

TIPS VENDOR AGREEMENT

Between Schneider Electric Buildings Americas, Inc. 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 tips@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 Schneider Electric Buildings Americas, Inc.

Address 1650 W. Crosby Rd.

City Carrollton State TX Zip 75006

Phone (956) 534-7783 Fax N/A

Email of Authorized Representative Matt.Lombardo@se.com

Name of Authorized Representative Matt Lombardo

Title Sales Manager

Signature of Authorized Representative *Matt Lombardo*

Date 2/14/2022

TIPS Authorized Representative Name David Fitts

Title Executive Director

TIPS Authorized Representative Signature *David Wayne Fitts*

Approved by ESC Region 8 *David Wayne Fitts*

Date 4-13-2022

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
Schneider Electric
Schneider Electric Buildings Americas, Inc
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

Schneider Electric Information

Address: 1650 W Crosby Rd.
Carrollton, TX 75006
Phone: (956) 534-7783

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

Aaron Garcia

Signature

Submitted at 2/16/2022 10:04:46 PM

aaron.garcia@se.com

Email

Requested Attachments

Agreement Signature Form

1. 220104 ESPC Agreement Signature Form

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGR 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 agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been noted and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

Confidentiality Claim Form

2. 220104 ESPC CONFIDENTIALITY CLAIM FORM

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired changes 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

3. Qualifications

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. Your offerings do 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 online catalog of goods and services.

Reference Form

4. 220104 ESPC Reference_Form - leaflet

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

5. 2022 W-9

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

Vendor Agreement

6. 220104 ESPC Vendor Agreement

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

7. OPTIONAL Information Requested

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

All Other Certificates

8. All Other Certifications

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan and upload all. (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**

9. DISCLOSURE OF CONFLICT OF INTEREST FORM-ML - FILE ONLY IF THERE IS A CONFLICT TO

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 documents or can be found at <https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>.

D/M/WBE Certification OPTIONAL

10. D-M-WBE Certification (

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 you have more than one certification scan into one document. (PDF Format ONLY)

DO NOT UPLOAD encrypted or password protected files.

Warranty

11

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)

DO NOT UPLOAD encrypted or password protected files.

Supplementary

12. Supp

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

13. SE_Logo_Green Tr

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any 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 preferred

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

14. CERTIFICATION OF CORPORATE OFFERER FORM

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

Disclosure of Lobbying Activities Standard Form LLL

15. Disclosure_of_Lobbying_Activities_Standard

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.

Bid Attributes

1	Yes - No 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. <input type="text" value="NO"/>
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. <input type="text" value="No"/>

3	Yes - No The Vendor can provide services and/or products to all 50 US States? <input type="text" value="Yes"/>
4	States Served: If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX) <input type="text" value="No response"/>
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.) <input type="text" value="As a global specialist in energy management with operations in more than 100 countries, Schneider Electric provide and automation digital solutions for efficiency and sustainability. We combine world-leading energy technologies, real automation, software and services into integrated solutions for homes, buildings, data centers, infrastructure and inc company's 135,000 plus employees achieved sales of 28.8 billion US dollars in 2020, through an active commitment individuals and organizations make process and energy safe and reliable, efficient and sustainable, open and connect"/>
6	Primary Contact Name Primary Contact Name <input type="text" value="Aaron Garcia"/>
7	Primary Contact Title Primary Contact Title <input type="text" value="Sr. Account Executive"/>
8	Primary Contact Email Primary Contact Email <input type="text" value="aaron.garcia@se.com"/>
9	Primary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9565347783"/>
10	Primary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="No response"/>
11	Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9565347783"/>
12	Secondary Contact Name Secondary Contact Name <input type="text" value="Matthew Lombardo"/>

1 3	Secondary Contact Title Secondary Contact Title South Team Manager
1 4	Secondary Contact Email Secondary Contact Email matt.lombardo@se.com
1 5	Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 2145070175
1 6	Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 No response
1 7	Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 2145070175
1 8	Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. Kim Flanders
1 9	Admin Fee Contact Email Admin Fee Contact Email kim.flanders@se.com
2 0	Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 9723234860
2 1	Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. Kim Flanders
2 2	Purchase Order Contact Email Purchase Order Contact Email kim.flanders@se.com
2 3	Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 9723234860

2 4	Company Website Company Website (Format - www.company.com) <input type="text" value="http://www.se-enable.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 under which you responded to this solicitation unless you organize otherwise with TIPS after award. <input type="text" value="Schneider Electric, Schneider Electric Buildings Americas, Inc."/>
----------------	--

2 6	Primary Address Primary Address <input type="text" value="1650 W Crosby Rd."/>
----------------	---

2 7	Primary Address City Primary Address City <input type="text" value="Carrollton"/>
----------------	--

2 8	Primary Address State Primary Address State (2 Digit Abbreviation) <input type="text" value="Texas"/>
----------------	--

2 9	Primary Address Zip Primary Address Zip <input type="text" value="75006"/>
----------------	---

3 0	Search Words: Please list search words to be posted in the TIPS database about your company that TIPS website users might search may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST N CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.) <input type="text" value="ESPC, Energy Performance Contracts, Energy Efficiency, Design Build, Water Meters, Water Conservation, Solar, W Purchase Agreements, PPA, Energy as a Service, (EaaS)"/>
----------------	--

3 1	Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intention 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 budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200, etc. answers will determine if your award will be designated as eligible for TIPS Members to utilize federal funds with your Do you want TIPS Members to be able to spend Federal funds, at the Member's discretion, with you? <input type="text" value="Yes"/>
----------------	---

3 2	<p>Yes - No</p> <p>Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:</p> <p>(A) has its principal place of business in Texas;</p> <p>OR</p> <p>(B) employs at least 500 persons in Texas?</p> <p>This question is required as a data gathering function for information to our members making purchases with awarded contracts. This question does not affect scoring with TIPS.</p> <p><input type="text" value="Yes"/></p>
3 3	<p>Company Residence (City)</p> <p>Vendor's principal place of business is in the city of?</p> <p><input type="text" value="Carrollton"/></p>
3 4	<p>Company Residence (State)</p> <p>Vendor's principal place of business is in the state of?</p> <p><input type="text" value="Texas"/></p>
3 5	<p>TIPS Administration Fee</p> <p>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 reseller, 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.</p>
3 6	<p>Yes - No</p> <p>Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee remittance by or for the reseller named by the vendor?</p> <p>TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to remit the fee will render your response void and it will not be considered.</p> <p><input type="text" value="Agreed"/></p>
3 7	<p>TIPS Administration Fee Paid by Vendor - Not Charged Separately to Customer</p> <p>Vendor understands and agrees that it owes TIPS a TIPS Administration Fee (published in the RFP/RCSP document) for the TIPS sale made under an awarded TIPS Contract. Vendor further understands and agrees that Vendor shall submit the TIPS Administration Fee to the TIPS Member entity which includes and accounts for the TIPS Administration Fee and shall never separately charge the Customer the TIPS fee or add the TIPS Administration Fee line item to an invoice or similar purchase document. This proposal is Vendor's certification that Vendor agrees to this mandatory term.</p>
3 8	<p>Years in Business as Proposing Company</p> <p>Years in business as proposing company?</p> <p><input type="text" value="29"/></p>

39	Resellers: Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell 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 be as a reseller. (If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award). <input type="text" value="No"/>
-----------	--

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 required by law.
-----------	--

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

42	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 <input type="text" value="No"/>
-----------	--

43	Filing of Form CIQ If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above? <input type="text" value="No response"/>
-----------	---

44	Regulatory Standing I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal and State that regulate any part of our business operations. If not, please explain in the next attribute question. <input type="text" value="Yes"/>
-----------	--

4 **Regulatory Standing**

5 Regulatory Standing explanation of no answer on previous question.

No response

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 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 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 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 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 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," "participant," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have 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 enter into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, debarred, 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 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 comply in good faith the certification required by this clause. The knowledge and information of a participant is not required to be more extensive than 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 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 funded contract as described above.

Yes

4 9 Non-Discrimination Statement and Certification

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including 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, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-6141 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information must be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found at www.usda.gov, or visit any USDA office or write a letter addressed to USDA and provide all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit the 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 certified that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing discrimination statement and comply with the cited and all other applicable laws and regulations.

Yes, I certify (Yes)

5 0 2 CFR PART 200 Contract Provisions Explanation

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

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

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. 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 determined by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate 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 process 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 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 time, 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 Members 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 Members.

Does vendor agree?

5
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 recipient 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 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 provide the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds for any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-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 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 item 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?

57 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 wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitutic assignment or performance of experimental, developmental, or research work under that "funding agreement," th subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Orga Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementin issued by the awarding agency.

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

Does vendor agree?

58 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 practic Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The require section must be included in all subawards including all contracts and purchase orders for work or products under th purposes of 2 CFR Part 200.322, "Produced in the United States" means, for iron and steel products, that all m processes, from the initial melting stag through the application of coatings, occurred in the United States. Moreover, of 2 CFR Part 200.322, "Manufactured products" means items and construction materials composed in whole or in ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggreg concrete, glass, including optical fiber, and lumber.

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

Does vendor agree?

59 2 CFR PART 200 Ban on Foreign Telecommunications

Federal grant funds may not be used to purchase equipment, services, or systems that use "covered telecom equipment or services as a substantial or essential component of any system, or as critical technology as part of "Covered telecommunications" means purchases from Huawei Technologies Company or ZTE Corporation (or any affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Corr Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary such entities).

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies th: not purchase equipment, services, or systems that use "covered telecommunications", as defined by 2 CFR §200.2 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**

0

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in certain circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). In certain 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 terms proposed.

Does Vendor Agree?

Yes

6 **FEMA Fund Certifications**

1

Submission of this proposal is Vendor's certification that Vendor agrees to this term. Vendor certifies that **IF and ONLY IF** 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, and their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcripts. Vendor agrees to provide the FEMA Administrator or an authorized representative access to construction or other records pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this 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 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 Vendor, 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 Vendor's actions pertaining to this contract.

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

2

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any 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?

Yes

6 **Certification Regarding Lobbying**

3

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 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, 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 contracts or subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

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

4

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

6 **Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus**

5

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 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, surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority business enterprises, 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 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.

YES

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. A provision in a contract to indemnify or hold a party harmless is a promise to pay any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created in behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity created in

violation of the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institution 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
8 Remedies**

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 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 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 costs 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
9 Remedies Explanation of No Answer**

**7
0 Choice of Law**

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this 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 of Texas.

Do you agree to these terms?

**7
1 Venue, Jurisdiction and Service of Process**

Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract or 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 its right to a trial by jury, 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 bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. An arbitration or mediation 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 in of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attr claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved. Do you agree to these terms? <input type="text" value="Yes, I Agree"/>
----------------------	---

7 3	Infringement(s) Explanation of No Answer <input type="text" value="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 Lo Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly other applicable laws in clear and unambiguous language. <input checked="" type="checkbox"/> 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 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 stat regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and apprc 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? <input checked="" type="checkbox"/> Yes, I Agree (Yes)
----------------------	---

7
6 **Insurance and Fingerprint Requirements Information**

Insurance

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an au 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, (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 questic comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Publ 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 Schoo 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

7
7

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 have a criminal history record information regarding covered employees. Contractors must certify to the district that they have 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 to be performed at the District and have or will have direct contact with students. The District will be the final authority on 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 law 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 its 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 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.

Some

7
8

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

SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of 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 (and for) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contract" includes the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or the furnishing of 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 EMPLOYEES.

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 of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to (of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, s parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the t shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business 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 Code 2270 or that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organization 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 s are required for use of your company logo, please upload that information under the "Logo and Other Company Mar 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 pub

8 **Solicitation Deviation/Compliance**

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

8 2	Solicitation Exceptions/Deviations Explanation <p>If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications in its proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.</p> <p>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 or in any attachments or inclusions.</p> <p>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.</p> <p><i>No response</i></p>
----------------	--

8 3	Agreement Deviation/Compliance <p>Does the vendor agree with the language in the Vendor Agreement?</p> <p>Yes <input type="checkbox"/></p>
----------------	---

8 4	Agreement Exceptions/Deviations Explanation <p>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.</p> <p><i>No response</i></p>
----------------	--

8 5	Felony Conviction Notice <p>Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of a 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 person or business entity's conduct resulting in the conviction. The district must compensate the person or business entity for services performed prior to the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this section certifies that they are authorized to provide the answer to this question.</p> <p>Select A., B. or C.</p> <p>A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.</p> <p>OR B. My firm is not owned nor operated by anyone who has been convicted of a felony, OR</p> <p>C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C, you are required to provide information in the next attribute.)</p> <p><input type="checkbox"/> A. Firm is a publicly held corporation.</p>
----------------	---

8 6	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. <p>If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information:</p> <ol style="list-style-type: none">1. Name of Felon(s)2. The named person's role in the firm, and3. Details of Conviction(s). <p><i>No response</i></p>
----------------	--

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 attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS a completed form titled, "CONFIDENTIALITY CLAIM FORM". **THIS REQUIRED PROCESS IS THE ONLY WAY TO DEEM 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 information we require to comply with the open record laws of the State of Texas as they may apply to your proposal. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award 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 a comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposal agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS 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 clause in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "The law 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 dispute resolution 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.

91 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 shall include the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clause in any contracts, agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, the Vendor shall indemnify the Customer for any and all claims, damages, costs, expenses, and attorney's fees, including reasonable attorney's fees, that may be asserted against the Customer by any third party, including TIPS or a TIPS Member, arising out of or in connection with the performance of the contract."

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

92 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 TIP required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the aw Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the T entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal a the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reportin TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further q contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible 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 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 value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; c this certification is not required. Pursuant to Tex. Gov't Code Ch. 2274 of SB 13 (87th session), the company hereby verifies that the company, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of 1 or business associations, if any, does not boycott energy companies and will not boycott energy companies during th contract. For purposes of this contract, the term "company" shall mean an organization, association, corporation, pai joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit. T "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating busin with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing o based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state l 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 ha at least \$100,000 that is paid wholly or partly from public funds; (d) the contract is not excepted under Tex. Gov't Coc 2274.003 of SB 19 (87th leg.); and (e) governmental entity has determined that company is not a sole-source provid governmental entity has not received any bids from a company that is able to provide this written verification, the folk certification shall apply; otherwise, this certification is not required. Pursuant to Tex. Gov't Code Ch. 2274 of SB 19 (§ the company hereby certifies and verifies that the company, or association, corporation, partnership, joint venture, lir partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-own parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, pc guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate term of this contract against a firearm entity or firearm trade association. For purposes of this contract, "discriminate firearm entity or firearm trade association" shall mean, with respect to the entity or association, to: "(1) refuse to enga trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm tr association; (2) refrain from continuing an existing business relationship with the entity or association based solely o a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or assoc solely on its status as a firearm entity or firearm trade association. See Tex. Gov't Code § 2274.001(3) of SB 19. "Dis against a firearm entity or firearm trade association" does not include: "(1) the established policies of a merchant, ret platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a compa to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a dire regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and n solely on an entity's or association's status as a firearm entity or firearm trade association." See Tex. Gov't Code § 2 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 September 1, 2021:

Proposing Company is prohibited from entering into a contract or other agreement relating to critical infrastructure that 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 company nor any affiliate of company or its parent company, is (1) owned by or the majority of stock or other owners of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; 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, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." See Tex. Code of Criminal Justice, § 2274.0101(2) of SB 1226 (87th leg.). The company verifies and certifies that company will not grant direct or remote 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 but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement. 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>

References

TIPS RFQ 220104 Energy Savings Performance Contracts

Schneider Electric Buildings Americas, Inc.

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
San Felipe Del Rio CISD	Dr. Carlos Rios, Superintendent	carlos.rios@sfdr-cisd.org	830-778-4007
Dallas County	Jonathon Bazan, Assistant County Administrator	jonathon.bazan@dallascounty.org	214-653-6490
City of Abilene	Robert Hanna, City Manager	robert.hanna@abilenetx.com	325-676-6206
Texas A&M International University	Trevor C. Liddle, Executive Director of Operations	tliddle@tamusa.edu	210-784-2000

City of Houston	C.J. Messiah, Jr., Director General Services Department	gsd@houstontx.gov	832-393-8021

CERTIFICATION BY CORPORATE OFFERER

COMPLETE ONLY IF OFFERER IS A CORPORATION,

THE FOLLOWING CERTIFICATE SHOULD BE EXECUTED AND INCLUDED AS PART OF PROPOSAL FORM/PROPOSAL FORM.

OFFERER: Schneider Electric Buildings Americas, Inc.
(Name of Corporation)

Mary Kibble certify that I am the Secretary of the Corporation
I, (Name of Corporate Secretary)

named as OFFERER herein above; that

Matt Lombardo
(Name of person who completed proposal document)

who signed the foregoing proposal on behalf of the corporation offerer is the authorized person that is acting as

Sales Manager
(Title/Position of person signing proposal/offer document within the corporation)

of the said Corporation; that said proposal/offer was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.


CORPORATE SEAL if available


SIGNATURE

2/11/2022
DATE

Required Confidential Information Status Form

Schneider Electric Buildings Americas, Inc.

Name of company

Matt Lombardo, Sales Manager

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

1650 W. Crosby Rd. Carrollton TX 75006 214-507-0175

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

If 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 or 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 Matt Lombardo Digitally signed by Matt Lombardo Date: 2022.02.14 08:57:16 -06'00' Date 2/14/2022



February 9, 2022

Schneider Electric Buildings Americas Inc.
1650 West Crosby Road
Carrollton, Texas 75006

Re: Bank of America Reference Letter – Schneider Electric Buildings Americas Inc.

To Whom It May Concern:

Please accept this letter as confirmation that Schneider Electric Buildings Americas Inc. (the "Customer"), an affiliate of Schneider Electric SE, has been a client of Bank of America, N.A. (the "Bank") since 2008. During this period, the Customer has satisfactorily fulfilled its obligations to the Bank.

This letter is being provided as a matter of courtesy at the request of the Customer. Please note that the information provided by the Bank in this letter is given as of the date of this letter and is subject to change without notice, and is provided in strict confidence to you for your own use only, without any responsibility, guarantee, representation, warranty (expressed or implied), commitment or liability on the part of the Bank, its parents, subsidiaries or affiliates or any of its or their directors, officers or employees to you or any third party, and none of them assumes any duties or obligations to you in connection herewith or any transaction between you or your affiliates and the Customer. This letter is not to be quoted or referred to without the Bank's prior written consent. The Bank cannot provide any opinions of the creditworthiness of the Customer or any of its affiliates, and the above information does not constitute an opinion of the Bank of the ability of the Customer to successfully perform its obligations under any agreement it may enter into with you, the Bank or any other person or entity.

The Bank has no duty and undertakes no responsibility to update or supplement the information set forth in this letter.

Please contact me directly if I can be of any further assistance at 312-869-6280.

Very truly yours,

Sean R. Keck
Director, Corporate Banking
Subsidiaries Bank of America
540 W Madison St
Chicago, IL, 60661
United States of America

BANK OF AMERICA

MERRILL LYNCH

U.S. TRUST

BANK OF AMERICA
MERRILL LYNCH

11. Warranty

Schneider Electric offers warranties to its customers depending upon the specific product and terms of the customer purchase agreement. A typical warranty program requires that a company replace defective products within a specified time period from the date of sales. Schneider Electric typically gives a one-year warranty on our product. The following is an excerpt from a representative contract.

Article 12 – Correction of Work

12.1 In the event that Customer identifies Defective Work, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed, ESCO shall correct any such Defective Work found to be not in accordance with the requirements of the Contract Documents within a period of one year from the date of Substantial Completion of the contract. The provisions of this Article 12.1 apply to Work done by Subcontractors as well as to Work done by direct employees of ESCO.