

## **NOTICE:**

### **This is a two-part solicitation.**

Due to changes in the procurement statutes in recent years and various interpretations of its requirements for installation of fixtures in public buildings or some projects being considered construction public works, TIPS has determined that performing to a two-part process will best meet the legal needs of all of our TIPS Members.

**TIPS Members sometimes consider the installation services of the goods supplied under this contract a public work/construction, since they may be considered fixtures or construction.**

Proposing Vendor may respond to PART 1 or PART 2 or to both parts. If you provide public work/construction services, you should respond to PART 2 for the contract to be effective and usable by TIPS Members. Failure to respond to PART 2 WILL NOT affect your award chances on the PART 1.

It is acceptable to propose on only PART 1 but it may limit your sales opportunities for sales of goods and delivery/installation services. It is highly recommended that you respond to both parts to take advantage of all opportunities. If you need help with proposing the RS Means pricing model, please contact us for assistance. TIPS has staff that can provide some guidance on RS Means but understanding of the unit price book method is ultimately the responsibility of the proposer.

- **PART 1** of the two-part solicitation is the goods and non-construction services section that must be procured according to Texas Education Code §44.031. The solicitation description is a Request for Proposal. Only services that are considered non-construction are permitted under Part 1. Depending on the judgment of the TIPS Member entity, this may include services that you offer.
- **PART 2** of the two-part solicitation is the public works/construction section for projects where the work required is considered a public work construction project. The solicitation description is a Request for Competitive Sealed Proposals as permitted under Texas Government Code §2269; Job Order Contracts. How the project is classified is dependent on the judgment of the TIPS member and the work involved in the specific scope of the project.

### **Example:**

If the Member is purchasing a modular building and there must be engineered footings, sidewalks, awnings and walk way covers, plumbing or electrical service installed at the site for the building, they may be required by statute to engage an independent engineer and the project may be considered a construction or Public Work project that requires procurement according to Texas Government Code 2269.

**ALL OF THESE TYPES OF WORK PROJECTS ARE INCLUDED IN THE RS MEANS UNIT PRICE BOOK.**

**PART 2 – INSTALLATION AND CONSTRUCTION ON SITE CONSIDERED A PUBLIC WORK – JOB ORDER CONTRACT (JOC)**

**PART 2 – RCSP 201002 Energy and Water Efficiency Goods and Services (2 PART JOC)**

**Part 2 is a Request for Competitive Sealed Proposals as permitted by Texas Government Code §2269.**

**COMPETITIVE PROCUREMENT SOLICITATION DOCUMENT**



**THE INTERLOCAL PURCHASING SYSTEM (TIPS)**

A Cooperative Purchasing Program available for membership by Governmental and other eligible entities in all fifty states.



**TEXAS REGION 8 EDUCATION SERVICE CENTER (Region 8 ESC)**

TIPS Lead Agency

Part 2 of the two-part solicitation is the installation section for projects that the work required for installation is considered a public work construction project and the solicitation description is a Request for Competitive Sealed Proposals as permitted under Texas Government Code §2269; Job Order Contracts. How the installation is classified is dependent on the judgment of the TIPS Member entity and the work involved in the specific scope of the project.

**CONTACT INFORMATION:**

TIPS/Region 8 ESC  
4845 US Hwy. 271 North  
Pittsburg, Texas 75686  
Toll Free: (866) 839-8477  
Email: [bids@tips-usa.com](mailto:bids@tips-usa.com)  
Website: [www.tips-usa.com](http://www.tips-usa.com)

## NOTICE TO PROPOSERS

### **PROPOSAL DUE DATE:**

**November 13, 2020 AT 3:00 P.M. LOCAL TIME** ALL PROPOSALS TO BE RECEIVED ELECTRONICALLY, OR OTHERWISE SEALED, BY FOREGOING DATE & TIME.

### **LOCATION OF SOLICITATION DOCUMENTS:**

Solicitation documents are located at <http://tips.ionwave.net>. If you encounter a problem while accessing the solicitation, please contact TIPS at the contact information provided above for assistance.

### **REQUEST FOR COMPETITIVE SEALED PROPOSAL:**

This solicitation document is a Request for Competitive Sealed Proposals as permitted under Texas Government Code §2269 for the category:

**PART 2 – RCSP 201002 Energy and Water Efficiency Goods and Services – PART 2 ONLY**

TIPS is seeking qualified contractors to provide energy or water efficiency projects, other than those expressly precluded herein, at TIPS member entities' sites. You may provide complete turn-key construction or materials only or a combination of all material or services that may meet the needs of our member entities, except those expressly prohibited herein.

**NOTICE:** The type of solicitation document is identified directly above. The use of terms such as: "Solicitation", "Bid", "Request for Proposal", "RFP", "Request for Competitive Sealed Proposal", "RCSP", or other specific terms, may be inaccurate legal terminology and should be construed to mean the method of competitive procurement identified directly above with the legal citation.

### **Contractor Questions**

Questions about the specific Solicitation shall be submitted to [bids@tips-usa.com](mailto:bids@tips-usa.com) with the following in the subject line: "201002 Energy and Water Efficiency Goods and Services PART 2 contractor question." Questions of a ministerial nature will be answered without an addendum, but questions of a substantive nature that are not addressed in the Solicitation or deemed relevant to the process by TIPS will be addressed by properly posted addendum.

**SUBSTANTIVE QUESTIONS WILL BE RECEIVED UNTIL November 5, 2020 AT NOON Local Time.**

### **Pre-Bid Meeting (Not Mandatory)**

**A Pre-Bid Meeting may be requested by any proposer, if you wish to request a Pre-Bid Meeting, please email [bids@tips-usa.com](mailto:bids@tips-usa.com) by Noon, October 15, 2020.**

**If requested, a Pre-Bid meeting will be scheduled if agreed by TIPS, an addendum posted and a notification will be sent by the electronic bidding system to all known interested parties.**

**\*If Requested, TIPS reserves the right to determine if a Pre-Bid Meeting is held.\***

## ANTICIPATED SCHEDULE OF AWARD OR RELATED EVENT:

These anticipated dates may change due to number of responses and staff workloads or extension of time for the due date.

Posting Date	October 1, 2020	8:00 A.M. Local Time
Proposal Deadline	November 13, 2020	3:00 P.M. Local Time
Proposal Opening	November 13, 2020	3:00 P.M. Local Time
Proposal Review Begins	November 13, 2020	3:01 P.M. Local Time
Proposal Review Ends	December 11, 2020	One (1) week prior to anticipated Award Date
Proposals Award	December 18, 2020	8:30 A.M. Local Time
Award Notifications	December 18, 2020	12:00 P.M. Local Time

**Negotiating deviations to terms and conditions is very time consuming, so Vendors with deviations are evaluated last, so TIPS does not delay awards to vendors that do not submit deviations.**

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**TIPS agreements are available for use by all schools, colleges, universities, cities, counties and other government entities in all fifty states if permitted by the jurisdictions of the governmental entities.**

## General Information

### FINANCING OF TIPS

#### TIPS Vendor Paid Fee

The total cost of the TIPS program, in most cases, is primarily funded through an administration fee paid to TIPS by the awarded contractors. The fee is based on actual vendor project sales. Vendor will pay the fee on the amount actually invoiced and paid on TIPS sales by TIPS members. Fees are not assessed to vendors for shipping cost, required bond cost, or any taxes that may be applicable.

TIPS establishes a fee for each solicitation for proposals that is in the best interest of TIPS and its members.

**The fee schedule for agreements awarded under solicitation is 2%.**

#### Term of Agreement and Renewals

The Agreement with TIPS is for approximately two (2) years with an option for renewal extension for an additional two (2) consecutive one (1) year terms. The first renewal extension year shall be automatic unless the awarded vendor notifies TIPS of its objection to the first additional one (1) year renewal extension. If TIPS offers

the second one (1) year renewal extension terms, 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 term. Whether or not to offer the renewal extension years 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 May 22, but extended negotiations delay award until June 27, the end date of the resulting initial “two-year” term Agreement, (which is subject to an extension(s)) will still be May 31, 2022.*

**“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 two years.

**Example:** *If the original term is approximately two years, and the solicitation provides an anticipated award date of May 22, 2020, the expiration date of the original three-year term shall be May 31, 2022.*

**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 May 31, 2023.*

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits.

Total term of Agreement can be up to the number of years provided in the solicitation or as limited by statute.

**THIS CLAUSE CONTROLS OVER ANY OTHER TERM IN ANY OTHER PART OF THIS SOLICITATION. TIPS reserves the right to solicit proposals at any time it is in the best interest of TIPS and/or its members.**

## **Termination**

TIPS or the awarded vendor may terminate an award under this solicitation at will for cause or no cause or for convenience. TIPS must provide the vendor with 30 days prior written notice to the awarded vendor at the address provided in the response or as otherwise provided. The Awarded vendor shall provide TIPS with 90 days prior written notice of termination in order to protect the interests of the TIPS member that may be in negotiation or budget approval process.

## **Furnishing Goods and Services to Members**

The Contractor shall furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management and shall perform all operations necessary and required for services. All work shall be performed in accordance with the requirements set forth in the resulting contract and each mutually agreed upon contract, work request or purchase order issued by TIPS participating members.

## Job Order Contracting Definitions

**CITY COST INDEX**, Defined pricing indices published by R.S. Means (see R.S. Means) as local modifiers to the national cost data.

**COEFFICIENT** is the contractors' coefficient multiplier that is applied to the local city cost index and the total sum of line item estimates for each individual Job Order. It will include all overhead items such as office, safety equipment, vehicles and fuel, computers, communication devices, printers, programs, insurance maintenance, two percent TIPS management fee, final site cleanup and all contingencies.

**JOB ORDER** is a line item estimate taken from a job order proposal using the coefficient and R.S. Means which upon agreement to by the TIPS member becomes a lump sum fixed price contract and a notice to proceed for the stated scope attached to the purchase order.

**JOB ORDER CONTRACTING (JOC)** is a variable term indefinite delivery, indefinite quantity contract for construction services on an on-call basis through negotiated line item delivery orders (job orders) to include under State of Texas minor construction, repair, renovation, alterations, maintenance projects and limited design for architectural and engineering services. It is based upon the contracts priced coefficient applied to the city cost index and the line items in the unit price book (RS Means). When the line items are agreed to it becomes a lump sum firm fixed price contract for that negotiated scope of services.

**JOB ORDER PROPOSAL** is the response from the contractor to the TIPS Member from the clients request for a specific project. It will contain the line item estimate for the project as defined in the UPB and include a written scope of work for services to be performed

**NON PRE-PRICED ITEMS** are those items that cannot be found or reasonably compared to listed line items in the UPB.

**PURCHASE ORDER** is the TIPS member's approval providing the authority to proceed with the negotiated delivery order under the contract. Special terms and conditions as agreed to between the contractor and TIPS member will be added as addendums to the PO. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some of the addendums possible.

**PREMIUM HOURS** are defined as those hours not included in regular hours or recognized holidays. Premium hours are to be approved by the TIPS member for each delivery order and noted in the delivery order proposal as a line item during negotiations.

**REGULAR HOURS** are defined as those hours between the hours of 6 AM and 6 PM, local time to the location of the project, Monday thru Friday and not occurring on a listed holiday below in section entitled "Proposal Instructions" #3. These hours include any lunch or other meal period for workers. All time, whether regular or premium hours, are subject to all labor regulations, including overtime as required by law.

### END OF DEFINITION SECTION

## **SPECIFICATIONS and PRICING FORMAT**

**This solicitation is seeking providers for:**

# Energy and Water Efficiency Projects

**This solicitation is NOT seeking, and is specifically EXCLUDING, offerings that amount to the sale of gasoline, diesel, wind or solar electricity generators, energy efficient vehicles, retail energy supply, or statutory Energy Savings Performance Contracts, as governed in Texas by Texas Local Government Code § 302 or Texas Education Code § 44.901. Statutory Energy Savings Performance Contract must be procured according to TEXAS GOVERNMENT CODE §2254.004 and are specifically excluded herein.**

Specifications for Part 2 include installation and construction of energy and water efficiency projects other than those expressly precluded herein. Depending on the scope and circumstances, the pricing of may be required by Texas Government Code §2269 to be procured by a method enumerated in the statute. The method permitted by a purchasing cooperative such as TIPS is the Job Order Contract (JOC) method. The statute requires the use of a unit pricing model and the unit price book TIPS specifies is the RS Means Price Book. The statute also requires the pricing to be submitted as a coefficient of the Unit Price Book’s line item prices. The required attribute questions 38, 39, and 40 provides a method for your proposal of the required coefficient and a markup for non-prepriced items.

## Pricing

It is the intention of TIPS to establish an agreement for delivery of installation or construction and ancillary services that are considered by the TIPS member as a public work construction project for energy and water efficiency projects, other than those expressly precluded herein. Part of or the entire project may be performed under Part 2. Due to the varied scope and nature of these types of projects, TIPS members in various jurisdictions have different interpretations of what is and what is not a public work construction project requiring the Job Order Contracting (JOC) procurement process under Texas Statutes. Therefore, TIPS is providing the option for members that require the JOC process to procure those services relating to this solicitation using this contract.

## RS Means Pricing

Proposers must provide pricing based on a multiplier coefficient of the R.S. Means price book sections for the categories solicited.

SEE ATTACHMENT ENTITLED “RS MEANS JOC PRICING EXPLANATION” FOR ADDITIONAL ASSISTANCE.

This table illustrates how TIPS scores the pricing proposed as coefficients to the RS Means Unit Price Book.

rev. 06/10/2020 rp	reg hrs	after hrs	Non Prepriced
	Counts 85% of total	Counts 10% of total	Counts 5% of total
score	price coefficient proposed	price coefficient proposed	% markup proposed
28	0.85 or better	1.3 or lower	20
26	0.90	1.35	30

24	0.95	1.40	40
22	1.00	1.45	50
20	1.05	1.50	60
18	1.10	1.55	70
16	1.15	1.60	80
14	1.20	1.65	90
12	1.25	1.70	100
10	1.30	1.75	110
8	1.35	1.80	120
6	1.40	1.85	130
4	1.45	1.90	140
2	1.50	1.95	150
0	>1.5	>2	160
for incremental proposed coefficients, round up			
<b>FORMULA</b>			
(REG coef score #*.85)+(AFTER coef score #*.10)+(NON-PREPRICED coef score number*.05)/10			
<b>Formula caculator</b>	insert below score calculated from proposal JOC price sheet and the above table		Highest possible score is 28 points
<b>reg hrs score</b>	<b>after hrs score</b>	<b>Non Prepriced</b>	<b>final score</b>
28	28	28	28

The RS Means Pricing form previously utilized by TIPS has been completely replaced with mandatory attribute questions 38, 39, and 40. You must provide your RS Means pricing in the required Attribute Questions 38, 39, 40 to be considered for PART 2.

The pricing coefficients proposed on the required attribute questions will be the controlling RS Means Unit Price Book pricing for your proposal for the life of your Contract.

### Wage Rates

TIPS members usually, depending on the jurisdiction, have to designate or follow specific wage rates for their construction projects. Many times, this is Davis-Bacon Act and sometimes it may be another local wage rate determination. Regardless, the contractor must comply with the designated wage rates and the RS Means Unit Price Book has taken into account the local wage rates for the geographic area.

### Maximum Aggregate Contract Price

Texas Government Code §2269.403 (b) requires that the governmental entity shall establish the



maximum aggregate contract price when it advertises the proposal. Because this solicitation is available for piggyback by multiple entities, there is no accurate method to project the maximum aggregate price. Therefore, an arbitrary maximum aggregate contract price for sales by all awarded contractors under this solicitation is set at \$10,000,000,000. This arbitrary figure is not a guarantee of any sales under the award and it should not be construed as an estimate of total sales during the contract period. If and when the \$10,000,000,000 figure is reached, the awarded contracts will expire immediately and a new solicitation may be issued if in the best interest of TIPS and its members.

### **Job Order Contracting (JOC)**

It is the intention of TIPS to establish a contract to furnish and/or deliver construction services using the Job Order Contracting construction delivery method. The work includes minor construction, repair, rehabilitation and alteration services for a wide variety of colleges and universities, schools, cities, counties, healthcare and other government and non-profit agencies.

**Unit Price Book (UPB)** will be the current edition of RS Means Facilities Construction Cost Data at the time of the project acceptance – the published quarterly updates will be allowed.

**Estimating Requirements:** Awarded contractor must use Cost Works, JOC Works, RS Means Online, 4 Clicks, or other approved estimating software. Other software than one of the four software programs listed above must be approved by TIPS.

The Contractor shall furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management and shall perform all operations necessary and required for construction work. All work shall be performed in accordance with the requirements set forth in the resulting contract and each mutually agreed upon work request or purchase order issued by TIPS participating members.

A contract will be established with standard specifications and pricing based upon a coefficient that is applied to a Unit Price Book (UPB) from RS Means. When a specific project or job order is issued, TIPS member and the contractor will agree on the scope of work and the cost is determined by applying the coefficient to the appropriate units in the UPB. Pricing will be evaluated based upon completion of Attributes 38, 39, 40 providing RS Means pricing.

Please see the document entitled “RS MEANS JOC Pricing EXPLANATION” in the “Attachments” section of the eBid System for additional explanation.

### **Bonding**

Proposer must provide a current letter, issued on or after the date on which this Solicitation was posted, from their Surety company(ies) that specify the bonding capacity of the proposer. Bonding surety must be authorized to do business in the State of Texas and be listed on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570) Bonding capabilities documentation must be scanned and uploaded to the “Response Attachments” BONDING section.

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

**Cleanup:** Awarded vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member. 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 sub-contractor 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. 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.

#### **Right to Work**

Pursuant to any award under this RCSP, TIPS, per Texas Gov't Code §2269.054:

(1) may not consider whether a person is a member of or has another relationship with any organization; and (2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

#### **Smoking**

Persons working under Agreement shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.

#### **Bonding**

When applicable, and depending on the laws of the TIPS member's jurisdiction, performance and payment bonds will be required on construction or labor required jobs and awarded contractor will meet the TIPS member's local and state purchasing requirements. In Texas, Performance Bonds are required when the project is valued at greater than \$100,000 and Payment Bonds on jobs over \$25,000. Awarded contractors may need to provide additional capacity as jobs increase. Bonds will not require that a fee be paid to TIPS. The actual cost of the bond will be a pass through to the TIPS member and added to the purchase order/contract.

#### **ENGINEERING AND ARCHITECTURAL SERVICES**

**IT IS NOT PERMITTED IN TEXAS AND SOME OTHER JURISDICTIONS FOR ENGINEERING AND ARCHITECTURAL SERVICES (A&E) TO BE PROCURED OR PROVIDED THROUGH AN INTERLOCAL COOPERATIVE CONTRACT SUCH AS THIS ONE. THE TIPS MEMBER, IF REQUIRED BY LAW, MUST ENGAGE INDEPENDENT A&E PROVIDERS ACCORDING TO THE STATUTORY REQUIREMENTS OF THEIR JURISDICTION TO PROVIDE, BUT NOT LIMITED TO, ANY ONE OR MORE OF THE FOLLOWING: PLANS, DRAWINGS, SPECIFICATION, APPROVAL, REVIEW, SUPERVISION, ETC.**

### **Scope of Services**

The specific scope of work for each job shall be determined in advance and in writing between TIPS Member, Member's design professionals and Vendor. It is permitted for the TIPS Member to provide a general scope description, but the awarded vendor should provide a written scope of work, and if applicable, according to the TIPS Member's design Professional as part of the proposal. Once the scope of the job is agreed to, the TIPS Member will issue a PO and/or an Agreement or Contract with the Job Order Contract Proposal referenced or as an attachment along with bond and any other special provisions agreed by the TIPS Member. If special terms and conditions other than those covered within this solicitation and awarded Agreements are required, they will be attached to the PO and/or an Agreement or Contract and shall take precedence over those in this base TIPS Vendor Agreement.

### **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 has services that need to be undertaken. Notification may occur via phone, the web, email, fax, or in person. Upon notification of a pending request, the awarded vendor shall make contact with the TIPS Member as soon as possible, but must make contact with the TIPS Member within two working days.

### **Scheduling of Projects**

Scheduling of projects (if applicable) may be accomplished when the TIPS Member issues a Purchase Order and/or an Agreement or Contract that will serve as "the notice to proceed" as agreed by the Vendor and the TIPS Member. The period for the delivery order will include the mobilization, materials purchase, installation and delivery, design, weather, and site cleanup and inspection. No additional claims may be made for delays as a result of these items. When the tasks have been completed the awarded vendor shall notify the client and have the TIPS Member or a designated representative of the TIPS Member inspect the work for acceptance under the scope and terms in the Purchase Order and/or Agreement or Contract. The TIPS Member will issue in writing any corrective actions that are required. Upon completion of these items, the TIPS Member will issue a completion notice and final payment will be issued per the contractual requirements of the project with the TIPS Member. Any Construction contract prepared by the TIPS Member's Legal Counsel may alter the terms of this subsection, "**Scheduling of Projects**".

### **Support Requirements**

If there is a dispute between the awarded vendor and TIPS Member, TIPS or its representatives may assist, at TIPS sole discretion, in conflict resolution or third party (mandatory mediation), if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded vendors TIPS project files, documentation and correspondence.

### **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.

### **Costs Pass Through**

Bonding cost, taxes and permit fees paid by the contractor for a Job Order Contract for a TIPS member shall pass through the cost at no markup to the TIPS member. Other pass through costs, if desired, may be determined with the member at the time of contract negotiation.

## **Incorporation of Solicitation**

The TIPS Solicitation, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, that resulted in the execution of this agreement 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.

### **Purpose:**

It is the intent of TIPS to award to reliable, high performance vendors to supply products and services to government and educational agencies. It is the experience of TIPS that the following procedures provide TIPS, the Vendor, and the participating agency the necessary support to facilitate a mutually beneficial relationship. The specific procedures will be negotiated with the successful vendor.

### **Agreements:**

All vendor Purchase Orders and/or Agreements/Contracts must be emailed to TIPS at [tipspo@tips-usa.com](mailto:tipspo@tips-usa.com). Should an agency send an order direct to vendor, it is the vendor's responsibility to forward the order to TIPS at the email above within three business days and confirm its receipt with TIPS.

### **Promotion of Agreement:**

It is agreed that Vendor will encourage all eligible entities to purchase from the TIPS Program. Encouraging entities to purchase directly from the Vendor, bypassing the TIPS Agreement when the Member has requested 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.

## **Purchasing Procedures**

- Agreements are established through free, full and open competition as described by the laws of the State of Texas and are available for piggy-back by other government entities anywhere in the United States, subject to each entities' jurisdictional law and regulation. Purchase orders or equivalent are issued by participating governmental entities directly to the Vendor or vendor assigned dealer. Purchase orders or equivalent are usually sent to the TIPS office where they are reviewed by the TIPS staff and forwarded to the Vendor within one working day. In some instances, the entity may send the purchase orders or equivalent directly to the vendor and report the purchase to TIPS. Regardless of the circumstances, the TIPS vendor is required to put the TIPS contract number on all related correspondence and contracting documents and must report all sales and change orders to TIPS in a timely manner.
- **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](mailto: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.

- Vendors deliver goods/services directly to the participating member agency and then invoice the participating member agency. The Vendor receives payment directly from the participating member agency.

### **Notice of Confidentiality of Proposed Information**

The proposal submitted and all information therein is available to TIPS members. Also, according to the Texas Public Information Act, any documents or information held by TIPS “may” be public information. In the documents for the proposer to complete is a declaration form entitled “CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552” that must be completed by the proposer that designates specified pages as confidential or waives confidentiality of the entire proposal.

## **Proposal Instructions**

1. Electronically sealed proposals are the preferred and most accurate method and is highly encouraged through our online procurement software, ION Wave.
2. Proposals may be amended by the proposer on the electronic site at any time prior to the due date and time. ION wave permits you to withdraw and resubmit your proposal.
3. If an addendum is posted, you are required to login to the ION Wave bidding software and address the addendum. No addendum will be issued within five calendar days of the opening unless it is to extend the opening or address a non-substantive issue. Legal holidays not counted as calendar days are New Year's Day, Martin Luther King Day, Easter, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving, Christmas.
4. Proposals may be submitted on any or all sections, related to the category, unless stated otherwise. TIPS reserves the right to reject any or all proposals and to accept any proposal(s) deemed advantageous to the TIPS members and to waive any informality in the proposal process.
5. Deviations to any Terms, Conditions and/or Specifications shall be clearly noted in writing by the contractor and shall be included with the proposal. There are attributes that you must respond to in order to submit a proposal that address deviations.
6. Withdrawal of proposals will not be allowed for a period of 90 days following the opening unless approved by TIPS.
7. Addenda, if required, will be issued by TIPS by email to the proposer's designated contact to all those vendors known to have reviewed the SOLICITATION documents through our electronic bidding software, ION Wave.

### **PROPOSAL FORMAT - PROPOSERS PAY CLOSE ATTENTION TO DETAILS LISTED.**

TIPS reserves the right to waive any informality and/or reject any or all proposals.

**Felony Conviction Notice (Required in Texas) -Notification of Criminal History** “A person or business entity that enters into an agreement with a school district must give advance notice to the district if the

person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony. A school district may terminate an agreement with a person or business entity if the district determines that the person or business entity failed to give notice as required or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the agreement.” This notice is not required of a publicly held corporation. Texas Education Code § 44.034. See FELONY CONVICTION NOTICE document on the “Attachments” tab. Felony conviction notice document must be uploaded to the “Response Attachments” FELONY CONVICTION NOTICE section.

### **References**

The proposal response should contain a minimum of Three (3) references of customers you have served that would be considered eligible for membership in TIPS (i.e. K-12 School Districts, College/Universities, and/or City/County Government Entities, Water or Fire Districts, etc.). In addition to the name of the entity, a contact name, email and phone number shall be included. The references document must be downloaded from the “Attachments” section, completed and uploaded to the “Response Attachments” REFERENCES section.

### **Vendor Certifications**

Vendor certifications should include applicable D/M/WBE, HUB and manufacturer certifications for sales and service (if applicable). Certificates must be scanned and uploaded to the “Response Attachments” D/M/WBE, HUB and/or ALL OTHER CERTIFICATES section. Whether or not you are a D/M/WBE, HUB or similar business will have no bearing on the evaluation score, but provides our members the information if it is part of their entities’ policies.

### **Vendor Agreement**

Vendor Agreement must be downloaded from the “Attachments” section, completed and uploaded to the “Response Attachments” VENDOR AGREEMENT section. If proposer has deviations to the agreement language to negotiate with TIPS, there are attributes in the electronic process that address this possibility and you may insert your deviations there.

### **Agreement Signature Form**

Agreement Signature Form must be downloaded from the “Attachments” section, completed, signed, scanned and uploaded to the “Response Attachments” AGREEMENT SIGNATURE FORM section. If proposer has deviations to the agreement language to negotiate with TIPS, the agreement signature page may be submitted unsigned until all terms and conditions are agreed.

### **Warranty (If applicable)**

Warranty documentation should be scanned and uploaded to the “Response Attachments” WARRANTY section.

## Protest Procedure

If a contractor/proposer (contractor) desires to protest a process or decision by TIPS, the contractor must follow the following process:

[http://www.tips-usa.com/assets/documents/docs/letters/Protest Procedures for Vendor.pdf](http://www.tips-usa.com/assets/documents/docs/letters/Protest_Procedures_for_Vendor.pdf)

## Supplementary Catalogs and Information if Applicable

Supplementary Catalogs and Information documentation should be scanned and uploaded to the "Response Attachments" SUPPLEMENTARY section. You may provide a link to catalogs or pricing that is published for all customers to see when shopping for your goods or services. Links to catalog pricing must be kept current during the term of the awarded agreement. It is the intent of TIPS to award a manufacturer's complete line of products, when possible.

## LIMITATIONS OF THE SOLICITATION AND THE USE OF AWARDED AGREEMENTS BY MEMBERS

**Depending on different entities' and jurisdictions' laws and regulations, members may be prohibited from participating in one or more of the TIPS agreements. TIPS has no control over those legal restrictions and does not warrant that a member entity will be able to utilize a TIPS awarded agreement.**

# Terms and Conditions

1. **Exclusivity-** Any award under this solicitation is not exclusive and TIPS reserves the right to multi award or not award. TIPS reserves the right to solicit same or similar categories again for additional awards during the life of an existing agreement with one or more awarded vendors of another solicitation, if TIPS decides it is in the best interest of our members.
2. **Confidentiality of Proposal** - If you believe part of your proposal is confidential and not subject to sunshine laws such as the Public Information Act, there is a form to complete to make such a declaration. Read it carefully.
3. **Best and Final Offer** – There will be NO best and final offer, your proposal will be your final offer for solicitation competition purposes. Vendor may lower prices at any time during agreement period. See pricing section.
4. **Non-Responsive Proposals:** All proposals will be reviewed for responsiveness to the material requirements of the solicitation. A proposal that is not materially responsive shall not be eligible for further consideration for award of the agreement. There may be required specifications for this proposal and desired and other specifications. IF YOUR PROPOSAL FAILS TO MEET ANY OF THE DESIGNATED **REQUIRED** SPECIFICATIONS, YOUR PROPOSAL SHALL BE DEEMED NON-RESPONSIVE AND WILL NOT BE EVALUATED FURTHER OR CONSIDERED FOR AWARD.
5. **Deviations and Exceptions:** Deviations or exceptions stipulated as non-negotiable in the response by the proposer may result in disqualification if they are not acceptable to TIPS.
6. **Equal Pricing** – Pricing proposed shall be provided to any TIPS member and regardless of the quantity of product or service purchased from the awarded vendor. Pricing may always be lowered by the vendor if circumstances permit to provide better value to TIPS members and for the vendor to be more competitive in that particular circumstance of sales opportunity. If prices

are lowered in a specific circumstance, the same lowered pricing must be offered to all TIPS members if the quantities, timing and all other circumstances are identical.

7. **Estimated Quantities:** Because TIPS cannot accurately anticipate which members will utilize the awarded agreements due to the thousands of members and the different government entity types, TIPS makes no guarantee or commitment of any kind concerning quantities or usage of agreements resulting from this solicitation. This information, if provided, is provided solely as an aid to vendors in preparing proposals only. The successful Vendor(s) discount and pricing schedule shall apply regardless of the total cumulative volume of business under the agreement.
8. **Conditions of Agreement** - The terms and conditions of this solicitation shall control in the order that best serves the TIPS members' needs and deciding the controlling order is at the sole discretion of TIPS. The terms and conditions of this solicitation shall be incorporated by reference in a resulting agreement unless expressly agreed otherwise by the parties in writing.
9. **Evaluation** – TIPS will evaluate the best value by rating the proposals submitted by the vendors. The point score received will be the weighted score which will be used to determine awarded vendors. See Evaluation criteria sheet with applicable point weights in this document. If applicable, extensions of unit prices shown will be subject to verification by the district. In case of variation between the unit price and the extension, the unit price will be considered to be the proposal.
10. **LIMITATION OF LIABILITY – Waiver:** BY SUBMITTING A PROPOSAL, OFFERER EXPRESSLY AGREES TO WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST BOTH THE INTERLOCAL PURCHASING SYSTEM REGION 8 EDUCATION SERVICE CENTER, ITS DIRECTORS, OFFICERS, ITS TRUSTEES, OR AGENTS ARISING OUT OF OR IN CONNECTION WITH (1) THE ADMINISTRATION, EVALUATION, RECOMMENDATION OF ANY PROPOSAL; (2) ANY REQUIREMENTS UNDER THE SOLICITATION, PROPOSAL PACKAGE, OR RELATED DOCUMENTS; (3) THE REJECTION OF ANY PROPOSAL OR ANY PART OF ANY PROPOSAL; AND/OR (4) THE AWARD OF AN AGREEMENT, IF ANY. NEITHER REGION 8 ESC NOR TIPS SHALL BE RESPONSIBLE OR LIABLE FOR ANY COSTS INCURRED BY PROPOSERS OR THE SELECTED CONTRACTOR IN CONNECTION WITH RESPONDING TO THE SOLICITATION, PREPARING FOR ORAL PRESENTATIONS, PREPARING AND SUBMITTING A PROPOSAL, ENTERING OR NEGOTIATING THE TERMS OF AN AGREEMENT, OR ANY OTHER EXPENSES INCURRED BY A PROPOSER. THE PROPOSER OR SELECTED CONTRACTOR IS WHOLLY RESPONSIBLE FOR ANY SUCH COSTS AND EXPENSES AND SHALL NOT BE REIMBURSED IN ANY MANNER BY REGION 8 ESC OR TIPS.
11. **RESERVATION OF RIGHTS** - TIPS expressly reserves the right to:
  - a) Reject or cancel any or all proposals;
  - b) Waive any defect, irregularity or informality in any proposal or SOLICITATION procedure provided the waiver is equally applied to all Offerors and an Offeror is not prejudiced by the waiver as compared to other Offerors;
  - c) Waive as an informality, minor deviations from specifications for goods or services at a lower price than other proposals meeting all aspects of the specifications if it is determined that total cost is lower and the overall function is not impaired;
  - d) Reissue a SOLICITATION;



- e) Consider and accept an alternate proposal as provided herein when most advantageous to TIPS and its members;
- f) TIPS has the right to terminate the agreement for cause or no cause for convenience with a thirty-day written notice, unless otherwise agreed in writing in an executed agreement between the parties;
- g) This is not an exclusive award and no guaranteed volumes of purchases are guaranteed. TIPS and its members reserves the right to procure any items or services by other means at the sole discretion of TIPS or its members.

## **Evaluation and Scoring**

Scoring of your PART 2 proposal, if any, is based on you answers to questions and information you provide in your proposal. **FAILURE TO ANSWER THE JOC PRICING ATTRIBUTE QUESTIONS 38, 39, and 40 WILL DISQUALIFY YOUR AWARD UNDER PART 2 OF THIS SOLICITATION.**

### **PART 2 EVALUATION**

There are four criteria for scoring and a cumulative score of 70 or greater is required to be considered for award. Scoring a 70 does not automatically mean the proposer will be awarded.

The following are some of the criteria that could prevent an award whether or not the proposer scores 70 points in the evaluation process. This list is inclusive and not exclusive.

- Failure to have minimal bonding capability.
- Poor reference responses or lack of reference responses leaving TIPS unable to confirm the reputation of the proposer.
- Failure to pay fees due TIPS on past or other contracts.
- Failure to agree with attributes in the ION Wave eBid system that are mandatory for award and consideration. Those are marked accordingly in the applicable attributes.

A qualified evaluation staff member or committee will evaluate and score all proposals. Recommendations for award will be made to the Region 8 Education Service Center Board of Directors. Awards will be granted or denied at the monthly stated meeting of the Region 8 ESC Board of Directors. TIPS will base a recommendation for award on factors permitted by the Texas Government Code section 2269. The factors which will be considered and weighted points in each area as follows (100 total points):

TIPS shall use a final overall scoring system to include consideration for competitive pricing, best value price and cost evaluation. TIPS reserves the right to assign any number of point awards or penalties it considers warranted if a offeror stipulates exceptions, exclusions, or limitations of liabilities. Strong consideration will be given to the best value price as it relates to the products and services. However, price is ultimately only one of the factors taken into consideration in the evaluation and award. TIPS shall

reserve the right to reject any or all proposals or any part of any proposal. The following evaluation criteria are permitted for consideration by Texas Government Code section 2269.055.

- A. **Price: 28 points maximum weight.** Prices quoted as related to the information within the solicitation as a coefficient of the R. S. Means price book, and, if requested or proposed, any other line item pricing. Any Regular Hours Multiplier Coefficient proposed on the pricing exhibit greater than 1.5 will receive no points. See SCORING TABLE below

**Scoring Pricing**

This table illustrates how TIPS scores the pricing proposed as coefficients to the RS Means Unit Price Book.

rev. 06/10/2020 rp	reg hrs	after hrs	Non Prepriced
	Counts 85% of total	Counts 10% of total	Counts 5% of total
score	price coefficient proposed	price coefficient proposed	% markup proposed
28	0.85 or better	1.3 or lower	20
26	0.90	1.35	30
24	0.95	1.40	40
22	1.00	1.45	50
20	1.05	1.50	60
18	1.10	1.55	70
16	1.15	1.60	80
14	1.20	1.65	90
12	1.25	1.70	100
10	1.30	1.75	110
8	1.35	1.80	120
6	1.40	1.85	130
4	1.45	1.90	140
2	1.50	1.95	150
0	>1.5	>2	160
for incremental proposed coefficients, round up			
<b>FORMULA</b>			
(REG coef score #*.85)+(AFTER coef score #*.10)+(NON-PREPRICED coef score number*.05)/10			
<b>Formula calculator</b>	insert below score calculated from proposal JOC price sheet and the above table		Highest possible score is 28 points
<b>reg hrs score</b>	<b>after hrs score</b>	<b>Non Prepriced</b>	<b>final score</b>

- B. **Offerer's experience: 27 points maximum weight.** Scoring may be based on references, information provided in the response or TIPS staff knowledge or any other information available to TIPS evaluators.

Experience	Score points
<2 years	5 points if bonding is less than \$100k and 10 points if more than \$100K. Due to bonding , they are determined to be experienced and trustworthy
2-3 years	15
4 - 5 years	20
>5 years	27

- C. **Offerer's reputation: 27 points maximum weight.** Scoring may be based on references, information provided in the response or TIPS staff knowledge or any other information available to TIPS evaluators.

At least two positive responses with no negative.	max points 27
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- D. **Offerer's financial capability: 18 points maximum weight.** Scoring may be based on bonding capacity as provided by proposer in the form of letters from the proposer's bonding surety(ies). Bonding capacity greater than \$2 million will receive maximum points. Bonding capacity less than \$25,000 will receive no points. Bonding capacity between \$25,000 and \$2 million will receive a point total between 0 and 18.

bonding	TOTAL capacity \$	score
	25,000	5
	100,000	10

	250,000	12
	500,000	14
	750,000	15
	1,000,000	16
	1,250,000	16.5
	1,500,000	17
	1,750,000	17.5
	2,000,000	18

PROPOSERS FALLING BELOW A 70-POINT THRESHOLD ON THE EVALUATION SECTION WILL NOT BE CONSIDERED FOR AN AWARD

**Description, Specifications and Pricing**

The PART 2 section of this awarded contract will use a job order contract (JOC) for a fixed term or maximum dollar value, whichever occurs first, in which a contractor is selected based on a competitive proposal to perform various separate job orders in the future, during the life of the contract. Contract award is based on the bid coefficient factor which the contractor will multiply against “pre-priced” R.S. Means unit price book. The bid coefficient factor represents all of the contractor’s costs (indirect and direct), overhead and profit. The other adjustment factor is updated annually based on the City Cost Index published for the closest location.

The PART 2 scope is exclusive to the contractor. The most important decision in administering the Part 2 contract is therefore the drafting of the scope. Because the contractor has been selected and the unit price is fixed (by the unit price book and the contractor’s coefficient factor), the Part 2 contract allows contractor input prior to design, which can expedite the work. The Contractor shall furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management and shall perform all operations necessary and required for construction work. All work shall be performed in accordance with the requirements set forth in the resulting contract and each mutually agreed upon work request or purchase order issued by TIPS participating members.

A contract will be established with standard specifications and pricing based upon a coefficient that is applied to an R.S. Means Unit Price Book (UPB). When a specific project or job order is issued, TIPS member and the contractor will agree on the scope of work and the cost is determined by applying the coefficient to the appropriate units in the UPB. Based on the scope of work, the contractor may apply a coefficient less than the TIPS contractor coefficient, if agreed upon by the contractor and the TIPS member. Pricing will be evaluated based upon completion of Attributes 38, 39, and 40 providing RS Means coefficients. Please see the document entitled “RS MEANS JOC Pricing EXPLANATION” in the eBid

system for additional guidance. “RS MEANS JOC Pricing EXPLANATION” in the eBid system may be downloaded from the “Attachments.”

## About TIPS

It is the purpose of this solicitation to establish awarded vendor agreements to satisfy the procurement needs of participating member entities in this particular commodity category. These awarded agreements will enable member entities to purchase on an “as needed” basis from competitively awarded agreements with high performance vendors. Proposers are requested to submit a proposal for offering their line of available products that are commonly purchased by government agencies, cities, counties and educational entities.

- Awards will be made to the successful proposer(s) for the products and/or services. (Unless proposer has submitted inappropriate items for the commodity category. Those items will not be awarded. Example: a software company may not propose to perform construction work)
- TIPS reserves the right to award multiple vendors for each solicitation.
- This proposal is requested for the benefit of the current list of members and other new members as they execute TIPS membership Agreements in the future. Member List: <http://www.tips-usa.com/assets/documents/docs/membership.pdf>
- TIPS reserves the right to extend the proposal deadline for any reason.
- TIPS reserves the right to make changes to this Solicitation by way of one or more posted addenda.

### Benefits of TIPS

- Provide government entities opportunities for greater efficiency and economy in acquiring goods and services through competitively procured vendor agreements.
- Provide comprehensive purchasing practices according the Laws of the State of Texas and Federal Regulation 2 CFR part 200, when appropriate, and is designed to result in competitive agreements that meet a wide variety of needs.
- Provide competitively priced purchasing options for multiple government entities that yields economic benefits usually unobtainable by the individual entity.
- Provide quick and efficient delivery of goods and services by entering into pricing agreements with “high performance” vendors.
- Equalized purchasing power for smaller entities.
- Maintain credibility and confidence in business procedures by maintaining free, full and open competition for purchases and by complying with purchasing laws and ethical business practices.
- Provide document retention for competitive procurement process for all TIPS Awarded Agreements.

### Customer Service

- TIPS staff is available to members for assistance in viewing/contacting awarded vendors for categories to make purchases and agreement decisions.
- TIPS provides a way for government entities to avoid the time and expense of seeking competition for purchases on an agency-by-agency basis.

- TIPS enables vendors to become more efficient and competitive by reducing the number of proposals that require responses to be made to individual entities.