

TIPS VENDOR AGREEMENT (JOC)

Between FRAGMA Construction Services, LLC. **and**
(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8 for
TIPS RCSP 200201 Trades, Labor and Materials (JOC)

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.

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. Other documents to be included are the awarded vendor's proposals, task orders, purchase orders and any adjustments which have been issued. If deviations are submitted to TIPS by the proposing vendor as provided by and within the solicitation process, this Agreement may be amended to incorporate any agreed deviations.

The following pages will constitute the Agreement between the successful vendors(s) and TIPS. Bidders shall state, in a separate writing, and include with their proposal response, any required exceptions or deviations from these terms, conditions, and specifications. If agreed to by TIPS, they will be incorporated into the final Agreement.

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 addenda to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some of the addenda possible.

Terms and Conditions

Conflicts with RS Means Unit Price Book

If the terms of the solicitation referenced RS Means Unit Price Book occur, the RS Means Book shall control if it determines the legality of the solicitation award as it relates to the requisite Means Unit Price Book.

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" or other similar indication. Otherwise, all shipping, freight or delivery charges shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

Warranty Conditions

All new supplies equipment and services shall include manufacturer's minimum standard warranty unless otherwise agreed to in writing. Vendor shall be legally permitted to sell, or an authorized dealer, distributor or manufacturer for all products offered for sale to TIPS Members. All equipment proposed shall be new unless clearly stated in writing.

Customer Support

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

Agreements

Agreements for purchase will normally be put into effect by means of a contract, agreement or purchase order(s) executed by authorized agents of the participating government entities.

Davis Bacon Act

Davis Bacon Act requirements will be met when Federal Funds are used for construction and/or repair of buildings or as otherwise required by applicable statute or regulation.

Other Wage Rates

Other wage rates may be required by some TIPS Members and acceptance of a project by the Vendor may require the Vendor to comply with the TIPS Member's required wage rate.

Tax exempt status

Most TIPS Members are tax exempt and the related laws of the jurisdiction of the TIPS Member shall apply.

Assignments of Agreements

No assignment of Agreement may be made without the prior written approval of TIPS. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan,

gratuity, special discount, trip, favor or service to a public servant in connection with this Agreement.

- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.
- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

Term and Renewal of Agreements

The Agreement with TIPS is for two (2) years with an option for renewal for additional two (2) consecutive one-year terms years. Total term of Agreement can be up to the number of years provided in the solicitation or as limited by statute. The option renewal year one shall be automatically renewed unless either party objects or terminates the agreement as provided herein at "Termination for Convenience". The Second one-year renewal term is only if both Parties agree.

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

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

Shipments

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

Invoices

The awarded Vendor shall submit invoices or payment requests to the TIPS Member participating entity clearly stating "Per TIPS Agreement # xxxxxx." Each invoice or pay request shall include the TIPS Member's purchase order number or other identifying designation as provided in the order or contract 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.

Pricing

Price increases will be honored according to the terms of the solicitation. However, the Vendor shall honor previous prices for thirty (30) days after written notification to TIPS of an increase, except any price changes related to the, then current, RS Means Unit Price Book is valid. Price of a specific Job Order Contract proposal to a TIPS Member shall not change within 60 days of date of proposal as a result of an updated RS Means Unit Price Book

unless agreed by the TIPS Member. 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 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 and Reporting of Sales to TIPS by Vendor

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is due to TIPS from the Vendor.

Reporting of Sales to TIPS by Vendor

Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at https://www.tips-usa.com/vendors_form.cfm and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at tips@tips-usa.com or call (866) 839-8477 if you have questions about paying fees.

Indemnity

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's 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), 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 five (5) business days of receipt of change order.

Termination for Convenience of TIPS Agreement Only

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

TIPS Member Purchasing Procedures

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

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.
- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

Form of Agreement and Reporting

If a vendor submitting an offer requires TIPS and/or TIPS Member to sign an additional agreement, a copy of the proposed agreement must be included with the proposal to the TIPS Member. TIPS does not require a review of a TIPS Member's Job Order contract TYPE AIA or other similar Contract provided by the TIPS Member. This clause does not relieve the Vendor from the responsibility to report the contract execution and the amount of the contract and any change orders.

Licenses

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

Novation

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

Site Requirements (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 local smoking policies. Smoking will only be permitted in posted areas or off premises.

Marketing

Awarded vendor agrees to allow TIPS to use their name and logo within website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. 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.

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.

Survival Clause

All applicable software license agreements, warranties, service agreements or any supplemental agreement that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of the Agreement shall survive the expiration or termination of the 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 random 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 format and at the location designated by 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.

Choice of Law

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from

this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

Venue, Jurisdiction and Service of Process

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

Bonding

When applicable, performance bonds and payment bonds will be required on construction or labor required jobs. Awarded vendor will meet the TIPS Member's local and state purchasing requirements. Awarded vendors may need to provide additional capacity as jobs increase. Bonds costs are passed through at cost to the TIPS Member and are not subject to the TIPS Participation fee be paid to TIPS. The actual cost of the bond will be a pass through to the TIPS Member and added to the purchase order or Contract.

Professional Engineering and Architect's Services

Professional Engineering and Architect's Services are not permitted to be provided under this Agreement. Texas statutes prohibit the procurement of Professional Engineering and Architect's Services through a cooperative agreement.

Scope of Services

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

Project Delivery Order Procedures

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded vendor under this Agreement when the TIPS Member has services that need to be undertaken. Notification may occur via phone, the web, email, fax, or in person. Upon notification of a pending request, the awarded vendor shall make contact with the TIPS Member as soon as possible, but must make contact with the TIPS Member within two working days.

Scheduling of Projects

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

Support Requirements

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

Status of TIPS Members as Related to This Agreement

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

Incorporation of Solicitation

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

SECTION HEADERS OR TITLES

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

NEW STATUTORY REQUIREMENT EFFECTIVE SEPTEMBER 1, 2017.

You certify that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement. 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.

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 pursuant to Texas Business and Commerce Code Chapter 272, as revised September 1, 2017, any construction contract or agreement as defined in the Statute with a TIPS, Education Service Center Region 8 or a Texas TIPS Member subject to the Statute shall include a Choice of Law provision providing that this agreement shall be subject to and interpreted by the Laws of the State of Texas without regard to any conflict of laws principles

for any action shall be in a court of competent jurisdiction in Texas and any arbitration shall be in the State of Texas. Pursuant to the Texas Business and Commerce Code, as amended by the 85th Texas Legislature, this Construction Agreement for Job Order Contract services is, in the event of a dispute between the parties, subject to interpretation according to the Laws of the state of Texas only, without regard to any conflict of laws principles. Venue for any alternative dispute resolution procedure or process shall be in the state of Texas. If the dispute is litigated, venue and jurisdiction shall be in a court of competent jurisdiction in the state of Texas.

Pursuant to 85th Texas Legislative H.B. 3270, as it applies to Texas Education Code § 22.0834 et seq, the Vendor shall comply with all relevant sections related to student contact, background checks, fingerprinting and other related requirements.

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

- **Agreements:**

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

- **Promotion of Agreement:**

It is agreed that Vendor will encourage all eligible entities to purchase from the TIPS Program. Encouraging entities to purchase directly from the Vendor, bypassing the TIPS Agreement when the Member has requested the TIPS agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.

TIPS Vendor Agreement Signature Form

RFP 200201 Trades Labor and Materials (JOC)

Company Name FRAGMA Construction Services, LLC.

Address 9863 Tanner Road, Suite H

City Houston State TX Zip 77043

Phone 346-240-2145 Fax 346-319-2993

Email of Authorized Representative manny@fragmaconstruction.com

Name of Authorized Representative Manuel J. Arizmendi

Title SR. Project Manager / President

Signature of Authorized Representative 

Date April 03, 2020

TIPS Authorized Representative Name Meredith Barton

Title Chief Operating Officer

TIPS Authorized Representative Signature 

Approved by ESC Region 8 

Date 4/23/2020

NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES

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



200201 Addendum 3

FRAGMA Construction Services, LLC

Supplier Response

Event Information

Number: 200201 Addendum 3
Title: Trades, Labor and Materials (JOC)
Type: Request for Proposal
Issue Date: 2/6/2020
Deadline: 4/3/2020 03:00 PM (CT)
Notes: If your company currently has a Job Order Contracting (181101) **it is not necessary or beneficial to you to respond to this solicitation as your current contracts allow you to perform the same work as this new solicitation would permit.** Unless and if you wish to bid different terms, pricing or otherwise change from your existing contract, Job Order Contracting (181101), proposing on the current solicitation provides no additional benefits to your company.

Dear potential TIPS Vendor,
As you review the solicitation information, you are probably looking for detailed job specifications and a scope of work for which to submit a proposal. Because of the way TIPS and most other purchasing cooperatives procure contracts, there is no specific project to award. TIPS awards an IDIQ contract, where IDIQ is an abbreviation of the term "Indefinite Delivery/Indefinite Quantity". This is a type of contract that provides for an indefinite quantity of supplies or services during a fixed period of time or life of the awarded agreement. This

RCSP/solicitation was issued as a prospective award for a pricing agreement to be used when a TIPS member entity needs the goods or services offered under the agreement in the different categories of solicitations. If you have any additional questions, please don't hesitate to reach out to us here at TIPS!

Contact Information

Contact: Jensen Mabe, Construction Program Manager
Address: Region VIII Education Service Center
4845
Pittsburg, TX 75686
Phone: +1 (903) 438-6237
Fax: +1 (866) 839-8472
Email: bids@tips-usa.com

FRAGMA Construction Services, LLC Information

Contact: Manuel J. Arizmendi
Address: 9863 Tanner Road
Suite H
Houston, TX 77041
Phone: (346) 240-2145
Fax: (346) 319-2993
Email: manny@fragmaconstruction.com

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

Manuel J. Arizmendi

Signature

Submitted at 3/30/2020 3:07:46 PM

manny@fragmaconstruction.com

Email

Requested Attachments

Vendor Agreement

UPLD_200201 Vendor Agreement JOC.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.

DO NOT UPLOAD encrypted or password protected files.

Agreement Signature Form

UPLD_Vendor Agreement Signature Form.pdf

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

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

Pricing Spreadsheet

200201 Pricing Form.xlsx

The vendor must download the PRICING SPREADSHEET SHEET from the attachment tab, fill in the requested information and upload the completed spreadsheet.

DO NOT UPLOAD encrypted or password protected files.

RS Means Pricing Form JOC

UPLD_RS Means JOC Pricing Sheet.pdf

The vendor must download the "RS Means JOC PRICING_FORM" from the attachment tab, fill in the requested information and upload the completed agreement. DO NOT FAIL TO COMPLETE ALL SECTIONS AND BLANKS IN THE FORM OR IT COULD RENDER YOUR RESPONSE INVALID.

DO NOT UPLOAD encrypted or password protected files.

Xactimate Pricing JOC Form

No response

Should you choose to provide optional Xactimate pricing on you should upload that form here

References

Reference Form JOC.xls

Valid Reference Email addresses are REQUIRED on the spreadsheet. The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

Proposed Goods and Services

FCS, LLC_ Letter of Introduction.pdf

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

D/M/WBE Certification OPTIONAL

FCSLLC SBE & MBE Certificates.pdf

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

HUB Certification OPTIONAL

No response

Completion of the HUB Subcontracting Plan Form is OPTIONAL. THE FORM INFORMATION HAS NO EFFECT ON YOUR EVALUATION SCORE. IT IS INFORMATIONAL ONLY. Some Texas State agencies and Universities require it be a part of the file when determining if they can use a TIPS contract. If you choose to complete one, it is not project specific but the general plan the vendor would use. Complete it as best you can. Vendor can download the HUB Subcontracting Plan Form from the "Attachments" tab and upload their HUB Subcontracting Plan Form.

Warranty

Sample Warranty Letter.pdf

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

Supplementary

8. Safety Record & Safety Program.pdf

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

All Other Certificates

No response

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

Logo and Other Company Marks

LOGO_PDF.pdf

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: 350 x 350 pixel - .png, .eps, .jpg preferred.

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

No response

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS

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

Certificate of Corporate Offerer - COMPLETE ONLY IF OFFERER IS A CORPORATION

CERTIFICATION OF CORPORATE OFFERER FORM.pdf

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

Lobbying Report Standard Form-LLL, "disclosure Form to Report Lobbying,"

No response

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

Confidentiality Form

CONFIDENTIALITY_CLAIM_FORM (1).pdf

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

Bonding Capacity Letter from Surety/Insurance Company

200201_JOC_The Guarantee Bonding Capacity Letter.pdf

Attach the Bonding Capacity Letter from Surety/Insurance Company. If you do not have one available at time of proposal, attached a letter stating it will be submitted when received to prove bonding capacity. No award can be made until official bonding capacity letter is received by TIPS.

Response Attachments

CONFIDENTIALITY_CLAIM_FORM (1).pdf

CONFIDENTIALITY_CLAIM_FORM (1)

CERTIFICATION OF CORPORATE OFFERER FORM.pdf

CERTIFICATION OF CORPORATE OFFERER FORM

19. Sample Certificate of Insurance.pdf

Sample Certificate of Insurance.pdf

8. Safety Record & Safety Program.pdf

Safety Record & Safety Program.pdf

Bid Attributes

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.

Yes

2 Yes - No

Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <https://comptroller.texas.gov/purchasing/vendor/hub/>

or in a HUBZone as defined by the US Small Business Administration at <https://www.sba.gov/offices/headquarters/ohp>

Proof of one or both may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.

Yes

3 Yes - No

The Vendor can provide services and/or products to all 50 US States?

No

4 States Served:

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

TEXAS ONLY

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.)

FRAGMA Construction Services, LLC. specializes in minor construction & renovations of existing facilities for the Commercial, Retail, Hospital, Educational, and Industrial sectors. Projects consist of facility modifications, including change of use, renovations, or system upgrades. Small projects such as new office furniture, finish upgrades, minor modifications to the space and large projects such as office suite remodels, change of use/occupancy, structural changes to the building, or new equipment installations.

6	Primary Contact Name Primary Contact Name <input type="text" value="Manuel J. Arizmendi"/>
7	Primary Contact Title Primary Contact Title <input type="text" value="Senior Project Manager / President"/>
8	Primary Contact Email Primary Contact Email <input type="text" value="manny@fragmaconstruction.com"/>
9	Primary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="3462402145"/>
10	Primary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="3463192993"/>
11	Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="8327227315"/>
12	Secondary Contact Name Secondary Contact Name <input type="text" value="Ana M. Arizmendi"/>
13	Secondary Contact Title Secondary Contact Title <input type="text" value="Director of Operations"/>
14	Secondary Contact Email Secondary Contact Email <input type="text" value="ana@fragmaconstruction.com"/>
15	Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="3462402145"/>
16	Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="3463192993"/>

17	Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="8328599917"/>
18	Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. <input type="text" value="Ana M. Arizmendi"/>
19	Admin Fee Contact Email Admin Fee Contact Email <input type="text" value="ana@fragmaconstruction.com"/>
20	Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="3462402145"/>
21	Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. <input type="text" value="Ana M. Arizmendi"/>
22	Purchase Order Contact Email Purchase Order Contact Email <input type="text" value="ana@fragmaconstruction.com"/>
23	Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="3462402145"/>
24	Company Website Company Website (Format - www.company.com) <input type="text" value="www.fragmaconstruction.net"/>
25	Federal ID Number: Federal ID Number also known as the Employer Identification Number. (Format - 12-3456789) <input type="text" value="81-1202465"/>
26	Primary Address Primary Address <input type="text" value="9863 Tanner Road, Suite H"/>
27	Primary Address City Primary Address City <input type="text" value="Houston"/>

28

Primary Address State

Primary Address State (2 Digit Abbreviation)

Texas

29

Primary Address Zip

Primary Address Zip

77041

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.)

concrete, flooring, painting, remodel, demolition, electrical, HVAC, plumbing, metal stud framing, drywall, finishing, acoustical drop ceilings, frames, doors, hardware, FRP, Acrovyn, power washing, striping, signage, side walks, ramps, metal railing, loading dock equipment, dock pit, overhead doors, store front entrances, mill work, glass & glazing, general construction, facilities maintenance.

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.

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?

Yes

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?

Houston

3
4**Company Residence (State)**

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

3
5**TIPS administration fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the 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.

3
6**Yes - No**

Vendor agrees to remit to TIPS the required administration fee?

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

3
7**Regular Hours Coefficient**

What is your regular hours coefficient for the RS Means Price Book?

Example:

A 5% discount for the RS Means Price Book would be a .95 regular hours coefficient.

Remember that this is a ceiling discount. You can discount lower than the contract coefficient, but not higher.

3
8**After Hours Coefficient**

What is your after hours coefficient for the RS Means Price Book for work performed after normal working hours?

Example:

The most common after hours coefficient is time and a half. If your regular hours coefficient is .95, your after hours coefficient would be 1.45.

Remember that this is a ceiling discount. You can discount lower than the contract coefficient, but not higher.

3
9**Non-Pre-Priced Markup**

If the material being utilized for a project cannot be found in the RS Means Price Book, what is your materials markup?

Remember that this is a ceiling markup. You may markup a lesser percentage, but not a greater percentage.

4
0**Yes - No**

Do you offer additional discounts to TIPS members for large order quantities or large scope of work?

4
1**Years Experience**

Company years experience in this category?

4
2**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?

4
3**NON-COLLUSIVE BIDDING CERTIFICATE**

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

- 1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
- 2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor;
- 3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;
- 4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.

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

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

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

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

You may find the Blank CIQ form on our website at:

Copy and Paste the following link into a new browser or tab:

<https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>

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

4
5**Filing of Form CIQ**

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

4
6

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

4
7

Regulatory Standing

Regulatory Standing explanation of no answer on previous question.

N / A

4
8

Antitrust Certification Statements (Tex. Government Code § 2155.005)

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

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

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

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

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

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

Suspension or Debarment Instructions

Instructions for Certification:

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

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.

Debarment 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.

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

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

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

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

Not a negotiable term. Failure to agree 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.

5 2 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:

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

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

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

5 3 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.

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

Does vendor agree?

5 4 2 CFR PART 200 Termination

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

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

Does vendor agree?

5
5

2 CFR PART 200 Clean Air Act

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

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

Does vendor agree?

5
6

2 CFR PART 200 Byrd Anti-Lobbying Amendment

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.

Does vendor agree?

5
7

2 CFR PART 200 Federal Rule

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$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).

Does vendor certify that it is in compliance with the Clean Air Act?

58 2 CFR PART 200 Procurement of Recovered Materials

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

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

59 Certification Regarding Lobbying

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

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

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

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

60 Lobbying Report Standard Form-LLL, "disclosure Form to Report Lobbying,"

ONLY IF you answered "I HAVE Lobbied per above" to attribute #59, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

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?

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.

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2

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 ABOVE QUESTIONS 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.

YES

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Davis-Bacon Act compliance.

Texas Statute requires compliance with Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part S, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act {40 U.S.C. 314S), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

BY SUBMITTING A PROPOSAL FOR THIS SOLICITATION, the Vendor agrees, AS REQUIRED BY LAW, to comply with the Davis Bacon Act, IF APPLICABLE.

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Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

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

By submitting a proposal to this solicitation and IF the customer is utilizing federal funds as described above, the Vendor agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

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Indemnification

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

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

Yes

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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.

Do you agree to these terms?

Yes, I Agree

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Remedies Explanation of No Answer

N / A

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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.

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

Yes

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9**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. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County 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?

7
0**Alternative Dispute Resolution Explanation of No Answer**7
1**Infringement(s)**

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

Do you agree to these terms?

7
2**Infringement(s) Explanation of No Answer**7
3**Acts or Omissions**

The successful vendor will be expected to indemnify and hold harmless the TIPS, its officers, employees, agents, representatives, contractors, assignees and designees from and against any and all liability, actions, claims, demands or suits, and all related costs, attorney's fees and expenses arising out of, or resulting from any acts or omissions of the vendor or its agents, employees, subcontractors, or suppliers in the execution or performance of any agreements ultimately made by TIPS and the vendor.

Do you agree to these terms?

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4**Acts or Omissions Explanation of No Answer**

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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.

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Payment Terms and Funding Out Clause

Payment Terms:

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

Funding Out Clause:

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

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

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

Do you agree to these terms?

7 Insurance and Fingerprint Requirements Information

Insurance

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

Fingerprint

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

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

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

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

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

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

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

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

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

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

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

OR

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

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

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

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

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

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

☐ None

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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.

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Texas Government Code 2270 Verification Form

Texas Government Code 2270 Verification Form

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.

YES

8
1**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: 350 x 350 pixel - .png, .eps, .jpg preferred

Potential uses of company logo:

* Your Vendor Profile Page of TIPS website

* Potentially on TIPS website scroll bar for Top Performing Vendors

* TIPS Quarterly eNewsletter sent to TIPS Members

* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

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2**Felony Conviction Notice**

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

Select A., B. or C.

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

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

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

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

8
3**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).

N / A

8
4**Required Confidentiality Claim Form****Required Confidentiality Claim Form**

This 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 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

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5**Choice of Law clauses for TIPS Members**

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

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

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

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7***Attribute deleted as part of an Addendum***8
8**Indemnity Limitation with TIPS Members**

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

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

8
9**Arbitration Clauses**

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

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

90

Required Vendor Sales Reporting

By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at accounting@tips-usa.com. The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS.

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Solicitation Deviation/Compliance

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

92

Solicitation Exceptions/Deviations Explanation

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

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

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

93

Agreement Deviation/Compliance

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

94

Agreement Exceptions/Deviations Explanation

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

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.

Please verify your references are current and valid, as they are a SIGNIFICANT required evaluation component of the evaluation process, and the evaluation cannot be completed without responses from these references when we contact them.

You may provide more than three (3) references.

Entity Name	Contact Person	VALID EMAIL IS REQUIRED	Office:	Mobile
Lone Star College System	Amy Huddleston	Amy.L.Huddleston@lonestar.edu	281.655.3709	832.330.6486
Lone Star College System	Jesse Gilore	Jesse.Gilmore@lonestar.edu	281.290.5028	918.868.7359
Lone Star College System	MaryAnne m. Montifar	MaryAnne.M.Montifar@lonestar.edu	281.290.3250	718.689.4128
Lone Star College System	Charlie D. Martinez	Charlie.D.Martinez@lonestar.edu	281.290.1864	
Lone Star College System	Melvin Wiggins	Melvin.M.Wiggins@lonestar.edu	281.351.3351	832.628.2954
Lone Star College System	Hai Dinh	hai.dinh@lonestar.edu	281.655.3771	832.630.2735
Harris Health-ACS	Aniceto Villareal	Aniceto.Villarreal@harrishealth.org	713.566.6078	832.630.1472
Harris Health-ACS	Roger Singleton	roger.singleton@harrishealth.org	713.566.6078	281.763.1319
Harris Health-LBJ Hospital	Kelvin Carey	Kelvin.carey@harrishealth.org	713.566.5586	832.860.4700
Harris Health-Ben Taub Hospital	Steven Williams	Steven.Williams@harrishealth.org	713.873.3691	832.528.1995
Harris Health-Ben Taub Hospital	Nelly Saheb	Nelly.Saheb@harrishealth.org	713.873.2803	

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: FRAGMA Construction Services, LLC.

(Name of Corporation)

Ana M. Arizmendi

I, (Name of Corporate Secretary)

certify that I am the Secretary of the Corporation

named as OFFERER herein above; that

Manuel J. Arizmendi

(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

Sr. Project Manager / President

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

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



CORPORATE SEAL if available

Manuel J. Arizmendi

SIGNATURE

4.03.2020

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.

FRAGMA Construction Services, LLC.

Name of company

Manuel J. Arizmendi, Sr. Project Manager / President

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

9863 Tanner Road, Suite H Houston TX 77043 346-240-2145

Address

City

State

ZIP

Phone

ALL VENDORS MUST COMPLETE THE ABOVE SECTION.

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 INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature _____ Date 04.03.2020

OR -----

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

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

Signature Manuel J. Arizmendi Date 04.03.2020



Jeff Barbier, Surety Underwriter
The Guarantee Company of North America USA
9977 W. Sam Houston Parkway North, Suite 130
Houston, Texas 77064

March 30, 2020

TIPS/Region 8 ESC
4845 US Hwy. 271 North
Pittsburg, TX 75686

RE: **FRAGMA Construction Services, LLC**
RCSP 200201 Trades, Labor and Materials (JOC)

To Whom it May Concern:

We are pleased to share with you our experience as surety for FRAGMA Construction Services, LLC ("FRAGMA"). We consider FRAGMA to be one of our outstanding and most valued clients in whom we have the highest confidence. Through the years this company has, in our opinion, remained properly financed, well equipped and capably managed.

The Guarantee Company of North America USA ("The Guarantee")¹ has been providing surety bond on behalf of FRAGMA for the past three years and is currently providing contract bonds for FRAGMA with a working line of \$1.0 Million single job with a total work program of \$2.5 Million. This is not, however, considered their maximum bonding capacity. Current available aggregate capacity is approximately \$2.5 Million. Accordingly, we would anticipate no difficulty in providing the customary performance and payment bond on behalf of FRAGMA, if they are awarded a contract within those parameters.

Please note that the decision to issue performance and payment bonds is a matter between FRAGMA and The Guarantee, and will be subject to the standard underwriting practices and policies in effect at the time of the final bond request, which will include but not be limited to the acceptability of the contract documents, bond forms and financing. We assume no liability to the third parties or to you if for any reason they do not execute said bonds.

Sincerely,

The Guarantee Company of North America USA

Jeff Barbier, Surety Underwriter



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/15/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER KEARNS INSURANCE AGENCY LLC 15840 FM 529 RD STE 300 HOUSTON TX 77095-2569		CONTACT NAME: Rosanne Kearns PHONE (A/C, No, Ext): (281) 856-8885 E-MAIL ADDRESS: kearnsinsurance@gmail.com FAX (A/C, No): (866) 811-9709	
INSURED Fragma Construction Services LL 9863 Tanner Rd Ste H Houston TX 77041-7694		INSURER(S) AFFORDING COVERAGE INSURER A: Certain Underwriters Lloyds INSURER B: Mercury INSURER C: Evanston Insurance Company INSURER D: Texas Mutual Insurance Company INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS			
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Additional Insured GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	DTWGC54490 RSI	12/15/2019	12/15/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000			
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		BA420000008100	10/16/2019	10/16/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$			
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		EZXS3017573	12/15/2019	12/015/2020	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000			
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	0002024297			<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000			

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Contract 16/0301
Painting, Wall Patching, Maintenance and Sheetrock Repair

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Rosanne Kearns

Rosanne Kearns

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Sylvester Turner,
Mayor

CITY OF HOUSTON

Office of Business Opportunity

FRAGMA Construction Services, LLC

is duly certified as a

Small Business Enterprise (SBE)

Certified Categories:

Certification Number: 19-4-14042S

NAICS 236118: CONSTRUCTION MANAGEMENT, RESIDENTIAL REMODELING
NAICS 238130: FRAMING CONTRACTORS
NAICS 238310: ACOUSTICAL CEILING TILE AND PANEL INSTALLATION
NAICS 238320: PAINTING (EXCEPT ROOF) CONTRACTORS
NAICS 238330: FLOORING CONTRACTORS
NAICS 238990: CONCRETE PAVING, RESIDENTIAL AND COMMERCIAL DRIVEWAY AND PARKING AREA

Carleen D. Wright

Director of Office of Business Opportunity

Note: This certificate is the property of the City of Houston Office of Business Opportunity, and may be revoked should the above named firm graduate from the MWDBE program or the firm's certification is no longer active. In addition, this certificate is valid only in conjunction with the firm's active listing in the City of Houston's Directory of certified MBE, WBE, SBE, PDBE, ACDBE and DBE firms via the following weblink: <https://houston.mwdbecom/7TN=houston>.





Sylvester Turner,
Mayor

CITY OF HOUSTON

Office of Business Opportunity

FRAGMA Construction Services, LLC

is duly certified as a

Minority Business Enterprise (MBE)

Certified Categories:

Certification Number: 19-4-14042

NAICS 236118: CONSTRUCTION MANAGEMENT, RESIDENTIAL REMODELING
NAICS 238130: FRAMING CONTRACTORS
NAICS 238310: ACOUSTICAL CEILING TILE AND PANEL INSTALLATION
NAICS 238320: PAINTING (EXCEPT ROOF) CONTRACTORS
NAICS 238330: FLOORING CONTRACTORS
NAICS 238990: CONCRETE PAVING, RESIDENTIAL AND COMMERCIAL DRIVEWAY AND PARKING AREA

Carolee D. Wright

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FRAGMA

CONSTRUCTION SERVICES LLC

General Warranty and Guarantee

Project: Landlord's Scope of Work at POMOGRANIT
Project #2018029 C.O.H. Project Permit #18117737
Address: 7800 Washington Avenue, Suite 300
Houston, Texas 77007
Owner: L3W, LLC
7800 Washington Avenue, Suite 800, Houston, Texas 77007

We, the undersigned, do hereby warrant that all labor and material furnished and work performed in conjunction with the above referenced project are in compliance with the Contract Documents and authorized modifications thereto, and will be free from defects due to defective materials or workmanship for a period of **(1) year**.

This Warranty commences on April 30, 2019 and expires on April 30, 2020

Should any defects develop during the warranty period due to improper material, workmanship, or arrangement, the same, including adjacent work displaced, shall be made good by the undersigned at no expense to the Owner.

The Owner will give Contractor written notice of defective work. Should the Contractor fail to correct defective work within Thirty (30) days after receipt of written notice, Owner may, at his or her option, correct and charge Contractor cost for such correction. Contractor agrees to pay such charges upon demand. Nothing in the above shall be deemed to apply to work which has been abused or neglected by the Owner.

Company Name: FRAGMA Construction Services, LLC
Address: 9863 Tanner Road Suite H, Houston, Texas 77041
Office: 346-240-2145 **Fax:** 346-319-2993

Signature: Manuel J. Arizmendi Title: SR. PM / PRESIDENT
Print Name: MANUEL J. ARIZMENDI Date: 7.31.19

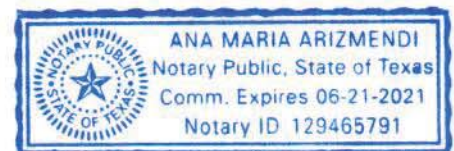
State: Texas County of: Harris

Subscribed and sworn to before me this 31st day of July, 2019.

Notary Public: Ana Maria Arizmendi [notary seal]

My Commission Expires: 06/21/2021

www.fragmaconstruction.net



FRAGMA Construction Services, LLC

9863 Tanner Road Suite H, Houston, Texas 77041 Office: (346) 240-2145 e-mail: sales@fragmaconstruction.com

FRAGMA Construction Services, LLC, formerly known as M&R Construction Services, prior to incorporating on January 2016, is a family owned and operated business servicing the construction industry in and around the Houston, Texas area since 2014. Founded & managed by Manuel J. Arizmendi with over twenty years of field, estimating, & management combined experience, we are committed to providing our customers with equal or exceed standards that are demanded by the best companies in the business. We believe in a profitable, sustainable and enjoyable long term relationship with our employees, customers and suppliers. Our company believes and continues the tradition of providing new and past clientele with service, quality, and schedules that meet or exceed the diverse and varying requirements of our client's expectations.

FCS specializes in new construction, refurbishment of existing facilities, and specialized construction for the Commercial, Retail, Hospital, Educational, and Industrial sectors. Our focus is to provide Facility Directors, Property Management Companies and their Lease Brokers, Property Managers, Construction Managers & Owner's with conceptual bidding and services according to their future prospect Tenants requests within a timely manner. Since most of our trades are in-house, we can offer competitive rates with greater control and never compromising our commitment to quality and service.

Key Personnel:

- **Manuel J. Arizmendi**
Senior Project Manager / Estimator Mobile: 832-722-7315 e-mail: manny@fragmaconstruction.com
- **Ana M. Arizmendi**
Director of Operations / Accounting Office: 346-240-2145 e-mail: ana@fragmaconstruction.com
- **Rosa E. Gutierrez**
Office Manager / Administration Office: 346-240-2145 e-mail: rossy@fragmaconstruction.com
- **Francisco J. Arizmendi**
Field Coordinator / General Superintendent Mobile: 832-922-2948 e-mail: francisco@fragmaconstruction.com

FRAGMA Construction Services, LLC www.fragmaconstruction.net

9863 Tanner Road Suite H, Houston, Texas 77041 346-240-2145 sales@fragmaconstruction.com

SERVICES OFFERED:

DIVISION 1: GENERAL REQUIREMENTS

- General Contracting Services
- Conceptual Bidding / Estimating
- Limited Construction Management

DIVISION 3: CONCRETE

- Saw Cutting / Breaking and hauling
- Facilities concrete repairs
- Small & Large Concrete Flat work
- Stamped & Decorative Concrete
- Sidewalks / Ramps / HC Ramps
- Dock Ramps / Dock Pits
- Modifications of existing parking-lots
- Concrete restoration & cleaning

DIVISION 4: MASONRY

- New EFIS / Stucco / & Plaster work
- EFIS / Stucco / Plaster Repairs
- CMU / Brick / & Stone
- Brick Pavers
- Masonry restoration & cleaning

DIVISION 5: METALS

- Pipe Railing
- Stairs & Ornamental Metal
- Selective Metal Fabrication
- Structural Welding Services
- Structural Metal Fabrication
- Metal Joists & Metal Decking

DIVISION 6: WOODS & PLASTICS

- Rough Carpentry
- Finish Carpentry
- Architectural Wood Work

DIVISION 8: DOORS & WINDOWS

- Aluminum Raco Door Frames & Windows
- Hollow Metal door frames & windows
- Entrances and Storefronts
- Skylights
- Hardware
- Glazing

DIVISION 9: FINISHES

- Interior & Exterior Demolition
- Metal Stud Framing / Drywall / and Finishing
- Acoustical Drop Ceilings
- Insulation
- Interior & Exterior Paints & Coatings
- Wall Finishes
- Millwork
- All Types of Flooring

Note: All other trade divisions and sub-divisions not mentioned above are subbed out to include Electrical, Plumbing, HVAC, Fire Alarm, Fire Sprinkler System, etc.

(8) Safety Record and Safety Program Form

Company Name: FRAGMA Construction Services, LLC

- Safety Program Program/Plan:

Please provide a summary of your firm's current Safety Program/Plan;
please limit your attachment to a maximum of three pages.

- Please provide the last three available (Experience Modification Rating) EMRs:

Year	Experience Modification Rating (EMR)	Annual Man-hours
<u>2019</u>	.870	19,200.20
<u>2018</u>	.870	13,077.50
<u>2017</u>	.850	12,344.00

9863 Tanner Rd, Suite H | Houston, Texas 77041 | 346-240-2145



FRAGMA CONSTRUCTION SERVICES, LLC.

Supplementary Rules & Regulations Handbook



FRAGMA CONSTRUCTION SERVICES, LLC.

January 9, 2017

Subject: Safety Program

To All Employees:

It is our company policy to provide a safe and healthy place to work with the prevention of accidents being our ultimate goal at all times.

As a member of our organization, you automatically accept a moral obligation to fellow employees, as well as an economic obligation to the company to see that operations under your care, custody, and control are carried out in an efficient and safe manner.

Along with other responsibilities, safety consciousness must always exist in your thinking and planning. Because of this obligation, you must not only prevent obvious unsafe acts for those you work with, but you must anticipate potential hazards. After an accident occurs it is too late to prevent it. All employees must recognize that working in an unsafe manner is

counter-productive. Most important, each employee is encouraged to demonstrate leadership ability by setting a good example.

To make our approach to safety more effective throughout the organization, you will be given written information; which outlines and formalizes our Safety Program. We expect you to read this handbook to help us in understanding and discharge our mutual responsibilities.

Manuel Arizmendi
President

9863 Tanner Rd Suite H, Houston, Texas 77041
Office: 346-240-2145 | Fax: 346-319-2993

STATEMENT OF SAFETY POLICY

It is the policy of this Company to strive for the highest safety standards on our projects. Safety does not occur by chances. It is the result of careful attention to all company operations by those who are directly and indirectly involved. Employees at all levels must work diligently to execute the company's policy of maintaining safety and occupational health.

Our Safety Program has been developed to assure compliance with Federal, State, and local regulations with a particular emphasis on the *Occupational Safety and Health Acts of 1970* (OSHA), and OSHA requirements that apply to our construction operations. It is the obligation of all employees to be knowledgeable of the standards established by these agencies and to implement the rules and regulations contained herein on projects under their direction.

Regard for the safety of the general public, our own employees, and the employees of our Subcontractors is a supreme responsibility on all levels of our organization. We intend to prevent any illness; any of which could result in human suffering. Accidents, even minor ones, cause pain, both physical and mental. Prevention of injury and illness is a goal well worthy of our achieving.

A safe operation is organized, clean, and efficient. If every employee views accidents in the same way we consider all other aspects of our operations, we will be in a better position, not only to control accidents but also to improve the total performance of our company. It is therefore of utmost importance that all aspects of our Safety Program be strictly adhered to, and that the intent of this program be followed to the letter. Any recommendations to improve our Safety Program are encouraged.

Manuel J. Arizmendi
President

SUPPLEMENTARY RULES & REGULATIONS

1. General Safety Rules must be posted at each project office in full view of all employees.
2. Obtain aid for every injury, no matter how slight.
3. Accident reports are to be completed by a Project Foreman and forwarded to the office (9863 Tanner Rd, Suite H, Houston, TX 77041) the same day the accident occurs.
4. Weekly jobsite safety meetings will be conducted by the Project Foreman covering various subjects such as MSDS sheets, first aid, and general safety items (peculiar to the specific project). Subjects will vary from week to week.
5. Material Safety Data Sheets (MSDS) are located in each project office with signed copies of employee's acknowledgement of instruction.
6. This company has adopted a drug free policy and therefore, all employees are subject to pre-employment drug screening and on a random basis. ***Employees testing positive for substance abuse will be terminated immediately, no exceptions.***
7. It is imperative that all of FRAGMA Construction Services, LLC employees understand, acknowledge, and abide by all rules and regulations set forth in this Safety and Accident Program, along with any amendments made henceforth.
8. Personal hand tools furnished by employees are NOT the responsibility of the employer at any jobsite. The employer is not liable for vandalism of tools or car/truck at jobsites.
9. Employees assigned to a company vehicle must meet the company's criteria located in this Handbook (pg.5). Employees will be subject to a Motor Vehicle Background Check. ***If an employee violates any part of this policy, or becomes uninsurable as a driver, the employee will be subject to reassignment and/or disciplinary action (up to and possibly including discharge from employment).***

POLICY FOR EMPLOYEES WITH COMPANY VEHICLES

Employees assigned to a company vehicle must (at all times) meet the following criteria:

- Driver must have a current, valid driver's license for the State in which the employee performs his/her driving duties.
- Driver must maintain a clean driving record (for example, employee must remain insurable under our company's liability insurance policy).
- Any employee driving a company vehicle or driving on company property must observe all safety, traffic, and criminal laws from the State of Texas.
- No driver may consume alcohol while driving a company vehicle, while on company business, or prior to the employee's shift if consumption would result in a detectable amount of alcohol being present in the employee's system while on duty.
- No driver may pick-up, or transport non-employees while in a company vehicle or on company business; unless there is a work-related need to do so.
- Any illegal or dangerous conduct while driving that would place the lives of others at risk or damage property is strictly prohibited.
- Any driver who receives a traffic citation, is arrested by a law enforcement officer, or is involved in any kind of accident while driving a company vehicle, must inform an appropriate Supervisor immediately or as soon as possible after the incident.
- Any penalty, fine, imprisonment, fee, or other adverse action imposed by a court in connection with such an incident, must be reported immediately to an appropriate Supervisor. In both of the above situations, the matter will be reported to the company's insurance carrier so that a prompt decision on continued coverage of the employee can be made.
- Tools: It is mandatory that you put your tools up where they cannot be seen to avoid your truck/van from being broken into.
- Cell Phones: Absolutely NO cell phone usage while driving!
- ***Any employee who violates any part of this policy, or who becomes uninsurable as a driver, will be subject to reassignment and/or disciplinary action (up to and possibly including discharge from employment).***

SAFETY RESPONSIBILITIES

It is the desire of Management to protect employees from accidental injury and damage to health while working for our organization. At the Management level, we are committed to provide a safe and healthy worksite. In return, we expect you, the employee, to support the established safety policies and to cooperate fully with the procedures and practices; which have been implemented to ensure everyone's safety.

Certain construction operations require the presence of a competent person. The construction section of the OSHA Act defines a competent person as, *"One who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, and who has authorization to make prompt corrective measures to eliminate them."*

The important part of this definition is that the "competent person" must have the authority to take immediate action to take prompt corrective measures. OSHA does not consider an individual competent until the individual, in addition to meeting the requirements of the definition, has been properly designated as a "competent person" by the employer.

All of us, from Management on down, have a responsibility for safety. These responsibilities outlined below must be understood and supported by all employees in order for our Safety Program to be effective.

1. Management

- a. Involved in implementing and enforcing the company's Safety and Health Program.
- b. Assign safety responsibilities to employees at all levels to ensure the responsibilities are understood and that essential tasks are performed.
- c. Establish safety rules and procedures designed to protect the employees and others associated with a project.
- d. Communicate a clear goal for the Safety and Health Program and define objectives for meeting that goal as part of the Management's commitment to a safe and healthy workspace.
- e. Commit the necessary personnel with enforcement authority and resources to ensure employee safety.
- f. Discipline any employee disregarding the company's safety procedures.
- g. Conduct reviews on the effectiveness of the Safety Program to include jobsite inspections, recordkeeping procedures, and to evaluate how well the goals and objectives are being met.
- h. Encourage employee involvement in the review and updating of the company Safety Program to ensure their commitment and support for a safe workplace.

In some companies, a Safety Director is an employee who will be responsible for implementing the company's Safety Program. If a Safety Director is not employed, Management shall designate a responsible individual within the organization with appropriate authority to manage the following activities:

2. Safety Director

- a. Provide all levels of Management the services and technical advice needed for proper administration of the Safety Program.
- b. Establish procedures and guidelines for the Safety Program(s) and update as necessary.
- c. Maintain current knowledge of Federal, State, and local regulations and maintain outside professional contacts.
- d. Be available at the worksite regularly during pre-construction and construction for the purpose of inspection to determine compliance with OSHA regulations and project safety rules.
- e. Review all accidents and injury reports and maintain accident data.
- f. Make analysis of statistical data. Identify problem areas and make recommendations for solutions.
- g. Coordinate safety training activities.
- h. Prepare and distribute regular reports on the status of safety to Executive Management.
- i. Recommend programs and activities that will develop and maintain incentives and motivations for employee safety.
- j. Develop technical guidelines and safety recommendations for special exposure situations.
- k. Develop a written Hazard Communication Program for the company.
- l. Ensure Material Safety Data Sheets (MSDS) are received from the supplier and properly filed in the company MSDS binder.
- m. Provide necessary MSDS to each worksite according to chemicals used.

3. Project Manager/ Superintendent

- a. Is familiar with safety regulations to his/her area of responsibility.
- b. Plans work to ensure that the employees, materials, tools, and equipment are available to perform and work safely.
- c. Notifies the Safety Director of any unusual, special safety or health hazards on the job.
- d. Requires all Subcontractors and Subcontractor's personnel to comply with applicable safety regulations.
- e. Directs and coordinates safety activities applicable to the jobsite.
- f. Assures that Foremen are aware of and complies with requirements for safe practices and conditions to be maintained on jobsites.

- g. Reviews all accidents with the Foreman, submit accident reports, and ensure corrective action is taken to alleviate the cause.
- h. Monitors employee safety training.
- i. Assures required safety posters are available and posted at the jobsite.
- j. Maintains Material Safety Data Sheets (MSDS) for all chemicals used on the jobsite and coordinates with other employees as to the location and availability of their MSDS.

4. Office

- a. Maintains all records of accidents that have taken place during company operations on forms designated by OSHA, the insurance company, and other authorized agencies.
- b. Processes all paperwork associated with accidents, on-site inspections and in-house audits.
- c. Maintains permanent records for company files.
- d. Prepares all notices required by OSHA, State, and other appropriate agencies for posting at each construction project location in accordance with designated time regulations (for example, *OSHA Form 200; Log and Summary of Occupational Injuries and Illnesses*).

5. Foreman

- a. Is familiar with enforcing established safety procedures applicable to company operations on the jobsite.
- b. Instruct the workers to follow safe work practices.
- c. Maintains safe conditions throughout the jobsite.
- d. Makes sure there are enough job safety materials, first aid supplies, and Personal Protective Equipment (PPE) available for jobsite.
- e. Assures that safety devices and proper PPE are used by employees under his/her supervision.
- f. Develops a cooperative attitude towards safety by setting a good example.
- g. Continuously watches for unsafe physical conditions and unsafe employees' behavior and corrects immediately.
- h. Assures that accidents and injuries are treated and reported properly.
- i. Investigates all accidents, obtains all pertinent data, files a complete report, and initiates corrective action.
- j. Maintains an effective, positive line of communication regarding safety matters to the workforce.
- k. Conducts scheduled safety and HAZCOM training classes.

6. All Employees

- a. Thoroughly understand the work to be done and the safety precautions that apply.
- b. Report any unsafe conditions, acts, or equipment defaults to immediate Supervisor/Foreman.
- c. Use the required safety devices and proper Personal Protective Equipment (PPE).
- d. Work according to the company and project safety rules to avoid endangering yourself, fellow workers, or the public.
- e. Question any procedure believed to be unsafe -- always look at ways to improve safety.
- f. Report all accidents and injuries to the Supervisor/Foreman immediately.
- g. Assist in making the job as safe as possible.

7. Subcontractors

- a. The provisions of all safety responsibilities apply to Subcontractors and their employees while working on projects for this company.
- b. Report any unsafe conditions or actions.
- c. Inform Project Manager/Superintendent of all injuries to Subcontractor's employees.
- d. Have Material Safety Data Sheets (MSDS) available for all materials/chemicals used on the jobsite that requires a MSDS.

SAFETY
HAS NO
QUITTING TIME!

COMPANY SAFETY RULES

In order for a Safety Program to be effective, it is vital that rules are established and monitored by responsible individuals, and implemented at all levels of employment.

The following are some of the general rules applicable to our operations that must be enforced on every project contracted by our Company. This is a partial listing only. The pertinent requirements of *OSHA Regulations CFR29* (Part 1910-identified as applicable to construction); also applies to this firm's operations.

1. Personal Protection and Related Equipment

- a. Personal Protective Equipment (PPE) must be worn by employees as prescribed for each job by the Supervisor.
- b. Employees must check with their Supervisor(s) regarding any portion(s) of their job that they do not understand.
- c. Goggles, face shields, helmets, and other equipment shall meet the eye and face protection needs of the employee for each task.
- d. Hard hats must be worn by all employees at all times in all construction work areas.
- e. Gloves are to be used when handling materials, and for protection against acids and other chemicals; which could injure the employee's skin.
- f. Respiratory equipment, in many cases, is needed for protection against toxic toxic/hazardous fumes and dust. Employees must verify with their Supervisor(s) which equipment meets the need for breathing safety.
- g. Safety shoes are recommended to help prevent toe and foot injuries.
- h. The use of a safety belt is required when working in elevated work areas where there are no guardrails and while working on certain suspended scaffolds.
- i. Employees are expected to utilize proper judgment in their personal habits. When they report to work each day, they must be in fit condition to meet daily obligations.

2. Barricades and Hole Covers

- a. Excavations and openings in working surfaces must be protected with barricades or hole covers.
- b. Barricades and/or signs shall always be provided as a warning of hazards; such as overhead work, crane swings, and excavations.
- c. When a hole or floor opening is created during the performance of a work activity, it shall be protected with standard railing.
- d. Floor openings shall be guarded by standard railing and toe boards on all exposed sides; except at entrances or stairways.

3. Fire Prevention

- a. When utilizing heat-producing equipment, make sure that the area is clear of all fire hazards and that all sources of potential fires are eliminated.
- b. Do not use a salamander or other open flamed devices in confined or enclosed structures.
- c. Vent heaters to the atmosphere and make sure they are located an adequate distance from walls, ceilings, and floors.
- d. Have fire extinguishers available at all times where heat-producing equipment is used.
- e. Know the location of firefighting equipment in the work area and have knowledge of its use and application in case of fire.
- f. Turn in all fire extinguishers for recharge after each use. Inspect periodically when not in use.

4. Excavations *(the act or process of digging out)*

- a. Excavations, trenches, or cuts more than five (5) feet in depth, require shoring or sloping of the ground, or some other holdback means.
- b. Excavations must be checked daily by a competent person for cracks, slides, and scaling. During rain, snow, and other hazardous weather conditions, checks should be performed more often.
- c. Heavy equipment must be backed from edges of all excavations.
- d. An adequate means of exit for excavations four (4) feet or more in depth (ladder or steps), should be located within twenty-five (25) feet of lateral travel.
- e. Excavated or other material must be stored at least two (2) feet or more from the edge of the excavation.

5. Compressed Gas Cylinders

- a. All operators are required to inspect equipment regulators to ensure they are in proper working order.
- b. All gas cylinders shall have their contents clearly marked on the outside of each cylinder.
- c. Cylinders must be placed and secured in an upright position, with valve protection caps in place during storage and transfer.
- d. Cylinders must be protected with caps or guards when not in use.
- e. All leaking or defective cylinders must be removed from service promptly, tagged as inoperable, and placed in an open space removed from the work area.
- f. Oxygen and gas cylinders placed in storage are to be kept twenty (20) feet apart or have a fire barrier between them.
- g. Full and empty cylinders are to be stored separately and protected from excess heat, snow/ice, or physical damage.

6. Housekeeping

- a. Proper housekeeping is the foundation for a safe work environment. It prevents accidents and fires and creates business-like work areas.
- b. Pile or store material in a stable manner so that it will not be subject to fall.
- c. Rubbish, scraps, and debris shall be removed from the work area as soon as possible.
- d. Do not leave material and supplies in the stairways, walkways, near floor openings, or at the edge of the building where exterior walls are not built.
- e. Containers for flammable or harmful substances shall be provided with covers and labeled properly.

7. Ladders and Scaffolds

- a. The use of ladders with broken or missing rungs, missing steps, broken/split side rails, or any other defect(s) is strictly prohibited.
- b. Straight ladders shall be placed on a firm base at a 4-1 pitch, extending a minimum of thirty-six (36) inches above the landing and must be tied off, held or nailed down for stability.
- c. Erection crews must check each scaffold during assembly. Defective parts are not to be used for scaffold fabrication.
- d. All working decks of scaffolds shall be provided with proper handrails, mid-rails, and toe boards. If this is not possible, then safety belts must be worn by employees working on the scaffold.
- e. Planks shall extend over the end supports by no less than six (6) inches and no more than twelve (12) inches.
- f. Tube and frame scaffolds must be tied to the structure at intervals of thirty (30) feet horizontally and twenty-six (26) feet vertically.

8. Rigging

- a. Rigging is essential for moving construction materials and equipment at the same time, keeping them under control.
- b. Never swing loads over the heads of workers in the area in which they are working in.
- c. Only trained Flagmen and Signalmen are to direct rigging operations using established hand signals that are standard for the industry.
- d. Tag lines must be used to control rigging loads.
- e. Do not overload any part of your rigging. Check loads just off of the ground for balance and stability before hoisting.
- f. Never leave a suspended load unattended.
- g. Never allow loads, booms, or rigging to approach within ten (10) feet of energized electrical lines rated 50 KV or lower; unless they are de-energized. For lines rated greater than 50 KV follow OSHA regulations.

- h. Always operate cranes on firm level ground or use mats particularly for near-capacity lifts.
- i. Rope off or barricade a space equivalent to the swing radius of the rear of the rotating structure 360° around all cranes on your jobsite.

9. Welding and Cutting

- a. Always clear area below cutting or welding operations to keep hot slag from dropping onto hoses, cables, or employees.
- b. Use properly shaded welding helmets and burning goggles for eye protection and to prevent flash burn. Always wear eye protection and to guard against slag while chipping, grinding, and dressing welds.
- c. Use only manual electrode holders specifically designed for arc welding.
- d. Make sure that all parts subject to electrical current are fully insulated against the maximum voltage to ground.
- e. Make sure that the ground return cable has a safe current carrying capacity equal to or exceeding the specified amount maximum output capacity of the arc welding unit that it services.
- f. Make sure cable leads and connections are in place to eliminate tripping hazards.
- g. Shield all arc welding and cutting operations with non-combustible or flameproof screens to protect employees from direct arc rays.
- h. Keep suitable fire extinguishers readily available when welding or cutting.
- i. Be sure that proper ventilation is provided whenever welding, cutting, or heating operations are performed in a confined space.

10. Tools

- a. It is important that the right tool is used for the job and that it is used in a correct manner.
- b. Keep tools in good working condition. Tag all defective tools. Damaged worn or defective tools can cause injuries.
- c. Don't use tools until you have been properly instructed and authorized to do so.
- d. Never remove machinery or equipment guards; they are there for a purpose (to protect you).
- e. Tag and return all defective tools for repair by qualified employees.
- f. Inspect electrical extension cords and other wiring, to be certain they are properly insulated. Do not use frayed or damaged cords.
- g. Take special precautions when using power tools on a scaffold or other locations with limited movement areas. Get good footing, use both hands, keep cords clear of obstructions, and do not over-reach.
- h. Make sure power tools are completely stopped (motionless) and powered off before setting them down.

- i. Disconnect power tools from power source before changing drills, blades, bits, or adjustments. Never leave a running tool unattended.
- j. Do not use compressed air for cleaning purposes; except when pressure is reduced to less than 30 psi, and then only with proper Personal Protective Equipment (PPE).

11. Industrial Hygiene and Occupational Health

- a. Portable water shall be provided at all sites in approved closed containers with disposable cups.
- b. Toilets with self-closing doors, latches, and toilet paper shall be provided as required for the number of workers on the jobsite.
- c. Sanitation: Keep restrooms clean, make sure toilets/sinks are working properly.
- d. First aid kits must be provided at each job site. If a medical facility is not readily accessible, then a person with a valid First Aid Certificate must be present.
- e. Employees must be protected against exposure to harmful sound levels by controlling the exposure, or by use of proper PPE.
- f. Employees must be protected against exposure to ionizing (x-ray; radioactive) and non-ionizing (laser beam) radiation.
- g. Protection against exposure to harmful gases, fumes, dust, and similar airborne hazards must be furnished through proper ventilation or personal respiratory equipment.

12. Motor Vehicles and Mobile Equipment

- a. All equipment left unattended at night, adjacent to highways or construction areas, shall have lights, reflectors, and/or barricades to identify location of the equipment.
- b. Operator personnel shall inspect all machinery and equipment prior to each use and during operation to make sure it is in safe operating conditions.
- c. Rated load capacity should be posted on all equipment and posted at the operator's station.
- d. Wire rope with broken wires or evidence of wear, kinking, crushing, hoist caging, or heat damage shall be removed from service immediately.
- e. An accessible fire extinguisher of 5 BC rating or higher shall be available at all operator stations.
- f. When vehicles or mobile equipment are stopped or parked, parking brakes shall be set. Any equipment parked on an incline, shall have the wheels chocked and parking brake set.
- g. All vehicles or mobile equipment shall be checked at the beginning of each shift for safe operating conditions of all mechanical and safety systems.
- h. It is important to maintain vehicles and equipment at specified intervals in accordance with the maintenance manual provided by the manufacturer.

- i. Operators shall not back up motorized equipment having an obstructed rear view; unless the vehicle has an audible reverse signal alarm, or when an observer signals that it is safe to do so.

13. Hazard Communication

- a. Employees have been informed the requirements of the OSHA Hazard Communication Standards and any operations in their area where hazardous chemicals are present.
- b. Employees are aware of the location and availability of the company's written Hazard Communication Program and location of the list(s) of hazardous chemicals present at the jobsite.
- c. Material Safety Data Sheets (MSDS) are available for all chemicals used and employees know where MSDS are kept.
- d. All containers of chemicals are properly labeled; either with the manufacturers or importers warning labels, and tagged or marked with the identifying chemical(s).
- e. All employees have been trained in the container labeling system used at their worksite and how to interpret the information on a Material Safety Data Sheet (MSDS).
- f. At multi-employer jobsites, procedures are posted to inform other employers of the chemicals their employees may come in contact with. The labeling system used to identify chemicals and MSDS on chemicals present at the jobsite are interchanged.

Safety (noun)

- (1) The quality or condition of being safe; freedom from danger; injury or damage; security.
- (2) Any device used for preventing an accident or undesirable effect.

COMPANY ACCIDENT PREVENTION PROGRAM

In order to maintain the safety standards desired by our organization, it is necessary to actively pursue an Accident Prevention Program throughout all levels of our company. Training in hazard recognition and control is essential to prevent the occurrence of accidents. The following is a summary of the Accident Prevention Program that is to be supported and maintained by all employees.

1. Training and Education

- a. General: Training and education cannot be over-emphasized as a means of learning the safe approach to employee work efforts, as well as what to do in case of an accident. Employee training programs should be designed to ensure that employees understand and are aware of the hazards in which they may be exposed to, as well as the proper methods for avoiding such hazards. Each new employee should be furnished with information and literature covering the company safety policies, rules, and procedures.

All key employees are encouraged to participate in seminars, lectures, talks, first aid courses, etc., along with State, Federal, and other agencies.

The Safety Manager schedules training sessions and contacts individuals within the organization regarding their attendance. Each employee is encouraged to contact his/her immediate Supervisor should there be a training course or seminar that in his/her opinion would be helpful in developing safety awareness. Approval of attendance and other necessary arrangements are made through the Safety Manager.

- b. Safety Meeting: It is imperative that communication related to safety be established between all levels of our company. We, therefore, strongly support safety meetings for all employees in our organization. We believe that the most successful Safety Meetings are brief and concise when given to small groups to identify a specific safety subject, explaining safety rules, discussing necessary precautions, and exchanging comments. These meetings shall be conducted on a regular basis and should be given by the immediate Supervisor of the employees.
- c. Safety Materials: Safety posters, charts, report forms, booklets, and other descriptive material that will help dispense safety information, shall be used and distributed on a periodic basis. However, all personnel are encouraged to contact the Safety Manager and request illustrative material to address problems specific to their particular situation.

- d. Training Records: Records should be kept on all safety and health training. Records provide evidence of compliance with OSHA standards and can supply the answer to questions during an accident investigation: "Was the employee properly trained?"

2. Occupational Safety and Health Act (OSHA) - The *Williams Occupational Safety and Health Act* was signed into law on December 29, 1970. It requires that every employer engaged in business, affecting Commerce shall:

- Furnish to each employee a place of employment free from recognized hazards that are causing, or likely to cause, death or serious physical harm.
- Instruct each employee in the recognition and avoidance of unsafe conditions and regulations applicable to the employees work environment, and to control or eliminate any hazards or other exposures to illness or injury.
- Comply with Occupational Safety and Health Standards, rules, regulations, and orders pursuant to the acts that are applicable to our actions and conducts. Violators of the law regulations are subject to penalties.

All employees must comply with Occupational Safety and Health Standards, rules, regulations, and orders pursuant to this Act; which are applicable to these actions and conduct.

Because of this law, in order to maintain safe conditions on our construction projects, each Supervisor and each employee should become familiar with *OSHA Regulations 29 CFR* (Part 1926), *Safety and Health Regulations for Construction* (Part 1910), and *General Industry Safety and Health Regulations* (identified as applicable to construction).

The Safety Manager should provide a copy of the OSHA Regulations for Construction to all Supervisory personnel. Employees are encouraged to contact their immediate supervisor for data and literature that will help them to better understand an employer's responsibility under the Act.

The Supervisor in charge of each job site is responsible for insuring that:

- OSHA Poster 3165 is posted at each jobsite.
- Emergency telephone numbers, the *OSHA Form 300* (example of form on pg.18), and other notices required by OSHA are properly posted at each site.
- Ambulance and medical services have been arranged for employees at the jobsites. This action must be coordinated with the Safety Manager.
- A properly equipped first aid kit is at the jobsite, the kit is checked weekly, and expended items are replaced.

Log of Work-Related Injuries and Illnesses

Year _____

U.S. Department of Labor
Occupational Safety and Health Administration

Establishment name _____

City _____ State _____

[illegible]

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including time to review the instruction, search and gather the data needed, and complete and review the collection of information. Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. If you have any comments about these estimates or any aspects of this data collection, contact: US Department of Labor, OSHA Office of Statistics, Room N-3644, 200 Constitution Ave, NW, Washington, DC 20210. Do not send the completed forms to this office.

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Injury	Skin Disorder	Respiratory Condition	Poisoning	Hearing Loss	All other illnesses
(1)	(2)	(3)	(4)	(5)	(6)

- a. Certain states are now operating under approved State plans for occupational safety and health, rather than the Federal OSHA program. These states may have adopted the existing Federal OSHA standards and procedures, or may have developed their own.
- b. Our safety policy and program will be based on State requirements. It is the responsibility of the Safety Manager to verify which OSHA regulations (Federal or State) apply to this company's operations.

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- a. Accident investigating and reporting procedures are developed by the Safety Manager. An accident report on appropriate forms must be prepared within forty-eight (48) hours after each reportable incident. Reportable incidents consist of fatalities or non-fatal cases (without lost work days requiring medical treatment). These reports are to be transmitted to the proper authorities.
- b. Depending on the hazard, there may be Federal/State requirements for maintaining records of exposure to hazardous/toxic materials. Check with the Safety Manager for requirements.
- c. Maintain the OSHA Log for all reportable occupational injuries and illnesses for each job location. In some cases, this log may be kept at a central location for jobs subject to common supervision. This involves posting the information from the initial accident report onto the master log (*OSHA Form 300*) within six (6) working days after the accident has occurred. The form must be kept available for an OSHA Compliance Safety and Health Officer to review. See *OSHA Regulations 29 CFR (Part 1904)-Recording and Reporting Occupational Injuries and Illnesses*.

5. Subcontractor Compliance -The concern for our fellow employees must be communicated with Subcontractors working on our projects. It is imperative that we observe our Subcontractors operations and where safety and/or health problems are noted, identify them to the Subcontractor and to our Safety Manager.

All contracts awarded to Subcontractors shall require that Federal and State laws concerning safety are observed by the Subcontractor. Failure to fulfill these requirements is a failure to meet the conditions of our contract. Safety on the project extends through all Subcontractor operations as one unsafe condition.

The above instructions similarly apply to all other Contractors on a jobsite. Call safety violations of other Contractors to the attention of your Supervisor. The Supervisor in turn reports the condition to the Contractor and the company's Safety Manager.

6. Safety Inspections - This Company has a definite policy and procedure for conducting jobsite inspections as outlined in the "*Company Safety Inspection Guide* (pg. 21)." The purpose of such in-house inspections is to identify unsafe conditions or activities and to take appropriate action to improve safety conditions and practices.

7. OSHA Inspections

- a. The Safety Manager is responsible for preparing procedures to be followed in the event of an OSHA inspection of a jobsite. The procedure shall include person(s)

- b. at the Central Office to be notified immediately when the OSHA Compliance Safety and Health Officer arrives at the site.
- c. The Safety Manager is responsible for developing procedures, handling OSHA citations, penalties, abatement deadlines, and contests of unjust citations/penalties (when necessary).

8. Variances - OSHA has established procedures for permitting temporary or permanent variances to certain standards when valid circumstances may preclude compliances. All Supervisory personnel are to recommend to the Safety Manager any standards for which a variance may be needed. The Safety Manager will take appropriate action following procedures of *OSHA Regulations 29 CFR (Part 1905) - Rules for Variances, Limitations, Variations, Tolerance, and Exemptions* under the *Williams Occupational Safety and Health Act of 1970*.

COMPANY SAFETY INSPECTION GUIDE POLICY

The Management of this Company firmly believes that by showing an active interest in the conditions at the jobsite, there will be a corresponding reaction from employees in the way they conduct themselves. One visible way of achieving this goal is to adopt a policy that emphasizes the importance of an inspection program.

The following ground rules govern this company's safety inspections:

- a. Establish and update safety procedures as necessary.
- b. Review Safety Program on a semi-annual basis as a minimum.
- c. Establish "Chain of Command" for safety responsibilities from company Management to individual employees.
- d. Identify company safety goals to employees.
- e. Conduct the following inspections at each jobsite by those designated:
 - Weekly inspections -Project Manager
 - Monthly inspections - Safety Manager
 - Un-Announced inspections - Company Office
 - Quarterly inspections - Insurance Company
 - Designated inspections should be conducted without prior notice.
- f. Coordinate with OSHA and the insurance company for an on-site consultation if desired.

The following checklist includes items that are to be checked as a minimum during an inspection on the jobsite:

- ✓ First aid and health equipment
- ✓ Posters, signs (required by OSHA), and existing safety practices
- ✓ Accident reporting records
- ✓ Identify and eliminate unsafe equipment
- ✓ Employee training performed; such as Toolbox Talks and workers orientation
- ✓ Housekeeping policies and actual conditions of working area
- ✓ Lighting for adequacy and safety
- ✓ Personal Protective Equipment (PPE)
- ✓ Check toilets for cleanliness and proper operation
- ✓ Noise hazards to comply with OSHA requirements
- ✓ Ventilation from gases, vapors, fumes, and dust
- ✓ Fire protection, fire prevention, and control Temporary buildings, trailers, and shanties
- ✓ Open yard and interior storage

- ✓ Store flammable and combustible liquids; including service and refueling areas for vehicles and equipment. Are containers properly labeled?
- ✓ Temporary heating devices
- ✓ Tools (hand and power)
- ✓ Electrical system and ground fault protection
- ✓ Opening-Floor, wall, and railing hoists
- ✓ Materials
- ✓ Ladders and scaffolds
- ✓ Trenching and shoring for compliance with OSHA requirements
- ✓ Are Safety Data Sheets (SDS) readily available on the jobsite?
- ✓ Listing of hazardous chemicals on jobsite available to employees?
- ✓ Have employees received instructions on the OSHA HAZCOM Program?
- ✓ Are compressed gas cylinders properly stored with valve cap protection in place?
- ✓ Are welding hoses and gauges in good operating condition?
- ✓ Coordinate with other Contractors regarding exchange of hazardous chemicals
- ✓ Are tags for locking-out or identifying faulty equipment available?
- ✓ Is the Company's written HAZCOM Program on the jobsite?

After completing the checklist, the person making the inspection will then:

- Discuss all discrepancies with the person(s) responsible for creating the condition and those responsible for correcting it.
- Where hazards are caused by other Contractors on the job, he/she will identify the problem to the Owner, General Contractor, or other Contractors involved. Then, follow up with a written report to the Company's Safety Director and individuals involved.
- Insure recommended changes are transmitted to the proper person(s) for corrections.
- Follow-Up on actions to correct discrepancies.
- Discuss findings with employees. Invite their opinion, comments, suggestions, and aid.
- Provide a copy of the checklist to the Company's Safety Manager along with statements of corrective actions taken or still required.

THINGS YOU NEED TO KNOW ABOUT LEAD (Pb)

Lead is defined as a soft, malleable, dense and ductile Metallic element. Its original color is bluish-white and is commonly extracted from Galena and is mostly found in Ore along with other elements; such as Zinc, Copper, and Silver. Other forms of lead minerals include: Anglesite, Minim, and Cerussite. Lead is also classified under the "other metals" category in the Periodic Table; which is located in the 13th, 14th, and 15th groups of the Periodic Table. Lead is still widely used by many people; most especially in plumbing, soldering, batteries, and radiation shields. These are just some of the facts and details about the element, Lead. It is pretty obvious that Lead can be used in a lot of ways, however, it is also very important that we all know how to use this kind of element wisely in order to have lesser bad effects to our health and environment.

Important: *When using Lead, it is important to know that a potential health risk may exist in fumes that are presented to be at 800°F and above if contact is prolonged. The melting point for Lead starts at 622°F.*

- ★ Maintain molten Lead at the lowest feasible temperature to reduce Lead fumes.
- ★ Keep Lead pot in a well-ventilated area. If natural ventilation is not feasible, then mechanical ventilation will be necessary.
- ★ Keep time spent pouring Lead to a minimum.
- ★ Turn Lead pot off when not in use.
- ★ Take all precautions needed to prevent spills of molten Lead.
- ★ Practice proper housekeeping.
- ★ Avoid contact with water, oil, or grease. Contact could cause an explosion.
- ★ Where fume exposure is possible, warning signs should be posted:
WARNING LEAD WORK AREA- NO SMOKING OR EATING!
- ★ Have mask respirators with high efficiency filters made available to employees upon request, but are not mandatory; unless employer has reason to believe an employee may be exposed to Lead above the permissible exposure limit.
- ★ Eye protection will be worn around molten Lead.
- ★ Practice good personal hygiene procedures. Wash hands and face thoroughly before eating, drinking, or using tobacco products.
- ★ Wash work clothes separately.

DRUG-FREE WORKPLACE POLICY

FRAGMA Construction Services, LLC. is committed to protecting the safety, health and wellbeing of all employees and other individuals in our work place. We recognize that alcohol abuse and drug use pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug free environment.

- This policy recognizes that employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.
- As a condition of employment, this organization requires that employees adhere to a strict policy regarding the use and possession of drugs and alcohol.
- This organization encourages employees to voluntarily seek help with drug and alcohol problems.

Covered Workers

Any individual who conducts business for the organization, is applying for a position or is conducting business on the organization's property is covered by our drug-free workplace policy. Our policy includes, but is not limited to Pre-Employment and random drug test.

Applicability

Our drug-free workplace policy is intended to apply whenever anyone is representing or conducting business for the organization. Therefore, this policy applies whenever conducting business or representing the organization.

Prohibited Behavior

It is a violation of our drug-free workplace policy to use, possess, sell, trade and/or offer for sale alcohol, illegal drugs and intoxicants.

Detection

As part of our substance abuse program, new workers will be given an initial drug screening/test. Workers who test positive for drugs, or other signs of substance abuse will not be hired. Additionally, random drug testing may be performed throughout your term of employment at FRAGMA Construction Services, LLC. discretion, including but not limited to the following:

1. Employees are tested if they:
 - Are involved in on the job accident or vehicular accident;
 - Engage in unsafe behavior or activities on the job;
 - Pose a danger to themselves or others; or

- Pose a danger to the overall operation of the company Appropriate disciplinary action is taken when tests results are positive.
2. Reasonable suspicion (or cause) testing. Employees are tested on the basis of:
 - Direct observation of drug use or the physical symptoms of being under the influence of a drug or alcohol;
 - Abnormal conduct or erratic behavior while at work;
 - Absenteeism, tardiness or deterioration in work performance which is continuous and repeated over time.
 3. Testing to comply with contractual obligations, or governmental agencies.
 4. Routine periodical testing.
 5. Post rehabilitation/probationary testing.

Notification of Convictions

Any employee who is convicted of a criminal drug violation in the workplace must notify the organization in writing within five calendar days of the conviction. The organization will take appropriate action within 30 days of notification. Federal contracting agencies will be notified when appropriate.

Consequences

One of the goals our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however and individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment can be withdrawn. The applicant may reapply after one year and must successfully pass a pre-employment drug test.

If an employee violates the policy, he or she will be terminated from employment.

Assistance

FRAGMA Construction Services, LLC. recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To our support our employees, our drug-free workplace policy:

- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.
- Treatment for alcoholism and/or of the drug use disorders may covered by the employee benefit plan. However, the ultimate financial for recommended treatment belongs to the employee.

Confidentiality

All information received by the organization through the drug-free workplace program is confidential communication. Access to this information is limited to those who have a legitimate need to know in compliance with relevant laws and management policies.

Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important to play. All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on or off-duty use of alcohol or other drugs.

- Be concerned about working in a safe environment.

DRUG & ALCOHOL PANEL

DRUGS	SCREENING LEVEL	CONFIRMATION LEVEL
Amphetamines/Methamphetamines Ecstasy - MDMA, MDA,	300 (ng/ml)	250 (ng/ml)
Barbiturates	300 (ng/ml)	100 (ng/ml)
Benzodiazepines	300 (ng/ml)	100 (ng/ml)
Cocaine	150 (ng/ml)	100 (ng/ml)
Methadone	300 (ng/ml)	100 (ng/ml)
Opiates	2000 (ng/ml)	2000 (ng/ml) Morphine
6-Acetylmorphine (6-AM)		2000 (ng/ml) Codeine
Cannabinoids	10 (ng/ml)	10 (ng/ml)
PCP	10 (ng/ml)	25 (ng/ml)
Propoxyphene	300 (ng/ml)	200 (ng/ml)
Methaqualone	300 (ng/ml)	200 (ng/ml_)
Alcohol	0.2% (BAC)	0.4% (BAC)
Note: Alcohol screening and confirmation methods are conducted according to DOT protocol. Substances and levels may be modified when applicable.		

BACKGROUND CHECKS

FRAGMA CONSTRUCTION SERVICES, LLC will reserve the right to perform background checks and investigations at the time of employment as well as for specific jobs. The background checks will include any and all criminal background up to present and including juvenile records.

Written consent will be obtained prior to background checks in addition to the acceptance of these guidelines prior to employment. The employee will be provided with documentation associated with these background checks in accordance with FCRA and all applicable state and local statutes.

The background checks will be a compilation of the employee's general characteristic and lifestyle. These reports can be collected through public records, former employers, friends and previous co-workers. This report will include criminal background checks.

In addition, the Background checks may also include the following:

- Employment History
- Previous address History
- Credit reports
- Court filings
- DMV records
- Education
- Social Security Verification
- Private and Governmental Agency Reports
- Personal and Professional References

All background checks are conducted in compliance with the Federal Fair Credit Reporting Act, and the American with Disabilities Act, in addition to all other local, state and Federal rules and regulations. Applicants may request a copy of the investigative consumer report upon its completion.

A criminal conviction will not automatically disqualify an applicant from employment.

Consideration will be given to the nature and circumstances of the offense. FRAGMA Construction Services, LLC will follow FCRA rules and all other applicable statutes and regulations when compiling reports and making decisions regarding a potentially adverse investigative report.

Failure to include convictions when applying for employment may result in the immediate termination of Employment. Past criminal history will not be used as a sole deciding factor for employment; however, failure to make the company aware may be reason for rejection of employment or immediate termination.

NOTICE TO EMPLOYERS

The Texas Workers' Compensation Commission maintains a toll-free hotline for employees to report safety violators in the workplace. The Commission requires that you notify your employees of the toll-free hotline number by posting the following notices around your office/jobsite. The notices must be:

- Located around the workplace in such a way that employees are likely to see them on a regular basis.
- Printed in at least 24-point, **bold** type.
- Printed in English and Spanish.

NOTICE TO EMPLOYEES

The Texas Workers' Compensation Commission has established a 24-hour toll-free telephone number for reporting unsafe conditions in the workplace that may violate Occupation Safety and Health laws. FRAGMA Construction Services, LLC is prohibited by law from suspending, terminating, or discriminating against any employee who in good faith reports all alleged occupational safety or health violations. Contact the Division of Workers' Health & Safety, Texas Workers' Compensation Commission at: **1-800-452-9595**.

NOTIFICACION A EMPLEADOS

La Comisión de Compensación de Trabajadores de Texas ha establecido una línea de teléfono (llamada gratis) de 24 horas para reportar condiciones inseguras en el sitio de trabajo que puedan violar las leyes de salud y seguridad ocupacional. FRAGMA Construction Services, LLC tiene prohibido por ley a suspender, despedir, o ser discriminatorio en contra de cualquier empleado que de buena fe reporta una presunta violación de salud y seguridad ocupacional. Comuníquese con la División de Salud y Seguridad de Trabajador, Comisión de Compensación de Trabajadores de Texas al: **1-800-452-9595**.