND TO THIS SOLICITATION UNLESS YOU PREFER TO HOLD BOTH CONTRACTS OR REPLACE YOUR EXISTING TIPS "TECHNOLOGY SOLUTIONS, PRODUCTS, AND SERVICES" CONTRACT.**

## Contact Information

Address: Region 8 Education Service Center  
4845 US Highway 271 North  
Pittsburg, TX 75686  
Phone: +1 (866) 839-8477  
Email: [bids@tips-usa.com](mailto:bids@tips-usa.com)



## DataVox Information

Contact: Neil Ferguson  
 Address: 6650 W Sam Houston Parkway S  
 Houston, TX 77072  
 Phone: (713) 881-5300 x7107  
 Email: neil@datavox.net  
 Web Address: www.datavox.net

By submitting your response, you certify that you are authorized to represent and bind your company.

Neil Ferguson

Signature

Submitted at 2/16/2023 09:38:59 AM (CT)

neil@datavox.net

Email

## Requested Attachments

### Pricing Form 1

230105 Pricing Form 1\_DataVox.xlsx

Pricing Form 1 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Pricing Form 2

230105 Pricing Form 2\_DataVox.xlsx

Pricing Form 2 must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed as instructed, and uploaded to this location.

### Alternate or Supplemental Pricing Documents

No response

Optional. If when completing Pricing Form 1 & Pricing Form 2 you direct TIPS to view additional, alternate, or supplemental pricing documentation, you may upload that documentation.

### Vendor Agreement

230105 Vendor Agreement\_DataVox.pdf

The Vendor Agreement must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, Vendor Name placed in the line provided at the top, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may assert so in the Attribute Questions and those shall be addressed during evaluation.

### Vendor Agreement Signature Form

230105 Vendor Agreement Signature Form\_DataVox.pdf

The Vendor Agreement Signature Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. If Vendor has proposed deviations to the Vendor Agreement, Vendor may leave the signature line of this page blank and assert so in the Attribute Questions and those shall be addressed during evaluation.

### Reference Form

230105 Reference Form\_DataVox.xls

The Reference Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. The Reference Form must be uploaded in Excel format.

### Required Confidentiality Claim Form

230105 Required Confidentiality Claim Form\_DataVox.pdf

The Required Confidentiality Claim Form must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location. This is the only way for Vendor to assert confidentiality of any information submitted.

### Conflict of Interest Questionnaire - Form CIQ

Conflict of Interest Questionnaire - Form CIQ\_DataVox.pdf

Do not upload this form unless you have a reportable conflict with TIPS. There is an Attribute entitled "Conflict of Interest Questionnaire Requirement" immediately followed by an Attribute entitled "Conflict of Interest Questionnaire Requirement – Form CIQ – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Conflict of Interest Questionnaire – Form CIQ must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded at this location.

**Disclosure of Lobbying Activities - Standard Form - LLL**

Disclosure of Lobbying Activities - Standard Form - LLL\_DataVox.pdf

Do not upload this form unless Vendor has reportable lobbying activities. There are Attributes entitled, "2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment – Continued." Properly respond to those Attributes and only upload this form if applicable/instructed. If upload is required based on your response to those Attributes, the Disclosure of Lobbying Activities – Standard Form - LLL must be downloaded from the "Attachments" section of the IonWave eBid System, reviewed, properly completed, and uploaded to this location.

**Current Form W-9**

DataVox W9.pdf

Vendor must upload their current IRS Tax Form W-9. The legal name, EIN, and d/b/a's listed should match the information provided herein exactly. This form will be utilized by TIPS to properly identify your entity.

**Certificates & Licenses (Supplemental Vendor Information Only)**

No response

Optional. If Vendor would like to display any applicable certificates or licenses (including HUB certificates) for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Vendor's Warranties, Terms, and Conditions (Supplemental Vendor Information Only)**

No response

Optional. If Vendor would like to display any standard warranties, terms, or conditions which are often applicable to their offerings for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Supplemental Vendor Information (Supplemental Vendor Information Only)**

No response

Optional. If Vendor would like to display or include any brochures, promotional documents, marketing materials, or other Vendor Information for TIPS and TIPS Member Customer consideration, Vendor may upload those at this location.

These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Vendor Logo (Supplemental Vendor Information Only)**

No response

Optional. If Vendor desires that their logo be displayed on their public TIPS profile for TIPS and TIPS Member viewing, Vendor may upload that logo at this location. These supplemental documents shall not be considered part of the TIPS Contract. Rather, they are Vendor Supplemental Information for marketing and informational purposes only.

**Response Attachments**

**230105 Vendor Agreement\_DataVox Proposed Contract Language (Deviations).docx**

DataVox proposed additional language to contract.

**Bid Attributes**

<b>1</b>	<p><b>Disadvantaged/Minority/Women Business &amp; Federal HUBZone</b></p> <p>Some participating public entities are required to seek Disadvantaged/Minority/Women Business &amp; Federal HUBZone ("D/M/WBE/Federal HUBZone") vendors. Does Vendor certify that their entity is a D/M/WBE/Federal HUBZone vendor?</p> <p>If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.</p> <p><input type="text" value="NO"/></p>
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**2 Historically Underutilized Business (HUB)**  
 Some participating public entities are required to seek Historically Underutilized Business (HUB) vendors as defined by the Texas Comptroller of Public Accounts Statewide HUB Program. Does Vendor certify that their entity is a HUB vendor?  
  
 If you respond "Yes," you must upload current certification proof in the appropriate "Response Attachments" location.

**3 National Coverage**  
 Can the Vendor provide its proposed goods and services to all 50 US States?

**4 States Served**  
 If Vendor answered "No" to the question entitled "National Coverage," please list all states where vendor can provide the goods and services proposed directly below. Your response may dictate which potential TIPS Member customers consider purchasing your offerings.

**5 Description of Vendor Entity and Vendor's Goods & Services**  
 If awarded, this description of Vendor and Vendor's goods and services will appear on the TIPS website for customer/public viewing.

**6 Primary Contact Name**  
 Please identify the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract.

**7 Primary Contact Title**  
 Primary Contact Title

**8 Primary Contact Email**  
 Please enter a valid email address that will definitely reach the Primary Contact.

**9 Primary Contact Phone**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

Please provide the accurate and current phone number where the individual who will be primarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.

**10 Primary Contact Fax**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

**11 Primary Contact Mobile**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

**12 Secondary Contact Name**

Please identify the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract.

**13 Secondary Contact Title**

Secondary Contact Title

**14 Secondary Contact Email**

Please enter a valid email address that will definitely reach the Secondary Contact.

**15 Secondary Contact Phone**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

Please provide the accurate and current phone number where the individual who will be secondarily responsible for all TIPS matters and inquiries for the duration of the contract can be reached directly.

**16 Secondary Contact Fax**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

**1  
7 Secondary Contact Mobile**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

**1  
8 Administration Fee Contact Name**

Please identify the individual who will be responsible for all payment, accounting, and other matters related to Vendor's TIPS Administration Fee due to TIPS for the duration of the contract.

**1  
9 Administration Fee Contact Email**

Please enter a valid email address that will definitely reach the Administration Fee Contact.

**2  
0 Administration Fee Contact Phone**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

**2  
1 Purchase Order and Sales Contact Name**

Please identify the individual who will be responsible for receiving and processing purchase orders and sales under the TIPS Contract.

**2  
2 Purchase Order and Sales Contact Email**

Please enter a valid email address that will definitely reach the Purchase Order and Sales Contact.

**2  
3 Purchase Order and Sales Contact Phone**

Numbers only, no symbols or spaces (Ex. 8668398477). The system will auto-populate your entry with commas once submitted which is appropriate and expected (Ex. 8,668,398,477).

**2  
4 Company Website**

Company Website (Format - www.company.com)

**2  
5 Entity D/B/A's and Assumed Names**

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

In this question, please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the Legal Name under which you respond to this solicitation unless you organize otherwise with TIPS after award.

**2**  
**6** **Primary Address**  
Primary Address

**2**  
**7** **Primary Address City**  
Primary Address City

**2**  
**8** **Primary Address State**  
Primary Address State (2 Digit Abbreviation)

**2**  
**9** **Primary Address Zip**  
Primary Address Zip

**3**  
**0** **Search Words Identifying Vendor**  
Please list all search words and phrases to be included in the TIPS database related to your entity. **Do not** list words which are not associated with the bid category/scope (See bid title for general scope). This will help users find you through the TIPS website search function. You may include product names, manufacturers, specialized services, and other words associated with the scope of this solicitation.

**3**  
**1** **Certification of Vendor Residency (Required by the State of Texas)**  
Does Vendor's parent company or majority owner:  
  
(A) have its principal place of business in Texas; **or** (B) employ at least 500 persons in Texas?  
  
Texas Education Code Section 44.031 requires that this information be considered in evaluation for certain contracts. However, Vendor response does not affect points, scoring, or potential award.

<b>3</b> <b>2</b>	<b>Vendor's Principal Place of Business (City)</b> In what city is Vendor's principal place of business located? <input type="text" value="Houston"/>
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<b>3</b> <b>3</b>	<b>Vendor's Principal Place of Business (State)</b> In what state is Vendor's principal place of business located? <input type="text" value="Texas"/>
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<b>3</b> <b>4</b>	<b>Vendor's Years in Business</b> How many years has the business submitting this proposal been operating in its current capacity and field of work? <input type="text" value="34"/>
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<b>3</b> <b>5</b>	<b>Certification Regarding Entire TIPS Agreement</b> Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract.  Does Vendor agree? <input type="text" value="Yes"/>
----------------------	--

**3  
6 Minimum Percentage Discount Offered to TIPS Members on all Goods and Services (READ CAREFULLY)**

**Please read thoroughly and carefully as an error on your response can render your contract award unusable.**

TIPS Members often turn to TIPS Contracts for ease of use and to receive discounted pricing.

**What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing that you offer?**

Vendor must respond with a percentage from 0%-100%. The percentage discount that you input below will be applied to your "Catalog Pricing", as defined in the solicitation, for all TIPS Sales made during the life of the contract. You cannot alter this percentage discount once the solicitation legally closes. You will always be required to discount every TIPS Sale by the percentage included below. If you add goods or services to your "Catalog Pricing" during the life of the contract, you will be required to sell those new items with this discount applied.

**Example:** In this example, you enter a 10% minimum percentage discount below. In year-one of your TIPS Contract, your published "Catalog Pricing" (website/store/published pricing) for "Tablet A" is \$100 and for "Tablet Set-Up Service" is \$100. In this example, you must sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$90, "Tablet Set-Up Service" - \$90. In year two of your TIPS Contract, you update your "Catalog Pricing" with the market. You add "Tablet B" to your "Catalog Pricing" for \$200 and have increased the price of "Tablet A" to \$110 and the price of "Tablet Set-Up Service" to \$110. In this example, after the "Catalog Pricing" update, you must still sell those items under the TIPS Contract at the proposed 10% discounted price of: "Tablet A" - \$99, "Tablet Set-Up Service" - \$99, and "Tablet B" - \$180.00.

If you cannot honor the discount on all goods and items now included or which may be added in the future with certainty, then you should offer a lesser discount percentage below.

**What is the minimum percentage discount that you can offer TIPS Members off of all goods and service pricing that you offer?**

**3  
7 Honoring Vendor's Minimum Percentage Discount**

Vendor is asked in these Attribute Questions to provide a Minimum Percentage Discount offered to TIPS Members on all goods and services sold under the TIPS Contract. Points will be assigned for your response and scoring of your proposal will be affected. A "YES" answer will be awarded the maximum 10 points and a "NO" answer will be awarded 0 points.

Does Vendor agree to honor the Minimum Percentage Discount off of their TIPS "Catalog Pricing" that Vendor proposed for all TIPS Sales made for the duration of the TIPS Contract?

**3  
8 Volume and Additional Discounts**

In addition to the Minimum Percentage Discount proposed herein, does Vendor ever expect and intend to offer additional, greater, or volume discounts to TIPS Members?

Point(s) may be assigned for your response in the category of "Pricing" during scoring and evaluation.



**3 "Catalog Pricing" and Pricing Requirements**

9

This is a requirement of the TIPS Contract and is non-negotiable.

In this solicitation and resulting contract, "Catalog Pricing" shall be defined as:

"The then available list of goods or services, in the most current listing regardless of date, that takes the form of a catalog, price list, price schedule, shelf-price or other viewable format that:

- A. is regularly maintained by the manufacturer or Vendor of an item; and
- B. is either published or otherwise available for review by TIPS or a customer during the purchase process;
- C. to which the Minimum Percentage Discount proposed by the proposing Vendor may be applied.

If awarded on this TIPS Contract, for the duration of the contract, Vendor agrees to provide, upon request, their then current "Catalog Pricing." Or, in limited circumstances where Vendor has proposed the Percentage Mark-Up method of pricing in this proposal, proof of Vendor's "cost" may be accepted by TIPS in place of catalog pricing.

**4 EXCEPTIONS & DEVIATIONS TO TIPS STANDARD TERMS AND CONDITIONS**

0

Vendor agrees that, if awarded, Vendor's final TIPS Contract will consist of the provisions set forth in the finalized TIPS Vendor Agreement, Vendor's responses to these attribute questions, and: (1) The TIPS solicitation document resulting in this Agreement; (2) Any addenda or clarifications issued in relation to the TIPS solicitation; (3) All solicitation information provided to Vendor by TIPS through the TIPS eBid System; (3) Vendor's entire proposal response to the TIPS solicitation including all accepted required attachments, acknowledged notices and certifications, accepted negotiated terms, accepted pricing, accepted responses to questions, and accepted written clarifications of Vendor's proposal, and; any properly included attachments to the TIPS Contract. In the event of conflict between the terms of the finalized Vendor Agreement and one of the incorporated documents the terms and conditions which are in the best interest of governmental/qualifying non-profit TIPS Members shall control at TIPS sole discretion.

If Vendor responds, "No, Vendor does not agree" to this Attribute, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration. This is the only proper way to submit proposed deviations for TIPS consideration. TIPS reserves the right to accept, decline, or modify Vendor's requested negotiated terms. For this reason, answering "No, Vendor does not agree" may ultimately delay or prevent award.

Does Vendor agree with TIPS standard terms and conditions as presented in the TIPS solicitation document (RFP, RCSP, RFQ, or other) and the TIPS Vendor Agreement document?

**4  
1 TIPS Sales Reporting Requirements**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submitting this proposal, Vendor certifies that Vendor will properly report all TIPS sales. With the exception of TIPS Automated Vendors, who have signed an exclusive agreement with TIPS regarding reporting, all TIPS Sales must be reported to TIPS by either:

(1) Emailing the purchase order or similar purchase document (with Vendor's Name, as known to TIPS, and the TIPS Contract Name and Number included) to TIPS at tipspo@tips-usa.com with "Confirmation Only" in the subject line of the email within three business days of Vendor's acceptance of the order, or;

(2) Within 3 business days of the order being accepted by Vendor, Vendor must login to the TIPS Vendor Portal and successfully self-report all necessary sale information within the Vendor Portal and confirm that it shows up accurately on your current Vendor Portal statement.

No other method of reporting is acceptable unless agreed to by the Parties in writing. Failure to report all sales pursuant to this provision may result in immediate cancellation of Vendor's TIPS Contract(s) for cause at TIPS' sole discretion.

**4  
2 TIPS Administration Fee Requirement and Acknowledgment**

**This is a requirement of the TIPS Contract and is non-negotiable.**

The collection of fees by TIPS, a government entity, for performance of these procurement services is required pursuant to Texas Government Code Section 791.011 et. seq. The TIPS Administration Fee is the amount legally owed by Vendor to TIPS for TIPS Sales made by Vendor. The TIPS Administration Fee amount is typically a set percentage of each TIPS Sale legally due to TIPS, but the exact TIPS Administration Fee for this Contract is published in the corresponding RFP or RCSP document. TIPS Administration Fees are due to TIPS immediately upon Vendor's receipt of payment, including partial payment, for a TIPS Sale.

By submitting a proposal, Vendor agrees that it has read, understands, and agrees to the published TIPS Administration Fee amount, calculation, and payment requirements. By submitting a proposal Vendor further confirms that all TIPS Pricing includes the TIPS Administration Fee and Vendor will not show adding the TIPS Administration Fee as a charge or line-item in any TIPS Sale.

**4  
3 TIPS Member Access to Vendor Proposal & Documentation**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's express consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation to TIPS Members or by TIPS Members. By submitting this proposal, Vendor certifies the foregoing.

**4**  
**4 Non-Collusive Bidding Certificate**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this proposal, the Vendor certifies that:

- 1) This proposal has been independently arrived at without collusion with any other entity, bidder, or with any competitor;
- 2) This proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other bidder, competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to modify, submit, or not to submit a bid or proposal; and
- 4) The person signing this bid or proposal certifies that they are duly authorized to execute this proposal/contract on behalf of Vendor and they have fully informed themselves regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the bidder as well as to the person signing in its behalf;

**4**  
**5 Antitrust Certification Statements (Tex. Government Code § 2155.005)**

**This is a requirement of the TIPS Contract and is non-negotiable.**

By submission of this bid or proposal, Vendor certifies under penalty of perjury of the laws of the State of Texas that:

- (1) I am duly authorized to execute this proposal/contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Vendor) identified herein;
- (2) In connection with this proposal, neither I nor any representative of Vendor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
- (3) In connection with this proposal, neither I nor any representative of the Vendor has violated any federal antitrust law;
- (4) Neither I nor any representative of Vendor has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

**4**  
**6 Limitation on Out-of-State Litigation - Texas Business and Commerce Code § 272**

**This is a requirement of the TIPS Contract and is non-negotiable.**

Texas Business and Commerce Code § 272 prohibits a construction contract, or an agreement collateral to or affecting the construction contract, from containing a provision making the contract or agreement, or any conflict arising under the contract or agreement, subject to another state's law, litigation in the courts of another state, or arbitration in another state. If included in Texas construction contracts, such provisions are voidable by a party obligated by the contract or agreement to perform the work.

By submission of this proposal, Vendor acknowledges this law and ***if Vendor enters into a construction contract with a Texas TIPS Member*** under this procurement, Vendor certifies compliance.

**4  
7 Required Confidentiality Claim Form**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS provides the required TIPS Confidentiality Claim Form in the "Attachments" section of this solicitation. Vendor must execute this form by either signing and waiving any confidentiality claim, or designating portions of Vendor's proposal confidential. If Vendor considers any portion of Vendor's proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s) and orders, Vendor must have identified the claimed confidential materials through proper execution of the Confidentiality Claim Form.

If TIPS receives a public information act or similar request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For Vendor documents deemed confidential by you in this manner, TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination and opinion.

Notwithstanding any other Vendor designation of Vendor's proposal as confidential or proprietary, Vendor's submission of this proposal constitutes Vendor's agreement that proper execution of the required TIPS Confidentiality Claim Form is the only way to assert any portion of Vendor's proposal as confidential.

**4  
8 Non-Discrimination Statement and Certification**

**This is a requirement of the TIPS Contract and is non-negotiable.**

In accordance with Federal civil rights law, all U.S. Departments, including but not limited to the USDA, USDE, FEMA, are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by federal funds (not all bases apply to all programs).

Vendor certifies that Vendor will comply with applicable Non-Discrimination and Equal Opportunity provisions set forth in TIPS Member Customers' policies and other regulations at the local, state, and federal levels of governments.

Yes, I certify (Yes)

**4  
9 Limitation of Vendor Indemnification and Similar Clauses**

**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, is prohibited from indemnifying third-parties (pursuant to the Article 3, Section 52 of the Texas Constitution) except as otherwise specifically provided for by law or as ordered by a court of competent jurisdiction. Article 3, Section 52 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " and the Texas Attorney General has opined that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Thus, contract clauses which require TIPS to indemnify Vendor, pay liquidated damages, pay attorney's fees, waive Vendor's liability, or waive any applicable statute of limitations must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas."

Does Vendor agree?

Yes, I Agree (Yes)

**50 Alternative Dispute Resolution Limitations**  
**This is a requirement of the TIPS Contract and is non-negotiable.**

TIPS, a department of Region 8 Education Service Center, a political subdivision, and local government entity of the State of Texas, does not agree to binding arbitration as a remedy to dispute and no such provision shall be permitted in this Agreement with TIPS. Vendor agrees that any claim arising out of or related to this Agreement, except those specifically and expressly waived or negotiated within this Agreement, may be subject to non-binding mediation at the request of either party to be conducted by a mutually agreed upon mediator as prerequisite to the filing of any lawsuit arising out of or related to this Agreement. Mediation shall be held in either Camp or Titus County, Texas. Agreements reached in mediation will be subject to the approval by the Region 8 ESC's Board of Directors, authorized signature of the Parties if approved by the Board of Directors, and, once approved by the Board of Directors and properly signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Does Vendor agree?

**51 No Waiver of TIPS Immunity**  
**This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that nothing in this Agreement shall be construed as a waiver of sovereign or government immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Region 8 Education Service Center or its TIPS Department under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

Does Vendor agree?  
 Yes, Vendor agrees (Yes)

**52 Payment Terms and Funding Out Clause**  
**This is a requirement of the TIPS Contract and is non-negotiable.**

Vendor agrees that TIPS and TIPS Members shall not be liable for interest or late-payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding-Out Clause: Vendor agrees to abide by the applicable laws and regulations, including but not limited to Texas Local Government Code § 271.903, or any other statutory or regulatory limitation of the jurisdiction of any TIPS Member, which requires that contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

Does Vendor agree?  
 Yes, Vendor agrees (Yes)

**53 Certification Regarding Prohibition of Certain Terrorist Organizations (Tex. Gov. Code 2270)**

Vendor certifies that Vendor is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Does Vendor certify?

**5**  
**4** **Certification Regarding Prohibition of Boycotting Israel (Tex. Gov. Code 2271)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any agreement with a TIPS Member under this procurement has value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Vendor certifies, where applicable, that neither the Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any, boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory but does not include an action made for ordinary business purposes.

When applicable, does Vendor certify?

**5**  
**5** **Certification Regarding Prohibition of Contracts with Certain Foreign-Owned Companies (Tex. Gov. Code 2274)**

Certain public entities are prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant Vendor direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by a customer for product warranty and support purposes.

Vendor certifies that neither it nor its parent company nor any affiliate of Vendor or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country.

For purposes of this certification, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." Vendor certifies that Vendor will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

When applicable, does Vendor certify?

**5 Certification Regarding Prohibition of Discrimination Against Firearm and Ammunition Industries (Tex.  
6 Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has at least ten (10) full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities have a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the Agreement is not excepted under Tex. Gov. Code 2274 and (e) the purchasing public entity has determined that Vendor is not a sole-source provider or the purchasing public entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association.

For purposes of this Agreement, “discriminate against a firearm entity or firearm trade association” shall mean, with respect to the entity or association, to: “(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.”

“Discrimination against a firearm entity or firearm trade association” does not include: “(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association.”

When applicable, does Vendor certify?

5  
7

**Certification Regarding Termination of Contract for Non-Compliance (Tex. Gov. Code 552.374)**

If Vendor is not a governmental body and (a) this Agreement or any Supplemental Agreement with a public entity has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities; or (b) this Agreement or any Supplemental Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by certain public entities in their fiscal year, the following certification shall apply; otherwise, this certification is not required.

As required by Tex. Gov. Code 552.374, the following statement is included in the RFP and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this solicitation and Agreement and the Vendor agrees that this Agreement and any applicable Supplemental Agreement can be terminated if Vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

Pursuant to Chapter 552 of the Texas Government Code, Vendor certifies that Vendor shall: (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member for the duration of the Agreement; (2) promptly provide to TIPS or the purchasing TIPS Member any contracting information related to the Agreement that is in the custody or possession of Vendor on request of TIPS or the purchasing TIPS Member; and (3) on completion of the Agreement, either (a) provide at no cost to TIPS or the purchasing TIPS Member all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to TIPS or the purchasing TIPS Member.

When applicable, does Vendor certify?



**58 Certification Regarding Prohibition of Boycotting Certain Energy Companies (Tex. Gov. Code 2274)**

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement or any Supplemental Agreement with certain public entities has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required.

Vendor certifies that Vendor, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, do not boycott energy companies and will not boycott energy companies during the term of the Agreement or any applicable Supplemental Agreement.

For purposes of this certification the term “company” shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit.

The term “boycott energy company” shall mean “without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a).” (See Tex. Gov. Code 809.001).

When applicable, does Vendor certify?

**59 Felony Conviction Notice - Texas Education Code 44.034**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states, "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states, "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Subsection (c) states, "This section does not apply to a publicly held corporation."

Vendor certifies one of the following:

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable, or;
- B. My firm is not owned nor operated by anyone who has been convicted of a felony, or;
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

If Vendor responds with Option (C), Vendor is required to provide information in the next attribute.

**60 Felony Conviction Notice - Texas Education Code 44.034 - Continued**

If Vendor selected Option (C) in the previous attribute, Vendor must provide the following information herein:

1. Name of Felon(s)
2. The Felon(s) title/role in Vendor's entity, and
3. Details of Felon(s) Conviction(s).

**61 Conflict of Interest Questionnaire Requirement**

Vendor agrees that it has looked up, read, and understood the current version of Texas Local Government Code Chapter 176 which generally requires disclosures of conflicts of interests by Vendor hereunder if Vendor:

(1) has an employment or other business relationship with a local government officer of our local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of our local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of our local governmental entity.

(4) Any other financial, commercial, or familial relationship with our local government that may warrant reporting under this statute.

Does Vendor certify that it has NO reportable conflict of interest?

**62 Conflict of Interest Questionnaire Requirement - Form CIQ - Continued**

If you responded "No, Vendor does not certify - VENDOR HAS CONFLICT" to the Conflict of Interest Questionnaire question above, you are required by law to fully execute and upload the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ." If you accurately claimed no conflict above, you may disregard the form attachment entitled "Conflict of Interest Questionnaire - Form CIQ."

Have you uploaded this form if applicable?

**63 Upload of Current W-9 Required**

Vendors are required by TIPS to upload a current, accurate W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

You must confirm that you are responding to this solicitation under your legal entity name. Go now to your Supplier Profile in this eBid System and confirm that your profile reflects your "Legal Name" as it is listed on your W9.

**64 Regulatory Good Standing Certification**

Does Vendor certify that its entity is in good standing will all government entities and agencies, whether local, state, or federal, that regulate any aspect of Vendor's field of work or business operations?

If Vendor selects "No", Vendor must provide explanation on the following attribute question.

**6**  
**5** **Regulatory Good Standing Certification - Explanation - Continued**

If Vendor responded to the prior attribute that "No", Vendor is not in good standing, Vendor must provide an explanation of that lack of good standing here for TIPS consideration.

*No response*

**6**  
**6** **Instructions Only - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion****Instructions for Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

**6** **Suspension or Debarment Certification**

**7** Read the instructions in the attribute above and then answer the following accurately.

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Does Vendor certify?

**6** **Vendor Certification of Criminal History - Texas Education Code Chapter 22**

**8** Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district pursuant to this law.

**DEFINITIONS**

**Covered employees:** Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students.

**Disqualifying criminal history:** Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

**Vendor certifies:**

**NONE (Section A):** None of the employees of Vendor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Vendor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided under this procurement.

**OR**

**SOME (Section B):** Some or all of the employees of Vendor and any subcontractor are covered employees. If this box is checked, I further certify that: (1) Vendor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history; (2) If Vendor receives information that a covered employee subsequently has a reported criminal history, Vendor will immediately remove the covered employee from contract duties and notify the purchasing entity in writing within 3 business days; (3) Upon request, Vendor will provide the purchasing entity with the name and any other requested information of covered employees so that the purchasing entity may obtain criminal history record information on the covered employees; (4) If the purchasing entity objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Vendor agrees to discontinue using that covered employee to provide services at the purchasing entity.

Which option does Vendor certify?

**6  
9 Certification Regarding "Choice of Law" Terms with TIPS Members**

Vendor agrees that if any "Choice of Law" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Choice of Law" applicable to the sales agreement/contract between Vendor and TIPS Member shall be the state where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Choice of Law" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
0 Certification Regarding "Venue" Terms with TIPS Members**

Vendor agrees that if any "Venue" provision is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must provide that the "Venue" for any litigation or alternative dispute resolution is shall be in the state and county where the TIPS Member operates unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Venue" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
1 Certification Regarding "Automatic Renewal" Terms with TIPS Members**

Vendor agrees that no TIPS Sale may incorporate an "Automatic Renewal" clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated into a TIPS Sale Supplemental Agreement shall only be valid and enforceable when Vendor received written confirmation of acceptance of the renewal term from the TIPS Member for the specific renewal term. The purpose of this clause is to avoid a TIPS Member inadvertently renewing a Supplemental Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. Any TIPS Sale Supplemental Agreement containing an "Automatic Renewal" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
2 Certification Regarding "Indemnity" Terms with TIPS Members**

Texas and other jurisdictions restrict the ability of governmental entities to indemnify others. Vendor agrees that if any "Indemnity" provision which requires the TIPS Member to indemnify Vendor is included in any sales agreement/contract between Vendor and a TIPS Member, that clause must either be stricken or qualified by including that such indemnity is only permitted, "to the extent permitted by the laws and constitution of [TIPS Member's State]" unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing an "Indemnity" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
3 Certification Regarding "Arbitration" Terms with TIPS Members**

Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause may **not** require that the arbitration is mandatory or binding. Vendor agrees that if any "Arbitration" provision is included in any TIPS Sale agreement/contract between Vendor and a TIPS Member, that clause provides for only voluntary and non-binding arbitration unless the TIPS Member expressly agrees otherwise. Any TIPS Sale Supplemental Agreement containing a "Arbitration" clause that conflicts with these terms is rendered void and unenforceable.

If Vendor disagrees, after this solicitation legally closes and TIPS begins evaluating Vendor's file, TIPS will provide Vendor with a draft Word Document version of the Vendor Agreement and will be instructed to include all requested negotiations as redline edits for TIPS consideration.

Does Vendor agree?

**7  
4 2 CFR PART 200 AND FEDERAL CONTRACT PROVISIONS EXPLANATION**

TIPS and TIPS Members will sometimes seek to make purchases with federal funds. In accordance with 2 C.F.R. Part 200 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (sometimes referred to as "EDGAR"), Vendor's response to the following questions labeled "2 CFR Part 200 or Federal Provision" will indicate Vendor's willingness and ability to comply with certain requirements which may be applicable to TIPS purchases paid for with federal funds, if accepted by Vendor.

Your responses to the following questions labeled "2 CFR Part 200 or Federal Provision" will dictate whether TIPS can list this awarded contract as viable to be considered for a federal fund purchase. **Failure to certify all requirements labeled "2 CFR Part 200 or Federal Provision" will mean that your contract is listed as not viable for the receipt of federal funds. However, it will not prevent award.**

If you do enter into a TIPS Sale when you are accepting federal funds, the contract between you and the TIPS Member will likely require these same certifications.

**7 5 2 CFR Part 200 or Federal Provision - Vendor Willingness to Accept Federal Funds**

This certification is not required by federal law. However, TIPS Members are public entities and qualifying non-profits which often receive federal funding and grants (ESSER, CARES Act, EDGAR, etc.) **Accepting such funds often requires additional required certifications and responsibilities for Vendor.** The following attribute questions include these required certifications. Your response to this questions, the following certifications, and other factors will determine whether your contract award will be deemed as eligible for federal fund expenditures by TIPS Members.

If awarded, is Vendor willing to accept payment for goods and services offered under this contract paid for by a TIPS Member with federal funds?

**7 6 2 CFR Part 200 or Federal Provision - Contracts**

Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

**7 7 2 CFR Part 200 or Federal Provision - Termination**

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserve the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The Vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

**7**  
**8** **2 CFR Part 200 or Federal Provision - Clean Air Act**

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

**7**  
**9** **2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members require the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Does Vendor agree?



**8 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

**0** Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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.

**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 a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant 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 covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does Vendor certify that it has NOT lobbied as described herein?

**8 2 CFR Part 200 or Federal Provision - Byrd Anti-Lobbying Amendment - Continued**

**1** If you answered "No, Vendor does not certify - Lobbying to Report" to the above attribute question, you must download, read, execute, and upload the attachment entitled "Disclosure of Lobbying Activities - Standard Form - LLL", as instructed, to report the lobbying activities you performed or paid others to perform.

**8 2 CFR Part 200 or Federal Provision - Federal Rule**

**2** Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify compliance?

**8  
3****2 CFR Part 200 or Federal Provision - Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with these provisions?

**8  
4****2 CFR Part 200 or Federal Provision - Rights to Inventions**

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor certify?

**8**  
**5** **2 CFR Part 200 or Federal Provision - Domestic Preferences for Procurements and Compliance with Buy America Provisions**

As appropriate and to the extent consistent with law, TIPS Member Customers, to the greatest extent practicable under a Federal award, may provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. For purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does Vendor Certify?

**8 2 CFR Part 200 or Federal Provision - Ban on Foreign Telecommunications**

**6**

ESC 8 and TIPS Members are prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use “covered telecommunications” equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications” equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use “covered telecommunications”, as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor certify?

**8 2 CFR Part 200 or Federal Provision - Contract Cost & Price**

**7**

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor’s TIPS pricing and pricing terms proposed.

Does Vendor certify?

**8 2 CFR Part 200 or Federal Provision - Equal Employment Opportunity**

**8**

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members on any federally assisted construction contract, the equal opportunity clause is incorporated by reference here.

Does Vendor Certify?

**8 2 CFR Part 200 or Federal Provision - Davis Bacon Act Compliance**

Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to state and federal requirements, Vendor certifies that it will be in compliance with all applicable Davis-Bacon Act provisions if/when applicable.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - Contract Work Hours and Safety Standards**

Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award for all contracts resulting from this procurement process, Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - FEMA Fund Certification & Certification of Access to Records**

**1**

**If and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, or any contract resulting from this procurement, for the purposes of making audits, examinations, excerpts, and transcriptions. This right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - Certification of Compliance with the Energy Policy and Conservation Act**

**2**

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any state mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - Certification of Compliance with Never Contract with the Enemy**

**3** Where applicable, all contracts awarded by ESC 8 and TIPS Members in excess of \$50,000.00, within the period of performance, and which are performed outside of the United States, including U.S. territories, are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. Per 2 CFR part 183, in the situation specified, ESC 8 and TIPS Members shall terminate any contract or agreement resulting from this procurement which violates the Never Contract with the Enemy regulation in 2 CFR part 183, including if Vendor is actively opposing the United States or coalition forces involved in a contingency operation in which members of the the Armed Forces are actively engaged in hostilities. Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any contract terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - Certification of Compliance with EPA Regulations**

**4** For contracts resulting from this procurement, in excess of \$100,000.00 and paid for with federal funds, Vendor certifies that Vendor will comply with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - Record Retention Requirements**

**5** For contracts resulting from this procurement, paid for by ESC 8 or TIPS Members with federal funds, Vendor certifies that Vendor will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after final expenditure or financial reports, as applicable, and all other pending matters are closed.

Does Vendor certify?

**9 2 CFR Part 200 or Federal Provision - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

**6** Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

If you respond "Yes", you must respond to the following attribute question accurately. If you respond "No", you may skip the following attribute question.

**9 7 2 CFR Part 200 or Federal Provision - If "Yes" Response to Above Attribute - Continued - Subcontracting and Affirmative Steps for Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

**Only respond to this question if you responded "Yes" to the attribute question directly above. Skip this question if you responded "No" to the attribute question directly above.**

Does Vendor certify that it will follow the following affirmative steps? Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

Does Vendor certify?

**9 8 ACKNOWLEDGMENT & BINDING CORPORATE AUTHORITY**

By submitting this proposal, the individual(s) submitting on behalf of the Vendor certify that they are authorized by Vendor to complete and submit this proposal on behalf of Vendor and that this proposal was duly submitted on behalf of Vendor by authority of its governing body, if any, and within the scope of its corporate powers.

Vendor further certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if necessary, Vendor has consulted with counsel in understanding all portions of this solicitation.



TIPS 230105 Technology Solutions, Products, and Services	<b>DataVox, Inc.</b>
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**TIPS REFERENCE FORM**

All requested information must be typed and uploaded in Excel format. Do not handwrite or upload in any format other than Excel. Emails provided must be current and active. Do not include TIPS/Region 8 employees as a reference. The entities that you provide must be paying customers, not affiliates/partners/manufacturers/resellers etc

You must provide below at least three (3) references from three different entity customers, preferably government or non-profit entities, who have purchased goods or services from your vendor entity within the last three years

Customer Entity Name	Customer Contact	Valid Contact Email	Valid Contact Phone
Example: ABC University	Director John Doe	<a href="mailto:jdoe@abcuniverisity.edu">jdoe@abcuniverisity.edu</a>	800-111- 2222
UH Health and Biomedical Sciences Building 2	Paul Boyle	<a href="mailto:pjboyle@central.uh.edu">pjboyle@central.uh.edu</a>	(713) 743-5239
City of Pearland	John Knight	<a href="mailto:jknight@pearlandtx.gov">jknight@pearlandtx.gov</a>	(281) 652-1601
Conroe ISD	Greg E. Morrow	<a href="mailto:gmorrow@conroeisd.net">gmorrow@conroeisd.net</a>	(936) 709-7604
Brazosport ISD	David Mendoza	<a href="mailto:david.mendoza@brazosportisd.net">david.mendoza@brazosportisd.net</a>	(979) 730-7113
College of The Mainland	Aaron Hensley	<a href="mailto:ahensley@com.edu">ahensley@com.edu</a>	(409) 933-8509

TIPS CONTRACT 230105

REQUIRED CONFIDENTIALITY CLAIM FORM

(VENDOR MUST COMPLETE THE FOLLOWING VENDOR INFORMATION)

Vendor Entity Name: DataVox, Inc.  
Vendor Authorized Signatory Name: Neil Ferguson  
Vendor Authorized Signatory Title: SR VP Marketing  
Vendor Authorized Signatory Email: Neil@datavox.net  
Vendor Address: 6650 W. Sam Houston Parkway S.  
City: Houston State: Texas Zip Code: 77072

Vendor agrees that it is voluntarily providing its data (including but not limited to: Vendor information, Vendor documentation, Vendor’s proposal, Vendor pricing submitted or provided to TIPS, TIPS contract documents, TIPS correspondence, Vendor logos and images, Vendor’s contact information, Vendor’s brochures and commercial information, Vendor’s financial information, Vendor’s certifications, and any other Vendor information or documentation submitted to TIPS by Vendor and its agents) (Hereinafter, “Vendor Data”) to TIPS. Vendor understands and agrees that TIPS is a government entity subject to public information laws including but not limited to Texas Government Code (TGC) Chapter 552. Vendor agrees that regardless of confidentiality designations herein, Vendor’s submission of a proposal constitutes Vendor’s consent to the disclosure and release of Vendor’s Data and comprehensive proposal, including any information deemed confidential or proprietary herein, to and by TIPS Members.

Notwithstanding the foregoing permissible release to TIPS Members, if Vendor considers any portion of Vendor’s proposal to be otherwise confidential and not subject to public disclosure pursuant to public information laws, including but not limited to TGC Chapter 552, Vendor must properly execute **Option 1 only** below, attach to this PDF all documents and information that Vendor deems confidential, and upload the consolidated documentation. Regardless of the Option selected below, this form must be completed and uploaded to the “Response Attachments” section of the eBid System entitled “Required Confidentiality Claim Form.” Execution and submission of this form is the sole indicator of whether Vendor considers any Vendor Data confidential in the event TIPS receives a request, a Public Information Request, or subpoena. If TIPS receives a request, any responsive documentation not deemed confidential by you through proper execution of Option 1 of this form will be automatically released. For information deemed confidential by you through proper execution of Option 1 of this form, TIPS will follow procedures of controlling statute(s) regarding withholding that documentation and shall not be liable for any release of information required by law, including Attorney General opinion or court order.

(VENDOR MUST COMPLETE ONE OF THE TWO OPTIONS AND UPLOAD IN THE EBID SYSTEM)

**OPTION 1 - DESIGNATING CONFIDENTIAL MATERIALS - YES, VENDOR HAS ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

- Vendor claims some Vendor Data confidential to the extent permitted by TGC Chapter 552 and other applicable law.
- Vendor attached to this PDF all potentially confidential Vendor Data and listed the number of attached pages below.
- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Number of pages attached deemed confidential: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

**OPTION 2 - WAIVER OF CONFIDENTIALITY - NO, VENDOR HAS NOT ATTACHED CONFIDENTIAL MATERIALS**

(Confirm each bullet point and sign below)

By signing for Option 2 below, Vendor expressly waives any confidentiality claim for all Vendor Data submitted in relation to this proposal and resulting contract. Vendor confirms that TIPS may freely release Vendor Data submitted in relation to this proposal or resulting contract to any requestor. Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of Vendor Data by TIPS or TIPS Members.

- Vendor’s authorized signatory has signed below and shall upload this document in the proper location in the eBid System.
- Vendor agrees that TIPS shall not be liable for any release of confidential information required by law.

Authorized Signature: \_\_\_\_\_

DocuSigned by:  
*Neil Ferguson*  
9F47FC05F05D41A...