

# TIPS VENDOR AGREEMENT

**Between** Data Management, Inc. / TimeClock Plus **and**  
(Company Name)

**THE INTERLOCAL PURCHASING SYSTEM (TIPS),**  
a Department of Texas Education Service Center Region 8  
for  
TIPS RFP 190501 Time Clock Systems

## General Information

The Vendor Agreement (“Agreement”) made and entered into by and between The Interlocal Purchasing System (hereinafter referred to as “TIPS” respectfully) 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. 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.

The vendor Agreement shall include and incorporate by reference this Agreement, the terms and conditions, special terms and conditions, any agreed upon amendments, as well as all of the sections of the solicitation as posted, including any addenda and the awarded vendor’s proposal. Once signed, if an awarded vendor’s proposal varies or is unclear in any way from the TIPS Agreement, TIPS, at its sole discretion, will decide which provision will prevail unless otherwise specifically agreed in writing by the parties.

A Purchase Order, 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 to 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 of the addendums possible.

# 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” or “\$0”, “included in price” or other similar indication. Otherwise, all shipping, freight or delivery changes shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member.

## 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. 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 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.

## 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 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

1. Vendor and TIPS affirms 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.

2. 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.
3. 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.

### **Renewal of Agreements**

The Agreement with TIPS is for one (1) year with an option for renewal for an additional one (1) consecutive year if both parties agree. TIPS may or may not exercise the one-year extension beyond the base one-year term and whether or not to offer the extension is at the sole discretion of TIPS. The scheduled Agreement termination date shall be the last date of the month of the last month of the agreement's legal effect. **Example:** *If the agreement is scheduled to end on May 23, the anniversary date of the award, it would actually be extended to May 31 in the last month of the last year the contract is active.*

### **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 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 or executed Agreement 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.

### **Invoices**

The awarded vendor shall submit invoices or payment requests to the TIPS Member participating entity clearly stating "Per TIPS Agreement # xxxxxxx or similarly identifying the Agreement. 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.

Non- JOC Vendor Agreement  
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## Payments

The TIPS Member will make payments directly to the Vendor or vendor assigned dealer after receiving invoice or in compliance with applicable statute, whichever is the greater time or as otherwise provided by an agreement of the parties.

## Pricing

Price increases will be honored according to the terms of the solicitation. All pricing submitted to TIPS 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. Failure to render the participation fee to TIPS shall constitute a breach of this agreement and shall be grounds for termination of this agreement and any other agreement held with TIPS.

## Participation Fees

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 RFP. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Vendor or vendor assigned dealer Agreements to pay the participation fee for all Agreement sales to TIPS on a monthly scheduled report or as otherwise agreed by the parties. Vendor must login to the TIPS database and use the "Submission Report" section to report sales. 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 pay the participation fee will result in termination of Agreement and possible legal action. 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 work 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 bidder 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, TIPS is to be notified within 48 hours of receipt of order.

### **Termination for Convenience**

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty-day written notice. Termination for convenience is required under Federal Regulations 2 CFR part 200. All purchase orders presented to 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 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.

### **TIPS Member Purchasing Procedures**

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.
- Awarded vendor reports sales monthly to TIPS (unless prior arrangements have been made with TIPS for an alternative submission schedule).

### **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 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 TIS Members reserves the right to stop work and/or cancel Agreement of any awarded vendor whose license(s) expire, lapse, 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 or the entire portion of the assets used 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.

## **Site Requirements (only 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.

## **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 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](mailto: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 i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement or contract developed as a result of this Agreement is exclusively between the participating entity and awarded vendor. TIPS, its agents, TIPS Members and employees 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's Agreement with vendor unless and until an authorized representative of TIPS reviews and approves it. 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.

### **Survival Clause**

All applicable 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 this Solicitation 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 that is offered to 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-complying 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.

### **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 fully 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.

### **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 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.

### **Support Requirements**

If there is a dispute between the awarded vendor and TIPS Member, TIPS or its representatives will assist in conflict resolution or third party 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 related to the requesting 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, 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, 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.

**NEW STATUTORY REQUIREMENT EFFECTIVE SEPTEMBER 1, 2017.**

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 we do 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 1 business day of the change by a letter on your letterhead from 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](mailto:bids@tips-usa.com)

**Insurance Requirements**

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

<b>General Liability</b>	\$1,000,000 each Occurrence/ Aggregate
<b>Automobile Liability</b>	\$300,000 Includes owned, hired & non-owned
<b>Workers' Compensation</b>	Statutory limits
<b>Umbrella Liability</b>	\$1,000,000

When the contractor or its subcontractors are liable for any damages or claims, the contractors'

policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the District. 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 Contractor(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. "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

- **Agreements:** All vendor orders received from TIPS Members must be emailed to TIPS at tipspo@tips-usa.com. Should a TIPS Member send an order direct to 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 entities 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 purchase orders are approved daily by TIPS and sent to 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, customer is to be notified within 3 business days and appropriate action taken based on customer request.
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Page 11 of 11 will be the TIPS Vendor Agreement Signature Page

# TIPS Vendor Agreement Signature Form

TIPS RFP 190501 Time Clock Systems

Company Name Data Management, Inc. / TimeClock Plus

Address 1 Time Clock Drive

City San Angelo State TX Zip 76904

Phone 325-223-9500 Fax 325-223-9104

Email of Authorized Representative derek.mcintyre@timeclockplus.com

Name of Authorized Representative Derek McIntyre

Title Chief Operating Officer

Signature of Authorized Representative 

Date 06/20/2019

TIPS Authorized Representative Name Meredith Barton

Title Vice-President of Operations

TIPS Authorized Representative Signature 

Approved by ESC Region 8 

Date 7/25/19

# The Interlocal Purchasing System (TIPS Cooperative) Supplier Response

Bid Information		Contact Information		Ship to Information
Bid Creator	Rick Powell General Counsel/Procurement Compliance Officer	Address	Region 8 Education Service Center 4845 US Highway 271 North Pittsburg, TX 75686	Address
Email	rick.powell@tips-usa.com	Contact	Kristie Collins	Contact
Phone	(903) 575-2689	Department		Department
Fax		Building		Building
Bid Number	190501	Floor/Room		Floor/Room
Title	Time Clock Systems	Telephone	+1 (866) 839-8477	Telephone
Bid Type	RFP	Fax	+1 (866) 839-8472	Fax
Issue Date	5/2/2019 08:00 AM (CT)	Email	bids@tips-usa.com	Email
Close Date	6/21/2019 03:00:00 PM (CT)			

## Supplier Information

Company Data Management, Inc.  
 Address 1 Time Clock Dr.  
 San Angelo, TX 76904-5917

Contact  
 Department  
 Building  
 Floor/Room  
 Telephone (325) 223-9500  
 Fax (325) 223-9104  
 Email  
 Submitted 6/21/2019 12:59:14 PM (CT)  
 Total \$0.00

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

Signature Derek McIntyre

Email derek.mcintyre@timeclockplus.com

## Supplier Notes

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## Bid Notes

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## Bid Activities

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## Bid Messages

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**Bid Attributes**

Please review the following and respond where necessary

#	Name	Note	Response
1	Yes - No	Disadvantaged/Minority/Women Business Enterprise - D/M/WBE (Required by some participating governmental entities) Vendor certifies that their firm is a D/M/WBE? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.	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 <a href="https://comptroller.texas.gov/purchasing/vendor/hub/">https://comptroller.texas.gov/purchasing/vendor/hub/</a>  or in a HUBZone as defined by the US Small Business Administration at <a href="https://www.sba.gov/offices/headquarters/ohp">https://www.sba.gov/offices/headquarters/ohp</a>  Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.	No
3	Yes - No	The Vendor can provide services and/or products to all 50 US States?	Yes
4	States Served:	If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)	
5	Company and/or Product Description:	This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)	Data Management, Inc., (DMI) the makers of TimeClock Plus, is recognized as both a leader and an innovator in the Workforce Management space. Founded in 1988, TimeClock Plus has become one of the largest time and attendance solution providers in the United States, helping organizations around the world to solve their most challenging workforce management issues in a simple and efficient way.  Based in San Angelo, Texas, TimeClock Plus employs over 300 professionals dedicated to delivering flexible and scalable technology solutions to our over 65,000 customers. Through many years of delivering software systems, TimeClock Plus has gained a keen awareness to their technology needs allowing the organization to deliver innovative and flexible solutions that solve the most challenging business issues.  Additionally, TimeClock Plus offers true extensibility, which means that the software can be scaled to the meet the needs of any sized company. That said, the best technology in the world is only as good as the service and support that back it up and in this regard, TimeClock Plus stands alone. Our "Above and Beyond" approach drives everything we do in delivering

a quality deployment experience for our customers.

6	Primary Contact Name	Primary Contact Name	James Baker
7	Primary Contact Title	Primary Contact Title	Director of Sales Operations
8	Primary Contact Email	Primary Contact Email	james.baker@timeclockplus.com
9	Primary Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	3252239500
10	Primary Contact Fax	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	3252239104
11	Primary Contact Mobile	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	
12	Secondary Contact Name	Secondary Contact Name	Michael Bowman
13	Secondary Contact Title	Secondary Contact Title	VP Sales
14	Secondary Contact Email	Secondary Contact Email	mike@timeclockplus.com
15	Secondary Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	3252239500
16	Secondary Contact Fax	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	3252239104
17	Secondary Contact Mobile	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	
18	Admin Fee Contact Name	Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.	Grant Woodring
19	Admin Fee Contact Email	Admin Fee Contact Email	grant.woodring@timeclockplus.com
20	Admin Fee Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	3252239500
21	Purchase Order Contact Name	Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS.	J Beth Gibbs
22	Purchase Order Contact Email	Purchase Order Contact Email	sales@timeclockplus.com
23	Purchase Order Contact Phone	Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477	3252239500
24	Company Website	Company Website (Format - www.company.com)	www.timeclockplus.com
25	Federal ID Number:	Federal ID Number also known as the Employer Identification Number. (Format - 12-3456789)	75-2245870
26	Primary Address	Primary Address	1 Time Clock Drive
27	Primary Address City	Primary Address City	San Angelo
28	Primary Address State	Primary Address State (2 Digit Abbreviation)	TX
29	Primary Address Zip	Primary Address Zip	76904

30 Search Words:

Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. YOU MAY NOT LIST NON-CATEGORY ITEMS. (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.)

workplace time clocks, workforce scheduling, workforce management software, workforce time and attendance, workforce management tool, workforce management system, workforce management solutions, workforce management software, workforce management scheduling, workforce management applications, workforce management, web time clock software, web time clock, web time attendance, web time and attendance, web scheduler, web based time card system, web based time card software, web based time attendance software, web based time attendance, web based time and attendance software, web based time and attendance, web based employee time clock, web based attendance system, web based attendance management system, virtual time clock, virtual employee time clock, vacation and holiday tracking, used time clocks, used time card machine, used employee time clock, transportation scheduling, tracksmart timeclock, tracking substitute time, tracking employee attendance, track employee hours app, track comp time, track accruals, top time clock software, top time and attendance systems, time tracking software, times recorder, timesheet software, timesheet tracker, timesheet system, timesheet software, timesheet program, timesheet management, timesheet application, timesheet app, timesheet, times recorder, times clocks, timekeeping software, timekeeping systems for small businesses, timekeeping systems, timekeeping system, timekeeping software, timekeeping and attendance software, timedrop time clock software, timeclock software, timeclocks for small business, time clocks for small, time clock for big business, time clock for enterprise, timeclocks for big, timeclocks for enterprise, timeclock online, timeclock app, timeclock time tracker app, timeclock time tracker, timeclock system, time clock software, timeclock pro, time clock payroll software, time clock options for small business, time clock options, time clock online, time clock on the clock, time clock newsletter, time clock modules, time clock mobile solutions, time clock manager software, time clock management system, time clock management software, time clock machine for small business, time



clock machine, time clock leave management, time clock kiosk, time clock in clock out, time clock in and out machine, time clock in and out, time clock hours calculator, time clock hardware, time clock get a quote, time clock for small office, time clock for employees app, time clock explore, time clock enterprise solutions, time clock device, time clock demo video, time clock cost, time clock attendance system, time clock attendance manager, time clock attendance, time clock application, time clock app web, time clock app manager, time clock app for windows, time clock app for small business, time clock app, time clock and software, time clock and scheduling software, time clock and scheduling app, time clock and payroll software, time clock and payroll program, time clock and attendance software, time clock advanced scheduler, time clock, time card website, time card tracking software, time card tracker, time card time clock, time card systems small business, time card system for employees, time card system, time card solutions, time card software for small business, time card software, time card punching machine, time card program, time card management system, time card management software, time card machine for small business, time card machine, time card computer software, time card clock machine, time card clock, time card app for small business, time card app for multiple employees, time card app for employees, time card app, time card, time attendance tracking software, time attendance tracking, time attendance terminal, time attendance system software, time attendance system price, time attendance system fingerprint, time attendance system features, time attendance system, time attendance software, time attendance report, time attendance recorder, time attendance program, time keeping

- 31 Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal? Most of our members receive Federal Government grants and they make up a significant portion of their budgets. The members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that are provisions from the federal regulations in 2 CFR part 200. Your answers will determine if your award will be designated as Federal or Education Department General Administrative Regulations (EDGAR)compliant.
- Yes
- Do you want TIPS Members to be able to spend Federal grant funds with you if awarded and is it your intent to be

		able to sell to our members regardless of the fund source, whether it be local, state or federal?	
32	Yes - No	Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner: (A) has its principal place of business in Texas; OR (B) employs at least 500 persons in Texas?	Yes
33	Company Residence (City)	Vendor's principal place of business is in the city of?	San Angelo
34	Company Residence (State)	Vendor's principal place of business is in the state of?	Tx
35	Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION	Remember this is a MINIMUM discount percentage so, be sure the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGH OUT THE LIFE OF THE CONTRACT  CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD. What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the RFP document), website, store or shelf pricing? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale. Must answer with a number between 0% and 100%.	25%
36	TIPS administration fee	By submitting a proposal, I agree that all pricing submitted to TIPS shall include the participation fee, as designated in the solicitation or as otherwise agreed in writing and shall be remitted to TIPS by the Vendor as agreed 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.	(No Response Required)
37	Yes - No	Vendor agrees to remit to TIPS the required administration fee? Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.	Yes
38	Yes - No	Do you offer additional discounts to TIPS members for large order quantities or large scope of work?	Yes
39	Years Experience	Company years experience in this category? This is an evaluation criterion worth a maximum of 10 points. See RFP for more information.	31
40	Resellers:	Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS. BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller. applicable, vendor should download the Reseller/Dealers spreadsheet from the Attachments section, fill out the form and submit the document in the "Response Attachments" RESELLERS section.	No

41	Pricing discount percentage are guaranteed for?	Does the vendor agrees to honor the proposed pricing discount percentage off regular catalog (as defined in the RFP document), website, store or shelf pricing for the term of the award?	YES
42	Right of Refusal	Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion?	Yes
43	NON-COLLUSIVE BIDDING CERTIFICATE	<p>By submission of this bid or proposal, the Bidder certifies that:</p> <p>1)This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;</p> <p>2)This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:</p> <p>3)No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;</p> <p>4)The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.</p> <p>Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.</p>	(No Response Required)
44	CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?	<p>Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO 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. may find the Blank CIQ form on our website at:</p> <p>Copy and Paste the following link into a new browser or tab:</p> <p><a href="https://www.tips-usa.com/assets/documents/docs/CIQ.pdf">https://www.tips-usa.com/assets/documents/docs/CIQ.pdf</a></p> <p>There is an optional upload for this form provided if you have a conflict and must file the form.</p>	No
45	Filing of Form CIQ	If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above?	
46	Regulatory Standing	I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question.	Yes
47	Regulatory Standing	Regulatory Standing explanation of no answer on previous question.	

48 Antitrust Certification Statements (Tex. Government Code § 2155.005)

By submission of this bid or proposal, the Bidder certifies that: (No Response Required)

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

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

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

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

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Instructions for Certification: By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions. (No Response Required)

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participants," "person," "primary covered transaction," "principal," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

50 Suspension or Debarment Certification

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above. Yes  
and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive  
Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.  
By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

51 Non-Discrimination Statement and Certification

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Yes

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) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). 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) U.S. Departments, including the USDA are equal opportunity provider, employer, and lender. Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

52 2 CFR PART 200 Contract Provisions Explanation

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members: following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

(No Response Required)

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

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the



non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

53 2 CFR PART 200 Contracts

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Yes

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

Does vendor agree?

54 2 CFR PART 200 Termination

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

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

Does vendor agree?

55 2 CFR PART 200 Clean Air Act

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

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?	
56	2 CFR PART 200 Byrd Anti-Lobbying Amendment	<p>Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.</p> <p>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.</p>	Yes
		Does vendor agree?	
57	2 CFR PART 200 Federal Rule	<p>Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)</p> <p>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 \$100,000, 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).</p> <p>Does vendor certify that it is in compliance with the Clean Air Act?</p>	Yes
58	2 CFR PART 200 Procurement of Recovered Materials	<p>A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.</p>	Yes

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

59 Certification Regarding Lobbying

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds I HAVE NOT Lobbied per above

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

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

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

(3)The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

60 If you answered "I HAVE lobbied per above to the previous question.

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

(No Response Required)

61 Subcontracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful? NO

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.

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

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

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

(b)Affirmative steps must include:(1)Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2)Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3)Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4)Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5)Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and

(6)Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

63 Indemnification

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

Yes

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?

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

Yes, I Agree

Do you agree to these terms?

65 Remedies Explanation of No Answer

66 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.  
THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Yes

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?

67 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 clauses in contracts with TIPS members may be determined by the parties.

Yes

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?

68 Infringement(s)

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

Yes, I Agree

Do you agree to these terms?

69 Infringement(s) Explanation of No Answer

70 Contract Governance

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

Yes

71 Payment Terms and Funding Out Clause

Payment Terms:

Yes

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

Funding Out Clause:

Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

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

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

Do you agree to these terms?

72 Insurance and Fingerprint Requirements Information

Insurance

(No Response Required)

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

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

If the vendor has staff that meet both of these criterion: will have continuing duties related to the contracted services; and

(2) has or will have direct contact with students you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at [NCJU@txdps.state.tx.us](mailto:NCJU@txdps.state.tx.us) and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474. form in the next attribute to complete entitled: Texas Education Code Chapter 22 Contractor Certification for Contractor Employees



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

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state. certify that: (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. (Section B) or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

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

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

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

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

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

- 74 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, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES. (No Response Required)
- 75 Texas Government Code 2270 Verification Form Texas Government Code 2270 Verification Form YES  
Texas 2017 House Bill 89 has been signed into law by the governor and as of September 1, 2017 will be codified as Texas Government Code § 2270 and 808 et seq.  
The relevant section addressed by this form reads as follows:  
Texas Government Code Sec. 2270.002. PROVISION REQUIRED IN CONTRACT. A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.engaged by  
ESC Region 8/The Interlocal Purchasing System (TIPS)  
4845 Highway 271 North  
Pittsburg,TX,75686  
verify by this writing that the above-named company affirms that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future. I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that the above-named Texas governmental entity will be notified in writing within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall be grounds for immediate contract termination without penalty to the above-named Texas governmental entity.  
AND  
our company is not listed on and we do not do business with companies that are on the the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>  
I swear and affirm that the above is true and correct.

76 Logos and other company marks	Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred	(No Response Required)
	Potential uses of company logo: Your Vendor Profile Page of TIPS website Potentially on TIPS website scroll bar for Top Performing Vendors TIPS Quarterly eNewsletter sent to TIPS Members Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)	
77 Solicitation Deviation/Compliance	Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?	Yes
78 Solicitation Exceptions/Deviations Explanation	<p>If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.</p> <p>TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.</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>	
79 Agreement Deviation/Compliance	Does the vendor agree with the language in the Vendor Agreement?	Yes
80 Agreement Exceptions/Deviations Explanation	<p>If the proposing Vendor desires to deviate form 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>	

81 Felony Conviction Notice

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.

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

Select A., B. or C.

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

OR B. My firm is not owned nor operated by anyone who has been convicted of a felony, OR

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.

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

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

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

83 Long Term Cost Evaluation Criterion # 4.

READ CAREFULLY and see in the RFP document under "Proposal Scoring and Evaluation". Points will be assigned to this criterion based on your answer to this Attribute. Points are awarded if you agree not increase your catalog prices (as defined herein) more than X% annually over the previous year for years two and three and potentially year four, unless an exigent circumstance exists in the marketplace and the excess price increase which exceeds X% annually is supported by documentation provided by you and your suppliers and shared with TIPS, if requested. If you agree NOT to increase prices more than 5%, except when justified by supporting documentation, you are awarded 10 points; if 6% to 14%, except when justified by supporting documentation, you receive 1 to 9 points incrementally. Price increases 14% or greater, except when justified by supporting documentation, receive 0 points.

increases will be 5% or less annually per question

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 uploading the completed form, with any confidential attachments, if applicable, to the Response Attachments section titled Confidentiality Form in order to provide to TIPS the completed form titled, CONFIDENTIALITY CLAIM FORM. By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.

Read the form carefully before completing and if you have any questions, email Rick Powell at TIPS at [rick.powell@tips-usa.com](mailto:rick.powell@tips-usa.com)

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Line Items

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Response Total: \$0.00

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**TIMECLOCK PLUS REFERENCES**

Please provide three (3) 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 three (3) references.

<b>Entity Name</b>	<b>Contact Person</b>	<b>VALID EMAIL IS REQUIRED</b>	<b>Phone</b>
Mission Consolidated School District, TX	Hiram Burguete - Payroll Supervisor	<a href="mailto:hburgu72@mcisd.org">hburgu72@mcisd.org</a>	956-323-5520
Ashdown School District, AR	Beth Provence - Business Manager	<a href="mailto:bethp@ashdownschools.org">bethp@ashdownschools.org</a>	870-898-4402
Southern Cayuga Central Schools, NY	Michael Fall - Director of Technology	<a href="mailto:fallm@southerncayuga.org">fallm@southerncayuga.org</a>	315-364-7111 ext. 2328
Windsor Public Schools, CT	Deneen Dulka - Payroll Specialist	<a href="mailto:ddulka@windsorct.org">ddulka@windsorct.org</a>	860-687-2000
City of Kingsville, TX	Norma Cavazos - Payroll Specialist	<a href="mailto:ncavazos@cityofkingsville.com">ncavazos@cityofkingsville.com</a>	361-595-8013
Ellis County, TX	Barbara Anglen - District Attorney's Office	<a href="mailto:barbara.anglen@co.ellis.tx.us">barbara.anglen@co.ellis.tx.us</a>	972-825-5215
Texas Tech University System, TX	Roman Valencia - Senior Analyst	<a href="mailto:roman.valencia@ttu.edu">roman.valencia@ttu.edu</a>	806-834-2017



**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:** Data Management, Inc. / TimeClock Plus  
(Name of Corporation)

Ernie Nabors certify that I am the Secretary of the Corporation  
I, (Name of Corporate Secretary)

named as OFFERER herein above; that

Derek McIntyre  
(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

Chief Operating Officer  
(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 AS .if available

[Handwritten Signature]  
SIGNATURE

6-21-2019  
DATE

**Required Confidential Information Status Form**

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 information 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 within your proposal and put this COMPLETED form as a cover sheet to said materials then scan, name "CONFIDENTIAL" and upload with your proposal submission.** (You must include all the confidential information in the submitted proposal. The copy uploaded is to indicate which material in your proposal, if any, you deem confidential in the event the receives a Public Information Request.) 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. Upon your claim and your defense to the Office of Texas Attorney General is required to make the final determination whether the information submitted by you and held by ESC8 and TIPS is confidential and exempt from public disclosure.

**Data Management, Inc./TimeClock Plus**

**Name of company**

Derek McIntyre, Chief Operating Officer

**Printed Name and Title of authorized company officer** declaring below the confidential status of material

1 Time Clock Drive	San Angelo	TX	76904	325-223-9500
<b>Address</b>	<b>City</b>	<b>State</b>	<b>ZIP</b>	<b>Phone</b>

**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.

**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 INFORMAITON REQUEST IS MADE FOR OUR PROPOSAL.

Signature \_\_\_\_\_ Date 06/20/2019

**OR** -----

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

**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  Date 06/20/2019



## DATA MANAGEMENT INC. ("DMI") 12 MONTH LIMITED WARRANTY

**Hardware Warranty.** DMI hardware products are warranted to be free from defects in materials and workmanship for a period of one (1) year from the date of shipment to the original purchaser. If DMI receives notice of such defects during the hardware warranty period, DMI shall be obligated as follows:

- a. For any defective parts or units returned within the hardware warranty period commencing from the date of shipment to original purchaser, DMI will repair the items at no charge for labor and materials.
- b. All transportation charges to DMI for any such defective parts or units must be paid by the original purchaser. The Purchaser is responsible for shipping costs to and from DMI on all Warranty returns.
- c. The DMI Support Group will provide the customer with a Return Material Authorization (RMA) number to track the unit to and from the customer's site, after appropriate troubleshooting measures have been exhausted, as determined by DMI.
- d. With respect to any device, part, component or other item which is not specifically manufactured by DMI, the hardware warranty of the manufacturer thereof shall apply and be exclusive.
- e. DMI's hardware warranty obligation shall be subject to DMI being satisfied that service, repairs or modifications to the hardware, firmware or code have not been made by persons other than DMI-authorized service personnel, and that the product was installed properly and has been used only in accordance with the Product Specifications and instructions, and that the product has not been subjected to negligence, misuse, accident or abuse, or has had its serial number altered, defaced or removed.
- f. The foregoing hardware warranty extends solely to the original Purchaser and all hardware warranty claims must be made by Purchaser and not by customers or transferees of Purchaser. Repair or replacement of parts or product shall neither extend nor decrease the original warranty period.
- g. This hardware warranty may exclude any failure of the product(s) connected with the use of badges, cards or other like medium not manufactured by DMI.
- h. THIS HARDWARE WARRANTY EXPRESSLY PROVIDED HEREIN IS THE SOLE WARRANTY. ALL OTHER WARRANTIES EXPRESSED OR IMPLIED ARE HEREBY DISCLAIMED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. IN NO EVENT SHALL DMI BE LIABLE FOR ANY LOSS OR INJURY TO EARNINGS, PROFITS OR GOODWILL OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF DMI IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Warranty Disclaimer.** EXCEPT AS EXPRESSLY STATED HEREIN, DMI EXPRESSLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY OF ANY INFORMATIONAL CONTENT OR THOSE ARISING BY STATUTE, OF CONFORMITY TO ANY REPRESENTATIONS OR DESCRIPTIONS NOT CONTAINED HEREIN, OR OTHERWISE IN LAW OR FROM COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, DMI DOES NOT WARRANT THAT ANYTHING WILL MEET USER'S REQUIREMENTS, WILL BE UNINTERRUPTED OR ERROR-FREE. DMI HAS NO OBLIGATIONS CONCERNING PRODUCTS USED OUTSIDE THE U.S.A. UNLESS THEY ARE STATED IN WRITING BY DMI TO BE EXPORT PROGRAM PRODUCTS AND ARE ISSUED AN EXPORT PROGRAM WARRANTY. DMI'S OBLIGATIONS, IF ANY, ARE CONDITIONAL ON PURCHASER PROMPTLY COMPLYING WITH ALL OF THE DMI END USER LICENSE AGREEMENT TERMS AND CONDITIONS. USER ACCEPTS THE WARRANTY ITEM(S) "AS IS" AND WITH ALL FAULTS. THE LIMITED WARRANTIES AND REMEDIES IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES CONCERNING ANY GOODS, SERVICES, OR INTANGIBLES, NOW OR IN THE FUTURE.

**Liability Limitation.** IN NO EVENT SHALL DMI BE LIABLE FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OR REMEDIES RELATING TO THIS WARRANTY, THE SOFTWARE OR ANY WARRANTY ITEMS, GOODS, SERVICES OR INTANGIBLES (EXCLUDED DAMAGES INCLUDE, WITHOUT LIMITATION, FOR LOST PROFITS, BUSINESS INTERRUPTION, COSTS OF DELAY, FAILURE OF DELIVERY, REVENUE, GOODWILL, LOST OR DAMAGED DATA, DOCUMENTATION OR EQUIPMENT, LOSS OF BUSINESS INFORMATION, COST OF REMOVAL OR INSTALLATION OF ANYTHING, INTERCEPTIONS, DEFECTS, VIRUSES, DELAYS, OR FAILURE OF PERFORMANCE, OTHER LOSS ARISING OUT OF USE, OR INABILITY TO USE THE PRODUCT, LIABILITIES TO THIRD PARTIES, INABILITY TO USE THE SOFTWARE OR HARDWARE, ERRORS IN THE SOFTWARE OR HARDWARE, MALFUNCTIONS OR ERRONEOUS DATA, PAYMENTS TO THIRD PARTIES WHICH ARE TOO SMALL, TOO LARGE, TOO LATE OR ARE OTHERWISE IMPROPER), EVEN IF DMI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION (INCLUDING, WITHOUT LIMITATION, CONTRACT, NEGLIGENCE, TORT, WARRANTY, ETC.), ANY ASSERTED DMI BREACH OF PROMISE OR WARRANTY; ANY ACT OR FAILURE TO ACT; NEGLIGENCE INCLUDING GROSS NEGLIGENCE; OR ANY CLAIM MADE AGAINST USER BY ANY OTHER PARTY. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL DMI'S LIABILITY (FOR ALL CAUSES OF ACTION), EXCEED THE AMOUNT PAID BY User TO DMI FOR THE SPECIFIC ITEM OR PRODUCT WHICH CAUSED THE PROBLEM. THESE LIMITATIONS ARE INDEPENDENT AND APPLY REGARDLESS OF THE BASIS OF THE CLAIM, INCLUDING, BUT NOT LIMITED TO, A FINDING THAT A WARRANTY, CONDITION, OR REMEDY HAS FAILED ITS ESSENTIAL PURPOSE, BREACH OF CONTRACT (INCLUDING, BUT NOT LIMITED TO, FUNDAMENTAL BREACH), TORT, (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR MISREPRESENTATION), BREACH OF STATUTORY DUTY, OR OTHER LEGAL OR EQUITABLE THEORY. ANY CAUSE OF ACTION User MAY HAVE AGAINST DMI, ITS AFFILIATES, OFFICERS AND AGENTS MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CLAIM OR CAUSE OF ACTION ARISES OR SHALL BE FOREVER BARRED. DMI'S MAXIMUM AGGREGATE LIABILITY SHALL NEVER EXCEED THE AMOUNT PAID BY USER FOR THE ITEMS COVERED BY THIS WARRANTY. THIS LIMITATION OF LIABILITY SHALL APPLY REGARDLESS OF THE BASIS OF THE CLAIM.

**Governmental Entities.** CERTAIN GOVERNMENTAL BODIES DO NOT ALLOW DISCLAIMERS OF CERTAIN WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO ONE OR ALL OF THE LIMITATIONS HEREIN MAY NOT APPLY TO USER. CERTAIN GOVERNMENTAL BODIES DO NOT ALLOW THE LIMITATION OF CERTAIN DAMAGES, SO SOME OR ALL OF ANY LIMITATIONS ON LIABILITY MAY NOT APPLY TO USER AND USER MAY HAVE ADDITIONAL RIGHTS.

**Release and Indemnity.** Without in any way expanding upon the warranty stated above: DMI is not responsible for problems caused by changes in the operating characteristics of User's computer hardware or operating Products which are made prior to or after the delivery of the Software or Hardware; nor is DMI responsible for any problems that may arise as a result of anyone improperly downloading, installing or using the Software or Hardware. If any unauthorized modifications are made to the Software or Hardware; if the media is subjected to an accident, abuse or improper use; or if User violates the DMI End User License Agreement, then all warranties will immediately terminate and User loses User's right to return the Product. DMI's entire liability and User's exclusive remedy for any cause whatsoever, including, but not limited to, nonperformance or misrepresentation, is limited as set forth herein. In no event will DMI or any person or entity involved in making, delivering, or using any of DMI's hardware or software products, be liable for damages caused in any part by User's negligence. Any unauthorized changes made to the Software or Hardware release DMI from DMI's obligations and terminate the DMI End User License Agreement and this Warranty. USER WILL INDEMNIFY, HOLD HARMLESS, AND DEFEND DMI AGAINST ANY CLAIM, DEMAND, LOSS, OR ACTION RESULTING FROM USER'S ACTS, FAILURES TO ACT, OR USER'S POSSESSION OR USE OF THE HARDWARE OR SOFTWARE PRODUCT(S).

**Limited Warranty.** THE WARRANTIES GIVE USER SPECIFIC LEGAL RIGHTS. USER MAY HAVE OTHER LEGAL RIGHTS THAT VARY BY STATE. THESE ARE THE ONLY WARRANTIES MADE BY DMI. NO DEALER, AGENT, OR EMPLOYEE IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS, OR ADDITIONS TO DMI'S WARRANTIES. SOME STATES MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO APPLICATION OF THE LIMITATIONS OR EXCLUSIONS HEREIN MAY BE LIMITED BY STATE LAW.

**The DMI Support Group is open between the hours of 7:00 A.M. and 7:00 P.M. (Central Time),  
Monday through Friday, excluding company holidays.  
TEL (325)223-9300 / FAX (325)223-9104**