

TIPS VENDOR AGREEMENT

Between Clear Energy Solutions, LLC and
(Insert Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS), a Department of Texas Education Service Center Region 8 for **TIPS RFQ 220104 Energy Savings Performance Contract**

General Information

The Vendor Agreement (“Agreement”) made and entered into by and between The Interlocal Purchasing System (hereinafter “TIPS”) a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order (“PO”), Agreement or Contract is the TIPS Member’s approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

Terms and Conditions

Freight

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating “No Charge”, “\$0”, “included in price” or other similar indication. Otherwise, all shipping, freight or delivery charges shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions

All new supplies equipment and services shall include **manufacturer's minimum standard warranty** unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal (“RFP”) category. All goods proposed and sold shall be new unless clearly stated in writing.

Customer Support

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

Agreements

Agreements for purchase will normally be put into effect by means of a contract, agreement, or purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion. Vendor accepts and understands that when a purchase order or similar purchase document is sent from a customer through TIPS to the Vendor, TIPS is recording the purchase and verifying whether the purchase is within the parameters of the TIPS Contract only. Vendor agrees that TIPS is not a legal party to the purchase order or similar purchase document and TIPS is not responsible for identifying fraud, mistakes, or misrepresentations for the specific order. Vendor agrees that any purchase order or similar purchase document issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. A Vendor that accepts a purchase order or similar purchase document and fulfills an order, even when processed through TIPS, is representing that the vendor has carefully reviewed the purchase order or similar purchase document for legality, authenticity, and accuracy.

Tax exempt status

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

Assignments of Agreements

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.
- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.
- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted 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.

Term of Agreement and Renewals

The Agreement with TIPS is for approximately **five (5)** years with an option for renewal for an additional **one (1)** consecutive **year**. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base **five-year** term. Whether or not to offer the extension is at the sole discretion of TIPS.

“Start Date” for Term Calculation Purposes Only: Regardless of actual award/effective date of Contract, for Agreement “term” calculation purposes only, the Agreement “start date” is the last day of the month that Award Notifications are anticipated as published in the Solicitation

Example: *If the anticipated award date published in the Solicitation is March 24, 2022 but extended negotiations delay award until June 27, 2022 The end date of the resulting initial “five-year” term Agreement, (which is subject to an extension(s)) will still be March 31, 2027.*

“Termination Date”: The scheduled Agreement “termination date” shall be the last day of the month of the month of the Original Solicitation’s Anticipated Award Date plus **five years**.

Example: *If the original term is approximately five years, and the solicitation provides an anticipated award date of March 24, 2022, the expiration date of the original five-year term shall be May 31, 2027.*

Extensions: Any extensions of the original term shall begin on the next day after the day the original term expires.

Example Following the Previous Example: *If TIPS offers a one-year extension, the expiration of the extended term shall be March 31, 2028.*

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits but is not required to do so.

Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. 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. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

Shipments

The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

Invoices

Each invoice or pay request shall include the TIPS Member’s purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

Payments

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment

statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

Pricing

All pricing submitted to TIPS' Members shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

Participation Fees and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently. **Fees for this RFQ is 1% of the sale price paid by the TIPS Member entity.**

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. 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. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a 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. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

State of Texas Franchise Tax

By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

Miscellaneous

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

Purchase Order Pricing/Product Deviation

If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

TIPS Member Purchasing Procedures

Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.

- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Licenses

Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

Novation

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

Site Requirements (*only when applicable to service or job*)

Cleanup: When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by 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: Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. 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, awarded Vendor agrees that no employee of 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. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded 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:** Awarded 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. Awarded 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.

Safety Measures

Awarded 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. Awarded 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 or policies.

Marketing

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

Supplemental Agreements

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

Survival Clause

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

Legal obligations

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

Audit rights

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the

accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without 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 the pricing under this agreement, 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 Region 8 ESC or 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.

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 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, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

Choice of Law

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, 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 any 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. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Project Delivery Order Procedures

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS

Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

Status of TIPS Members as Related to This Agreement

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

Vendor's Resellers as Related to This Agreement

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

Support Requirements

If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

Incorporation of Solicitation

The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

SECTION HEADERS OR TITLES

THE SECTION HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITIES OF THE PARTIES TO THIS DOCUMENT.

STATUTORY REQUIREMENTS

Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel
ESC Region 8/The Interlocal Purchasing System (TIPS)
4845 Highway 271 North
Pittsburg, TX, 75686
And by an email sent to bids@tips-usa.com

Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

| | |
|------------------------------|--|
| 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. |
| Umbrella Liability | \$1,000,000 |

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. 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.

Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation:** All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.

- **Back Ordered Products:** If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

NOTE: It is always the Vendor's responsibility under the TIPS agreement to report all sales under the TIPS Agreement. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract Number on all related quotes, invoices, and similar sales documents. It is the duty of the Vendor to submit documentation of all final purchases to TIPS for processing. This may only be done through the TIPS Vendor Portal or by emailing the sales documentation to TIPSP0@TIPS-USA.com, unless TIPS agrees to an alternative reporting method in writing. Failure to report a TIPS sale may result in termination of Vendor's TIPS Contract(s) and preclusion to responding to future solicitations.

The TIPS Vendor Agreement Signature Page is inserted here.

TIPS Vendor Agreement Signature Form

RFQ 220104 Energy Savings Performance Contracts

Company Name Clear Energy Solutions, LLC

Address P.O. Box 9118

City Fayetteville State AR Zip 72703

Phone 479-695-1976 Fax 479-527-8831

Email of Authorized Representative sgreen@clearenergy.com

Name of Authorized Representative Stan Green

Title President


Signature of Authorized Representative 

Date 2-17-22

TIPS Authorized Representative Name David Fitts

Title Executive Director

TIPS Authorized Representative Signature 

Approved by ESC Region 8 

Date 3/24/2022

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.



**220104 Addendum 1
Clear Energy
Clear Energy Contracting, LLC
Supplier Response**

Event Information

Number: 220104 Addendum 1

Title: Energy Savings Performance Contracts (ESPC)

Type: Request for Qualification

Issue Date: 1/6/2022

Deadline: 2/18/2022 03:00 PM (CT)

Notes: **IF YOU CURRENTLY HOLD TIPS CONTRACTS (170103) Energy Savings Performance Contracts (“170103”) OR (200209) Energy Savings Performance Contracts (“200209”), YOU MUST RESPOND TO THIS SOLICITATION TO PREVENT LAPSE OF CONTRACT. THIS AWARDED CONTRACT WILL REPLACE YOUR EXPIRING TIPS 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

Clear Energy Information

Address: P.O. Box 9118
Fayetteville, AR 72703
Phone: (479) 695-1031
Fax: (479) 527-8831
Web Address: www.clearenergy.com

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

Stan Green

Signature

Submitted at 2/17/2022 9:09:40 PM

sgreen@clearenergy.com

Email

Requested Attachments

Agreement Signature Form

220104 ESPC Agreement Signature Form.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Confidentiality Claim Form

220104 ESPC Confidentiality Form.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

Proposed Goods and Services

220104 ESPC Proposed Goods and Services.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

Reference Form

220104 ESPC Reference_Form - leave as Excel.xls

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Current W-9 Tax Form

220014 ESPC Form W-9.pdf

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

Vendor Agreement

220104 ESPC Vendor Agreement.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.
DO NOT UPLOAD encrypted or password protected files.

OPTIONAL Information Requested

No response

IF you agree to do so, Please upload the Optional Information Requested regarding ESaaS.
See attachment.

All Other Certificates

No response

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

No response

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at <https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>.

D/M/WBE Certification OPTIONAL

No response

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Warranty

No response

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Supplementary

No response

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)
DO NOT UPLOAD encrypted or password protected files.

Logo and Other Company Marks

No response

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Certification of Corporate Offerer Form- COMPLETE ONLY IF OFFERER IS A CORPORATION

No response

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

Disclosure of Lobbying Activities Standard Form LLL

No response

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

Response Attachments

220214 ESPC Clear Energy Statement of Qualifications.pdf

Statement of Qualifications for Clear Energy Solutions, LLC

Bid Attributes

| | |
|----------|---|
| 1 | <p>Yes - No</p> <p>Disadvantaged/Minority/Women Business Enterprise - D/M/WBE/Federal HUBZone (Required by some participating governmental entities). Vendor certifies that their firm is a D/M/WBE or HUBZone? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.</p> <p><input type="text" value="NO"/></p> |
|----------|---|

2 Yes - No
Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <https://comptroller.texas.gov/purchasing/vendor/hub/>.
Proof may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.

3 Yes - No
The Vendor can provide services and/or products to all 50 US States?

4 States Served:
If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)

5 Company and/or Product Description:
This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)

6 Primary Contact Name
Primary Contact Name

7 Primary Contact Title
Primary Contact Title

8 Primary Contact Email
Primary Contact Email

9 Primary Contact Phone
Enter 10 digit phone number. (No dashes or extensions)
Example: 8668398477

10 Primary Contact Fax
Enter 10 digit phone number. (No dashes or extensions)
Example: 8668398477

| | |
|----------------------|---|
| 1 1 | Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="5016465966"/> |
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| | |
|----------------------|--|
| 1 2 | Secondary Contact Name Secondary Contact Name <input type="text" value="Josh Meyer"/> |
|----------------------|--|

| | |
|----------------------|---|
| 1 3 | Secondary Contact Title Secondary Contact Title <input type="text" value="Project Executive"/> |
|----------------------|---|

| | |
|----------------------|--|
| 1 4 | Secondary Contact Email Secondary Contact Email <input type="text" value="jmeyer@clearenergy.com"/> |
|----------------------|--|

| | |
|----------------------|--|
| 1 5 | Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="5012007017"/> |
|----------------------|--|

| | |
|----------------------|--|
| 1 6 | Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="4795278831"/> |
|----------------------|--|

| | |
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| 1 7 | Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="5012007017"/> |
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| | |
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| 1 8 | Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. <input type="text" value="Stan Green"/> |
|----------------------|--|

| | |
|----------------------|--|
| 1 9 | Admin Fee Contact Email Admin Fee Contact Email <input type="text" value="sgreen@clearenergy.com"/> |
|----------------------|--|

| | |
|----------------------|--|
| 2 0 | Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="4796951976"/> |
|----------------------|--|

| | |
|----------------------|---|
| 2 1 | Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. <input type="text" value="Stan Green"/> |
|----------------------|---|

| | |
|----------------------|---|
| 2 2 | Purchase Order Contact Email Purchase Order Contact Email <input type="text" value="sgreen@clearenergy.com"/> |
| 2 3 | Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="4796951976"/> |
| 2 4 | Company Website Company Website (Format - www.company.com) <input type="text" value="www.clearenergy.com"/> |
| 2 5 | Entity D/B/A's and Assumed Names 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 responded to this solicitation unless you organize otherwise with TIPS after award. <input type="text" value="Clear Energy Solutions, LLC; Clear Energy; Clear Energy, Inc.;"/> |
| 2 6 | Primary Address Primary Address <input type="text" value="P.O. Box 9118"/> |
| 2 7 | Primary Address City Primary Address City <input type="text" value="Fayetteville"/> |
| 2 8 | Primary Address State Primary Address State (2 Digit Abbreviation) <input type="text" value="Arkansas"/> |
| 2 9 | Primary Address Zip Primary Address Zip <input type="text" value="72703"/> |
| 3 0 | Search Words: Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.) <input type="text" value="energy, efficiency, retrofit, lighting, HVAC, building automation, building controls, building envelope, commissioning, recommissioning, retrocommissioning, solar, air conditioning, renewable energy, water savings, water meters"/> |

3 1 Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?

Most of our members receive Federal Government grants or other funding and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200, etc. Your answers will determine if your award will be designated as eligible for TIPS Members to utilize federal funds with your company.

Do you want TIPS Members to be able to spend Federal funds, at the Member's discretion, with you?

3 2 Yes - No

Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.

3 3 Company Residence (City)

Vendor's principal place of business is in the city of?

3 4 Company Residence (State)

Vendor's principal place of business is in the state of?

3 5 TIPS Administration Fee

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

36 Yes - No

Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?

TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.

37 TIPS Administration Fee Paid by Vendor - Not Charged Separately to Customer

Vendor understands and agrees that it owes TIPS a TIPS Administration Fee (published in the RFP/RCSP document) on every TIPS sale made under an awarded TIPS Contract. Vendor further understands and agrees that Vendor shall submit pricing to Member entity which includes and accounts for the TIPS Administration Fee and **shall never** separately charge the TIPS Member Customer the TIPS fee or add the TIPS Administration Fee line item to an invoice or similar purchase document. Submission of this proposal is Vendor's certification that Vendor agrees to this mandatory term.

38 Years in Business as Proposing Company

Years in business as proposing company?

39 Resellers:

Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.

EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.

(If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award).

40 Right of Refusal

The proposing vendor has the right not to sell under the awarded agreement with a TIPS member at vendor's discretion unless required by law.

4
1 **NON-COLLUSIVE BIDDING CERTIFICATE**

By submission of this bid or proposal, the Bidder certifies that:

- 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
- 2) This bid or 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 submit or not to submit a bid or proposal;
- 4) The person signing this bid or proposal certifies that he has fully informed himself 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.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

4
2 **CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?**

Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO

If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS.
The Form CIQ is one of the attachments to this solicitation.

There is an optional upload for this form provided if you have a conflict and must file the form

4
3 **Filing of Form CIQ**

If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?

4
4 **Regulatory Standing**

I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.

4
5 **Regulatory Standing**

Regulatory Standing explanation of no answer on previous question.

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

6 By submission of this bid or proposal, the Bidder certifies that:

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;

(4) Neither I nor any representative of the Company 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 **Suspension or Debarment Instructions**

7

Instructions for Certification:

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.

4 **Suspension or Debarment Certification**

8

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

Yes

4 **Non-Discrimination Statement and Certification**

9 In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs 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 USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)

All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

Yes, I certify (Yes)

5 **2 CFR PART 200 Contract Provisions Explanation**

0 Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

5
1 **2 CFR PART 200 Contracts**

Contracts for more than the simplified acquisition threshold currently set at \$250,000, 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 reserves 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?

5
2 **2 CFR PART 200 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 reserves 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 reserves 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?

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3 **2 CFR PART 200 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 requires 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?

5 4 2 CFR PART 200 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 requires 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 to the terms included or referenced herein.

Does vendor agree?

5 5 2 CFR PART 200 Federal Rule

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 \$250,000)

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 that it is in compliance with the Clean Air Act?

5 6 2 CFR PART 200 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 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; 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 the Solid Waste Disposal Act as described above?

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2 CFR PART 200 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 agree?

5
8

2 CFR PART 200 Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, 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). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this 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.

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 agree?

5
9

2 CFR PART 200 Ban on Foreign Telecommunications

Federal grant funds may not be used to purchase 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” means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), 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).

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 agree?

6 **2 CFR PART 200 Contract Cost & Price**

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 Agree?

6 **FEMA Fund Certifications**

Submission of this proposal is Vendor's certification that Vendor agrees to this term. Vendor certifies that **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 for the purposes of making audits, examinations, excerpts, and transcriptions. The 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.

6 **Certification of Compliance with the Energy Policy and Conservation Act**

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 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 agree?

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Certification Regarding Lobbying

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 section 1352, Title 31, U.S. Code. 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.

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If you answered "I HAVE lobbied" to the above Attribute Question

If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform.

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5

Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

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

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

6 6 ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?

ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,

do you agree to comply with the following federal requirements?

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.

6 7 Indemnification

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified with "to the extent permitted by the Constitution and laws of State of Texas."

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree to these terms?

Yes, I Agree (Yes)

6 Remedies

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The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Do you agree to these terms?

6 Remedies Explanation of No Answer

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7 Choice of Law

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The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles. THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

7 Venue, Jurisdiction and Service of Process

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Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, 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 any 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. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

**7
2** **Infringement(s)**

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.

Do you agree to these terms?

Yes, I Agree

**7
3** **Infringement(s) Explanation of No Answer**

No response

**7
4** **Contract Governance**

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

Yes, I Agree (Yes)

**7
5** **Payment Terms and Funding Out Clause**

Payment Terms:

TIPS or 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 laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all 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.

See statute(s) for specifics or consult your legal counsel.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

Do you agree to these terms?

Yes, I Agree (Yes)

7 Insurance and Fingerprint Requirements Information

6 Insurance

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

Fingerprint

It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834 & 22.08341. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>

If the vendor has staff that meet both of these criterion:

- (1) will have continuing duties related to the contracted services; and
- (2) has or will have direct contact with students

Then you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at NCJU@txdps.state.tx.us and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.

See form in the next attribute to complete entitled:
Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Introduction: 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.

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.

I certify that:

NONE (Section A) of the employees of Contractor 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 Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

OR

SOME (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

(1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.

(2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.

(3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.

(4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

None

7 **Texas Business and Commerce Code § 272 Requirements as of 9-1-2017**

8 SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.

7 **Texas Government Code 2270 & 2271 Verification Form**

9 Texas Government Code 2270 & 2271 Verification Form

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2271 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the 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.

Our entity further certifies that it is is not listed on and we do not do business with companies prohibited by Texas Government Code 2270 or that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

I swear and affirm that the above is true and correct.

8 **Logos and other company marks**

0 Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Potential uses of company logo:

- * Your Vendor Profile Page of TIPS website
- * Potentially on TIPS website scroll bar for Top Performing Vendors
- * TIPS Quarterly eNewsletter sent to TIPS Members
- * Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

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Solicitation Deviation/Compliance

Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?

Yes

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Solicitation Exceptions/Deviations Explanation

If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.

TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.

No response

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3

Agreement Deviation/Compliance

Does the vendor agree with the language in the Vendor Agreement?

Yes

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4

Agreement Exceptions/Deviations Explanation

If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

No response

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Felony Conviction Notice

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." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.

Select A., B. or C.

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 you answer C below, you are required to provide information in the next attribute.

B. Firm not owned nor operated by felon; per above

86 **If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**

If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.

1. Name of Felon(s)
2. The named person's role in the firm, and
3. Details of Conviction(s).

87 **Required Confidentiality Claim Form**

Required Confidentiality Claim Form

This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the "Attachments" section, complete according to the instructions on the form, then upload the completed form, with any confidential attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS the completed form titled, "CONFIDENTIALITY CLAIM FORM". **THIS REQUIRED PROCESS IS THE ONLY WAY TO DEEM PROPOSAL DOCUMENTATION CONFIDENTIAL ANY OTHER CONFIDENTIAL DESIGNATION WILL BE DISREGARDED UNLESS THE DOCUMENT IS IDENTIFIED BY AND ATTACHED TO THE REQUIRED FORM.** By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.

Read the form carefully before completing and if you have any questions, email bids@tips-usa.com.

88 **Member Access to Vendor Proposal**

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Contract constitutes Vendor's 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 by TIPS Members or any other party. By submitting this proposal, Vendor certifies the foregoing.

89 **Choice of Law clauses with TIPS Members**

If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.

90 **Venue of dispute resolution with a TIPS Member**

In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.

9 1 Indemnity Limitation with TIPS Members

Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".

Agreement is a required condition to award of a contract resulting from this Solicitation.

9 2 Arbitration Clauses

Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?

9 3 Required Vendor Sales Reporting

By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. 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. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS.

9 4 Upload of Current W-9 Required

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

9 5 CERTIFICATION REGARDING BOYCOTTING CERTAIN ENERGY COMPANIES (Texas law as of September 1, 2021)

By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:

If (a) company is not a sole proprietorship; (b) company has ten (10) or more full-time employees; and (c) this contract 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. Pursuant to Tex. Gov't Code Ch. 2274 of SB 13 (87th session), the company hereby certifies and verifies that the company, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, does not boycott energy companies and will not boycott energy companies during the term of the contract. For purposes of this contract, 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't Code § 809.001(1).

**9
6 CERTIFICATION PROHIBITING DISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES
(Texas law as of September 1, 2021)**

By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:

If (a) company is not a sole proprietorship; (b) company has at least ten (10) full-time employees; (c) this contract has a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the contract is not excepted under Tex. Gov't Code § 2274.003 of SB 19 (87th leg.); and (e) governmental entity has determined that company is not a sole-source provider or governmental 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.

Pursuant to Tex. Gov't Code Ch. 2274 of SB 19 (87th session), the company hereby certifies and verifies that the company, 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 contract, "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. See Tex. Gov't Code § 2274.001(3) of SB 19. "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." See Tex. Gov't Code § 2274.001(3) of SB 19.

**9
7 CERTIFICATION REGARDING CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH
CRITICAL INFRASTRUCTURE (Texas law as of September 1, 2021)**

By submitting a proposal to this Solicitation, you certify that you agree to the following required by Texas law as of September 1, 2021:

Proposing Company is prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant to the company direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the Proposing Company for product warranty and support purposes. Company, certifies that neither it nor its parent company nor any affiliate of company 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 contract, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." See Tex. Gov't Code § 2274.0101(2) of SB 1226 (87th leg.). The company verifies and certifies that company 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.

**9
8 Acknowledgement**

By submitting this proposal, Vendor 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 found to be necessary by the proposing vendor, vendor has sought the advice of counsel in understanding all portions of the solicitation.

AMENDED

OPTIONAL INFORMATION REQUESTED

It has come to my attention that the correct name for the below process is Energy Efficiency as a Service (EEaaS)

I have modified the below document to use this commonly accepted term.

Additional Information Requested Regarding Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS)

Vendors ***are not*** required to respond to the additional request for information related to Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS) and qualifications to provide same.

Failure to respond to this additional information request for Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS) will have **NO BEARING** on the evaluation of your qualifications to provide offer Energy Savings Performance Contracting (ESPC).

If it is later determined that governmental procurement of Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS) is permitted, TIPS will timely issue a legally sufficient solicitation to address that need. All information gathered here will be used to aid TIPS in the solicitation process for contracts with companies that provide ESaaS.

Texas statutes do not specifically address **Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS)** however TIPS recognizes that it is an option offered by many vendors that also offer Energy Savings Performance Contracting (ESPC).

Please provide in a separate sheet(s) or document if your company offers ~~ESaaS~~ EEaaS and how that service is offered to governmental entities. Please provide your detailed information related to your company's qualifications and your process as it relates to ~~ESaaS~~ EEaaS and governmental customers. Please list existing governmental customers currently contracted with you for ~~ESaaS~~ EEaaS. Please provide details on how this model is structured, how it differs from ESPC and how a governmental entity would benefit from ~~ESaaS~~ EEaaS as it compares with ESPC.

You may utilize the Confidentiality Form included in the RFQ to declare this information confidential if you choose to. Final determination of confidentiality of any information provided to TIPS as a department of the Texas governmental entity Texas Education Service Center Region 8 is at the discretion of the Texas Attorney General and subject to Texas Government Code §552. See <https://comptroller.texas.gov/about/policies/open-records/public-information-act.php>

TIPS RFQ 220104 Energy Savings Performance

Contracts

References

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Clear Energy Solutions, LLC

DO NOT HANDWRITE REFERENCES AND DO NOT CONVERT EXCEL SHEET TO ANY OTHER FORMAT.

ALL INFORMATION MUST BE TYPED AND FORM MUST BE UPLOADED IN EXCEL FORMAT.

Please provide **FIVE (5) VERIFIED AND WILLING** references, preferably from school districts or other governmental entities who have used your services within the last three years. Additional references may be required.

DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

You may provide more than FIVE (5) references.

| Entity Name | Contact Person | VALID TYPED EMAIL IS REQUIRED | Phone |
|------------------------------------|--------------------|--|-----------------------------|
| Arkansas Career Training Institute | Jonathan Bibb | Jonathan.Bibb@arkansas.gov | (501) 701-6310 |
| West Fork (AR) School District | John Karnes | lkarnes@wftigers.org | (479) 839-2231 Ext. 5001 |
| Bay (AR) School District | Bobby Hutchinson | bobbyh@bay.k12.ar.us | (870) 227-1580 |
| Madison County | Judge Frank Weaver | mcarjudge@gmail.com | (479) 738-6721 |

| | | | | | |
|------------------------------------|--------------|--|----------------|--|--|
| | | | | | |
| Ashdown (AR) School District | Dean Lillard | dillard@ashdownschools.org | (903) 278-7614 | | |
| Texarkana Arkansas School District | Andrew Hill | Andrew.Hill@tasd7.net | (870) 772-3371 | | |

Required Confidential Information Status Form

Clear Energy Solutions, LLC

Name of company

Stan Green, President

Printed Name and Title of Authorized Company Officer declaring below the confidential status of material

P.O. Box 9118

Fayetteville AR 72703

479-695-1976

Address

City

State

ZIP

Phone

ALL VENDORS MUST COMPLETE THE ABOVE SECTION

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

you consider any portion of your proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), you must attach a copy of all claimed confidential materials to this COMPLETED form, name the combined PDF documents "CONFIDENTIAL", and upload the combined, confidential documents with your proposal submission. If a document is not attached, it will not be considered confidential. The copy uploaded will be the sole indicator of which material in your proposal, if any, you deem confidential in the event TIPS/ESC 8 receives a Public Information Request. If ESC 8 receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For documents deemed confidential by you in this manner, ESC8 and 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. Notwithstanding any other information provided in this solicitation Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's 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 by TIPS Members or any other party.

ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW

OPTION 1:

I **DO CLAIM** parts of my proposal to be confidential and **DO NOT** desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OF TOTAL PAGES THAT ARE CONFIDENTIAL.

ATTACHED ARE COPIES OF _____ PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature _____ Date _____

OR

OPTION 2:

I **DO NOT CLAIM** any of my proposal to be confidential, complete the section below.

Express Waiver: I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature Stan Green Date 2-17-22

March 7, 2022

Re: Clear Energy Solutions, Fayetteville, AR

Clear Energy Solutions enjoys an excellent bonding relationship with its surety The Travelers Insurance Companies.

The Travelers has provided and is prepared to provide bonds on contracts entered into by Clear Energy. The aggregate bonding capacity of Clear Energy is in excess of \$10,000,000 and, consequently, projects within the \$10,000,000 range will be entertained by The Travelers. If contract terms and conditions are acceptable to Clear Energy, the bonds will be favorably considered by The Travelers.

The Travelers has never received nor had reason to respond to any adverse circumstances on Clear Energy projects. Accordingly, we are pleased to offer our high recommendation of Clear Energy Solutions.

Additionally, Clear Energy has been pre-approved and is eligible for Energy Savings Warranty coverage with the primary source of this coverage in the insurance marketplace.

Sincerely,



Steven C. Russell, CIC
Founder, Account Relations Executive

SCR/sb

220104 ESPC Proposed Goods and Services

Clear Energy Solutions, LLC

Clear Energy Solutions, LLC is proposing to offer energy savings performance contracting services. Clear Energy is an energy services company providing a full range of efficiency retrofit services, solar projects, and energy performance contracting. Company principals have decades of experience in the energy field with world class organizations. We are technology and brand neutral. Our loyalty is to our customers. We present multiple solutions for each opportunity without regard to the manufacturer or supplier of a product. We take the long view, stressing total operating cost of installed equipment over its life, not just initial capital cost. Our services are turnkey from idea conception through detail design of energy conservation measures to implementation to construction and commissioning.

For more information, see www.clearenergy.com.



Statement of Qualifications

February 18, 2022

Submitted in Response to

Request for Qualifications
220104 (Energy Savings Performance Contracts)

Issued by TIPS Cooperative

Clear Energy Team Summary

Clear Energy's team members and their principals have decades of experience successfully developing and implementing energy efficiency projects. The principals of our team have developed and implemented in excess of \$300,000,000 of energy efficiency projects. The total includes over \$150,000,000 of projects under guaranteed energy savings performance contracts.

Clear Energy has been approved for participation in the Energi Energy Savings Warranty insurance/bonding program and also has a construction performance and payment capacity in excess of \$10,000,000 as its bonding surety, The Travelers Insurance Companies, will entertain projects of any size.

Clear Energy, Inc. is a subchapter-S corporation co-founded in 2010 by Stan Green, its current President, and Paul Hill, an energy efficiency specialist who served as a consultant to Wal-Mart Stores, Inc. Mr. Green subsequently acquired the 50% interest in Clear Energy that was owned by Mr. Hill.

Clear Energy, Inc. is the 100% owner of Clear Energy Solutions, LLC which holds an Arkansas general contractor license and an Arkansas certificate of authorization to provide engineering services. Clear Energy Solutions is the contracting entity for energy efficiency projects.

Mr. Green served as Director of Energy for Wal-Mart Stores, Inc. from 2001 through late 2005. During his time with Wal-Mart, Mr. Green was responsible for all aspects of managing the energy consumption of one of the world's largest consumers of energy, including energy efficiency initiatives in existing buildings. Mr. Green was also co-leader of the energy team that participated in development of Wal-Mart's widely publicized sustainability initiative.

The first project developed by Clear Energy was the conversion of the 250,000-square foot former Mercy Hospital in Rogers, AR to the Center for Nonprofits at St. Mary's, now owned by The Jones Trust. This conversion project totaled approximately \$8.9 million and spanned two years. Every aspect of the architectural, mechanical and electrical design and all construction activities for this major project were managed by Clear Energy for The Jones Trust. Clear Energy was also a prime provider of outsourced energy efficiency services to Wal-Mart's Supplier Energy Efficiency Program during the time it was in place. The services provided by Clear Energy included facility energy audits and implementation of turnkey energy efficiency solutions.

In recent years, the completion of turnkey energy efficiency projects for public buildings, primarily K-12 public school districts, major non-profit facilities, universities and municipal governments, has become the primary business of Clear Energy. Clear Energy's work on university campuses has included the provision of services to national energy services performance contractors on three separate projects.

Clear Energy's capabilities were significantly enhanced in 2021 when Skip Woessner joined the company as Vice President, Operations Development. Mr. Woessner was previously Director of

Operations Development for McKinstry, a national ESCO. Over a 20-year career in energy services, he has participated in the development and implementation of energy performance contract projects with a value of more than \$150,000,000. Mr. Woessner has focused on the MUSH and public housing authority markets throughout his career.

Clear Energy supplements its internal capabilities by partnering with MEP engineering firms that have the most appropriate skills and experience for a particular project.

A prime subcontractor to Clear Energy and a regular part of its team for energy efficiency projects is HP Engineering, Inc., which is headquartered in Rogers, AR. Bill Hodge and Brandon Pinkerton formed HP in 2007. Mr. Hodge was formerly an energy engineer and project manager in Wal-Mart's energy department and also the manager of mechanical design for its new store construction program. As mechanical design manager, Mr. Hodge was responsible for developing initiatives to improve the energy efficiency of Wal-Mart's new store construction program. Mr. Pinkerton started his career as an engineer with General Motors.

HP Engineering is a full-service mechanical, electrical, and plumbing design firm. HP is licensed in forty-nine (49) states and has offices in Rogers, AR; Tulsa, OK; Oklahoma City, OK; Dallas, TX and Phoenix, AZ. The firm offers lighting design, commissioning, fire protection, energy modeling, daylight modeling, and energy analysis services.

HP's project experience covers a wide range of size and complexity, including education (K-12 and higher education), office, medical, retail, hospitality, large custom residential, specialty industrial, LEED, and religious buildings.

HP has served as the primary engineer on various projects for Clear Energy dating back to 2010. The company is Native American Owned and TERO Certified.

Clear Energy has the following accreditations and professional memberships:

- Member, National Association of Energy Service Companies
- State of Arkansas Pre-Qualified Energy Service Company under the Arkansas Energy Performance Contracting Program
- Arkansas Contractor License, Building and Energy Management, Energy Retrofit classifications, with a suggested bid limit of "Unlimited"
- Arkansas Certificate of Authorization to Provide Engineering Services
- Member, Arkansas Association of Facilities Administrators
- Member, Association of Energy Engineers

- Member, Arkansas Advanced Energy Association

References

Following are references related to the projects described later in this response that demonstrate Clear Energy's successful experience in completing energy efficiency projects.

Jonathan Bibb
Director, Arkansas Career Development Center
Division of Workforce Services
105 Reserve Street
Hot Springs, AR 71902
Jonathan.Bibb@arkansas.gov
(501) 701-6310

John Karnes
Superintendent of Schools
West Fork Public Schools
359 School Avenue
West Fork, AR 72774
jkarnes@wftigers.org
(479) 839-2231, ext. 5001

Bobby Hutchinson
Superintendent (retired)
Bay School District
700 School Street
Bay, AR 72411
bobbyh@bay.k12.ar.us
(870) 227-1580

Judge Frank Weaver
Madison County (AR)
201 West Main Street
Huntsville, AR 72740
mcarkjudge@gmail.com
(479) 738-6721

Dean Lillard
Maintenance and Facilities Director
Ashdown School District
751 Rankin Street
Ashdown, AR 71822

dlillard@ashdownschools.org

(903) 278-7614

Andrew Hill

Business Manager

Texarkana Arkansas School District

3512 Grand Avenue

Texarkana, AR 71854

Andrew.Hill@tasd7.net

(870) 772-3371

Past Experience with TIPS

Clear Energy was certified as a TIPS vendor in 2016 and has to date entered into nine TIPS contracts/purchase orders totaling approximately \$1,900,000. Clear Energy actively pursues opportunities to serve its customers through TIPS.

While employed with other firms, Mr. Woessner participated in projects with a value of approximately \$110,000,000 procured through TIPS, including 25 energy performance contracts.

Project Management

Approach to Project Management

Clear Energy has a comprehensive approach to project management that begins with the first contact with a potential customer.

By design, the number of our team principals is relatively small, but these individuals have completed multiple energy efficiency projects with values up to \$5.0 million or more following the lines of responsibility described below. Our approach assures that a Clear Energy customer will receive hands-on participation and contact with individuals who have a track record of competency and delivering the expected results.

Clear Energy staff members will in all cases be the primary point of contact and the point of customer engagement. Clear Energy will engage other highly qualified consultants to provide necessary skills as called for by the specifics of a particular situation. Our approach of subcontracting specific work to industry experts assures that we utilize the most capable individuals for a specific situation, not just those individuals that happen to be on our payroll at a point in time.

Clear Energy's approach to project management includes detailed scheduling of job completion steps prior to construction and regular status reporting during implementation.

Following are the steps and key individuals expected to be responsible for oversight of each step in a typical project. Summary resumes for the key individuals mentioned are at Exhibit B.

Step 1: Introduction to Owner

- Describe Clear Energy's services, approach and experience to potential program participants
 - Josh Meyer, Clear Energy
 - Skip Woessner, Clear Energy
- Initial assessment of energy efficiency opportunities (Level I audit) to demonstrate competency and existence of opportunity
 - Skip Woessner, Clear Energy
 - John McAdams, Clear Energy
- Summary presentation of Level I findings to program participant
 - Stan Green, Clear Energy
 - Skip Woessner, Clear Energy
 - Josh Meyer, Clear Energy

Step 2: Audit and Project Development

- Completion of Level III field audit and detailed evaluation of efficiency opportunities, including savings estimates
 - John McAdams, Clear Energy
 - Skip Woessner, Clear Energy
 - Outside engineering resources as required
- Development of overall project economics
 - Stan Green, Clear Energy
- Identification of utility incentive programs and payment amounts
 - John McAdams, Clear Energy
- Summarize and present proposed project to customer
 - Skip Woessner, Clear Energy
 - Josh Meyer, Clear Energy
 - John McAdams, Clear Energy
- Develop energy baseline and coordinate with customer to select final measures for inclusion in program
 - John McAdams, Clear Energy
 - Outside engineering resources as required

Step 3: Negotiate Contract

- Interaction with program participant to develop final documentation
 - Stan Green, Clear Energy
- Execution of contract
 - Stan Green, Clear Energy

Step 4: Construction and Commissioning

- Primary contact with program participants
 - John McAdams, Clear Energy
 - Tray Meyer, Clear Energy
- Solicitation of trade subcontractors and subcontract bid management
 - John McAdams, Clear Energy
 - Tray Meyer, Clear Energy
- Field management of construction activities, including status reporting
 - Tray Meyer, Clear Energy
 - John McAdams, Clear Energy
- Construction engineering inspections and quality assurance
 - John McAdams, Clear Energy
- Punch list development and management
 - Tray Meyer, Clear Energy
- Commissioning of Energy Conservation Measures
 - John McAdams, Clear Energy
 - Outside engineering resources as required

Step 5: Project Performance Monitoring

- Provide M&V (“Active Management”) services to confirm performance and identify opportunities for improvement
 - John McAdams, Clear Energy

The investment grade energy audit is a key to the successful execution of an energy efficiency project. Our basic approach to an energy audit includes the following steps:

- Inventory buildings: square footage, age, additions to original structure, building envelope characteristics
- Gather occupancy and usage information, including recent changes that could impact evaluation of historical utility information
- Inventory existing equipment, including name plate data and specification sheets
- Determine energy efficiency improvements completed or in progress
- Identify other equipment changes that could impact historical energy consumption
- Inventory energy management procedures currently in place
- Compile building documentation, including construction plans, maintenance information and prior energy audits
- Review/compile maintenance expense records for energy consuming equipment
- Review recent equipment performance testing, if performed
- Facility visit, including discussion with site personnel of perceived needs and performance issues
- Develop energy baseline through historical utility data and, if available non-utility sub-metering data
- Develop and analyze proposed energy efficiency measures

- Capital cost and savings estimates
- Measurement and verification plan specific to each measure
- Project net savings available to service proposed financing/funding
- Develop commissioning plan
- Develop construction plan and identify hurdles to success
- Develop measurement and verification plan

Clear Energy follows ASHRAE and IESNA standards of comfort in designing energy efficiency projects. In any situation, we consult with building owners/occupants to explain the standards to which the project will be developed and confirm that those standards meet the needs of the owners/occupants, or identify appropriate modifications. A program participant would be fully involved in making these determinations.

Establishing Baseline Energy Use

Clear Energy's approach to developing an energy baseline is customized for each particular situation, but is generally keyed off the data gathered in connection with the energy audit, as described above. Further steps are:

- Energy modeling software is used as appropriate to calculate projected current energy consumption and the impact of proposed improvements
- Gather 12-36 months of historical energy data from utility bills and, if available, non-utility sub-meters
- Reconcile projected energy consumption with historical utility information to confirm that the energy model is accurate
- Convert historical energy consumption to appropriate metrics, such as consumption per square foot, and benchmark against comparable facilities to identify the potential for anomalies
- Determine the appropriate baseline year or average of multiple years
- Through the site visit and discussion with building owner/occupants, determine if any changes in operation have occurred that would raise or lower historical energy consumption, such as increased or decreased operating hours or recent changes in energy-consuming equipment
- Calculate impact of identified changes and finalize energy baseline

Participation of building owners/occupants is critical to the successful completion of the energy audit, the determination of the energy baseline, and any necessary adjustments to the energy baseline. Building owners/occupants are the best source of knowledge concerning changes in the facility or its operations. At the same time, it is Clear Energy's responsibility to assist the owners/occupants in identifying and understanding the potential impact of identified operational changes that could impact the energy baseline.

Approach to Measurement & Verification

Clear Energy follows the International Performance Measurement & Verification Protocol and adheres to industry best practices for M&V procedures. There are four M&V strategies that may be applied, depending on the specifics of each situation, as follows:

Option A: Retrofit Isolation with Key Parameter Measurement. For projects in which a constant-load ECM has been installed (such as lighting)—and particularly in cases where the owner’s budget for M&V is constrained—Option A can be utilized. In such cases, a onetime measurement of the ECM is taken post-installation, and the savings are calculated against the baseline and stipulated for the remainder of the performance term. Option A can involve regularly scheduled inspections of the affected areas; however, in most cases, these inspections are often confined to verification of the potential for continued savings, and do not typically include ongoing metering of consumed energy. Option A is often used for smaller projects.

Option B: Retrofit Isolation with All Parameter Measurement. For projects in which variable-load energy conservation measures (“ECMs”) have been installed—such as HVAC systems or controls—Option B can be used to verify the savings guarantee. Conducted at intervals determined by the implementation scope, Option B allows the isolation of installed systems and measures their energy usage through either continuous or spot metering, where the post-installation load is compared against a baseline typically determined through pre-retrofit metering. The data gathered from each measurement is logged into a central database and shared with the owner via a regularly published report to confirm that the savings realized meet or exceed the stated guarantee.

Option C: Whole Facility Measurement. This M&V approach is based on continuous measurement of energy use (such as utility billing data) at the whole facility level or at the level of a significant sub-facility. By establishing a pre-installation baseline through the collection of the owner’s utility bills—or through the metering of the affected building or group of buildings on the owner’s campus—post-installation utility consumption can be compared to the baseline to ensure the guaranteed savings. The utility bill comparison is conducted at regular intervals and is adjusted to the cost of energy pre-installation. Reports are provided regularly to the owner as confirmation of performance.

Option D: Calibrated Computer Simulation. In cases where the project scope is significant enough to render the pre-installation baseline not meaningful—or in cases where no baseline exists (such as new construction)—a calibrated computer simulation is utilized for M&V. Under this approach, an energy model is used to simulate energy performance for the building, and the baseline is estimated through usage and weather-based assumptions. Post-installation utility bills (or spot measurements) are then entered into the simulated model to establish savings figures over the life of the performance term.

Certain adjustments to the energy baseline must also be considered as a part of M&V procedures, as follows:

Weather. Abnormal weather events or trends occurring during a given year of the performance term can influence the amount of energy savings a building owner realizes. Because a typical baseline calculation considers multiple years of data—and should therefore be representative, in the aggregate, of a “typical meteorological year”—atypical weather events that occur after installation must be factored into the baseline in order to arrive at actual savings realized.

Cost of Energy. A rate analysis must be completed for the given year, illustrating additional avoided cost benefits in the event of rate increases, and lost savings in the rare event of decreases.

Building Use. Any changes in building use documented during a measurement term are applied against the baseline to provide for a like comparison of models. Examples of building use changes would include, but would not be limited to, shift changes, after-hours activity, or changes in the number of occupants in the building.

Facility Improvements. Because physical modifications can affect a facility’s process or seasonal load, these improvements must be applied to the baseline calculation in order to measure savings accurately over a given term. This adjustment may include building additions and/or building demolition or reduction in building size.

Successful Experience in the Field of Energy Savings Performance Contracts

Clear Energy has completed approximately 150 energy efficiency projects in 15 states since its formation. Representative project size has ranged from approximately \$250,000 to \$3,500,000 with the largest single project approximately \$5.5 million in contract value. Clear Energy has simultaneously worked on as many as eight energy efficiency projects ranging in size from \$450,000 to \$2,500,000.

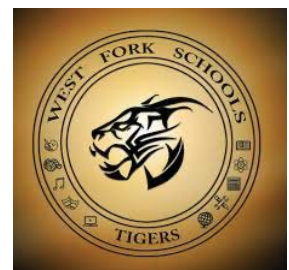
As described above, principal members of the Clear Energy team have collectively developed and implemented over \$150,000,000 of ESPC projects. **These projects have been completed with no payments required under the performance guarantees.**

Following are summaries of work for four customers that represent the capabilities of Clear Energy and its partners. The detailed engineering design work for the West Fork Public School District and Texarkana Arkansas School District projects was performed by HP Engineering.

1. West Fork Public School District

359 School Avenue
West Fork, Arkansas 72774

Contact: John Karnes, Superintendent



e-mail: jkarnes@wftigers.org
phone: 479-839-2231, ext. 5001

Contract Amount: Series of four projects totaling \$5,779,045, 233,000 SF

Scope of Work Summary:

- Project was heavily weighted toward replacing end-of-life equipment and adding HVAC to previously unconditioned space.
- Redesigned, expanded and replaced HVAC systems in High School, Middle School, Elementary School and ancillary buildings, using a combination of split systems and package units.
- Distributed/on demand fresh air for classrooms per ASHRAE standards.
- Energy recovery ventilators in locker rooms for better odor control.
- Created additional zones in administrative area for improved control.
- Expandable building automation system to increase control and save energy.
- LED lighting retrofit.

Project Highlights/Added Value for Customer: In addition to energy and operational savings, occupancy comfort was significantly improved, including the addition of HVAC to previously unconditioned facilities.

Annual Savings: Utility—\$88,100
MMBtu—3,161
Operational & Avoided Costs—\$97,400

2. *Texarkana Arkansas School District*

3512 Grand Avenue
Texarkana, Arkansas 71854

Contact: Andrew Hill, Business Manager
e-mail: Andrew.Hill@tasd7.net
phone: 870-772-3371



Contract Amount: Series of four projects totaling \$9,298,803, 723,000 SF

Scope of Work Summary:

- Project was heavily weighted toward end-of-life equipment replacement, including installation of 100% new system in middle school building.
- Redesigned, expanded and replaced HVAC systems in nine buildings.

- Lighting retrofits throughout district.
- Distributed/on demand fresh air for classrooms per ASHRAE standards.
- Created additional zones for improved control.
- Expandable building automation system to increase control and save energy.
- Designed geothermal system for a 50-year old middle school building.

Project Highlights/Added Value for Customer: In addition to energy and operational savings, occupancy comfort was significantly improved. ***Improvements resulted in the middle school becoming a “high performing building” that uses about one-third of the energy consumed by the average K-12 school, ranking it among the most efficient in the country.***

Annual Savings: Utility—\$190,600
 MMBtu—6,746
 Operational & Avoided Costs—\$515,000

3. Ashdown School District

751 Rankin Street
 Ashdown, Arkansas 71822



ASHDOWN
 School District

Contact: Dean Lillard, Maintenance and Facilities Director
 e-mail: dlillard@ashdownschools.org
 phone: 903-278-7614

Contract Amount: \$1,007,256, 358,000 SF

Scope of Work Summary:

- Redesigned, expanded or replaced HVAC systems in seven buildings.
- Work included improvements to raise indoor air quality to ASHRAE standards.
- Designed and installed wireless thermostat controls & web-based interface.
- LED lighting retrofits throughout district.

Project Highlights/Added Value for Customer: In addition to energy and operational savings, various district buildings had air quality issues which were corrected. Issues included poorly designed ventilation systems and HVAC exhaust systems along with non-functioning units that were repaired or replaced.

Annual Savings: Utility—\$96,204
 MMBtu—3,565

Operational—\$18,200

4. Arkansas Career Training Institute

105 Reserve Street
Hot Springs, Arkansas 71901

Contact: Jonathan Bibb, Director
e-mail: Jonathan.Bibb@arkansas.gov
phone: 501-701-6310



This project was being developed under the Arkansas Energy Performance Contracting Program. After an initial review of the investment grade audit, the Arkansas Department of Career Education made the decision to downsize the programs of ACTI and the program identified will not move forward. Nonetheless, the energy conservation measures identified are wide-ranging and complex and the proposed program is indicative of the capabilities of Clear Energy.

Contract Amount: Program identified totaled \$10,240,000. Project covered in excess of 400,000 square feet of building space.

Scope of Work Summary of Identified Opportunities:

- Conversion of steam boiler system to hot water system. Decreased monitoring requirements enabled staff reductions that accounted for most of the operational cost savings.
- Install campus-wide building energy management control system.
- Upgrade chilled water system.
- Install solar array system.
- Replace DX air handling units with chilled water.
- Convert 2-pipe HVAC systems to 4-pipe.
- LED lighting retrofit, both interior and exterior.

Annual Savings: Utility—\$364,000 in Year One, escalating to \$586,000 annually
Operational—\$471,617 in Year One, escalating to \$680,833 annually

Project Highlights/Added Value for Customer: The major building in this project is a former Army/Navy hospital, was constructed in the 1930s and is on the National Register of Historic Places. The project was designed to provide a significant update of the campus mechanical systems and address numerous deferred maintenance issues while increasing occupant comfort.

Information about two additional projects is included at Exhibit A. One of these projects, College Hill Middle School, was a part of the work completed for the Texarkana Arkansas School District listed above. The other project, while not as current, was completed for a non-profit organization

in a complex facility that included a wide range of uses from offices to an ice-skating rink. The additional information about these two projects is included as additional evidence of Clear Energy's capabilities to develop and implement energy efficiency projects.

Staffing/Personnel

The experience of key members of the Clear Energy team was described earlier in this response. Resumes for some of the key members of our team can be found at Exhibit B.

Financial Strength/Bonding Capacity

Clear Energy Solutions, LLC (formerly named Clear Energy Contracting, LLC) has the following ratings from Dun and Bradstreet:

1. PAYDEX score = 80, indicating payment by Clear Energy either early or on terms.
2. Delinquency Predictor Score – 586, Class 1, Percentile 92%, indicating low risk of payment delinquency over next 12 months.

Clear Energy has a suggested bid limit of "Unlimited" from the Arkansas Contractors Licensing Board.

Clear Energy has established the following financial relationships with regard to bonding capacity:

A. Performance and Payment Bonds: Travelers Insurance, through Risk Services of Arkansas. Please see Exhibit C for a letter from Risk Services of Arkansas that provides information concerning Clear Energy's performance and payment bonding capability.

B. Energy Savings Warranty: Clear Energy has been approved for participation in the Energy Savings Warranty program offered by Energi Insurance Services, also through Risk Services of Arkansas. Please see Exhibit C for a letter from Risk Services of Arkansas that provides information concerning Clear Energy's coverage by the Energi program.

The 2020 financial statements for Clear Energy Solutions along with the independent accountant's review opinion, which are the latest available, are considered proprietary and confidential, but can be provided separately to TIPS if requested.

Exhibit A

College Hill Middle School: Texarkana, AR

Case Study Video available at: www.clearenergy.com/video

Project Size: Middle school building consisting of 86,000 square feet

Project Dollar Amount: \$3,348,000.00

Source of Funding: Funding was partially provided by the Warm, Safe and Dry Partnership funding program administered by the Arkansas Division of Public Schools Academic Facilities and Transportation and partially through refinancing of existing debt obligations of the Texarkana Arkansas School District. Clear Energy provided economic analyses of the projected savings and capital costs to support the refinancing of the existing bonds.

Contract Terms: The project was completed through a construction management process with a guaranteed maximum price. There was no performance guarantee as a part of the project. There were no change orders during construction and the project was completed at a savings of approximately \$175,000.00 below the guaranteed maximum price.

Project Personnel: The primary project personnel were John McAdams and Stan Green of Clear Energy and Bill Hodge of HP Engineering.

Project Schedule: The project was completed on schedule. This was an extensive renovation of a public school building with construction completed during the summer break. Construction started upon dismissal of the Spring term and was completed prior to start of the Fall term.

List of Improvements: The project consisted of a complete renovation of the HVAC system, lighting and electrical service for a 50-year old building. The building was originally served by a four-pipe HVAC system that had been converted to a two-pipe system at some point in the life of the building. Students and teachers complained of discomfort as the building was hot in the spring and fall months and cold in the winter months. Windows in the facility were non-thermal single pane.

The solution developed by the Clear Energy team was:

- Abandonment and removal of the existing HVAC system and design and construction of a geothermal system utilizing water source heat pumps to serve individual classrooms.
- Design and installation of a new lighting system that significantly decreased energy consumed for lighting while improving light levels throughout the facility.

- Design and installation of a new automated building controls system, including the framework to allow extension of the system to each building owned by the T ASD.
- Design and installation of electrical service upgrades to meet current standards.
- Other facility upgrades accomplished during the construction phase, including ceiling improvements and upgraded fire alarm system.
- Identification and resolution of a previously unresolved water leak that significantly decreased the cost of water service to the building.

Economic modeling indicated that the cost to upgrade windows and other building shell components would not be justified by the additional energy savings that could be achieved nor would there be a significant contribution to occupant comfort.

Project Performance: The two-pipe central plant system replaced was in extremely poor condition and operated erratically, thus historical utility costs were running significantly below typical for a building of this size and use. Clear Energy predicted annual energy savings of \$35,000.00. Annual energy savings achieved was \$36,000.00, based on an analysis of utility billings for the first 12-months after project completion. Significant maintenance savings were realized in addition to the energy savings. Resolution of the water leak reduced the annual cost of water for the building by approximately \$24,000.00.

Of more significance is the overall energy performance of this 50-year old facility as compared to a typical K-12 school building. During the first 12-months of operation after the retrofit project, the building's actual consumption was 24 kBtus of energy per square foot annually, which qualifies it as a high-performing facility. A good performing facility in this region of the country would consume approximately 45 kBtus of energy per square foot annually.

Measurement and Verification: Was completed for the first 12 months after completion of construction and resulted in the findings stated above.

Performance Guarantee: A performance guarantee was not a part of the project.

Additional Comments: Clear Energy instituted a mechanical equipment specification and bidding process that ultimately reduced the construction cost by approximately \$200,000.00 while achieving superior energy savings. Alternate specifications for the water source heat pump equipment were developed with the final decision based on an economic evaluation of additional savings compared to the bid cost of the different units specified. The economic analysis indicated that the option yielding the greatest return on investment were two-stage units rather than fully variable speed units with marginally higher efficiency ratings.

Jones Center for Families: Springdale, AR

Project Identification: Jones Center for Families, owned by The Jones Trust, Springdale, AR. This is a multi-use facility open to the public year-round. The facilities include a competition-sized swimming pool, ice-skating rink, gymnasiums, classrooms, public meeting rooms and a food court. Portions of the building temporarily housed the Springdale Arkansas School District's School of Innovation and the Montessori School.

Project Size: One building consisting of approximately 250,000 square feet

Project Dollar Amount: \$2,426,000.00

Source of Funding: Funding was primarily through a grant from the Walton Family Foundation and utility incentive payments. The work completed by Clear Energy for The Jones Trust at the Center for Non-profits served as the basis for developing an energy improvement plan for the Jones Center for Families that would support the request for the charitable grant.

Contract Terms: The project was completed through a construction management process with a guaranteed maximum price. There was no performance guarantee as a part of the project. There were no change orders during construction and the project was completed for the guaranteed maximum price.

Project Personnel: The primary project personnel were John McAdams and Stan Green of Clear Energy and Bill Hodge of HP Engineering.

Project Schedule: The mechanical portion of the work was completed on schedule. The building controls portion of the project was delayed due to scheduling and workload issues encountered with the prime subcontractor for this work.

List of Improvements:

- Conversion of steam boiler system to hot water system to realize energy and operational cost savings. A certified boiler operator was required to be on-site whenever the building was occupied to oversee the steam boiler system. That requirement was eliminated with conversion to a hot water system.
- Replacement and upgrade of the facility's automated control system. A failing system installed when the building was originally constructed was replaced with full DDC controls, including new actuators and valves. The system provides a user-friendly dashboard and graphical interfaces along with remote on-line access.
- Installation of variable frequency drives

- Power factor correction to reduce billed utility costs

Project Performance: Annual utility savings were estimated at approximately \$100,000.00 with an additional annual savings of \$50,000.00 in maintenance costs. Based on analysis of costs by the customer and by the utility providing incentive payments, the expected savings were achieved.

Measurement and Verification: Clear Energy was not engaged to provide measurement and verification. Independent measurement and verification was completed by utility representatives to determine utility incentive payments. Based on the incentive payments received by the customer, the expected energy savings were achieved.

Performance Guarantee: The project did not include a performance guarantee.

Additional Comments: The retrofit work was completed while normal operations of the building were ongoing with only minor scheduling issues encountered.

For additional information concerning another project completed for The Jones Trust, a video case study is available at www.clearenergy.com/video. This project was the conversion of a former hospital in Rogers, AR to a multi-purpose facility to be utilized by various non-profit agencies, named the Center for Nonprofits. The project included a complete HVAC renovation, installation of a building automation system and lighting retrofit. Clear Energy also managed the total construction and architectural design for the project as a result of the relationship it developed with The Jones Trust.

Exhibit B

Clear Energy Resumes



Stan Green is the founder and President of Clear Energy. Stan has over three decades of experience in the energy industry. He was Director of Energy for Walmart Stores, Inc., one of the world's largest consumers of energy. He initiated a focus on energy efficiency in existing buildings and also served as team leader for the group that developed the energy strategy for Walmart's sustainability initiative. Stan was responsible for all aspects of Walmart's \$1.6 billion annual domestic energy spend, including applying economic rate of return hurdles to energy projects, procurement strategies and contract structures in deregulated markets, and improved training of regional energy managers to optimize building energy costs. Prior to that, he was Executive Vice President of Finance and Corporate Development for Southwestern Energy Company and Arkansas Western Gas Company (now Black Hills Energy). He is past Chairman of the Board of the Arkansas Development Finance Authority, which is the bond issuing authority for projects completed by state agencies under the Arkansas Energy Performance Contracting program. He is also Chairman of the Board of the University of Arkansas Technology Development Foundation which manages the Arkansas Research and Technology Park and was a member of the Board of the Northwest Arkansas Regional Airport Authority for twenty-seven (27) years, serving as Chairman for fifteen (15) years. He earned a BS in Business Administration from the University of Arkansas and is a Certified Public Accountant.



Skip Woessner joined Clear Energy in 2021 as Vice President, Operations Development. Skip has twenty years of experience in leading, developing and constructing energy performance contracting projects. He has participated in ESPC projects with a value in excess of \$150,000,000 in varying market verticals including the MUSH and PHA markets. Skip held executive positions prior to Clear Energy with two national energy services companies and also held management positions with public housing authorities in Arkansas and Texas where he was a buyer of energy performance contracting projects. Earlier in his career, Skip owned general contracting and mechanical contracting businesses and has instructed technical training seminars. Skip holds active HVACR, master electrician and journeyman plumber licenses. He maintains all the continuing education required to keep the licenses current. He also holds an AAB degree in Business from Western International University.



John McAdams is an energy engineer and Project Manager, responsible for project development, construction management and oversight, development of any facilities-related training programs, and post-construction activities including commissioning and closeout. John is a native of El Dorado, AR, a licensed Professional Engineer and earned a BS in Electrical Engineering from the University of Arkansas. He has been with Clear Energy since 2012 and has been project manager for the West Fork School District and Texarkana Arkansas School District projects listed in the reference section. John has also served as Project Manager for Clear Energy projects on the campuses of the University of Arkansas Fayetteville and John Brown University. John was previously an Energy Engineer and Electrical Engineering Manager—Prototype Design for Walmart Stores, Inc. and managed the electrical engineering design collective for all Walmart store formats. His team developed a store prototype that was 30% more efficient than the baseline design. John developed a monitoring and verification system to validate energy savings, developed testing procedures for new energy efficiency technology applications and managed a nationwide distribution center lighting retrofit.



Josh Meyer is a Project Executive. Josh is responsible for communications and assuring that the team stays in tune with the needs of the customer. Josh has spent much of his career helping customers with mechanical systems solutions that save money and enhance building comfort. He previously served in business development for Comfort SystemsUSA Energy Services, a subsidiary of one of the country's largest mechanical contractors. While there, he developed new businesses relationships with a wide variety of concerns ranging from health care and higher education to construction and heavy industries. He later headed up Comfort Systems USA's HVAC Service Sales office in Arkansas, developing that business from the ground up. Josh also brings real-world industrial sustainability experience in waste and pollution management. As project manager for a company contracted by an international manufacturing concern, he managed a no-landfill policy by developing a recycling system for their newly built facility. Josh has also worked in hazardous spill management by setting up spill responders, compliance with OSHA and DOT safety protocols, and overseeing components of wastewater treatment operations. Josh earned a BS degree in Environmental Soil and Water Science from the University of Arkansas.



McCurry (Tray) Meyer is a project coordinator responsible for cost estimation, bid management and supervision of construction field work. Tray spent thirty-five (35) years as a Construction Representative with the United States Army Corps of Engineers where he was responsible for quality assurance on major construction projects, safety, job site inspection and compliance, environmental compliance and problem solving, including the interpretation of the requirements of contract documents, plans, and specifications. Tray has an Associates Degree in Medical Technology from Southwestern Oklahoma University. He has additional training in electrical systems, materials testing, crane safety, welding inspection, mechanical systems and fiscal law.

Exhibit C

Letter Concerning Payment and Performance Bond and Third-Party Surety for Energy Savings Guarantee