

TIPS VENDOR AGREEMENT (JOC)

Between VIBRA WHIRL SPORTS, LTD and
(Company Name)

THE INTERLOCAL PURCHASING SYSTEM (TIPS),
a Department of Texas Education Service Center Region 8
for

TIPS RCSP 200205 Synthetic or Natural Sports Fields, Courts or Tracks PART 2 ONLY

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 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 200205 Synthetic or Natural Sports Fields, Courts or Tracks

PART 2 ONLY

Company Name VIBRA WHIRL SPORTS, LTD

Address PO BOX 966, 94 MAIN STREET

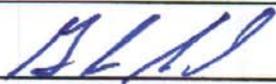
City PANHANDLE State TX Zip 79068-0966

Phone 806-537-3526 Fax 806-537-3442

Email of Authorized Representative alltrack@vibrawhirl.com

Name of Authorized Representative GLEN SWAFFORD

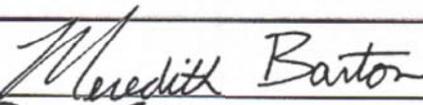
Title PRESIDENT

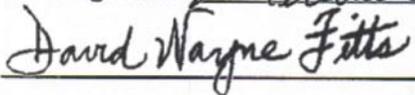
Signature of Authorized Representative 

Date 3-20-2020

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.



200205 Addendum 2 Vibra Whirl Sports Supplier Response

Event Information

Number: 200205 Addendum 2
Title: Synthetic or Natural Sports Fields, Courts or Tracks 2 Part
Type: Request for Proposal
Issue Date: 2/6/2020
Deadline: 3/30/2020 03:00 PM (CT)
Notes: This is a 2 PART solicitation. PART 1 is for projects that are not considered construction or a public work. It includes, but is not limited to, parts, supplies, maintenance services and repairs. PART 2 Job Order Contract (JOC) is for projects considered construction or public work projects. The determination whether or not a project requires a PART 2 JOC is the responsibility of the TIPS member entity. Vendors are encouraged to respond to BOTH PARTS 1 and 2 to meet the needs of our members, but responses to both parts is not required.

Contact Information

Contact: Kristie Collins, Contracts Compliance Specialist
Address: Region 8 Education Service Center
4845 US Highway 271 North
Pittsburg, TX 75686
Phone: +1 (866) 839-8477

Fax: +1 (866) 839-8472

Email: bids@tips-usa.com

Vibra Whirl Sports Information

Address: 94 Main Street
Panhandle, TX 79068
Phone: (806) 537-3526
Fax: (806) 537-3442

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

Glen Swafford

Signature

Submitted at 3/25/2020 9:52:36 AM

alltrack@vibrawhirl.com

Email

Supplier Note

If you have any questions, clarifications or additional information please let me know. Thank you.

Requested Attachments

Vendor Agreement part 1

Vedor Agreement Part 1.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 part 1

Signature Form Part 1.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.

Vendor Agreement Part 2

Vendor Agreement Part 2 only.pdf

If proposing on Part 2, 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 Part 2

Signature Form Part 2.pdf

If proposing on Part 2, 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.

Part 1 Pricing Spreadsheet #1

Part One-Form 1 Pricing Alternate method for Section A.pdf

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.

Part 1 Pricing Spreadsheet #2

200205_Pricing_form_2_PART_ONE_ONLY (1).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.

If the Vendor is proposing Part 2, the vendor must download the "PART 2 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.** If not proposing on Part 2, mark form NO BID and attach.

DO NOT UPLOAD encrypted or password protected files.

References

Reference Lists.pdf

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

List of products provided by Vibra Whirl Sports, Ltd.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.

Resellers/Dealers - COMPLETE AND UPLOAD ONLY IF YOU HAVE RESELLER OF YOUR GOODS OR SERVICES PROPOSED *No response*

OPTIONAL FOR PART 1 ONLY - complete and upload **ONLY IF YOU HAVE RESELLERS** of your products, complete and upload this form. This resellers document is for proposers to list any other companies that resell their products. Only list resellers of your products that are located in the US or Canada. Example: If a furniture manufacturer were responding to our RFP, then the furniture manufacturer would list on the resellers list sheet the furniture dealers that carry their products.

D/M/WBE Certification OPTIONAL*No response*

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

Warranty

Warranties.pdf

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

Supplementary

Supplementary Information.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

Certifications.pdf

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 2011CLEAR W NAME.pdf

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 *No response*

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.

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

Bond Capacity and Certificate of Insurance File Copy.pdf

REQUIRED IF YOU ARE PROPOSING ON PART 2 -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.

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.

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.

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

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

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

6 Primary Contact Name
 Primary Contact Name

7	Primary Contact Title Primary Contact Title PRESIDENT
8	Primary Contact Email Primary Contact Email alltrack@vibrawhirl.com
9	Primary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 8065373526
10	Primary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 8065373442
11	Primary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 8065373526
12	Secondary Contact Name Secondary Contact Name CHRIS COOKE
13	Secondary Contact Title Secondary Contact Title ESTIMATOR
14	Secondary Contact Email Secondary Contact Email estimator@vibrawhirl.com
15	Secondary Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 806-537-3526
16	Secondary Contact Fax Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 806-537-3442

17	Secondary Contact Mobile Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477
<input type="text" value="8065373526"/>	

18	Admin Fee Contact Name Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS.
<input type="text" value="PENNY REINING"/>	

19	Admin Fee Contact Email Admin Fee Contact Email
<input type="text" value="accounting@vibrawhirl.com"/>	

20	Admin Fee Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477
<input type="text" value="806-537-3526"/>	

21	Purchase Order Contact Name Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS.
<input type="text" value="MELANIE S. HICKS"/>	

22	Purchase Order Contact Email Purchase Order Contact Email
<input type="text" value="alltrack@vibrawhirl.com"/>	

23	Purchase Order Contact Phone Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477
<input type="text" value="806-537-3526"/>	

24	Company Website Company Website (Format - www.company.com)
<input type="text" value="www.vibrawhirl.com"/>	

25	Federal ID Number: Federal ID Number also known as the Employer Identification Number. (Format - 12-3456789)
<input type="text" value="76-0785991"/>	

26	Primary Address Primary Address
<input type="text" value="PO BOX 966, 94 MAIN STREET"/>	

27	Primary Address City Primary Address City
<input type="text" value="PANHANDLE"/>	

28	Primary Address State
	Primary Address State (2 Digit Abbreviation) <input type="text" value="TX"/>

29	Primary Address Zip
	Primary Address Zip <input type="text" value="79068"/>

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.) <input type="text" value="vibra whirl sports, vwsports, sports surfacing, artificial turf, synthetic running track, field turf, omni, spiketop, spiketop universal, polyurethane, track and field, football, softball, baseball, running track, field turf, sports field"/>

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?
	<p>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.</p> <p>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?</p> <input type="text" value="Yes"/>

32	Yes - No
	Certification of Residency - The vendor's ultimate parent company or majority owner: (A) has its principal place of business in Texas; OR (B) employs at least 500 persons in Texas? This question is required as a data gathering function for information to our members making purchases with awarded vendors. Does not affect scoring with TIPS. <input type="text" value="Yes"/>

33	Company Residence (City)
	Vendor's principal place of business is in the city of? <input type="text" value="PANHANDLE"/>

3 4	Company Residence (State) Vendor's principal place of business is in the state of? <input style="width: 90%; border: none; border-bottom: 1px solid black;" type="text" value="TEXAS"/>
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3 5	Discount Offered - CAUTION READ CAREFULLY BECAUSE VENDORS FREQUENTLY MAKE MISTAKES ON THIS ATTRIBUTE QUESTION Remember this is a MINIMUM discount percentage so, be sure the discount percentage inserted here can be applied to ANY OFFERING OF GOODS OR SERVICES THROUGH OUT THE LIFE OF THE CONTRACT CAUTION: BE CERTAIN YOU CAN HONOR THIS MINIMUM DISCOUNT PERCENTAGE ON ANY OFFERED SERVICE OR GOOD NOW OR DURING THE LIFE OF THE CONTRACT. What is the MINIMUM percentage discount off of any item or service you offer to TIPS Members that is in your regular catalog (as defined in the solicitation specifications document), website, store or shelf pricing or when adding new goods or services to your offerings during the life of the contract? The resulting price of any goods or services Catalog list prices after this discount is applied is a ceiling on your pricing and not a floor because, in order to be more competitive in the individual circumstance, you may offer a larger discount depending on the items or services purchased and the quantity at time of sale. Must answer with a number between 0% and 100%. <input style="width: 100px; border: none; border-bottom: 1px solid black;" type="text" value="3%"/>
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3 6	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 or the vendor's named resellers and 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.
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3 7	Yes - No Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, guarantee the fee remittance by or for the reseller named by the vendor? TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered. <input style="width: 100px; border: none; border-bottom: 1px solid black;" type="text" value="Agreed"/>
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3 8	Yes - No Do you offer additional discounts to TIPS members for large order quantities or large scope of work? <input style="width: 100px; border: none; border-bottom: 1px solid black;" type="text" value="Yes"/>
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3 9	Years experience in this category of goods or services. Company years experience in this category of goods or services? <input style="width: 100px; border: none; border-bottom: 1px solid black;" type="text" value="68"/>
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Resellers:

Does the vendor have resellers that it will name under this contract?

Resellers are defined as other companies that sell your products under an agreement with you, as the awarded vendor of TIPS.

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

(If yes, vendor should download the Reseller/Dealers spreadsheet from the Attachments section, fill out the form and submit the document in the "Response Attachments" RESELLERS section.

No

4
1

Right of Refusal

Does the proposing vendor wish to reserve the right not to perform under the awarded agreement with a TIPS member at vendor's discretion?

Yes

4
2

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 3 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 4 Filing of Form CIQ

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

4 5 Regulatory Standing

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

4 6 Regulatory Standing

Regulatory Standing explanation of no answer on previous question.

4 7 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.

4 **Suspension or Debarment Certification**

9 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.

5 **Non-Discrimination Statement and Certification**

0 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, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

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

(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
1 **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
2 **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
3 **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 4 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 5 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 6 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?

5 **2 CFR PART 200 Procurement of Recovered Materials**

7 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?

5 **Certification Regarding Lobbying**

8 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.

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

9 ONLY IF you answered "I HAVE Lobbied per above" to attribute above titled "[Certification Regarding Lobbying](#)", please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

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

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

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

6
1

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.

6
2

If proposing on PART 2, Davis-Bacon Act compliance.

IF proposing on PART 2, 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 PART 2 OF THIS SOLICITATION, the Vendor agrees, AS REQUIRED BY LAW, to comply with the Davis Bacon Act, IF APPLICABLE and if proposing on PART 2 of this solicitation.

63 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 PART 2 of 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).

64 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."

Do you agree to these terms?

65 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?

66 Remedies Explanation of No Answer

6
7 **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.

Do you agree to these terms?

6
8 **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. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

6
9 **Alternative Dispute Resolution Explanation of No Answer**

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

7
2 **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?

7
3 **Acts or Omissions Explanation of No Answer**

7
4 **Contract Governance**
Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

7
5 **Payment Terms and Funding Out Clause**
Payment Terms:
TIPS or TIPS members shall not be liable for interest or late payment fees on past due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

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

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

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

Do you agree to these terms?

7 Insurance and Fingerprint Requirements Information

6 Insurance

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

Fingerprint

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

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

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

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

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

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

Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

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

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

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

I certify that:

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

OR

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

- (1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.
- (2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.
- (3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.
- (4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

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

None

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

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

7 **Texas Government Code 2270 Verification Form**

9 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.

80 Logos and other company marks

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

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)

81 Solicitation Deviation/Compliance

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

82 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.

83 Agreement Deviation/Compliance

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

84 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.

8 5 Long Term Cost Evaluation Criterion on PART 1 EVALUATION ONLY

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

price increases will be < 5% annually per question

8 6 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 7 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).

No response

8 8 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

89 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.

90 Venue of dispute resolution with a TIPS Member

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

91 Indemnity Limitation with TIPS Members

Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation 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.

92 Arbitration Clauses

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

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

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 PART 2 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	Phone
CANYON ISD	JEFF MILLNER	jeff.millner@canyonisd.net	806-677-2652
JAL PUBLIC SCHOOLS	DR. BRIAN SNIDER	brian.snider@jalnm.org	575-395-2101
BEAVER PUBLIC SCHOOLS	SCOTT KINSEY, SUPERINTENDENT	skinsey@beaver.k12.ok.us	580-625-3444
SOCORRO ISD	MARIO MACIAS	m.macia@sisd.net	915-261-5026

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.

VIBRA WHIRL SPORTS, LTD

Name of company

GLEN SWAFFORD, PRESIDENT

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

PO BOX 966, 94 MAIN STREET PANHANDLE TEXAS 79068 806-537-3526

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 _____

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  Date 3-20-2020

TUCKER & DUNN

bonds and insurance

February 25, 2020

The Interlocal Purchasing System (TIPS)
Region 8 Education Service Center
4845 US Hwy 271 North
Pittsburg, TX 75686

Re: Vibra-Whirl Sports, Ltd. – Surety Bond Program

To Whom It May Concern,

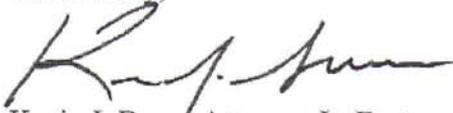
This letter confirms that Vibra-Whirl Sports, Ltd. has a current bonding relationship with SureTec Insurance Company. SureTec Insurance Company is rated “A (Excellent)” in the 2019 edition of the A.M. best Key Rating Guide. SureTec Insurance Company also is listed in the Federal Register of acceptable sureties on federal jobs.

SureTec Insurance Company has extended surety credit for Vibra-Whirl Sports, Ltd. on “single jobs” in excess of \$3,000,000 with a “total work program” in excess of \$6,000,000. The current amount available is \$4,000,000. Vibra-Whirl Sports, Ltd. has shown the remarkable ability to tackle the toughest construction problems and bring the project in under budget and in a timely fashion. The firm adheres to the highest construction and ethical standards. The surety department of SureTec Insurance Company regards Vibra-Whirl Sports, Ltd. as one their premier track and field contractors in Texas.

We understand that Vibra-Whirl Sports, Ltd. has submitted a proposal for your project. We certainly would give Vibra-Whirl Sports, Ltd. our highest recommendation for this project. Immediately upon receipt of a contract, upon surety approval, and at the request of our contractor, we will be happy to issue the necessary Performance and Payment bonds.

If you have any questions in this matter, please do not hesitate to give me a call.

Yours Truly,



Kevin J. Dunn, Attorney-In-Fact

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Tracy Tucker, W. Lawrence Brown, Steven M. Tucker, Kevin J. Dunn, Tanner Langston, Bennett Brown

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for, providing the bond penalty does not exceed

Five Million and 00/100 Dollars (\$5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the CEO, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and of behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20th of April, 1999.)

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its CEO, and its corporate seal to be hereto affixed this 29th day of November, A.D. 2018.

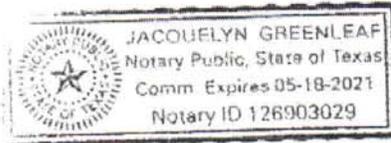
SURETEC INSURANCE COMPANY

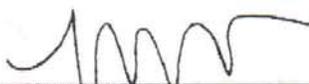
By: 
John Knox Jr., CEO



State of Texas ss:
County of Harris

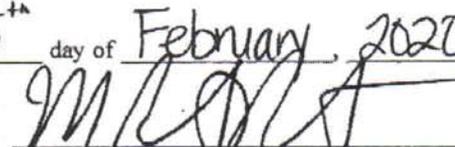
On this 29th day of November, A.D. 2018 before me personally came John Knox Jr., to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is CEO of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.




Jacquelyn Greenleaf, Notary Public
My commission expires May 18, 2021

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 25th day of February, 2020, A.D.


M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity.
For verification of the authority of this power you may call (713) 812-0800 any business day between 8:30 am and 5:00 pm CST.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/31/2019

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 Upshaw Insurance 801 S. Fillmore, Suite 300 Amarillo TX 79105	CONTACT NAME: Karla Stoffle	
	PHONE (A/C, No, Ext): 806-468-0400 FAX (A/C, No): 806-468-0450 E-MAIL ADDRESS: karlas@upshaw-insurance.com	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : Texas Mutual Insurance Co		22945
INSURER B : Argonaut Insurance Company		19801
INSURER C : FCCI Insurance Company		10178
INSURER D : Monroe Guaranty Insurance Company		32506
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** 1943849212 **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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
D	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	CPP0022551 3	5/31/2019	5/31/2020	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 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> OTHER:	Y	Y	CA100013865-02	5/31/2019	5/31/2020	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 <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	UMR100025830-01	5/31/2019	5/31/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
A B	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	0001157652 WC928388255534	5/31/2019 5/31/2019	5/31/2020 5/31/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Equip/Installation			CPP0022551 3	5/31/2019	5/31/2020	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 EQ: Leased/Rented Equipment: \$100,000 Limit Per Item \$1k Deductible
 Installation Floater: Limit @ Any Single/Temporary Location \$300,000; Transit Limit \$300,000; Replacement Cost Applies; Deductible \$1,000
 Endts shown apply only if there is a written contract between the named insured & certificate holder that requires such coverage. GL, AU: Policies include a blanket additional insured endt (GL per attached CGL088 (01/15), CG2001 (04/13) with primary/non-contributory language and CGL 121 (04/13) with ongoing/completed operations). GL, AU & WC: Policies include a blanket waiver of subrogation endt. EXCESS: Follows form on underlying policies. Blanket 30 days Notice of Cancellation applies except 10 days for non-pay.
 *****FOR BID PURPOSES ONLY***
 EQ: Leased/Rented Eq: \$100k Limit Per Item \$1k Ded; Installation Floater: Limit @ Any Single/Temporary Location \$300,000; Transit Limit \$300,000; Replacement Cost Applies; Ded \$1,000

CERTIFICATE HOLDER	CANCELLATION
File Copy	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



AMERICAN SPORTS BUILDERS ASSOCIATION

*Through Its Certification Board
Has Conferred Upon*

Glen Swafford

The Designation

CERTIFIED TRACK BUILDER



FOR EFFORTS TO RAISE THE PROFESSIONAL
STANDARDS OF RUNNING TRACK CONSTRUCTION
AND FOR HAVING SUCCESSFULLY FULFILLED THE
CONDITIONS OF ELIGIBILITY AND PASSED THE
REQUIRED EXAMINATION.

In witness whereof we have set our hands on

this 31st day of December, 2015

Certification expires: December 31, 2022

Executive Director

Certification Chairman



Certificate of Membership

This is to certify that

Vibra-Whirl, Ltd.
Is a Member of the Builder Division
of the

American Sports Builders Association

a nonprofit association, is a national organization for builders, designers, and suppliers of materials for tennis courts, running tracks, synthetic turf fields, indoor and outdoor synthetic sports surfaces. It is recognized as a centralized source for technical information, including construction guidelines.



The membership hereby conferred entitles the above named to use the name and membership mark of the Association on all proper forms, notices, and advertising subject to the conditions set forth in the By-Laws of the Association.

In Witness Whereof, The American Sports Builders Association has caused this certificate to be executed and its seal affixed by the Chairman and Secretary on December 5, 2004.

Secretary

Chairman



2020

This is to certify that

Vibra Whirl Sports, Ltd.

Is a Member of the Synthetic Turf Council

Abides by the STC's Bylaws, Code of Ethics and Code of Conduct

Supports STC's Mission to promote, develop, grow and advocate for

the synthetic turf industry

A handwritten signature in blue ink that reads 'Dan Bond'.

By the authority of the STC Board of Directors

Dan Bond, CAE, President & CEO



STATE OF TEXAS ≈
COUNTY OF CARSON ≈

AFFIDAVIT OF WARRANTY

On this the _____ day of _____, 2020, personally appeared before me the undersigned Notary Public, Glen Swafford, President of Vibra-Whirl Sports, Ltd., of Panhandle, Texas, who on his oath made the following affidavit:

Vibra-Whirl Sports, Ltd., manufacturer and installer of Polyurethane Surface Systems, warrants the Spiketop "TYPE" Surface installed on the athletic track facilities located at Name of School and Location shall be free from defects in workmanship, labor and materials under normal use and service for a period of 60 months from the date of Substantial Completion subject to the conditions as listed below. Track striping and markings shall be warranted to be free from defects in workmanship and materials for a period of 24 months subject to the conditions as listed below. This warranty shall remain in force and effect provided that the damages claimed have not been caused by improper design or engineering, by the failure of an inadequate or defective base, by the inherent characteristics of the earth or soil upon which the surface is installed, or by normal wear and tear. Furthermore, this warranty shall remain in force and effect provided that the owner properly maintains constant moisture in the surrounding soils on both the inside and the outside of the track's surface. This warranty shall remain in force and effect provided that the Owner does not allow abuse, neglect, the use of improper footwear or equipment, deliberate acts, static or dynamic loads exceeding Vibra-Whirl Sports, Ltd. recommendations, or the use of improper cleaning methods to the track surface. Acts of God are specifically excluded from this warranty. All warranty claims must be addressed in writing to Vibra-Whirl Sports, Ltd. stating the specifics of any requested warranty repairs.

Track Surfacing - _____

Track Striping - _____

Vibra-Whirl Sports, Ltd.

By _____

Glen Swafford, President

SUBSCRIBED and SWORN BEFORE ME, this _____ day of _____, 2020

Notary Public



**WARRANTY
REQUIREMENTS FOR USE AND MAINTENANCE
OF VIBRA-WHIRL TRACK SURFACES**

- 1) Keep surface clean. Remove mud, before dry, and accumulations of sand or soil. Blow off the track on a regular basis (monthly). Frequency will result in extending the life of the surface.
- 2) Eliminate grass and other vegetation immediately. Remove vegetation that grows through the surface. Do Not let running grasses grow over the surface of the track and field event areas. Special care should be taken where there is no curb as grass can undermine the base causing the asphalt and surface to deteriorate. We recommend that the edges of the track and field events are treated a minimum of twice annually with a soil sterilant to eliminate vegetation, which may encroach into the track or track surface. Do Not use a weed eater on the track to eliminate vegetation, as it will destroy the surface.
- 3) Eradicate insect/ant infestation in the track base or surfacing.
- 4) Provide protection, such as plywood, in any areas subject to equipment traffic and in areas of high pedestrian traffic. Indoor-outdoor carpet serves this purpose in areas of light pedestrian traffic, football teams, cheerleaders, etc.
- 5) Do Not permit any vehicles to be driven on the track surface. If vehicles need to cross the track, a minimum of two (2) layers of thick plywood should be used as protection. If unprotected, damage will result from sudden stops and starts, prolonged parking, and turning the steering wheel while the vehicle is stopped.
- 6) Do Not permit bicycles, two wheelers, three wheelers, wheelchairs, strollers, roller blades, skates, etc., on the track surfacing.
- 7) Do Not spill gasoline, kerosene, oil or any other petroleum derivatives, or solvents on the track surface. In the event of an accidental spill of an oil base material, the surface should be flushed thoroughly with detergent and water solution.
- 8) Do Not permit spikes longer than 3/16" to be used by runners. Do Not permit waffle type soles, cleats, or hard sole shoes to be used on the track.
- 9) Do Not permit sharp, hard objects such as bicycle stands, bench legs, standards, etc., to be placed on the track without proper protection. Refer to # 4 above.
- 10) Do Not place high jump and pole vault pads and standards on the track surface.
- 11) For extended life, we suggest use of the outer lanes for practice and jogging.
- 12) Minor repairs may be accomplished by local maintenance. This material is available from Vibra-Whirl Sports, Ltd. Instructions will be provided with materials.
- 13) Insure that the moisture content is consistent around the inside and outside of the track. This is important, as the track will crack during dry seasons when constant moisture content is not sustained. Many keep consistent moisture content on the inside as the football field is irrigated. An irrigation system may be needed on the outside of the track to obtain consistent moisture content.
- 14) Use only paint recommended by Vibra-Whirl Sports, Ltd. to touch up markings and for restriping. Paint is available through Vibra-Whirl Sports, Ltd.
- 15) All warranty issues will be addressed in writing to Vibra-Whirl Sports, Ltd. stating specifics of warranty repairs.



STATE OF TEXAS ≈
COUNTY OF CARSON ≈

AFFIDAVIT OF WARRANTY

On this the ___ day of _____, 2020, personally appeared before me the undersigned Notary Public, Glen Swafford, President of Vibra-Whirl Sports, Ltd., of Panhandle, Texas, who on his oath made the following affidavit:

Vibra-Whirl Sports, Ltd., manufacturer and installer of Latex Surface Systems, warrants the Omni "TYPE" Surface installed on the athletic track facilities located at School Name, City, State shall be free from defects in workmanship, labor and materials under normal use and service for a period of 36 months from the date of Substantial Completion subject to the conditions as listed below. Track striping and markings shall be warranted to be free from defects in workmanship and materials for a period of 24 months subject to the conditions as listed below. This warranty shall remain in force and effect provided that the damages claimed have not been caused by improper design or engineering, by the failure of an inadequate or defective base, by the inherent characteristics of the earth or soil upon which the surface is installed, or by normal wear and tear. Furthermore, this warranty shall remain in force and effect provided that the owner properly maintains constant moisture in the surrounding soils on both the inside and the outside of the track's surface. This warranty shall remain in force and effect provided that the Owner does not allow abuse, neglect, the use of improper footwear or equipment, deliberate acts, static or dynamic loads exceeding Vibra-Whirl Sports, Ltd. recommendations, or the use of improper cleaning methods to the track surface. Acts of God are specifically excluded from this warranty. All warranty claims must be addressed in writing to Vibra-Whirl Sports, Ltd. stating the specifics of any requested warranty repairs.

Track Surfacing- _____, 2020
Track Striping- _____, 2020

Vibra-Whirl Sports, Ltd.

Glen Swafford, President

SUBSCRIBED AND SWORN TO BEFORE ME, this ___ day of _____, 2020

Notary Public



WARRANTY REQUIREMENTS FOR USE AND MAINTENANCE
OF VIBRA-WHIRL TRACK SURFACES

1. Keep surface clean. Remove mud, before dry, and accumulations of sand or soil. Blow off the track on a regular basis (monthly). Frequency will result in extending the life of the surface.
2. Eliminate grass and other vegetation immediately. Remove vegetation that grows through the surface. Do Not let running grasses grow over the surface of the track and field event areas. Special care should be taken where there is no curb as grass can undermine the base causing the asphalt and surface to deteriorate. We recommend that the edges of the track and field events be treated a minimum of twice annually with a soil sterilant to eliminate vegetation which may encroach into the track or track surface. Do Not use a weed eater on the track to eliminate vegetation, as it will destroy the surface.
3. Eradicate insect/ant infestation in the track base or surfacing.
4. Provide protection, such as plywood, in any areas subject to equipment traffic and in areas of high pedestrian traffic. Indoor-outdoor carpet serves this purpose in areas of light pedestrian traffic, football teams, cheerleaders, etc.
5. Do Not permit any vehicles to be driven on the track surface. If vehicles need to cross the track, a minimum of two (2) layers of thick plywood should be used as protection. If unprotected, damage will result from sudden stops and starts, prolonged parking, and turning the steering wheel while the vehicle is stopped.
6. Do Not permit bicycles, two wheelers, three wheelers, wheelchairs, strollers, roller blades, skates, etc., on the track surfacing.
7. Do Not spill gasoline, kerosene, oil or any other petroleum derivatives, or solvents on the track surface. In the event of an accidental spill of an oil base material, the surface should be flushed thoroughly with detergent and water solution.
8. Do Not permit spikes longer than 3/16" to be used by runners. Do Not permit waffle type soles, cleats, or hard sole shoes to be used on the track.
9. Do Not permit sharp, hard objects such as bicycle stands, bench legs, standards, etc., to be placed on the track without proper protection. Refer to # 4 above.
10. Do Not place high jump and pole vault pads and standards on the track surface.
11. For extended life, we suggest use of the outer lanes for practice and jogging.
12. Minor repairs may be accomplished by local maintenance. This material is available from Vibra-Whirl Sports, Ltd. Instructions will be provided with materials.
13. Insure that the moisture content is consistent around the inside and outside of the track. This is important, as the track will crack during dry seasons when a constant moisture content is not sustained. Many keep a consistent moisture content on the inside as the football field is irrigated. An irrigation system may be needed on the outside of the track to obtain a consistent moisture content.
14. Use only paint recommended by Vibra-Whirl Sports, Ltd. to touch up markings and for restriping. Paint is available through Vibra-Whirl Sports, Ltd.
15. All warranty issues will be addressed in writing to Vibra-Whirl Sports, Ltd. stating specifics of warranty repairs.



CORPORATE OFFICE | AMERICA
4201 West Parmer Lane
Suite B 175
Austin, Texas 78727 USA
T + 1.512.733.5300

Eight Year Standard Warranty

Project Name

Project Address

Act Global Americas Inc. ("Act Global") endeavors to use the highest quality materials and the latest manufacturing techniques in the production of Synthetic Turf. Our products are manufactured according to our product specifications. The fibers and backing are independently warranted by the respective supplier.

The Synthetic Turf supplied by Act Global is guaranteed against defects in workmanship for a period of eight years from the date of manufacturing. For the purposes of this warranty, the product shall be deemed to have failed in UV stability if the original tensile strength of the Synthetic Turf decreases by more than 50 percent during the warranty period.

The term "Synthetic Turf", as used herein, shall only include product supplied by Act Global. This guarantee shall not cover any defects, failure or damage in or to the Synthetic Turf, which is:

- a) subject to abuse, misuse, negligence or improper maintenance
- b) installed, repaired, altered or replaced by any person other than a pre-approved installer using pre-approved infill and installation materials and quantities.
- c) damaged, directly or indirectly, including but not limited to, on account of, accident, vandalism, machinery, spiked shoes, animals, misuse, fire, flood, reflections, chemical reactions, acts of God, static or dynamic loads exceeding Act Global specifications at time of installation, improper or faulty subsurface preparation, failure of the subsurface after installation including settling of the surface, and the use of dry cleaning fluids or improper cleaning methods
- d) exposed to light other than natural light or approved artificial light.

Synthetic turf is considered a consumable product; therefore, this warranty excludes wear and tear.

This guarantee is expressly in lieu of all conditions and warranties expressed or implied in fact or by law or otherwise, including without limitation, any implied conditions or warranties as to merchantability or fitness for a particular purpose. No person or party is authorized to create any obligation or liability for Act Global and only the guarantee expressed herein shall apply. Act Global's obligations under this guarantee are restricted to the repair or, at its sole option,



replacement of all, or the affected parts covered herein. Act Global liability under this warranty is limited to the material value of the item to be repaired or replaced and only if maintenance has been performed and documented in accordance to Act Global's maintenance program.

The remedy of repair or replacement set forth herein shall be sole remedy and Act Global shall have no other obligations or liability in connection with any matter or thing, including without limitation, damages for personal injury or damages related to lost revenue, increased costs, downtime costs and all other indirect or consequential damages.

Act Global endeavors to handle all warranty claims promptly and professionally conditional on customer's account being in good standing at time of claim. It is agreed that all claims by purchaser made under the foregoing guarantee shall be invalid and null and void unless made in writing to Act Global within eight years from date of manufacture and within thirty days of learning of the cause giving rise to its claim. This Warranty is issued to the direct buyer of Act Global and is not transferable.

Act Global's warranty requirements are supported by a third-party insurance company with an A.M. Best financial strength of "Excellent" or higher that is properly licensed to insure a project based in the US. Said requirements shall include the following coverage for:

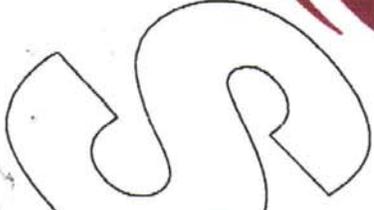
1. The synthetic turf playing surface inclusive of infill, seaming, labor and colored inlays for event markings
2. No exclusions for epidemic or catastrophic failure.
3. No limits for the hours of use.
4. No exclusions for heavy trafficked areas or related uses such as team or band practices.
5. No exclusions for any colored turf fibers.
6. The full 8-year period from completion date of project, with no uninsured periods or periods of self-insurance.

Act Global Americas Inc.

Signed:

Manufactured Date:

Project Name:



STATE OF TEXAS ≈
COUNTY OF CARSON ≈

ADD TO MANUFACTURER'S WARRANTY

On this the _____ day of _____, 2020, personally appeared before me the undersigned Notary Public, Glen Swafford, President of Vibra-Whirl Sports, Ltd., of Panhandle, Texas, who on his oath made the following affidavit:

Vibra-Whirl Sports, Ltd., installer of Synthetic Turf Systems, specifically, the "TYPE" TM] surface installed on the athletic fields located at Anywhere High School, Any town, USA do hereby:

- a. obtain & provide a manufacturer's warranty that warrants materials and workmanship.
- b. warrant that the materials installed meet or exceed the product specifications.
- c. have a provision to either make a cash refund or repair or replace such portions of the installed materials that are no longer serviceable to maintain a serviceable and playable surface.
- d. obtain & provide a manufacturer's warranty that covers workmanship and all self-manufactured or procured materials.
- e. Warrant the sub-base and drainage system for the full term of the warranty.

This warranty does not apply to any damage to the surface which may be caused by improper design or engineering, or by the inherent characteristics of the earth or soil upon which the surface is installed, or by normal wear and tear. Furthermore, this warranty does not apply in the event the owner fails to maintain the product as in the Use & Maintenance Manual provided. This warranty does not cover any defect, failure, damage, or undue wear in or to the surface caused by or connected with abuse, neglect, deliberate acts, act of GOD, recommendations, or use of improper cleaning methods. All warranty issues will be addressed in writing to Vibra-Whirl Sports, Ltd. stating specifics of warranty repairs.

Vibra-Whirl Sports, Ltd.

By _____
Glen Swafford, President

SUBSCRIBED AND SWORN TO BEFORE ME, this _____ day of _____, 2020

INSTALLERS & PRODUCERS OF:



Spike top

THE TOP OF THE POLYURETHANES
Track Surface Systems



Omni System "B" (Black rubber with black binder)

Black rubber chips are encapsulated by a specially formulated black rubber latex. A black polymeric coating is then sprayed on top to make this a quality surface with a handsome appearance. Since color pigments are not used, this is the most economical of Omni choices.



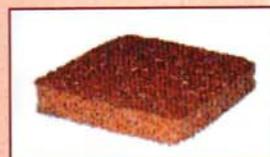
Omni System "CB" (Black rubber with color binder)

Black rubber chips are encapsulated by a pigmented latex binder to create a colored track. A matching polymeric coating is then sprayed on top to add a further layer of color and protection to the surface. Because the colored binder extends throughout the track and not merely sprayed on top, this surface will remain attractive for many



Omni System "S" (Two layers - one layer of black rubber with color binder topped by another layer of color rubber with color binder)

A 1/4 inch layer of black rubber encapsulated by a pigmented latex binder (similar to the Omni CB system) and overlaid with an 1/8 inch layer of colored rubber encapsulated by pigmented binder (similar to the Omni F system). The finished surface is sprayed with a matching polymeric coating. This combination offers the benefit of in-depth color at a significant savings in cost. Custom colors are available.



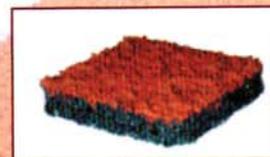
Omni System "F" (Colored rubber w/matching binder)

Colored rubber is combined with a binder of the same color to give true in-depth color. The finished surface is sprayed with a matching polymeric coating. High wear areas at starts, exchange zones and on field event areas remain virtually invisible during the long life of this surface. Custom colors are available.



Spiketop Basic "Black Mat"

A paved in-place mixture of black rubber granules and polyurethane MDI prepolymer binder. This is a porous surface.



Spiketop Universal "Black Mat with Structure Spray"

A paved in-place "Black Mat" sprayed with pigmented single component MDI polyurethane and high resistance EPDM rubber granules. This porous surface is available in custom colors.



Spiketop International "Colored Mat"

A paved in-place mixture of full color EPDM rubber and polyurethane MDI prepolymer binder. This porous surface is available in custom colors.



Spiketop Super "Sandwich"

A paved in-place "Black Mat" sealed with a 2 component polyurethane filler and topped with a squeegee applied 2 component polyurethane coating and cast in EPDM rubber granules. This is a non-porous surface.



Spiketop Olympic "Full Pour"

A two component polyurethane wet pour system with mixed in rubber granules topped by cast in high resistant EPDM rubber granules. This is a non-porous surface.



THE SYNTHETIC TURF ADVANTAGE

Vibra-Whirl Sports understands that no one turf product is suitable for every situation. That is why we can custom tailor our synthetic turf system to meet your individual needs. Whether you are building a new football field or renovating an existing baseball stadium, synthetic turf is the answer.

Why are we so confident that synthetic turf is right for you? Experience! Vibra-Whirl has been installing in-filled synthetic turf in North America as long as anyone and much longer than most of our competitors.

We have built football fields, soccer fields, baseball fields, and indoor practice facilities for all levels of com-

petition from small town high school to Division I college to big league professional.

We have experience with many different types of field construction, seaming systems, drainage systems, anchoring systems, infill systems and have built facilities from the arid deserts of Arizona to the humid pine forests of east Texas. In fact, we can think of no other company that has experience as broad as ours.

Synthetic turf is the right turf system for you, because experience matters!



SYSTEM	FIBER SHAPE
XtremeTurf F	Fibrillated
XtremeTurf D	D- Diamond
XtremeTurf DX	DX- Blend
XtremeTurf DF	DF- Blend
XtremeTurf BDX	BDX- Blend
SPEED S4 / SPEED S5	Fibrillated

