



**REQUEST FOR PROPOSAL FOR:
Job Order Contracting Services
In the State of Texas**

February 2021

Section One:

Part A – Introduction & Scope

Part B – Instructions to Proposers

REQUEST FOR PROPOSAL FOR (Job Order Contracting)

EDUCATION SERVICE CENTER, REGION 10

400 E Spring Valley Rd
Richardson, TX 75081
Telephone: (972) 348-1110



Publication date	02/05/2021
Product or service	Job Order Contracting
RFP #	R10-1117
Proposal due date	03/11/2021
Proposal submittal location	https://region10.bonfirehub.com/portal/?tab=login
Principle contract officer	Mr. Clint Pechecek Purchasing Consultant
Public opening location	Region 10 ESC (Enter room here) (Enter address here) Richardson, TX 75081

Education Service Center, Region 10 ("Region 10 ESC") is seeking proposals for the procurement of Job Order Contracting. A Job Order Contract is an indefinite quantity contract pursuant to which the contractor may perform an ongoing series of individual projects for different public agencies at different locations. Each Contract will have an initial term of two years and bilateral option provisions for three additional one-year terms. Responses will be accepted until 2:00 PM on March 11, 2021. All times are Central Standard Time. Information on the preproposal including how to obtain the proposal docs can be found here: <https://region10.bonfirehub.com/portal/?tab=openOpportunities>

In general, public agencies will reference this RFP when purchasing from the vendor. Region 10 ESC will not charge a fee to public agencies for participation in the purchasing coop.

Faxed responses will not be considered. By submitting a response, responder certifies to the best of his/her knowledge that all information is true and correct. All proposals must be submitted electronically as directed in the Bonfire procurement application. Scanned submissions are acceptable where PDF files are requested.

Responses should be submitted on the forms provided. Only responses received by the date and time specified will be considered. PRICE, QUALITY, AND SUITABILITY: It is not the policy of Region 10 ESC to purchase services solely on the basis of low price alone; quality and suitability to purpose are taken into consideration.

The Region 10 ESC Board of Directors may approve awarding of this proposal to one or more vendors. Region 10 ESC also reserves the right to reject all proposals if it determines in its sole discretion that a reasonable basis exists for doing so.

This RFP consist of Five Sections:

Section One:

- Part A – Introduction, Scope and Project Information
- Part B – Instruction to Proposers and Award Process

Section Two:

- Proposal Submission and Required Forms

Section Three:

- Part A – General Terms and Conditions for JOC
- Part B – Vendor Contract and Signature Form
- Attachment A – Equalis Group Administrative Agreement

Section Four:

- North Texas Area Construction Task Catalog
- Panhandle Texas Area Construction Task Catalog
- West Texas Area Construction Task Catalog
- Central Texas Area Construction Task Catalog
- Gulf Coast Texas Area Construction Task Catalog
- South Texas Area Construction Task Catalog

Section Five:

- Technical Specifications

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MASTER AGREEMENT

The purpose of Region 10 ESC soliciting this Request for Proposal is to create a Master Agreement for Job Order Contracting (“JOC”) for use by public agencies supported under this contract (“Members”). Region 10 ESC, as the Lead Agency (as defined in Section Three; Attachment A, Equalis Group Administrative Agreement), has come together with Equalis Group to make the resultant contract (also known as the “Master Agreement”) from this Request for Proposal available to other public agencies, including county, city, state, special district, local government, school district, private K-12 school, higher education institution, other government agency or non-profit organization (“Public Agencies”), for the public benefit through the Equalis Group’s cooperative purchasing program. Region 10 ESC will serve as the contracting agency for any other Public Agency that elects to access the resulting Master Agreement.

Access to the Master Agreement by any Public Agency must be preceded by its registration with Equalis Group as a Participating Public Agency in Equalis Group’s cooperative purchasing program. Attachment A contains additional information on Equalis Group and the cooperative purchasing program. Equalis Group provides marketing and administrative support for the awarded vendor (“Supplier”) that promotes the successful vendors’ products and services to the Participating Public Agencies nationwide.

Participating Public Agencies benefit from pricing based on aggregate spending and the convenience of a contract that has already been advertised and competitively awarded. The Supplier benefits from a contract that allows Participating Public Agencies to directly purchase goods and services without the Supplier’s need to respond to multiple competitive solicitations.

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SECTION ONE: PART A – INTRODUCTION SCOPE AND PROJECT INFORMATION

1. BACKGROUND ON REGION 10 EDUCATION SERVICE CENTER

- 1.1. Region 10 Education Service Center (“Region 10 ESC” herein “Lead Agency”) on behalf of itself and, potentially, to all other public agencies, including county, city, state, special district, local government, school district, private K-12 school, higher education institution, other government agency or non-profit organization (“Public Agencies”) solicits proposals from qualified Respondents to enter into a Vendor Contract (“Contract”) for the goods or services solicited in this invitation.
- 1.2. Contracts are approved and awarded by a single governmental entity, Region 10 ESC, and are only available for use and benefit of all entities complying with their respective state procurement laws and regulations (public and private schools, colleges and universities, cities, counties, non-profits, and all governmental entities).

2. ROLE OF THE EQUALIS GROUP

- 2.1 Equalis Group assists Region 10 ESC in helping other public agencies and non-profits reap the benefits of national leveraged pricing, with no cost to the Member. Equalis Group leverages one of the largest pools of purchasing potential. This is accomplished by competitively soliciting proposals and awarding contracts for commonly purchased products and services.

3. PUPOSE OF REGION 10 ESC

- 3.1 The mission of Region 10 is to be a trusted, student-focused partner that serves the learning community through responsive, innovative educational solutions. It is Region 10’s intent to:
 - Provide governmental and public entities opportunities for greater efficiency and economy in procuring goods and services.
 - Take advantage of state-of-the-art purchasing procedures to ensure the most competitive contracts.
 - Provide competitive price and bulk purchasing for multiple government or public agencies that yields economic benefits unobtainable by the individual entity.
 - Provide quick and efficient delivery of goods and services.
 - Equalize purchasing power for smaller agencies that are unable to command the best contracts for themselves.
 - Help in assisting customers with use of best business practices.

4. CUSTOMER SERVICE

- 4.1 Region 10 ESC is dedicated to making its contracts successful for both its members and its awarded vendors.
- 4.2 Region 10 ESC is committed to providing its members and awarded vendors with high quality service.

- 4.3 Region 10 ESC has dedicated staff available to answer questions, offer guidance and help in any way possible.

5. PRODUCTS AND SERVICES COVERED

- 5.1 The goal of this RFP is to establish a group of Job Order Contracting Contracts for Region 10 ESC and their members allowing access to complete the repair, alteration, modernization, rehabilitation, and construction of infrastructure buildings, structures or other real property at competitively solicited prices. Awarded Contractors will perform an ongoing series of individual projects for Members at different locations primarily within the designated Geographic Area.

6. JOB ORDER CONTRACTING OVERVIEW

- 6.1 JOC is a competitively solicited indefinite quantity construction contract awarded to proposers to accomplish the repair, alteration, modernization, rehabilitation, and construction of infrastructure, buildings, structures, or other real property. The Estimated Annual Value is based on the anticipated estimated annual use and the contract term is two years with three bilateral option terms. The RFP Documents include a Construction Task Catalog (CTC) containing repair and construction Tasks with preset Unit Prices. All Unit Prices are based on local labor, material and equipment prices for the direct cost of construction. Once contracts are awarded, Members will order Work from the CTC by issuing a Purchase Order against the contract.
- 6.2 Region 10 ESC, through a formal selection process, awarded a professional service agreement to Gordian for its JOC ezIQC program. The system includes Gordian's proprietary ezIQC, eGordian and Bid Safe IQCC applications (IQCC Applications) and construction cost data (Construction Task Catalog), which will be used by the Contractor to prepare and submit Price Proposals, subcontractor lists, and other requirements specified by Region 10 ESC and Members. The Contractor's use, in whole or in part, of Gordian's IQCC Applications and Construction Task Catalog and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for Region 10 ESC and Members is strictly prohibited unless otherwise stated in writing by Gordian.
- 6.3 Proposers will offer price adjustments (Adjustment Factors) to be applied to the CTC Unit Prices. The Adjustment Factors represent either an increase to (such as 1.1000) or a decrease from (such as 0.9800) the preset Unit Prices. The amount to be paid for the Work ordered will be determined by: multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The CTC and the Proposer's Adjustment Factors will be incorporated into the awarded contract.
- 6.4 Under JOC, the Contractor furnishes management, labor, materials, equipment, and incidental design support needed to perform the Work.

7. PROJECT DELIVERY ORDER PROCEDURES

- 7.1 As Projects are identified, the Contractor will jointly scope the Work with the Member. The agency will prepare a Detailed Scope of Work and issue a Request for Proposals to the Contractor. The Contractor will then prepare a Proposal Package for the Project including a Price Proposal, Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. If the Proposal Package is

found to be reasonable, the agency will issue a Purchase Order. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor must perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.

- 7.2 The Member (or the Member Designated Representative), with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the Member in developing a final scope of work. The Member will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC System to prepare a Price The Member (or the Member Designated Representative), with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the Member in developing a final scope of work. The Member will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC System to prepare a Price Proposal for the Purchase Order including a Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. Gordian will assist the Member with Price Proposal review, and if the Price Proposal is found to be reasonable, the Member will issue a Purchase Order to Contractor. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor will perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.
- 7.3 The Contractor must, within two (2) business days of receipt of a Purchase Order from a Member, provide notification to Region 10 ESC of each Purchase Order by forwarding a copy of the Purchase Order via email to PO@ezlQC.com or via facsimile to (864) 233-9100.
- 7.4 The Contractor must, within two (2) business days of sending an Invoice to a Member, provide notification to Region 10 ESC of each Invoice by forwarding a copy of the Invoice via email to Invoice@ezlQC.com or via facsimile to (864) 233-9100.

SECTION ONE: PART B – INSTRUCTION TO PROPOSERS AND AWARD PROCESS

1. SUBMISSION FORMAT AND COMMUNICATION

- 1.1 It is the responsibility of the vendor to make certain that the company submitting a proposal, along with appropriate contact information, is on file with Region 10 ESC for the purpose of receiving addenda.
- 1.2 **Response Submission:** All responses must be submitted electronically as directed in the Bonfire procurement application. Scanned submissions are acceptable where PDF files are requested. Responses received outside the Bonfire procurement application will not be accepted.
 - 1.2.1 Sealed responses may be submitted on any or all items, unless stated otherwise. Responses may be rejected for failure to comply with the requirements set forth in this invitation. Region 10 ESC reserves the right to cancel solicitation, reject any or all proposals, to accept any proposal deemed most advantageous to the Members and to waive any informality in the proposal process.
 - 1.2.2 Deviations from any terms, conditions and/or specifications must be conspicuously noted in writing by the Respondent and shall be included with the response. (See Section Two, Proposal Form #19).
- 1.3 **Proposal Format:** The electronic narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested. Responses should be consolidated into one PDF file for the RFP response.
- 1.4 **Time for receiving proposals:** Proposals received prior to the submittal deadline will be kept secure and unopened. No proposals received after the submittal time and deadline will be considered. Late proposals will be returned to sender unopened.
- 1.5 **Inquiries and/or discrepancies:** Questions regarding this solicitation must be submitted in the Bonfire procurement application. All questions and answers will be posted to the Bonfire procurement application. Respondents are responsible for viewing the Bonfire procurement application to review all questions and answers prior to submitting proposals. Please note that oral communications concerning this RFP shall not be binding and shall in no way excuse the responsive Respondent of the obligations set forth in this invitation.
- 1.6 **Restricted and Prohibited Communications with Region 10 ESC and Equalis Group:** During the period between the date Region 10 ESC issues this RFP and the selection of the vendor who is awarded a contract by Region 10 ESC, if any, Respondents shall restrict all contact with Region 10 ESC and Equalis Group, and direct all questions regarding this RFP, including questions regarding terms and conditions, only to the Bonfire procurement application in the specified manner. **Do not contact members of the Board of Directors, other employees of Region 10 ESC, any of Region 10 ESC's agents or administrators or Equalis Group employees. Contact with any of these prohibited individuals after issuance of this RFP and before selection is made, may result in disqualification of the Respondent.**

- 1.6.1 The communications prohibition shall terminate when the contract is recommended by the administration, considered by the Board of Directors at a noticed public meeting, and a contract has been awarded. In the event the Board of Directors refers the recommendation back to staff for reconsideration, the communications prohibition shall be re-imposed. Additionally, during the time period between the award by the Board of Directors and the execution of the contract, Respondents shall not engage in any prohibited communications as described in this section.
- 1.6.2 Prohibited communications include direct contact, discussion, or promotion of any Respondent's response with any member of Region 10 ESC's Board of Directors or employees except for communications with Region 10 ESC's designated representative as set forth in this RFP and only in the course of inquiries, briefings, interviews, or presentations. This prohibition is intended to create a level playing field for all potential Respondents, to assure that decisions are made in public, and to protect the integrity of the RFP process. Except as provided in the above stated exceptions, the following communications regarding a particular invitation for bids, requests for proposal, requests for qualifications, or other solicitation are prohibited:
 - 1.6.3 Communications between a potential vendor, service provider, Respondent, offeror, lobbyist or consultant and any member of Region 10 ESC's Board of Directors;
 - 1.6.4 Communications between any director and any member of a selection or evaluation committee; and
 - 1.6.5 Communications between any director and administrator or employee.
- 1.6.6 The communications prohibition shall not apply to the following:
 - 1.6.6.1 Communications with Region 10 ESC's purchasing agent specifically named and authorized to conduct and receive such communications under this RFP or upon the request of Region 10 ESC, with Region 10 ESC's legal counsel; and
 - 1.6.6.2 Presentations made to the Board of Directors during any duly noticed public meeting at which the solicitation is under consideration and the Vendor has been invited to present to the Board.
- 1.6.7 Nothing contained herein shall prohibit any person or entity from publicly addressing Region 10 ESC's Board of Directors during any duly noticed public meeting, in accordance with applicable Board policies, on a matter other than this RFP, or in connection with a presentation requested by Region 10 ESC's representatives. Communication with any employee of Equalis Group

2. ADDENDA

- 2.1 If required, will be issued by Region 10 ESC to all those known to have received a complete set of Proposal documents. The vendor shall acknowledge on the Signature Form the number of addenda received.

3. CALENDAR OF EVENTS

3.1	<u>Event</u>	<u>Date:</u>
	Issue RFP	02/05/2021
	Pre-Proposal Meeting	02/16/2021
	Deadline for questions	03/02/2021
	Issue Addendum/a (if required)	03/06/2021
	Proposal Due Date	03/11/2021
	Approval from Region 10 ESC	04/21/2021
	Contract Effective Date	05/01/2021

4. CONDITIONS OF SUBMITTING PROPOSALS

- 4.1 **Amendment of Proposal:** A proposal may be amended up to the time of opening by amending the proposal submitted in the Bonfire procurement application.
- 4.2 **Withdrawal of proposals:** Withdrawal of proposals prior to the opening date will be permitted. Withdrawal of proposal will not be allowed for a period of 120 days following the opening. Pricing will remain firm for 120 days from submittal. However, consideration may be given in cases where Respondent advises that it made a clerical error that is substantially lower than it intended. In such case, Respondent must provide written notice of their desire to withdraw, along with supporting documents, within three (3) business days of receiving the acceptance letter. Any contracts entered into prior to Region 10 ESC receiving notice must be honored.
 - 4.2.1 No Respondent should assume that their withdrawal request has been accepted unless, and until, they receive written acknowledgment and acceptance of their proposal withdrawal.
- 4.3 **Clarifications:** Region 10 ESC may, by written request, ask a Respondent for additional information or clarification after review of the proposals received for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal. Clarification does not give Respondent an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in a revision. Region 10 ESC will not assist Respondent in bringing its proposal up to the level of other proposals through discussions. Region 10 ESC will not indicate to Respondent a cost or price that it must meet to either obtain further consideration nor will it provide any information about other Respondents' proposals or prices.
- 4.4 **Best and Final Offer:** Region 10 ESC, in its sole discretion, may request all Offerors in the competitive range to submit a Best and Final Offer. Offerors must submit their Best and Final Offers in writing. If an Offeror does not respond to the request for a Best and Final Offer, that Offeror's most recent prior offer will be considered to be its Best and Final Offer.
- 4.5 **Specifications:** When a solicitation contains a specification that states no substitutions, no deviation from this requirement will be permitted. Respondent must comply with the true intent of the specifications and drawings and not take advantage of any unintentional error or omission. In cases where no type and kind of product is specified,

Region 10 ESC specifications have been developed to indicate minimal standards as to the usage, materials, and contents based on the needs of the members.

- 4.5.1 References to manufacturer's specifications (Design Guides), when used by Region 10 ESC, are to be considered informative to give the Respondent information as to the general style, type and kind requested. Responses proposing goods, materials or equipment regularly produced by a reputable manufacturer shall be evaluated by Region 10 ESC which will, in its sole discretion, determine whether such proposed goods, materials or equipment are substantially equivalent to the Design Guides, considering quality, workmanship, economy of operation, and suitability for the purpose intended. Respondents should include all documentation required to evaluate whether or not their proposed goods, materials or equipment are substantially equivalent to the Design Guides.
- 4.6 **Quality of Materials or Services:** Respondent shall state the brand name and number of the materials being provided. If none is indicated, then it is understood that the Respondent is quoting on the exact brand name and number specified or mentioned in the solicitation.
 - 4.6.1 However, unless specifically stated otherwise and in accordance with purchasing laws and regulations, comparable substitutions will be permitted in cases where the material is equal to that specified, considering quality, workmanship, economy of operation and suitability for the purpose intended.
- 4.7 **Formation of Contract:** A response to this solicitation is an offer to contract with Region 10 ESC based upon the terms, conditions, scope of work, and specifications contained in this request. A solicitation does not become a contract until it is awarded by Region 10 ESC. A contract is formed when Region 10 ESC's board or designee signs the Vendor Contract Signature Form. The prospective vendor must submit a signed Vendor Signature Form with the response, thus eliminating the need for a formal signing process.
- 4.8 **Multiple Awards:** Membership includes a large number of potential entities which may utilize this contract throughout the nation. In order to assure that any ensuing contract(s) will allow Region 10 ESC to fulfill current and future needs, Region 10 ESC reserves the right to award contract(s) to multiple vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with Region 10 ESC.
- 4.9 **Non-Exclusive:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience and benefit of participating Members. Region 10 ESC and participating Members reserve the right to obtain like goods and services from other sources.

5. PROPOSAL TABLES

- 5.1 Region 10 ESC seeks sealed proposals from highly qualified firms to market sell and perform Job Order Contracting Services to Members in the Proposer's selected Geographical Area(s) throughout the State of Texas (see proposal tables below). The Proposer Is required to identify the Geographical Area on each proposal form. Selected contractors will perform an ongoing series of individual projects for members at

different locations within the geographical area for contracts in the tables provided starting on the next page.

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**Job Order Construction
Request for Proposal (RFP)
Proposal Table
North Texas Area**

Contract Number	Trade	Geographic Area/CTC	Proposal Due Date	Estimated Annual Value	Maximum Term
R10-1117-xx	General Construction	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Roofing Construction	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Asphalt/Paving/ Concrete Construction	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Electrical Construction	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Plumbing Construction	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Mechanical Construction	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Painting	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Flooring	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Waterproofing	North Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years

See Article 6 Below for Map and list of Geographical Areas

**Job Order Construction
Request for Proposal (RFP)
Proposal Table
Panhandle Texas Area**

Contract Number	Trade	Geographic Area/CTC	Proposal Due Date	Estimated Annual Value	Maximum Term
R10-1117-xx	General Construction	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Roofing Construction	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Asphalt/Paving/ Concrete Construction	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Electrical Construction	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Plumbing Construction	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Mechanical Construction	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Painting	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Flooring	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Waterproofing	Panhandle Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years

See Article 6 Below for Map and list of Geographical Areas

**Job Order Construction
Request for Proposal (RFP)
Proposal Table
West Texas Area**

Contract Number	Trade	Geographic Area/CTC	Proposal Due Date	Estimated Annual Value	Maximum Term
R10-1117-xx	General Construction	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Roofing Construction	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Asphalt/Paving/ Concrete Construction	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Electrical Construction	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Plumbing Construction	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Mechanical Construction	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Painting	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Flooring	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Waterproofing	West Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years

See Article 6 Below for Map and list of Geographical Areas

**Job Order Construction
Request for Proposal (RFP)
Proposal Table
Central Texas Area**

Contract Number	Trade	Geographic Area/CTC	Proposal Due Date	Estimated Annual Value	Maximum Term
R10-1117-xx	General Construction	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Roofing Construction	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Asphalt/Paving/ Concrete Construction	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Electrical Construction	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Plumbing Construction	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Mechanical Construction	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Painting	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Flooring	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Waterproofing	Central Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years

See Article 6 Below for Map and list of Geographical Areas

**Job Order Construction
Request for Proposal (RFP)
Proposal Table
Gulf Coast Texas Area**

Contract Number	Trade	Geographic Area/CTC	Proposal Due Date	Estimated Annual Value	Maximum Term
R10-1117-xx	General Construction	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Roofing Construction	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Asphalt/Paving/ Concrete Construction	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Electrical Construction	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Plumbing Construction	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Mechanical Construction	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Painting	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Flooring	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Waterproofing	Gulf Coast Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years

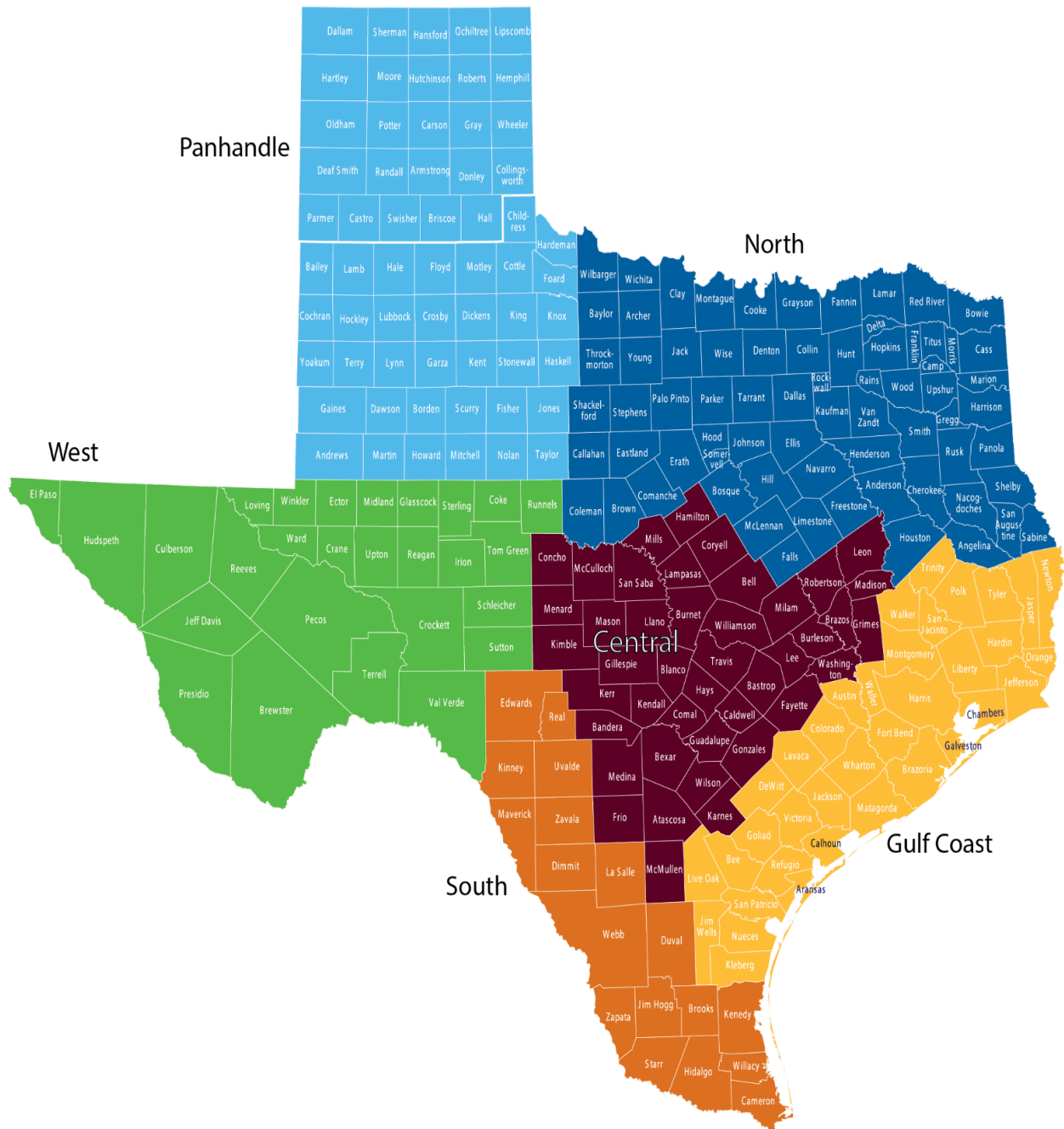
See Article 6 Below for Map and list of Geographical Areas

**Job Order Construction
Request for Proposal (RFP)
Proposal Table
South Texas Area**

Contract Number	Trade	Geographic Area/CTC	Proposal Due Date	Estimated Annual Value	Maximum Term
R10-1117-xx	General Construction	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Roofing Construction	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Asphalt/Paving/ Concrete Construction	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Electrical Construction	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Plumbing Construction	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Mechanical Construction	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Painting	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Flooring	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years
R10-1117-xx	Waterproofing	South Texas Area	2:00 PM CT 03/11/2021	\$2,000,000	5 Years

See Article 6 Below for Map and list of Geographical Areas

6. MAP OF GEOGRAPHICAL AREAS



7. TEXAS COUNTY LISTINGS BY GEOGRAPHICAL AREA

North Texas Area

Anderson	Cherokee	Eastland	Henderson	Limestone	Rains
Angelina	Clay	Ellis	Hill	Marion	Red River
Archer	Coleman	Erath	Hood	McLennan	Rockwall
Baylor	Collin	Falls	Hopkins	Montague	Rusk
Bosque	Comanche	Fannin	Houston	Morris	Sabine
Bowie	Cooke	Franklin	Hunt	Nacogdoches	San Augustine
Brown	Comanche	Freestone	Jack	Navarro	Shackelford
Callahan	Dallas	Grayson	Johnson	Palo Pinto	Shelby
Camp	Denton	Gregg	Kaufman	Panola	Smith
Cass	Delta	Harrison	Lamar	Parker	Somervell
Stephens	Tarrant	Throckmorton	Titus	Upshur	Van Zandt
Wichita	Wilbarger	Wise	Wood	Young	

Panhandle Texas Area

Andrews	Cottle	Gaines	Hockley	Lynn	Randall
Armstrong	Crosby	Garza	Howard	Martin	Roberts
Bailey	Dallam	Gray	Hutchinson	Mitchell	Scurry
Borden	Dawson	Hale	Jones	Moore	Sherman
Briscoe	Deaf Smith	Hall	King	Motley	Stonewall
Carson	Dickens	Hansford	Kent	Nolan	Swisher
Castro	Donley	Hardeman	Knox	Ochiltree	Taylor
Childress	Fisher	Hartley	Lamb	Oldham	Terry
Cochran	Floyd	Haskell	Lipscomb	Parmer	Wheeler
Collingsworth	Foard	Hemphill	Lubbock	Potter	Yoakum

West Texas Area

Brewster	Ector	Jeff Davis	Reagan	Sutton	Ward
Coke	El Paso	Loving	Reeves	Terrell	Winkler
Crane	Glasscock	Midland	Runnels	Tom Green	
Crockett	Hudspeth	Pecos	Schleicher	Upton	
Culberson	Irion	Presidio	Sterling	Val Verde	

Central Texas Area

Atascosa	Comal	Hays	Mason	Travis	
Bandera	Concho	Karnes	McCulloch	Washington	
Bastrop	Coryell	Kendall	McMullen	Williamson	
Bell	Fayette	Kerr	Medina	Wilson	
Bexar	Frio	Kimble	Menard		
Blanco	Gillespie	Lampasas	Milam		
Brazos	Gonzales	Lee	Mills		
Burleson	Grimes	Leon	Robertson		
Burnett	Guadalupe	Llano	San Saba		
Caldwell	Hamilton	Madison	Sutton		

Gulf Coast Texas Area

Aransas	Dewitt	Jasper	Matagorda	San Jacinto	Wharton
Austin	Fort Bend	Jefferson	Montgomery	San Patricio	
Bee	Galveston	Jim Wells	Newton	Trinity	
Brazoria	Goliad	Kleberg	Nueces	Tyler	
Calhoun	Hardin	Lavaca	Orange	Victoria	
Chambers	Harris	Liberty	Polk	Walker	
Colorado	Jackson	Live Oak	Refugio	Waller	

South Texas Area

Brooks	Duval	Jim Hogg	La Salle	Starr	Willacy
Cameron	Edwards	Kenedy	Maverick	Uvalde	Zapata
Dimmit	Hidalgo	Kinney	Real	Webb	Zavala

8. PRE-PROPOSAL MEETING

- 8.1 Interested Proposers are strongly encouraged to attend a pre-proposal meeting that will be conducted for the purpose of discussing Job Order Contracting procurement, the contract documents, and proposal forms. Attendance at the below webinar is strongly encouraged.
- 8.2 Webinar pre-proposal conference will be conducted via Zoom Virtual Conference. To register for the meeting see information and link below:

Webinar Pre-Proposal Meeting
Tuesday 02/16/2021 @ 10:00 AM CT
Link: <https://zoom.us/j/98291684253>

9. AWARD PROCESS

- 9.1 **Award or rejection of proposals:** In accordance with applicable laws, rules, and regulations for public purchasing, award(s) will be made to the most responsive and responsible Respondent(s) whose proposal(s) is/are determined to be the best value and most advantageous to Member, price and other factors considered. Region 10 ESC

reserves the right to use a “Market Basket Survey” method, based on randomly selected criteria to determine the most responsible response. To qualify for evaluation, response must have been submitted on time, and satisfy all mandatory requirements identified in this document. Proposals that are materially non-responsive will be rejected and Region 10 ESC will provide notice of rejection to the Respondent.

- 9.2 **Evaluation Process:** In evaluating the responses the following predetermined criteria is considered:

Proposal Pricing	40 Points
Performance Capability	30 Points
Qualification and Experience	25 Points
Value Add	5 Points

10. PROPOSAL PRICING: ADJUSTMENT FACTORS (40 Points)

- 10.1 Each Proposer must submit three (3) Adjustment Factors to be applied to every task in the CTC. The proposal will be an adjustment “decrease from” (e.g., 0.9800) or “increase to” (e.g., 1.1000) the Unit Prices listed in the CTC. The three (3) Adjustment Factors submitted by Proposer will be considered applicable to each opportunity identified in the Solicitation Table within the stated Trade. Proposers that submit separate Adjustment Factors for separate line items will be considered non-responsive and its proposals will be rejected.
- 10.2 The Proposer's Adjustment Factors must include all of the Proposer's direct and indirect costs including, but not limited to, its costs for overhead, profit, bond premiums above the reimbursable amount, insurance, mobilization, Purchase Order Proposal development, and all contingencies in connection therewith. See pages 00-1 – 00-6 of Section Four – The Construction Task Catalog for a complete explanation of what is included in the Unit Prices and what is not.
- 10.3 The first Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours and performed on Projects that require prevailing wage rates.
- 10.4 The second Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours on Projects that require prevailing wage rates.
- 10.5 The third Adjustment Factor is for work tasks not identified in the Construction Task Catalog. IQCC includes a provision for establishing of prices for Work requirements which are within the general scope of IQCC but were not included in the CTC at the time of Contract award, see Section Three; Part – A, Article 2. These Tasks are referred to as "Non Pre-priced Tasks (NPP)." NPP Tasks may require new specifications and drawings and may subsequently be incorporated into the CTC. The Proposers will offer an Adjustment Factor to be applied to the actual material, equipment, and labor cost for NPP work Tasks.
- 10.6 Adjustment Factors must be specified to the fourth decimal place. For example:

1	.	1	0	0	0
---	---	---	---	---	---

Or

0	.	9	8	0	0
---	---	---	---	---	---

- 10.7 For proposal evaluation purposes only, the following weighting of the Adjustment factors will be used to determine the Combined Adjustment Factor:

NORMAL WORKING HOURS- PREVAILING WAGE RATE PROJECTS	70%
OTHER THAN NORMAL WORKING HOURS- PREVAILING WAGE RATE PROJECTS	25%
NON PRE-PRICED	5%

11. PERFORMANCE CAPABILITY (30 Points)

- 11.1 Ability to deliver products and services
- 11.2 Subcontractor plan and/or demonstrated ability to self-perform
- 11.3 History of meeting customer deadlines
- 11.4 Ability to meet service and warranty needs of members
- 11.5 Customer Service/Problem Resolution
- 11.6 Contract Implementation/Customer Transition
- 11.7 Bonding Capacity
- 11.8 Respondents safety record
- 11.9 Other Factors relevant to this section as submitted by the Respondent

12. QUALIFICATION AND EXPERIENCE (25 Points)

- 12.1 Respondent reputation in the marketplace
- 12.2 Experience and qualification of key employees
- 12.3 Location and number of salespersons who will work on this contract
- 12.4 Past experience working with the government sector
- 12.5 Exhibited understanding of cooperative purchasing
- 12.6 Exhibited understanding and experience with JOC
- 12.7 Past litigation, bankruptcy, reorganization, state investigations of entity or current officers and directors
- 12.8 Minimum of 3 customer references relating to the products and services within this RFP
- 12.9 Certifications in the INDUSTRY

- 12.10 Company profile and capabilities
- 12.11 Other factors relevant to this section as submitted by the Respondent

13. VALUE ADD (5 Points)

- 13.1 Marketing plan and capability
- 13.2 Sales force training (an understanding of how this contract works)
- 13.3 Other factors relevant to this section as submitted by the Respondent

14. FEES

- 14.1 The Proposer must include an Administrative Fee in calculating the Proposer's Adjustment Factors.
- 14.2 The Administrative Fee will be calculated at the rate of 7.5% of the total Purchase Order Price charged to the Member.
- 14.3 The Administrative Fee will be remitted by the Contractor to the designated contract administrator, within thirty (30) days of the submission of an invoice to a Member by Contractor. The Contractor will be assessed a one percent (1%) per month late fee for any Administrative Fees not paid by the due date set forth herein.
- 14.4 Region 10 ESC designates Gordian as its contract administrator per R10-1106A. The Administrative Fee payments must be made payable to The Gordian Group and sent to the following address:
 - The Gordian Group,
 - Inc. PO Box 79341
 - Baltimore, MD 21279-0341
- 14.5 Region 10 ESC or Gordian may request records from the Contractor for all purchases through this Contract and payment of all Administrative Fees. If a discrepancy exists between the purchasing activity and the Administrative Fees paid, Region 10 ESC or Gordian will provide written notification to the Contractor of the discrepancy and allow the Contractor ten (10) days from the date of notification to resolve the discrepancy. In the event the Contractor does not resolve the discrepancy to the satisfaction of Region 10 ESC or Gordian, Region 10 ESC or Gordian reserve the right to engage a third party to conduct an independent audit of the Contractor's records and, in the event Contractor is not in compliance with this Contract, Contractor will, in addition to any Administrative Fees due, reimburse the appropriate party for the cost and expense related to such audit.
- 14.6 Region 10 ESC and Contractor hereby acknowledge Gordian, as Region 10 ESC's designated contract administrator, is a third-party beneficiary of Section 20, including all subsections therein. In the event any court action is brought to enforce payment of the Administrative Fees set forth above by any party or third-party beneficiary of this Contract, the prevailing party will be entitled to an award of reasonable attorneys' fees and collection costs.

15. COMPETITIVE RANGE

- 15.1 It may be necessary to establish a competitive range. Factors from the predetermined criteria will be used to make this determination. Responses not in the competitive range are unacceptable and do not receive further award consideration.

16. EVALUATION

- 16.1 A committee will review and evaluate all responses and make a recommendation for award of contract(s). The recommendation for contract awards will be based on the predetermined criteria factors outlined in this solicitation, where each factor is assigned a point value based on its importance. Recommendation for award of a contract will be presented to the Region 10 ESC board of directors for final approval.

17. PAST PERFORMANCE

- 17.1 A vendor's performance and actions under previously awarded contracts to schools, local, state, or federal agencies are relevant in determining whether or not the vendor is likely to provide quality goods and services to our members; including the administrative aspects of performance; the vendor's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the Respondent's businesslike concern for the interests of the customer.

18. TAXES

- 18.1 The Contractor will pay all sales, consumer, use and other similar taxes required by law for which an exemption does not exist. If the Contractor is required to pay sales tax on non-exempt material, equipment, services or other items purchased in connection with a Purchase Order, the Member will reimburse the Contractor for such tax, without mark-up, provided the Contractor submits the appropriate documentation therefor.

19. PROTEST OF NON-AWARD

- 19.1 **Protest Procedure:** Any protest of an award or proposed award must be filed in writing within ten (10) days from the date of the official award notification and must be received by 5:00 pm Central Time. No protest shall lie for a claim that the selected Vendor is not a responsible Respondent. Protests shall be filed with *Mr. Clint Pechacek at Region 10 ESC, 400 E Spring Valley Rd, Richardson, TX 75081*. Protests shall follow Region 10 ESC complaint policy EF(LOCAL), a copy of which is available at <https://pol.tasb.org/Policy/Code/374?filter=EF>, and it must be on a form provided by Region 10 ESC, which will include the following:
 - 19.1.1 Name, address and telephone number of protester
 - 19.1.2 Original signature of protester or its representative
 - 19.1.3 Identification of the solicitation by RFP number
 - 19.1.4 Detailed statement of legal and factual grounds including copies of relevant documents; and the form of relief requested
 - 19.1.5 Any protest review and action shall be considered final with no further formalities being considered.

20. NON-COLLUSION, EMPLOYMENT AND SERVICES

- 20.1 By signing the Offer and Acceptance form or other official contract form, the Respondent certifies that:
 - 20.1.1 It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its offer; and
 - 20.1.2 It does not discriminate against any employee, applicant for employment, or person to whom it provides services because of race, color, religion, sex, national origin, or disability and that it complies with all applicable federal, state, and local laws and executive orders regarding employment.

21. SELF PERFORMANCE REQUIREMENT

- 21.1 Contractor(s) for the Roofing Construction; Asphalt, Paving, Concrete Construction; Electrical Construction; Plumbing Construction; Mechanical Construction; Painting; Flooring; and Waterproofing will perform with its own organization and forces not less than 51% of the total amount of labor hours performed at the project site through the working foreperson level. The percentage calculation does not include field superintendents or office management personnel.

22. LIMITATION OF LIABILITY

- 22.1 Waiver: BY SUBMITTING A PROPOSAL, OFFER EXPRESSLY AGREES TO WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST BOTH EQUALIS GROUP AND REGION 10 EDUCATION SERVICE CENTER, ITS DIRECTORS, OFFICERS, ADMINISTRATORS OR AGENTS AND THE MEMBERS ARISING OUT OF OR IN CONNECTION WITH (1) THE ADMINISTRATION, EVALUATION, RECOMMENDATION OF ANY PROPOSAL; (2) ANY REQUIREMENTS UNDER THE SOLICITATION, PROPOSAL PACKAGE, OR RELATED DOCUMENTS; (3) THE REJECTION OF ANY PROPOSAL OR ANY PART OF ANY PROPOSAL; AND/OR (4) THE AWARD OF A CONTRACT, IF ANY.
- 22.2 NEITHER REGION 10 ESC NOR EQUALIS GROUP SHALL BE RESPONSIBLE OR LIABLE FOR ANY COSTS INCURRED BY RESPONDENTS OR THE SELECTED VENDOR IN CONNECTION WITH RESPONDING TO THE RFP, PREPARING FOR ORAL PRESENTATIONS, PREPARING AND SUBMITTING A PROPOSAL, ENTERING OR NEGOTIATING THE TERMS OF A CONTRACT, OR ANY OTHER EXPENSES INCURRED BY A RESPONDENT. THE RESPONDENT OR SELECTED VENDOR IS WHOLLY RESPONSIBLE FOR ANY SUCH COSTS AND EXPENSES AND SHALL NOT BE REIMBURSED IN ANY MANNER BY REGION 10 ESC OR EQUALIS GROUP.



**REQUEST FOR PROPOSAL FOR:
Job Order Contracting Services
In the State of Texas**

February 2021

Section Two:
Proposal Submission and Required Forms

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PROPOSAL FORM CHECKLIST

The following documents must be submitted with the Proposal

The below documents can be found in Section 2; Proposal Submission and Required Bid Forms and must be submitted with the proposal. Please note Proposal Forms 1 & 2 must be filled out and submitted separately for each individually trade and geographical area you are proposing (Section One; Part B – Instruction to Proposers and Award Process, Article 5 Proposal Tables):

PROPOSAL PRICING: Must fill out separate Proposal Forms 1 & 2 for each individual Trade and Geographic Area you are proposing.

- ☐ Proposal Form 1: The Adjustment Factors
- ☐ Proposal Form 2: Calculation of the Combined Adjustment Factor

PERFORMANCE CAPABILITY:

- ☐ Proposal Form 3: Company Profile Questionnaire
- ☐ Proposal Form 4: Diversity Vendor Certification Participation
- ☐ Proposal Form 5: Bonding Capacity Statement

QUALIFICATION AND EXPERIENCE:

- ☐ Proposal Form 6: Management Personnel
- ☐ Proposal Form 7: References and Experience Questionnaire

VALUE ADD:

- ☐ Proposal Form 8: Value Add Questionnaire
- ☐ Proposal Form 9: Agreement to work in all Areas in the State (signed)

OTHER REQUIRED PROPOSAL FORMS:

- ☐ Proposal Form 10: Clean Air and Water Act
- ☐ Proposal Form 11: Debarment Notice
- ☐ Proposal Form 12: Lobbying Certification
- ☐ Proposal Form 13: Contractor Certification Requirements
- ☐ Proposal Form 14: Antitrust Certification Statements
- ☐ Proposal From 15: Implementation of House Bill 1295
- ☐ Proposal From 16: Boycott Certification and Terrorist State Certification

- ☐ **Proposal Form 17: Resident Certification**
- ☐ **Proposal Form 18: Federal Funds Certification Form**
- ☐ **Proposal Form 19: General Terms and Conditions Acceptance Form**
- ☐ **Proposal Form 20: Equalis Group Administration Agreement Declaration**
- ☐ **Proposal Form 21: Open Records Policy Acknowledgment and Acceptance**
- ☐ **Proposal Form 22: Vendor Contract and Signature Form**

(The rest of this page is intentionally left blank)

PROPOSAL FORM 1: THE ADJUSTMENT FACTORS

CONTRACT #/TRADE: _____

CONTRACTOR NAME: _____

GEOGRAPHIC AREA: _____

The Contractor shall perform the Tasks and pay all Administrative Fees required by each individual Purchase Order issued pursuant to this using the following Adjustment Factors:

1. Normal Working Hours: 7:00am to 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

1.A Adjustment Factor Without
Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

1.B Adjustment Factor With
Administrative Fees (1.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

2. Other Than Normal Working Hours: 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

2.A Adjustment Factor Without
Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

2.B Adjustment Factor With
Administrative Fees (2.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

3. Non Pre-priced Adjustment Factor: To be applied to Work deemed not to be included in the CTC but within the general scope of the work:

3.A Adjustment Factor Without
Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

3.B Adjustment Factor With
Administrative Fees (3.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

4. Combined Adjustment Factor: (From Line 7 on Proposal Form 2)

	.				
--	---	--	--	--	--

(See Proposal Form 2 for calculation procedure)

NOTICE - The attention of Proposers is particularly called to the fact that, unless the Proposal is made in strict conformity with the directions given, it may be considered non-responsive and may be rejected. The Proposer must fill in all boxes and blanks.

Before submitting this Proposal, the Proposer is directed to the Construction Task Catalog to review the explanation of the costs included in the Unit Prices and in the Adjustment Factors. Except for a Non Pre-priced Task, the only compensation to be paid to a Contractor will be the total of the Unit Prices multiplied by the quantities multiplied by the Adjustment Factor. No additional payments of any kind whatsoever will be made. All costs not included in the Unit Prices must be part of the Adjustment Factors.

- **The Other Than Normal Working Hours Adjustment Factors must be higher than the Normal Working Hours Adjustment Factors.**

REGION 10 ESC RESERVES THE RIGHT TO REVISE ALL ARITHMETIC ERRORS IN CALCULATIONS FOR CORRECTNESS.

PROPOSAL FORM 2: CALCULATION OF THE COMBINED ADJUSTMENT FACTOR

SOLICITATION NO: _____

CONTRACTOR NAME: _____

GEOGRAPHICAL AREA: _____

The following formula has been developed for the sole purpose of evaluating Proposals and awarding.

Each Proposer must complete the following calculation.

Line 1.	Normal Working Hours (1.B)	_____
Line 2.	Multiply Line 1 by .70	_____
Line 3.	Other Than Normal Working Hours (2.B)	_____
Line 4.	Multiply Line 3 by .25	_____
Line 5.	Adjustment Factor for Non Pre-priced Tasks (3.B)	_____
Line 6.	Multiply Line 5 by .5	_____
Line 7:	Summation of lines 2, 4, and 6 (Combined Adjustment Factor)	_____

Transfer the number on line 7 to the space provided for the Combined Adjustment Factor on Proposal Form 1.

Instructions To Proposer: Specify lines 1 through 7 to four (4) decimal places. Use conventional rounding methodology (i.e., if the number in the 5th decimal place is 0-4, the number in the 4th decimal remains unchanged; if the number in the 5th decimal place is 5-9, the number in the 4th decimal is rounded upward).

Note To Proposer: The weights in lines 2, 4, and 6 above are for the purpose of calculating a Combined Adjustment Factor only. No assurances are made by Region 10 ESC that Work will be ordered under the Agreement in a distribution consistent with the weighted percentages above. The Combined Adjustment Factor is only used for the purpose of determining the lowest Proposer.

When submitting Price Proposals related to specific Purchase Orders, the Proposer shall utilize one or more of the Adjustment Factors applicable to the Work being performed provided in lines 1, 3, and 5 as applicable, on the Proposal Form 2 above.

PROPOSAL FORM 3: COMPANY PROFILE QUESTIONNAIRE

1. What is your company's official registered name?
2. What is/are your corporate office location(s)?
3. Please provide a brief history of your company, including the year it was established.
4. Who is your competition in the marketplace?
5. What was your annual construction volume over last three (3) years?
6. What are your overall public sector sales, excluding Federal Government, for last three (3) years?
7. What is your strategy to increase market share in the public sector?
8. What differentiates your company from competitors in the public sector?
9. Diversity program - Do you currently have a diversity program or any diversity partners that you do business with?
 - ☐ Yes
 - ☐ No
- a. If the answer is yes, do you plan to offer your program or partnership through Equalis Group?
 - ☐ Yes
 - ☐ No

10. Provide your safety record, safety rating, EMR and worker's compensation rate where available.
11. Provide your company's subcontracting plan, as described in the scope herein

PROPOSAL FORM 4: DIVERSITY VENDOR CERTIFICATION PARTICIPATION

Diversity Vendor Certification Participation - It is the policy of some Members participating in Equalis Group to involve minority and women business enterprises (M/WBE), small and/or disadvantaged business enterprises, disabled veterans business enterprises, historically utilized businesses (HUB) and other diversity recognized businesses in the purchase of goods and services. Respondents shall indicate below whether or not they hold certification in any of the classified areas and include proof of such certification with their response.

a. Minority Women Business Enterprise

Respondent certifies that this firm is an MWBE

☐ Yes ☐ No

List certifying agency: _____

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

Respondent certifies that this firm is a SBE or DBE

☐ Yes ☐ No

List certifying agency: _____

c. Disabled Veterans Business Enterprise (DVBE)

Respondent certifies that this firm is an DVBE

☐ Yes ☐ No

List certifying agency: _____

d. Historically Underutilized Businesses (HUB)

Respondent certifies that this firm is an HUB

☐ Yes ☐ No

List certifying agency: _____

e. Historically Underutilized Business Zone Enterprise (HUBZone)

Respondent certifies that this firm is an HUBZone

☐ Yes ☐ No

List certifying agency: _____

f. Other

Respondent certifies that this firm is a recognized diversity certificate holder

☐ Yes ☐ No

List certifying agency: _____

PROPOSAL FORM 5: BONDING CAPACITY STATEMENT

Provide a letter from your bonding company setting forth your company's available bonding capacity and availability and confirming that, if required, your company could provide labor and material payment bonds and performance bonds for certain projects up to the bonding capacity.

(Insert bonding company statement here)

PROPOSAL FORM 6: MANAGEMENT PERSONNEL

Please provide contact information and resumes for the person(s) who will be responsible for the following areas.

Executive Contact

Contact Person: _____

Title: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

Account Manager / Sales Lead

Contact Person: _____

Title: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

Contract Management (if different than the Sales Lead)

Contact Person: _____

Title: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

Billing & Reporting/Accounts Payable

Contact Person: _____

Title: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

Marketing

Contact Person: _____

Title: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

PROPOSAL FORM 7: REFERENCES AND EXPERIENCE QUESTIONNAIRE

Provide a minimum of five (5) customer references for product and/or services of similar scope dating within the past 3 years. Please try to provide references for K12, Higher Education, City/County and State entities. Provide the following information for each reference:

- a) Entity Name
- b) Contact Name and Title
- c) City and State
- d) Phone Number
- e) Years Serviced
- f) Description of Services
- g) Annual Volume

Questions:

1. Identify any contracts with other cooperative or government group purchasing organizations of which your company is currently a part of:

Cooperative/GPO Name

Contract Number

2. Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with jurisdiction, allowing Respondent to perform the covered services including, but not limited to licenses, registrations or certifications. M/WBE, HUB, DVBE, small and disadvantaged business certifications and other diverse business certifications, as well as manufacturer certifications for sales and service must be included if applicable.
3. Describe your company's past experience with Job Order Contracting estimating and include specific examples of other cooperatives and public agencies where you have performed these services.

4. Provide information regarding whether your firm, either presently or in the past, has been involved in any litigation, bankruptcy, or reorganization.

5. Felony Conviction Notice – Please check applicable box:

- ☐ A publicly held corporation; therefore, this reporting requirement is not applicable
- ☐ Is not owned or operated by anyone who has been convicted of a felony.
- ☐ Is owned or operated by the following individual(s) who has/have been convicted of a felony.

*If the 3rd box is checked a detailed explanation of the names and convictions must be attached.

PROPOSAL FORM 8: VALUE ADD QUESTIONNAIRE

Proposer must agree to work in cooperation with Region 10 ESC and the Equalis Group to develop a marketing strategy and provide avenues to equally market and drive sales through the Contract and program to all current and potential Members. Proposer agrees to actively market in cooperation with Region 10 ESC and the Equalis Group all available services to current and potential Members.

1. Detail how your organization plans to market and promote this contract upon award.
2. Acknowledge that your organization agrees to provide its company logo(s) to Region 10 ESC and Equalis Group and agrees to provide permission for reproduction of such logo in marketing communications and promotions.
3. Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with jurisdiction, allowing Respondent to perform the covered services including, but not limited to licenses, registrations or certifications. M/WBE, HUB, DVBE, small and disadvantaged business certifications and other diverse business certifications, as well as manufacturer certifications for sales and service must be included if applicable

Please also list and include copies of any certificates you hold that would show value for your response not already included above.

4. Please include any additional products and/or services not included in the scope of the solicitation that you think will enhance and/or add value to this contract participating agencies.

PROPOSAL FORM 9: AGREEMENT TO WORK IN ALL AREAS IN THE STATE

There are times that a Contractor may need to perform work for certain Members that have facilities in areas outside of the Geographic Area. By acknowledging your acceptance below, you are saying that you will consider performing work in such areas in the State or other States. The Contractor will use the awarded CTC and adjustment factor proposed. If a contractor holds multiple contracts when performing work outside an awarded area the contractor will use the contract that results in the lowest price for the Member. The Contractor will have the option to decline Projects outside of the Geographic Area.

Please circle your intention below:

Yes We agree to consider working in areas outside of the Geographic Area.

No We will NOT consider working outside of the Geographic Area.

Signature

The Proposer shall acknowledge this Proposal by signing and completing the spaces provided below:

Name of Proposer: _____

City/State/Zip: _____

Telephone No.: _____

If a partnership, names and addresses of partners:

Notarized

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public in and for the County of _____

State of _____

My commission expires: _____

Signature: _____

PROPOSAL FORM 10: CLEAN AIR WATER ACT

I, the Vendor, am in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, as Amended (42 U.S. C. 1857 (h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15 as required under OMB Circular A-102, Attachment O, Paragraph 14 (1) regarding reporting violations to the grantor agency and to the United States Environment Protection Agency Assistant Administrator for the Enforcement.

Potential Vendor: _____

Title of Authorized Representative: _____

Mailing Address: _____

Signature: _____

PROPOSAL FORM 11: DEBARMENT NOTICE

I, the Vendor, certify that my company has not been debarred, suspended or otherwise ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension", as described in the Federal Register and Rules and Regulations.

Potential Vendor: _____

Title of Authorized Representative: _____

Mailing Address: _____

Signature: _____

PROPOSAL FORM 12: LOBBYING CERTIFICATION

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 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/her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid 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 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 contract or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," 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 sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

Signature of Respondent

Date

PROPOSAL FORM 13: CONTRACTOR CERTIFICATION REQUIREMENTS

Contractor's Employment Eligibility

By entering the contract, Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA), and all other federal and state immigration laws and regulations. The Contractor further warrants that it is in compliance with the various state statutes of the states it will operate this contract in.

Participating Government Entities including School Districts may request verification of compliance from any Contractor or subcontractor performing work under this Contract. These Entities reserve the right to confirm compliance in accordance with applicable laws.

Should the Participating Entities suspect or find that the Contractor or any of its subcontractors are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

The Respondent complies and maintains compliance with the appropriate statutes which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

Contractor shall comply with governing board policy of the Region 10 ESC Participating entities in which work is being performed.

Fingerprint & Criminal Background Checks

If required to provide services on school district property at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district if requested of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy. The district shall conduct a fingerprint check in accordance with the appropriate state and federal laws of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the district. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

The Respondent shall comply with fingerprinting requirements in accordance with appropriate statutes in the state in which the work is being performed unless otherwise exempted.

Contractor shall comply with governing board policy in the school district or Participating Entity in which work is being performed.

Signature of Respondent

Date

PROPOSAL FORM 14: ANTITRUST CERTIFICATION STATEMENTS
(Tex. Government Code § 2155.005)

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 proposal, 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 proposal, neither I nor any representative of the Company has violated any federal antitrust law; and
- (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this proposal 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.

VENDOR _____

ADDRESS _____

PHONE _____

FAX _____

RESPONDANT

Signature

Printed Name

Position with Company

AUTHORIZING OFFICIAL

Signature

Printed Name

Position with Company

PROPOSAL FORM 15: IMPLEMENTATION OF HOUSE BILL 1295

Certificate of Interested Parties (Form 1295):

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

The Texas Ethics Commission was required to adopt rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015, to implement the law. The commission does not have any additional authority to enforce or interpret House Bill 1295.

Filing Process:

Starting on January 1, 2016, the commission will make available on its website a new filing application that must be used to file Form 1295. A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be filed with the governmental body or state agency with which the business entity is entering into the contract.

The governmental entity or state agency must notify the commission, using the commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the governmental entity or state agency.

Information regarding how to use the filing application will be available on this site starting on January 1, 2016.

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

PROPOSAL FORM 16: BOYCOTT CERTIFICATION AND TERRORIST STATE CERTIFICATION

BOYCOTT CERTIFICATION

Respondents must certify that during the term of any Agreement, it does not boycott Israel and will not boycott Israel. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Does vendor agree? _____
(Initials of Authorized Representative)

TERRORIST STATE CERTIFICATION

In accordance with Texas Government Code, Chapter 2252, Subchapter F, REGION 10 ESC is prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of any agreement, the respondent certifies to REGION 10 ESC that it is not a listed company under any of those Texas Government Code provisions. Responders must voluntarily and knowingly acknowledge and agree that any agreement shall be null and void should facts arise leading the REGION 10 ESC to believe that the respondent was a listed company at the time of this procurement.

Does vendor agree? _____
(Initials of Authorized Representative)

PROPOSAL FORM 17: RESIDENT CERTIFICATION

This Certification Section must be completed and submitted before a proposal can be awarded to your company. This information may be placed in an envelope labeled "Proprietary" and is not subject to public view. In order for a proposal to be considered, the following information must be provided. Failure to complete may result in rejection of the proposal:

As defined by Texas House Bill 602, a "nonresident Bidder" means a Bidder whose principal place of business is not in Texas, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

Texas or Non-Texas Resident

- ☐ I certify that my company is a "resident Bidder"
- ☐ I certify that my company qualifies as a "nonresident Bidder"

If you qualify as a "nonresident Bidder," you must furnish the following information:

What is your resident state? (The state your principal place of business is located.)

Company Name		Address	
City	State	Zip	

PROPOSAL FORM 18: FEDERAL FUNDS CERTIFICATION FORM

When a participating agency seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the “Uniform Guidance” or “EDGAR” requirements). All Vendors submitting proposals must complete this Federal Funds Certification Form regarding Vendor’s willingness and ability to comply with certain requirements which may be applicable to specific participating agency purchases using federal grant funds. This completed form will be made available to participating agencies for their use while considering their purchasing options when using federal grant funds. Participating agencies may also require Vendors to enter into ancillary agreements, in addition to the contract’s general terms and conditions, to address the member’s specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

For each of the items below, Vendor should certify Vendor’s agreement and ability to comply, where applicable, by having Vendor’s authorized representative complete and initial the applicable lines after each section and sign the acknowledgment at the end of this form. If a vendor fails to complete any item in this form, Region 10 ESC will consider the Vendor’s response to be that they are unable or unwilling to comply. A negative response to any of the items may, if applicable, impact the ability of a participating agency to purchase from the Vendor using federal funds.

1. Vendor Violation or Breach of Contract Terms:

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 USC 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.

Any Contract award will be subject to Region 10 ESC General Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, participating agency ancillary contract, or Member Construction Contract agreed upon by Vendor and the participating agency which must be consistent with and protect the participating agency at least to the same extent as the Region 10 ESC Terms and Conditions.

The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

Does vendor agree? _____

(Initials of Authorized Representative)

2. Termination for Cause or Convenience:

When a participating agency expends federal funds, the participating agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror in the event Offeror fails to: (1) meet

schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. participating agency also reserves the right to terminate the contract immediately, with written notice to offeror, for convenience, if participating agency believes, in its sole discretion that it is in the best interest of participating agency to do so. Offeror will be compensated for work performed and accepted and goods accepted by participating agency as of the termination date if the contract is terminated for convenience of participating agency. Any award under this procurement process is not exclusive and participating agency reserves the right to purchase goods and services from other offerors when it is in participating agency's best interest.

Does vendor agree? _____

(Initials of Authorized Representative)

3. Equal Employment Opportunity:

Except as otherwise provided under 41 CFR Part 60, all participating agency purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Vendor agrees that such provision applies to any participating agency purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Vendor agrees that it shall comply with such provision.

Does vendor agree? _____

(Initials of Authorized Representative)

4. Davis-Bacon Act:

When required by Federal program legislation, Vendor agrees that, for all participating agency prime construction contracts/purchases in excess of \$2,000, Vendor shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Vendor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at www.wdol.gov. Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Vendor is conditioned upon Vendor's acceptance of the wage determination.

Vendor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), 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.

Does vendor agree? _____

(Initials of Authorized Representative)

5. Contract Work Hours and Safety Standards Act:

Where applicable, for all participating agency contracts or purchases in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is 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 USC 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.

Does vendor agree? _____

(Initials of Authorized Representative)

6. Right to Inventions Made Under a Contract or Agreement:

If the participating agency's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.

Does vendor agree? _____

(Initials of Authorized Representative)

7. Clean Air Act and Federal Water Pollution Control Act:

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 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 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

Does vendor agree? _____

(Initials of Authorized Representative)

8. Debarment and Suspension:

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 1966 Comp. p. 189) and 12689 (3CFR 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.

Vendor certifies that Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor further agrees to immediately notify the Cooperative and all participating agencies with pending purchases or seeking to purchase from Vendor if Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Does vendor agree? _____

(Initials of Authorized Representative)

9. Byrd Anti-Lobbying Amendment:

Byrd Anti-Lobbying Amendment (31 USC 1352) -- Vendors 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 USC 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. As applicable, Vendor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

Does vendor agree? _____

(Initials of Authorized Representative)

10. Procurement of Recovered Materials:

For participating agency purchases utilizing Federal funds, Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a participating agency may require to confirm estimates and otherwise comply. 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 agree? _____

(Initials of Authorized Representative)

11. Profit as a Separate Element of Price:

For purchases using federal funds in excess of \$150,000, a participating agency may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.323(b). When required by a participating agency, Vendor agrees to provide information and negotiate with the participating agency regarding profit as a separate element of the price for a particular purchase. However, Vendor agrees that the total price, including profit, charged by Vendor to the participating agency shall not exceed the awarded pricing, including any applicable discount, under Vendor's Cooperative Contract.

Does vendor agree? _____

(Initials of Authorized Representative)

12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

Vendor agrees that recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system from companies described in Public Law 115-232, section 889. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country are also prohibited.

Does vendor agree? _____

(Initials of Authorized Representative)

13. General Compliance and Cooperation with Participating Agencies:

In addition to the foregoing specific requirements, Vendor agrees, in accepting any Purchase Order from a participating agency, it shall make a good faith effort to work with participating agencies to provide such information and to satisfy such requirements as may apply to a particular participating agency purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

Does vendor agree? _____

(Initials of Authorized Representative)

14. Applicability to Subcontractors

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does vendor agree? _____

(Initials of Authorized Representative)

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Company Name

Signature of Authorized Company Official

Printed Name

Title

Date

PROPOSAL FORM 19: GENERAL TERMS AND CONDITIONS ACCEPTANCE FORM

Signature on the Vendor Contract Signature form certifies complete acceptance of the General Terms and Conditions in this solicitation, except as noted below (additional pages may be attached, if necessary).

Check one of the following responses to the General Terms and Conditions:

☐ We take no exceptions/deviations to the general terms and conditions

(Note: If none are listed below, it is understood that no exceptions/deviations are taken.)

☐ We take the following exceptions/deviations to the general terms and conditions. All exceptions/deviations must be clearly explained. Reference the corresponding general terms and conditions that you are taking exceptions/deviations to. Clearly state if you are adding additions terms and conditions to the general terms and conditions. Provide details on your exceptions/deviations below:

(Note: Unacceptable exceptions shall remove your proposal from consideration for award. Region 10 ESC shall be the sole judge on the acceptance of exceptions/deviations and the decision shall be final.)

PROPOSAL FORM 20: EQUALIS GROUP ADMINISTRATION AGREEMENT

Requirements for Master Agreement To be administered by Equalis Group

Section 3; Attachment A, Equalis Group Administrative Agreement is used in administering Master Agreements with Region 10 and is preferred by Equalis Group. Redlined copies of this agreement should not be submitted with the response. Should a respondent be recommended for award, this agreement will be negotiated and executed between Equalis Group and the respondent. **Respondents must select one of the following options for submitting their response and submit this page only.**

- ☐ Respondent agrees to all terms and conditions outlined in each of the Administration Agreement.
- ☐ Respondent wishes to negotiate directly with Equalis Group on terms and conditions outlined in the Administration Agreement. Negotiations will commence after sealed Proposals are opened and Region 10 has determined the respondent met all requirements in their response and may be eligible for award.

PROPOSAL FORM 21: OPEN RECORDS POLICY ACKNOWLEDGEMENT AND ACCEPTANCE

OPEN RECORDS POLICY ACKNOWLEDGMENT AND ACCEPTANCE

Be advised that all information and documents submitted will be subject to the Public Information Act requirements governed by Chapter 552 of the Texas Government Code.

Because contracts are awarded by a Texas governmental entity, all responses submitted are subject to release as public information after contracts are executed. If a Respondent believes that its response, or parts of its response, may be exempted from disclosure to the public, the Respondent must specify page-by-page and line-by-line the parts of the response, which it believes, are exempted from disclosure. In addition, the Respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s). Respondent must provide this information on the "Acknowledgement and Acceptance to Region 10 ESC's Public Information Act Policy" form found on the next page of this solicitation. Any information that is unmarked will be considered public information and released, if requested under the Public Information Act.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 10 ESC must provide the OAG with the information requested in order for the OAG to render an opinion. In such circumstances, Respondent will be notified in writing that the material has been requested and delivered to the OAG. Respondent will have an opportunity to make arguments to the OAG in writing regarding the exception(s) to the TPIA that permit the information to be withheld from public disclosure. Respondents are advised that such arguments to the OAG must be specific and well-reasoned--vague and general claims to confidentiality by the Respondent are generally not acceptable to the OAG. Once the OAG opinion is received by Region 10 ESC, Region 10 ESC must comply with the opinions of the OAG. Region 10 ESC assumes no responsibility for asserting legal arguments on behalf of any Respondent. Respondents are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

After completion of award, these documents will be available for public inspection.

Signature below certifies complete acceptance of Region 10 ESC's Open Records Policy, except as noted below (additional pages may be attached, if necessary). Check one of the following responses to the Acknowledgment and Acceptance of Region 10 ESC's Open Records Policy below:

- ☐ We acknowledge Region 10 ESC's Public Information Act policy and declare that no information submitted with this proposal, or any part of our proposal, is exempt from disclosure under the Public Information Act.

(Note: All information believed to be a trade secret or proprietary must be listed below. It is further understood that failure to identify such information, in strict accordance with the instructions below, will result in that information being considered public information and released, if requested under the Public Information Act.)

- ☐ We declare the following information to be a trade secret or proprietary and exempt from disclosure under the Public Information Act.

(Note: Respondent must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, Respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).)

Date

Authorized Signature & Title

PROPOSAL FORM 21: VENDOR CONTRACT AND SIGNATURE FORM

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this proposal in collusion with any other Respondent and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

Company name _____

Address _____

City/State/Zip _____

Telephone No. _____

Fax No. _____

Email address _____

Printed name _____

Position with company _____

Authorized signature _____

Term of contract _____ **to** _____

Unless otherwise stated, all contracts are for a period of two (2) years with an option to renew annually for an additional three (3) years if agreed to by Region 10 ESC. Vendor shall honor all administrative fees for any sales made based on the contract whether renewed or not.

Region 10 ESC Authorized Agent

Date

Print Name

Equalis Group Contract Number _____



**REQUEST FOR PROPOSAL FOR:
Job Order Contracting Services
In the State of Texas**

February 2021

Section Three:

Part A - General Terms and Conditions for JOC

Part B – Vendor Contract and Signature Form

Attachment A – Equalis Group Administrative Agreement

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SECTION THREE: PART A – TERMS AND CONDITIONS FOR JOC

1. DEFINITIONS

- 1.1 Addendum or Addenda: The additional or modified provisions of the RFP Documents issued in writing by Region 10 ESC prior to the receipt of Proposals.
- 1.2 Contract: The written agreement between the Contractor and Region 10 ESC covering the Work to be performed; and other Contract Documents incorporated in or referenced in the Contract and made part thereof as if provided therein.
- 1.3 Adjustment Factors: The Contractor's proposed price adjustment to the Unit Prices as published in the Construction Task Catalog, Section Five (Construction Task Catalog). Adjustment Factors are expressed as an increase to or decrease from the published prices.
- 1.4 RFP Documents: The Request for Proposal; Section One, Part A – Introduction & Scope, Section One, Part B – Instruction to Proposers and Award Process; Section Two, Proposal Submission and Required Forms; Section Three, Part A - Terms and Conditions for JOC; Section Three, Part B – Vendor Contract and Signature Form; Section Three, Attachment A – Equalis Group Administrative Agreement; Section Four, North Texas Area Construction Task Catalog, Panhandle Texas Area Construction Task Catalog, West Texas Area Construction Task Catalog, Central Texas Area Construction Task Catalog, Gulf Coast Texas Area Construction Task Catalog, South Texas Area Construction Task Catalog; and Section Five, Technical Specifications.
- 1.5 Construction Task Catalog (CTC): A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. Construction Task Catalog is a registered trademark of The Gordian Group, Inc.
- 1.6 Contract Documents: This Contract; the RFP Documents (Section One, Part A – Introduction & Scope, Section One, Part B – Instruction to Proposers and Award Process; Section Two, Proposal Submission and Required Forms; Section Three, Part A - Terms and Conditions for JOC; Section Three, Part B – Vendor Contract and Signature Form; Section Three, Attachment A – Equalis Group Administrative Agreement; Section Four, North Texas Area Construction Task Catalog, Panhandle Texas Area Construction Task Catalog, West Texas Area Construction Task Catalog, Central Texas Area Construction Task Catalog, Gulf Coast Texas Area Construction Task Catalog, South Texas Area Construction Task Catalog; Section Five, Technical Specifications and Addenda thereto); all payment and performance bonds (if any); material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; all modifications issued thereto, including Supplemental Purchase Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Proposal Packages, etc.) issued hereunder.
- 1.7 Contractor: The legal entity named in the award letter with which Region 10 ESC has contracted and is responsible for the acceptable performance of the Contract, and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor will be deemed to be a reference to Contractor.
- 1.8 Days: Calendar days.
- 1.9 Detailed Scope of Work: A document prepared following a Joint Scope Meeting which describes in detail the Work the Contractor will perform for a particular Purchase

Order.

- 1.10 Holidays: the specific days designated by Region 10 ESC, Members, or the Project Labor Agreement as legal Holidays. Region 10 ESC designates the following days as Holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the following day, and Christmas Day.
- 1.11 Joint Scope Meeting: a meeting, normally at the Site, to discuss the Work with the Contractor to assist in the development of the Detailed Scope of Work.
- 1.12 Lead Public Agency: means Region 10 in its capacity as the government entity advertising, soliciting, evaluating and awarding the contract.
- 1.13 Non Pre-priced Task (NPP): a task not included in the Construction Task Catalog but within the general scope and intent of this Contract.
- 1.14 Member: Any entity that has elected to participate in an Equalis Group or Region 10 ESC supplier Contract.
- 1.15 Price Proposal: The price proposal prepared by the Contractor using the Construction Task Catalog, Adjustment Factors and appropriate quantities.
- 1.16 Procurement: means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.
- 1.17 Proposal Package: A group of documents and files consisting of the Price Proposal; incidental drawings, sketches, or specification information; quantity take-offs supporting all material quantities; catalog cuts providing information on materials or products, as specifically requested; list of known Subcontractors, construction schedule, back-up for any Non Pre-Priced Tasks, warranty information on special equipment or materials and or other such documentation as the Member may require.
- 1.18 Project: collectively, the Work to be accomplished by the Contractor in satisfaction of a requirement or group of related requirements pursuant to one or more Purchase Orders.
- 1.19 Purchase Order. The document establishing the engagement by Region 10 ESC or the Member to the Contractor to complete a Detailed Scope of Work for the Purchase Order Price within the Purchase Order Completion Time.
- 1.20 Request for Proposal: The Member's written request for the Contractor to prepare and submit a Proposal Package for a specific Detailed Scope of Work.
- 1.21 Responsive Respondent: means a person, company, firm, corporation, partnership or other organization who submits a proposal which conforms in all material respects to the invitation for bids or request for proposals.
- 1.22 Site: The area upon or in which the Contractor performs the Detailed Scope of Work and such other areas adjacent thereto as may be designated by Region 10 ESC or the Member.
- 1.23 Solicitation: means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations or any other solicitation or request by which we invite a person to participate in a procurement.
- 1.24 Specifications: means any description of physical or functional characteristics, or of the nature of a material, service or construction of item. Specifications may include a description or any requirement for inspecting, testing or preparing a material, service or construction item for delivery.
- 1.25 State: The state of Texas.

- 1.26 Subcontractor: Any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or its Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.
- 1.27 Supplemental Purchase Order: A purchase order issued to add, delete or change Work from an existing, related Purchase Order.
- 1.28 Technical Specifications: The comprehensive listing of the Members standards for quality of workmanship and materials, and the standard for the required quality of the Work.
- 1.29 Unit Price: The price published in the Construction Task Catalog for a Task.
- 1.30 Work: The labor, material, equipment and services necessary or convenient to the completion of Purchase Orders.
- 1.31 Purchase Order Completion Time: The period of time set forth in the Purchase Order within which the Contractor must complete the Detailed Scope of Work.
- 1.32 Purchase Order Price: The value of the approved Price Proposal and the lump sum price to be paid to the Contractor for completing the Detailed Scope of Work within the Purchase Order Completion Time.
- 1.33 Vendor: means any provider or seller of goods and/or services that has a contractual relationship with Equalis Group or Region 10 ESC.

2. SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK

2.1 Scope of Work

- 2.1.1 This is an indefinite quantity contract for the supplies or services specified, and effective for the period stated in the RFP Documents.
- 2.1.2 Job or performance will be made only as authorized by Purchase Orders issued in accordance with these JOC Terms and Conditions.
- 2.1.3 The Scope of Work of this Contract will be determined by individual Purchase Orders issued hereunder. The Contractor will provide all pricing, management, incidental drawings, shop drawings, samples, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Purchase Order. The Contractor will also be responsible for Site safety as well as Site preparation and cleanup during and after construction.
- 2.1.4 The Work will be conducted by the Contractor in strict accordance with the Contract and all applicable laws, regulations, codes, or directives including federal, state, county and city.
- 2.1.5 The Contractor will maintain accurate and complete records, files and libraries of documents to demonstrate compliance with federal, state, and local regulations, codes, applicable laws listed herein, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.
- 2.1.6 The Contractor will prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor will provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary to complete the Purchase Order.

- 2.1.7 In addition to the Tasks in the CTC, Section 4, Region 10 ESC may, from time to time, require Non Pre-priced Tasks.
- 2.1.8 All Work will comply with any applicable standards, including those specified in the following documents. If the Purchase Order specifies a standard which is different or more stringent, the standard used in the Purchase Order will control:
 - 2.1.8.1 City building codes
 - 2.1.8.2 The specific Detailed Scope of Work
 - 2.1.8.3 Technical Specifications – Section 5
 - 2.1.8.3.1 The Technical Specifications, Section 5, are numbered and organized in the Construction Specification Institute's (CSI) master format. All specifications are filed in divisions per CSI guidelines.
 - 2.1.8.3.2 The intent of these Technical Specifications is to furnish concise industry and commercial standards for construction, maintenance or repair of Member facilities.
 - 2.1.8.3.3 Reference in the Technical Specifications or the CTC to a specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Proposer items that will be satisfactory.

2.2 Procedure for ordering work

- 2.2.1 **Initiation of a purchase order:** As the need exists, Region 10 ESC (or their designated representative) will, on behalf of a Member, notify the Contractor of a Project and schedule a Joint Scope Meeting.
 - 2.2.1.1 The Contractor will attend the Joint Scope Meeting to discuss, at a minimum:
 - 2.2.1.2 the general scope of the Work,
 - 2.2.1.3 alternatives for performing the Work and value engineering,
 - 2.2.1.4 access to the Site and protocol for admission,
 - 2.2.1.5 hours of operation,
 - 2.2.1.6 staging area,
 - 2.2.1.7 requirements for professional services, sketches, drawings, and specifications,
 - 2.2.1.8 construction schedule,
 - 2.2.1.9 requirement for bonding
 - 2.2.1.10 the presence of hazardous materials, and
 - 2.2.1.11 date on which the Proposal Package is due.
- 2.2.2 Upon completion of the joint scoping process, Region 10 ESC (or their designated representative), working with the Member and the Contractor, will prepare a Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. Region 10 ESC (or their designated representative) will issue a Request for Proposal that will require the Contractor to prepare a Proposal Package. The Detailed Scope of Work, unless modified by both the Contractor and Region 10 ESC (or their designated representative), will be the basis on which the Contractor will develop its Price Proposal and Region 10 ESC (or their designated

representative) and the Member will evaluate the same. The Contractor does not have the right to refuse to perform any Task or any work in connection with a particular Project.

2.2.3 **Preparation of the Price Proposal:** The Contractor will prepare Price Proposals in accordance with the following:

2.2.4 **Pre-priced Tasks:** A Pre-priced Task is a Task described and for which a Unit Price is set forth in the Construction Task Catalog. For Pre-priced Tasks the Contractor will identify the Task from the Construction Task Catalog and the quantities required.

2.2.5 **Non Pre-priced Tasks:** A Non Pre-priced Task is a Task which is not in the Construction Task Catalog.

2.2.5.1 If the Contractor will perform the Non Pre-priced Task with its own forces, it will submit three independent quotes for all materials to be installed and will provide a breakdown of the labor and equipment costs.

2.2.5.2 If the Non Pre-priced Task is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. The Contractor will not submit a quote or bid from any supplier or Subcontractor that the Contractor is not prepared to use. Region 10 ESC may require additional quotes and bids if the suppliers or Subcontractors are not acceptable or if the prices are not deemed reasonable by Region 10 ESC or its designated representative.

2.2.5.3 **Pricing Non Pre-priced Tasks:** The final price submitted for Non Pre-priced Tasks will be according to the following formula. Each Non Pre-priced Task must be supported with the necessary back-up documents including the calculation below:

2.2.5.4 For Work Performed with the Contractor's Own Forces:

2.2.5.4.1 The hourly rate for each trade classification not in the Construction Task Catalog multiplied by the quantity;

2.2.5.4.2 The rate for each piece of Equipment not in the Construction Task Catalog multiplied by the quantity;

2.2.5.4.3 Lowest of three independent quotes for all materials

2.2.5.4.4 Total Cost for self-perform work = (A+B+C) x NPP Adjustment Factor

2.2.6 **For Work Performed by Sub-contractors:** If the Work is to be subcontracted, the Contractor must submit three independent quotes from Subcontractors for the Work. If three quotes or bids cannot be obtained, the Contractor will provide the reason in writing for Member's approval why three quotes cannot be submitted.

D = Lowest of three Subcontractor quotes

Total Cost of Subcontracted Non Pre-priced Task = D x NPP Adjustment Factor

2.2.6.1 At the discretion of Region 10 ESC (or their designated representative), Non Pre-priced Tasks, as well as other Tasks, may be added to the CTC during the course of the Contract. Unit prices will be established based on actual quotes from material suppliers and installers and fixed as a permanent Pre-priced Task in the CTC.

2.2.6.2 Region 10 ESC (or their designated representative) determination as

to whether an item is a Pre-priced Task or a Non Pre-priced Task will be final, binding and conclusive as to the Contractor.

2.2.6.3 The means and methods of construction will be such as the Contractor may choose; subject however, to Region 10 ESC's right to reject means and methods proposed by the Contractor that:

2.2.6.3.1 Will not produce finished Work in accordance with the terms of the Contract; or

2.2.6.3.2 Unnecessarily increases the price of the Purchase Order when alternative means and methods are available.

2.2.7 In the event the Contractor is required to work within a secured facility where labor, material, and equipment must be inspected to pass through a secured perimeter, and all work must be constantly monitored by facility personnel, such as a Department of Corrections prison, the Contractor will be paid for the labor time lost as a result of such perimeter inspection, as well as any loss of time resulting from a temporary shutdown of the work site required by the facility, such as a temporary shutdown to move prisoners.

2.2.8 The value of the Price Proposal will be calculated by summing the total of the calculations for each Pre-priced Tasks (Unit Price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.

2.2.9 The Contractor must submit a complete Proposal Package, which includes:

- a. any incidental drawings or sketches, calculations and or specification information,
- b. the Price Proposal, and a quantity take-off summary supporting all material quantities contained in the Price Proposal
- c. catalog cuts providing information on materials or products, as specifically requested,
- d. back-up for any Non Pre-priced Tasks,
- e. identification of known Subcontractors and material suppliers,
- f. a construction schedule,
- g. for special equipment or materials, warranty information,

2.2.10 By submitting a Price Proposal to Region 10 ESC, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to Region 10 ESC.

2.2.11 Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Price Proposal is less than the cost of the actual labor and material to perform such task, the Member may permit the Contractor to be paid for such task as a Non Pre-priced Task, or use Pre-priced labor tasks and material component pricing to cover the actual costs incurred. Provided, however, that there is no other work for that trade on the Project or other work for that trade cannot be scheduled at the same time and the final charge does not exceed \$5,000.

2.3 Time for Submittal of the Proposal Package

2.3.1 The Proposal Package will be submitted by the date indicated on the Request for Proposal. All incomplete Proposal Packages will be rejected. The time

allowed for preparation of the Proposal Package will depend on the complexity and urgency of the Project but should average between seven and fourteen days. On complex Projects, such as those requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

- 2.3.2 In emergency situations and for Projects requiring immediate completion, the Proposal Package may be required quickly and the due date will be so indicated on the Request for Proposal or, the Contractor may begin work immediately, with the paperwork to follow.
- 2.3.3 If the Contractor fails to meet the deadline for submittal of the Proposal Package, this may be reason to suspend issuance of this particular Purchase Order.
- 2.3.4 If the Contractor requires clarifications or additional information regarding the Detailed Scope of Work in order to prepare the Proposal Package, the request must be submitted so that the submittal of the Proposal Package is not delayed.

2.4 **Review of the Proposal Package**

- 2.4.1 Region 10 ESC (or its designated representative) and/or the Member (or its designated representative) will evaluate the Price Proposal by evaluating the nature and number of Tasks proposed against the agreed upon Detail Scope of Work and will determine the reasonableness of approach. Furthermore Region 10 ESC (or its designated representative) or the Member (or its designated representative) may compare the Price Proposal to the Member cost estimate for the Detailed Scope of Work. Region 10 ESC (or its designated representative) or the Member (or its designated representative) reserves the right to reject a Price Proposal based on unjustifiable/unsupported (with take off details) quantities and/or Tasks, schedule, inadequate documentation, or for any other reason.
- 2.4.2 If Region 10 ESC (or its designated representative) and/or the Member (or its designated representative) finds any part of the Price Proposal unacceptable, Region 10 ESC (or its designated representative) or the Member (or its designated representative) may request the Contractor to re-submit its Price Proposal or cancel the Project. The Contractor is expected to submit correct Price Proposals the first time. However, Region 10 ESC recognizes that some adjustments might have to be made to the Price Proposal after review by Region 10 ESC (or its designated representative) and the Member (or its designated representative). Therefore, Region 10 ESC (or its designated representative) will allow the Contractor to submit the first Price Proposal and a second Price Proposal for each Purchase Order.
- 2.4.3 Additionally, Region 10 ESC (or its designated representative) and/or the Member (or its designated representative) will evaluate all other components of the Proposal Package and may request revisions thereto.
- 2.4.4 **Requested revisions to any and all of the Proposal Package components should be made by the Contractor and resubmitted in three (3) working days or less.** If after the second review by Region 10 ESC (or its designated representative) and/or the Member (or its designated representative), Region 10 ESC (or its designated representative) and/or the Member (or its designated representative) finds requested revisions to the Proposal Package that were not made, this may be reason to suspend that particular Purchase Order.

- 2.4.5 Failure by the Contractor to submit Proposal Packages, and revisions thereto, in a timely manner (within time frames described above) is grounds for suspension of all future Purchase Orders.
- 2.4.6 Region 10 ESC reserves the right to obtain Price Proposals from any or all of the contractors awarded an IQCC contract.
- 2.4.7 If the Contractor continues to submit Price Proposals which are rejected by Region 10 ESC (or its designated representative), Region 10 ESC may declare the Contractor in default and initiate termination of the Contract, according to the Contract General Conditions.

2.5 Delivery of the Proposal Package

- 2.5.1 After Region 10 ESC (or its designated representative) reaches an agreement with the Contractor on the Proposal Package and any requested revision thereto, if applicable, Region 10 ESC (or its designated representative) will assemble and deliver the Proposal Package for the Member's consideration.

2.6 Review of the Proposal Package by the Member and Issuance of Purchase Order

- 2.6.1 The Member will evaluate the entire Proposal Package.
- 2.6.2 The Member may reject a Proposal Package for any reason.
- 2.6.3 The Member may request changes to or clarifications of any part of the Proposal Package, may require certificates of insurance, and may require a Labor and Material Payment Bond and Performance Bond. The Contractor and Region 10 ESC (or its designated representative) will work together to make any requested revisions in a timely manner and resubmit a revised Proposal Package.
- 2.6.4 Upon approval of the Proposal Package by Region 10 ESC (or its designated representative) and the Member, the Member may issue a signed Purchase Order, Notice of Award, or similar document accepting the Contractor's offer. The document will include:
 - a. Reference to the Detail Scope of Work
 - b. The Purchase Order Price
 - c. Start date, Purchase Order Completion Time (duration) and completion date
 - d. Whether liquidated damages will apply
- 2.6.5 When the Work Order Package is accepted, the Member may send to the Contractor a Purchase Order, or a notice of intent to award a Purchase Order (sometimes used if bonding is required) or a similar document.
- 2.6.6 Once a Contractor has accepted the Purchase Order then the Contractor may not refuse to perform the Work. Such actions may be grounds for termination of this Contract or other disciplinary action at the option of Region 10 ESC.
- 2.6.7 If performance and payment bonding is required, or if a separate and /or special insurance certificate is required, the Contractor will deliver such requirement to the Member within ten (10) days of notification of the requirement.

3. JOB ORDER CONTRACTING SOFTWARE AND SYSTEM LICENSE

- 3.1 Job Order Contracting Software: The Owner selected The Gordian Group's (Gordian) Job Order Contracting ("JOC") System for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC software applications (JOC Applications) and construction cost data (Construction Task Catalog®), which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Price Proposals, subcontractor lists, and other

requirements specified by the Owner. Contractor's use, in whole or in part, of Gordian's JOC Applications, Construction Task Catalog® and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for the Owner is strictly prohibited unless otherwise approved in writing by Gordian. The Contractor hereby agrees to abide by the terms of the following JOC System License.

- 3.2 JOC System License: Gordian hereby grants to the Contractor, and the Contractor hereby accepts from Gordian for the term of this Contract or Gordian's Contract with the Owner, whichever is shorter, a non-exclusive right, privilege, and license to Gordian's proprietary JOC System and related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of executing Contractor's responsibilities to the Owner under this Contract. The Contractor hereby agrees that Proprietary Information shall include, but is not limited to, Gordian's JOC Applications and support documentation, Construction Task Catalog®, training materials and other Gordian provided proprietary materials. In the event this Contract expires or terminates as provided herein, or Gordian's Contract with the Owner expires or terminates, this JOC System License shall terminate and the Contractor shall return all Proprietary Information in its possession to Gordian.
 - 3.2.1 Gordian may terminate this License Agreement in the event of: (1) any breach of a material term of this Agreement by the Contractor which is not remedied within ten (10) days after written notice to the breaching party; or (2) the other party's making an assignment for the benefit of its creditors, or the filing by or against such party of a petition under any bankruptcy or insolvency law, which is not discharged within thirty (30) days of such filing.
 - 3.2.2 The Contractor acknowledges that disclosure of Proprietary Information will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy and agrees that no such disclosure shall be made to anyone without first receiving the written consent of Gordian. The Contractor further acknowledges and agrees to respect the copyrights, registrations, trade secrets, and other proprietary rights of Gordian in the Proprietary Information during and after the term of this Contract and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to the Contractor.
 - 3.2.3 In the event of a conflict in terms and conditions between this JOC System License and any other terms and conditions of this Contract or any Job Order, Purchase Order or similar purchasing document issued to the Contractor by the Owner, this JOC System License shall take precedence.

4. ARCHITECTURAL AND ENGINEERING PLAN

- 4.1 The contractor should describe in its business plan how it will include and work with local subcontractors and how it will work with local architects and engineers, especially those A&E firms already working with the public agency. Architect and engineering services are not being requested in this RFP and will be rejected by Region 10 ESC if offered in the State of Texas.

5. DESIGN REQUIREMENTS

- 5.1 The proposal coefficient should provide reasonable oversight for engineering and architectural (A&E) design to meet both local and state requirements. The contractor should expect as part of its coefficient those services that are required to obtain building permits and meet local and state standards for design and oversight. Services may be provided via its own staff, subcontractor, or working with the public agencies managers, architects and engineers wherever such professional architectural and engineering services are required. The contractor may pay for the engineer or architectural services with the public agency's concurrence. However, selection for engineering or architectural services shall be in accordance with state statutes.

6. TERM OF CONTRACT AND PURCHASE ORDERS ISSUED

- 6.1 A Member may issue a Purchase Order at any time during the term of this Contract. All Purchase Orders issued during a term of this Contract will be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such term has expired.

7. GEOGRAPHICAL AREA

- 7.1 Contractor will primarily work in the Geographical Area designated. However, if both parties agree, the Contractor may work in another Geographical Area using the awarded CTC and adjustment factor proposed. If a contractor holds multiple contracts when performing work outside an awarded area the contractor will use the contract that results in the lowest price for the Member.
- 7.2 Contractor shall extend all Contract terms and conditions to any new Member in the Geographical Area designated, as well as any other Geographical Area, throughout the Contract term.

8. ESTIMATED ANNUAL VALUE

- 8.1 The Estimated Annual Value of the Contract is as specified in the RFP. The Contractor is not guaranteed to receive any Purchase Orders under this Contract. The Estimated Annual Value is not a limit on the total value of Purchase Orders that could be issued to the Contractor in any one year.

9. OPTION TO BILATERALLY EXTEND CONTRACT

- 9.1 This Contract has an initial term of two (2) years from the date on contract and three (3) bilateral option provisions for three (3) additional one-year terms.
- 9.2 The Construction Task Catalog issued with this Solicitation will be in effect for the first year of this Contract.
- 9.3 On the anniversary of the solicitation, a new Construction Task Catalog will be furnished. The new Construction Task Catalog will be effective for the 12 month period after the anniversary of the award date. The Construction Task Catalogs that accompany each anniversary shall only apply to Work Orders issued after the effective date of that specific renewal option and shall have no impact on Work Orders issued prior to the effective date of that specific renewal option.
- 9.4 The Adjustment Factors submitted with the Contractor's Proposal shall be used for the full term of the Contract. On the annual anniversary of the Contract, Region 10 ESC shall issue

the Contractor a new Construction Task Catalog. The Contractor will be issued the new Construction Task Catalog for review and acceptance prior to accepting new work. The Contractor shall use the Construction Task Catalog in effect on the date that the Work Order is issued. However, the Contractor cannot delay the issuance of a Work Order to take advantage of a scheduled update of the Construction Task Catalog. In that event, the Contractor shall use the Construction Task Catalog that would have been in effect without the delay.

10. ASSIGNMENT OF WORK

- 10.1 The assignment of the Work is at the sole discretion of the Member. The Contractor's Adjustment Factors, performance history, and ability to perform the Work will be considered in determining the distribution of the Work.
- 10.2 If the Region 10 ESC approves, a Member may utilize Bid Safe®, whereby the Member issues a Request for Quotation (RFQ) to two or more Contractors for a Job Order. Selection of the Contractor and award of the Job Order will be in compliance with established Region 10 ESC procedures.
- 10.3 The Region 10 ESC reserves the right to approve, and Member reserves the right to utilize, Bid Safe® on a Job Order by Job Order basis.
- 10.4 The Region 10 ESC and Member will consider several factors when determining the applicability of Bid Safe® to a Job Order including, but not limited to, the following:
 - 10.4.1 Estimated Work Order Amount;
 - 10.4.2 Scope documentation, including but not limited A/E design;
 - 10.4.3 Nature and complexity of the Work;
 - 10.4.4 Contractors' abilities to self-perform the Work;
 - 10.4.5 Contractors' proven capabilities on similar Work;
 - 10.4.6 Schedule; and;
 - 10.4.7 Other appropriate criteria as deemed in the best interest of the Member.
- 10.5 The Detailed Scope of Work will be developed by the Member and included with the RFQ.
- 10.6 The Member may conduct one or more Site visits with all contractors designated to receive the RFQ.
- 10.7 All contractors that receive the RFQ will have the opportunity to submit requests for information. Should Member choose to respond to any or all of the requests for information, the responses, and any changes to the RFQ, will be provided in an addendum to all contractors designated to receive the RFQ.
- 10.8 The Contractor will utilize the Bid Safe® application in the eGordian® software to provide a Not to Exceed Offer (NTE Offer), along with any additional requested documentation, in response to the RFQ.
- 10.9 Member will issue a Request for Proposal to the contractor submitting the NTE Offer that provides the best value to the Member based on, but not limited to, price and any technical factors considered.
- 10.10 The NTE Offer is valid for ninety (90) Days from the date of opening unless stated otherwise in the Detailed Scope of Work.
- 10.11 The Contractor that receives a Job Order Request for Proposal will submit a Job Order Price Proposal Package to Member.
- 10.12 The Job Order Amount shall be equal to the lessor of the NTE Offer and the Job Order

Price Proposal amount.

- 10.13 Where the NTE Offer is less than the Job Order Price Proposal, the difference between the NTE Offer and Job Order Price Proposal shall be deemed a discount offered by the Contractor. The discount amount shall be a percent-based discount that will be calculated by the following equation: $\text{Percent Discount} = (\text{Job Order Price Proposal Amount} - \text{NTE Offer}) \div \text{Job Order Price Proposal Amount}$
- 10.14 The discount shall be applied to subsequent Supplemental Job Orders (additions or deletions) required to complete the Work, provided the Job Order contains materials, equipment and tasks that are similar in nature to the original Detailed Scope of Work.
- 10.15 If the Member exercises its right to award a Job Order utilizing Bid Safe®, collaboration between contractors is specifically prohibited. Contractor collaboration undermines competition, and evidence of such will be considered a material breach of this Contract Agreement and grounds for termination for cause.

11. INSTALLATION

- 11.1 Equipment and/or product installation shall be performed in a reasonable amount of time and be scheduled directly with the public agency. Installation shall be in accordance with the manufacturer's instructions and shall be accomplished by a skilled, certified and properly licensed individual.

12. HUBS, MWBE'S AND SBES

- 12.1 Region 10 ESC encourages the use of HUBs, MWBEs and SBES both as prime and subcontractors. However, all subcontractors must meet the same minimum standards and requirements as the prime contractor. It will be the responsibility of the prime contractor to pre-qualify their subcontractors. Public agency may have goals for subcontracting requirements and will require

13. BUYER DELAYS

- 13.1 The prime contractor will negotiate with the public agency for the recovery of damages related to expenses incurred by the contractor for a delay for which the public agency is responsible, which is unreasonable, and which was not within the contemplation of the parties to the contract between the two parties. Compensation for received goods, terms of progress payments, and a schedule of payments should be described in the contract.

14. CONSTRUCTION CONTRACT REQUIREMENT

- 14.1 Terms for acceptance by the public agency and title to work must be clearly agreed upon and described in the contract between the contractor and the public agency. If any part of the construction requires the owner to assume control before the completion, this needs to be defined. Both parties must agree on the definition of what constitutes final acceptance before payment of any retained compensation. Upon completion of the project, the worksite shall be left in good condition and equal to the condition of the site prior to commencing the project.
- 14.2 If any work is to be performed by the public agency, it must be clearly defined and agreed to by the public agency and the prime contractor prior to the start of the project.

15. CONSTRUCTION SCHEDULE

- 15.1 The public agency retains the right to extend the schedule of work or to suspend the work and direct the prime contractor to resume work when appropriate. The agreement must describe an equitable adjustment for added costs caused by any delay or suspension. Any increases will be invoiced as allowed in this agreement.
- 15.2 The schedule for performance of work that can be met without planned overtime is the responsibility of the prime contractor.
- 15.3 The cost for each project shall include all costs of all necessary trained personnel to complete the project on or before the completion date set forth in the contract. The public agency shall not incur additional expense for upsized crews or overtime costs, which might be necessary for the contractor to complete the project on schedule.

16. PERSONNEL

- 16.1 The Contractor will employ competent personnel for the development of the Project's Detailed Scope of Work, the preparation of the Price Proposal and the execution of the Work. During the performance of the Work, the superintendent assigned to the Project will represent the Contractor, and communications given to the superintendent will be as binding as if given to the Contractor. Important communications must be confirmed in writing. Other communications will be similarly confirmed on written request in each case.

17. SUPERVISION

- 17.1 The Contractor will supervise and direct the performance of the Detailed Scope of Work, using the Contractor's best skill and attention. The Contractor will be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. If the Detailed Scope of Work gives specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor will evaluate the Site safety thereof and, except as stated below, will be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor will give timely written notice to the Project Manager and will not proceed with that portion of the Work without further written instructions from the Project Manager.
- 17.2 The Contractor will be responsible to the Member for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the work for or on behalf of the Contractor or any of its Subcontractors.
- 17.3 The Contractor will be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.
- 17.4 Effective July 18, 2008, in addition to the existing prevailing wage rate law, Labor Law §220, section 220-h, all laborers, workers, and mechanics working on the site of public work projects of at least \$250,000 are required to be certified as having successfully completed the OSHA 10-hour Construction Safety and Health Course S1537-A.

18. MEMBERS RIGHT TO STOP WORK

18.1 The Member may order the Contractor to stop the Work on any Purchase Order, or any portion thereof, at any time for any reason.

19. MEMBERS RIGHT TO COMPLETE WORK

19.1 If the Contractor has been ordered to stop the Work, the Member may, without prejudice to other remedies, have the Work completed by any available means.

20. REVIEW OF FIELD CONDITIONS

20.1 Before submitting a Price Proposal, the Contractor must carefully study the Detailed Scope of Work, as well as the information furnished by the Member, must take field measurements of any existing conditions related to the Work and must observe any conditions at the Site affecting it. Any errors, inconsistencies or omissions discovered by the Contractor must be reported promptly to the Project Manager.

20.2 Any design errors or omissions noted by the Contractor during this review will be reported promptly to the Project Manager, but it is recognized that the Contractor's review is made in the Contractor's capacity as a Contractor and not as a licensed design professional. The Contractor is not required to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, any nonconformity discovered by or made known to the Contractor must be reported promptly to the Project Manager.

21. PERMITS AND FILINGS

21.1 Contractor will make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the city, state or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained will be treated as a Reimbursable Task to be paid a mark-up of 10% on the fees paid to a governmental entity to obtain filings and permits. Contractor will submit written documentation of such fees. The 10% mark-up will cover all costs over and above the filing and permit fees, including expeditor fees.

21.2 The Contractor will comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

21.3 It is not the Contractor's responsibility to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that any portion of the Detailed Scope of Work is at variance therewith, the Contractor will promptly notify the Project Manager in writing.

22. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

22.1 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the

Detailed Scope of Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Detailed Scope of Work. Submittals which are not required by the Contract Documents may be returned by the Project Manager without action.

- 22.2 The Contractor must review for compliance with the Contract Documents, approve and submit to the Project Manager Shop Drawings, Product Data, Samples and similar submittals required with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Member or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Project Manager without action.
- 22.3 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Detailed Scope of Work and of the Contract Documents.
- 22.4 The Contractor must perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Project Manager.
- 22.5 The Work will be performed in accordance with approved submittals except that the Contractor will not be relieved of responsibility for deviations from requirements of the Contract Documents by the Project Manager's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submittal and (1) the Project Manager has given written approval to the specific deviation as a minor change in the Work, or (2) a Supplemental Purchase Order or written notice has been issued authorizing the deviation. The Contractor will not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Project Manager's approval thereof.
- 22.6 The Contractor will direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Project Manager on previous submittals. In the absence of such written notice the Project Manager's approval of a resubmission will not apply to such revisions.
- 22.7 The Contractor will not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Detailed Scope of Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor will not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Detailed Scope of Work, the Member will specify all performance and design criteria that such services must satisfy. The Contractor will cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such

professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, will bear such professional's written approval when submitted to the Project Manager. The Member will be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Member has specified to the Contractor all performance and design criteria that such services must satisfy. The Project Manager will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Detailed Scope of Work. The Contractor will not be responsible for the adequacy of the performance or design criteria required by the Detailed Scope of Work.

23. CUTTING AND PATCHING

- 23.1 The Contractor will be responsible for cutting, fitting or patching required to complete the Detailed Scope of Work or to make its parts fit together properly.
- 23.2 The Contractor will not damage or endanger a portion of the Work or fully or partially completed construction of the Member or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor will not cut or otherwise alter such construction by the Member or a separate contractor except with written consent of the Member and of such separate contractor; such consent will not be unreasonably withheld. The Contractor will not unreasonably withhold from the Member or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

24. REQUEST FOR EXTENSION OF TIME

- 24.1 If the Contractor is delayed at any time in the commencement or progress of the Detailed Scope of Work by an act or neglect of the Member or Project Manager, or of an employee of either, or of a separate contractor employed by the Member, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by other causes which the Project Manager determines may justify delay, then the Purchase Order Completion Time will be extended for such reasonable time as the Project Manager may determine.
- 24.2 The Contractor agrees to make no claim for damages for the delay in the performance of any Purchase Order occasioned by any act or omission to act of the Member, Project Manager or any of their representatives, and agrees that any such claim will be fully compensated for by an extension of time as provided herein.

25. PARTIAL OCCUPANCY FOR USE

- 25.1 The Member may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Member and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work

and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor will prepare and submit a list to the Project Manager. Consent of the Contractor to partial occupancy or use will not be unreasonably withheld. The stage of the progress of the Work will be determined by written agreement between the Member and Contractor.

25.2 Immediately prior to such partial occupancy or use, the Member, Contractor and Project Manager will jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

25.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work will not constitute acceptance of Work not complying with the requirements of the Contract Documents.

26. IDENTIFICATION AND SECURITY REQUIREMENTS

26.1 The Contractor will comply with all identification and security requirements that the Member may establish.

27. PROTECTION OF PERSONS PROPERTY

27.1 The Contractor must take reasonable precautions for safety of, and will provide reasonable protection to prevent damage, injury or loss to:

27.1.1 employees on the Work and other persons who may be affected thereby;

27.1.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and

27.1.3 other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

27.2 The Contractor will give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

27.3 The Contractor will erect and maintain, as required by existing conditions and performance of the Detailed Scope of Work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Member and users of adjacent sites and utilities.

27.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor will exercise utmost care and carry on such activities under supervision of properly qualified personnel.

27.5 The Contractor will promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except damage or loss attributable to acts or omissions of the Member or Project Manager or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and

not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations included herein.

- 27.6 The Contractor will designate a responsible member of the Contractor's organization at the Site whose duty will be the prevention of accidents. This person will be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Project Manager.
- 27.7 The Contractor will not load or permit any part of the construction or Site to be loaded so as to endanger its safety.

28. COORDINATION

- 28.1 The contractor and the public agency shall coordinate activities so as to avoid conflicts. The contractor will make every effort not to interrupt scheduled activities with work under this contract. The contractor will notify the public agency of any construction work that may negatively impact scheduled public agency activities.
- 28.2 The contractor shall employ such methods or means as will not cause any interruption of, or interference with work of any other contractor on the project site.

29. HAZARDOUS MATERIALS

- 29.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead based paint, asbestos or polychlorinated biphenyl (PCB), encountered on the Site by the Contractor, the Contractor will, upon recognizing the condition, immediately stop the Work in the affected area and report the condition to the Project Manager in writing.
- 29.2 The Member will obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Member will furnish in writing to the Contractor and Project Manager the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the Task of removal or safe containment of such material or substance. The Contractor and the Project Manager will promptly reply to the Member in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Member. If either the Contractor or Project Manager has an objection to a person or entity proposed by the Member, the Member will propose another to whom the Contractor and the Project Manager have no reasonable objection. When the material or substance has been rendered harmless, the Work in the affected area will resume upon written agreement of the Member and Contractor. The Purchase Order Completion Time will be extended appropriately.
- 29.3 To the fullest extent permitted by law, the Member will indemnify and hold harmless the Contractor, Subcontractors, Project Manager, Project Manager's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described herein and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease

or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

29.4 The Member will not be responsible for materials and substances brought to the Site by the Contractor unless such materials or substances were required by the Detailed Scope of Work.

29.5 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing the Work as required by the Contract Documents, the Member will indemnify the Contractor for all cost and expense thereby incurred.

30. CONDITION AND DELIVERY OF CONSTRUCTION MATERIAL

30.1 The prime contractor will deliver materials to the worksite in new, dry, unopened, and well- marked containers showing product and prime contractor's name clearly marked. Delivery of damaged or unlabeled materials will not be accepted.

30.2 The prime contractor will deliver materials in sufficient quantity to allow for continuity of work. Delivery will be coordinated with the public agency's designated contact person.

30.3 The contractor shall take all necessary precautions to protect materials from damage, theft and misuse. The public agency shall have no responsibility for such precautions or lack of protection.

30.4 Damaged or rejected materials shall be immediately removed from the project area.

31. INSURANCE

31.1 The contractor at their expense and included as part of overhead will provide adequate insurance coverage meeting at a minimum the requirements of the State of Texas or another applicable jurisdiction. The contractor, if awarded a contract, will provide within 14 days but prior to the commencement of any construction, a certificate of insurance showing that Region 10 ESC, Equalis Group and its agents have been named as additional insured. If the public agency has higher insurance than those requirements may be added as an addendum to the purchase order.

32. CERTIFICATES OF INSURANCE

32.1 Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy and policy number shall be delivered to the participating agency prior to commencement of work. The insurance company shall be licensed in the state in which the work is being performed under this contract. The Vendor shall give the public agency a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The vendor will add the public agency as an additional insured if requested at the cost of the vendor.

Contractor's Liability Insurance

Employer's Worker's Compensation insurance:

Employer's liability / Bodily injury by accident Each Occurrence:

Employer's liability / Bodily injury by disease Each Employee:

Policy Limit:

Minimum Coverage

Statutory

\$100,000.00

\$100,000.00

\$2,000,000.00

33. COMMERCIAL GENERAL LIABILITY

- 33.1 Includes Independent Contractor's Liability; Contingent Liability; Contractual Liability; Completed Operations and Products Liability, all on the occurrence basis, with Personal Injury Coverage, Owner's Indemnity, and broad form Property Damage without the XCU exclusions. Maintain Completed Operation Liability for at least two years after the date of final completion.

<u>Combined limits of bodily and personal injury and property damage:</u>	<u>Minimum Coverage</u>
• Single limit	\$500,000.00
• Unimpaired aggregate	\$500,000.00

<u>Comprehensive automobile liability:</u>	<u>Minimum Coverage</u>
Include non-ownership and hired car coverage as well as owned vehicles.	
• Bodily damage Each Person	\$250,000.00
• Bodily damage Each Occurrence	\$500,000.00
• Property damage Each Occurrence	\$250,000.00

34. LABOR PRACTICES

- 34.1 The prime contractor must agree to treat its labor in keeping with the labor contract agreement and to the best interest of the public agency. Any overtime practices or retroactive agreements with labor unions that would be to the detriment of the public agency must be limited to only those approved by the public agency.
- 34.2 The method and manner of performance must be stated: employees of the prime contractor are not employees of the public agency. The level of competency of the personnel will be subject to approval by the public agency. The prime contractor must agree to comply with all local, state and federal laws. Prime contractor must make every effort to ensure that adjoining property owners are in no way disturbed by noise, pollutants, material hauling operations. Prime contractor must establish procedures to deal with fire, theft, and storm damage. Prime contractor must test and establish effective methods to guarantee safety on the job site relating to the health and welfare of the public agency's employees.
- 34.3 Public agency shall have the right to require prime contractor to remove from the project, any employee or representative, subcontractor or supplier that may be deemed incompetent, careless or unacceptable.
- 34.4 To ensure quality of workmanship, all work performed under this contract shall be performed by experienced, trained, certified and/or licensed craftsmen and laborers, and shall be under the supervision of the foremen or supervisor.
- 34.5 Prime contractor shall furnish the services of an experienced foreman or supervisor who will continually oversee work on the project. The foreman or supervisor shall provide continuous supervision, coordination and inspection of the work being performed under this contract.

35. TESTS AND INSPECTIONS

- 35.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having

jurisdiction will be made at an appropriate time. Unless otherwise provided, the Contractor will make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Member, or with the appropriate public authority. The Contractor will give the Project Manager timely notice of when and where tests and inspections are to be made so that the Project Manager may be present for such procedures.

- 35.2 If the Project Manager, Member or public authorities having jurisdiction determine that portions of the Work require, through no fault of the Contractor, additional testing, inspection or approval, the Project Manager will instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Member, and the Contractor will give timely notice to the Project Manager of when and where tests and inspections are to be made so that the Project Manager may be present for such procedures. Such costs will be at the Member's expense.
- 35.3 If such procedures for testing, inspection or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Project Manager's services and expenses will be at the Contractor's expense.
- 35.4 Required certificates of testing, inspection or approval will, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Project Manager.
- 35.5 If the Project Manager is to observe tests, inspections or approvals required by the Contract Documents, the Project Manager will do so promptly and, where practicable, at the normal place of testing.
- 35.6 Tests or inspections conducted pursuant to the Contract Documents will be made promptly to avoid unreasonable delay in the Work.

36. LIQUIDATED DAMAGES

- 36.1 If provided for in the Invitation for Bid, Region 10 ESC may assess liquidated damages for each day after the Purchase Order Completion Time that the Detailed Scope of Work is not complete. It is understood and agreed by and between Contractor, Region 10 ESC and the Member, that time is of the essence in all matters relating to Liquidated Damages.
- 36.2 The liquidated damages will be determined on a Purchase Order by Purchase Order basis.

37. CHANGES

- 37.1 The Member reserves the right to make, in writing, at any time during the Work, changes in the Detailed Scope of Work as are necessary to satisfactorily complete the Project, and to delete in whole or in part, or to add to, the Detailed Scope of Work. Such changes, deletions, or additions will not invalidate the Contract or the Purchase Order nor release the surety, if any, and the Contractor agrees to perform the Work as altered.
- 37.2 All changes, deletions, and additions to the Detailed Scope of Work will be reflected in a Supplemental Purchase Order developed and priced in accordance with the procedure for developing and approving all Price Proposals.

38. PUNCH LIST COMPLETION

- 38.1 The Contractor understands and agrees that time is of the essence in closing out the Work of this Contract. Upon Substantial Completion of the Work, the Punch List will be

transmitted to the Contractor from the Member. The Contractor agrees to begin performance of Punch List Work immediately after receipt of the Punch List.

- 38.2 Failure of the Contractor or its Subcontractors to begin the Punch List Work within three (3) business days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.
- 38.3 Punch List Work will be continuously prosecuted once begun and completed within 30 Days from the receipt of the Punch List. Should the Contractor fail to complete the Punch List within this period of time, the liquidated damages as identified in Article 26 of the Contract General Conditions will apply.

39. PROJECT COMPLETION

- 39.1 Upon completion of the work, the contractor shall present the public agency with all documents necessary to close out the project. Maintenance manuals, drawings, warranties on installed equipment, etc. shall be given to the public agency.
- 39.2 If the public agency discovers an unfinished job that should have been completed, even if final payments are made, the contractor will complete the work in a timely fashion at no additional cost.

40. PUBLIC WORKS

- 40.1 The contractor shall be responsible for the preservation of all public and private property included on or adjacent to the worksite. The requirement shall apply to the surface and hidden features of the property.
- 40.2 Construction work on public buildings shall be in compliance with all currently applicable state and local building, plumbing, electrical, fire, fire prevention and mechanical codes.

41. RESTORATION

- 41.1 The contractor shall agree to repair, rebuild or otherwise restore any property on or adjacent to the worksite that was damaged during the course of work on the project. Such restoration shall be at the contractor's expense and is not subject to reimbursement by the public agency.

42. RETENTION

- 42.1 Retention payments will be governed by any applicable state and local laws in the area where work is being performed, and by any supplemental agreement made between the public agency and the contractor.
- 42.2 If the public agency and the prime contractor agree to a substitute security, the agreement must be in full compliance with any applicable state and local laws. If a substitute security is agreed to, the prime contractor must provide the public agency with a signed and acknowledged waiver of any right or power of the obligor to set off any claim against the public agency.

43. RULES REGULATIONS & CODES

- 43.1 All work will be accomplished in conformance to OSHA safety requirements, and any additional federal, state, or local fire or safety requirements. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the contractor

must inform the public agency of the situation. The contractor will not construct any device or produce any condition that intentionally violates a fire or safety code or standard.

- 43.2 Contractor must advise the public agency whenever work is expected to be hazardous to public agency employees or their charges (i.e. school children, citizens, etc.).

44. ROYALTIES, PATENTS AND COPYRIGHTS

- 44.1 The Contractor will pay all royalties and license fees. The Contractor will defend suits or claims for infringement of copyrights and patent rights and will hold the Member and Project Manager harmless from loss on account thereof, but will not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Member or Project Manager. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor will be responsible for such loss unless such information is promptly furnished to the Project Manager.

45. SEVERENCE

- 45.1 If the Contract Documents contains any unlawful provision not an essential part of the Contract Documents and which will not appear to have been a controlling or material inducement to the making thereof, the same will be deemed of no effect and will, upon notice by either party, be deemed stricken without affecting the binding force of the remainder.

46. WORKSITE

- 46.1 The condition of the site before start-up will be agreed upon between the buyer and the prime contractor and will be written into the contract.
- 46.2 Upon prior written agreement between the prime contractor and the public agency, payment may be made for materials not incorporated in the work but delivered and suitably stored at the worksite or some other location, for installation at a later date. An inventory of the stored materials must be provided to the public agency prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the contractor against loss and damage. Contractor agrees to provide proof of coverage and/or addition of the public agency as an additional insured upon the public agency's request. Additionally, if stored offsite, the materials must also be clearly identified as property of the public agency and be separated from other materials. The public agency must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.
- 46.3 Until final acceptance by the public agency, it shall be the contractor's responsibility to protect all materials and equipment. The contractor warrants and guarantees that title for all work, materials and equipment shall pass to the public agency upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.

47. PAYMENT AND PERFORMANCE BONDS AND MATERIAL AND WORKMANSHIP BONDS

47.1 If required by the Member for a particular Work Order, the Contractor will deliver a Labor and Material Payment Bond and a Performance Bond in the amount of such Work Order. If required by the Member for a particular Work Order, the Contractor will deliver Material and Workmanship Bonds in the amount required by the Member. The bonds must be in a form, and executed by a surety, acceptable to the Member. The bonds must be received before the Notice to Proceed will be issued. The Contractor will be compensated for the cost of the bonds up to 2% of the Work Order Price through the Reimbursable Fee work task in the Construction Task Catalog. The Contractor will apply a 1.1000 Adjustment Factor to the Reimbursable Fee work task rather than applying the Contractor's proposed Adjustment Factor.

48. COMPUTER SOFTWARE

48.1 The Contractor must maintain at its office for its use a computer with an internet connection. The Contractor will be furnished with a copy of the internet based eGordian® software which will allow the Contractor to generate Price Proposals. This software program contains an electronic copy of the Construction Task Catalog and allows the Contractor to select items and quantities for use in a particular Price Proposal. The software generates a Price Proposal in a preset format acceptable to the Member. There is no separate charge to the Contractor for the software and the related software training.

49. EQUAL EMPLOYMENT OPPORTUNITY

49.1 It is the contractor's responsibility for any federally assisted contracts that may result from this RFP or at the public agency's request to comply with 41 CFR 60-1.4(b) which is incorporated in this contract by reference: <https://www.gpo.gov/fdsys/pkg/CFR-2011-title41-vol1/pdf/CFR-2011-title41-vol1-sec60-1-4.pdf>. It is the public agency's responsibility to inform the vendor before work begins if a project is federally assisted.

50. CONTRACT HOURS AND WORK SAFETY STANDARDS ACT

50.1 It is the contractor's responsibility for any federally assisted contracts that may result from this RFP or at the public agency's request to comply with 40 U.S.C. 3701-3708 which is incorporated in this contract by reference: <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitleII-partA-chap37.pdf>. It is the public agency's responsibility to inform the vendor before work begins if a project is federally assisted.

51. DAVIS-BACON WAGE ACT

51.1 It is the contractor's responsibility for any federally assisted contracts that may result from this RFP or at the public agency's request to comply with 40 U.S.C. 3141-3148 which is incorporated in this contract by reference: <https://www.gpo.gov/fdsys/pkg/USCODE-2003-title40/pdf/USCODE-2003-title40-subtitleII-partA-chap31-subchapIV.pdf>. It is the public agency's responsibility to inform the vendor before work begins if a project is federally assisted. The public agencies must provide Davis-Bacon or local wage rates to the contractor before work begins if they are to be used.

52. COPELAND “ANTI-KICKBACK” ACT

52.1 It is the contractor's responsibility for any federally assisted contracts that may result from this RFP or at the public agency's request to comply with 40 U.S.C. 3145 which is incorporated in this contract by the reference above in #41. It is the public agency's responsibility to inform the vendor before work begins if a project is federally assisted.

53. SOLID WASTE DISPOSAL ACT

53.1 It is the contractor's responsibility for any federally assisted contracts that may result from this RFP or at the public agency's request to comply with section 6002 of the Solid Waste Disposal Act which is incorporated in this contract by the reference: <https://www3.epa.gov/wastes/conserve/tools/cpg/pdf/rcra-6002.pdf>. It is the public agency's responsibility to inform the vendor before work begins if a project is federally assisted.

54. CLAIMS AND DISPUTES

54.1 All claims or disputes between the Member and Contractor will be resolved by Member’s representative.

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SECTION THREE: PART B – VENDOR CONTRACT AND GENERAL TERMS AND CONDITIONS

VENDOR CONTRACT AND SIGNATURE FORM

This Vendor Contract and Signature Form ("Contract") is made as of _____, by and between _____ ("Vendor") and Region 10 Education Service Center ("Region 10 ESC") for the purchase of (enter category here) ("the products and services").

RECITALS

WHEREAS, both parties agree and understand that the following pages will constitute the contract between the successful vendor(s) and Region 10 ESC, having its principal place of business at **Education Service Center, Region 10, 400 E Spring Valley Rd, Richardson, TX 75081**

WHEREAS, Vendor agrees to include, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that if agreed to by Region 10 ESC, said exceptions or deviations will be incorporated into the final contract "Vendor Contract."

WHEREAS, this contract 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 below shall control.

WHEREAS, the Vendor Contract will provide that any state, county, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), other government agencies or non-profit organization may purchase products and services at prices indicated in the Vendor Contract upon registering and becoming a Member with Region 10 ESC; and it being further understood that Region 10 ESC shall act as the Lead Public Agency with respect to all such purchase agreements.

WHEREAS, Equalis Group has the administrative and legal capacity to administer purchases on behalf of Region 10 ESC under the Vendor Contract with participating public agencies and entities, as permitted by applicable law.

1. ARTICLE 1 – GENERAL TERMS AND CONDITIONS

- 1.1 Equalis Group shall be afforded all of the rights, privileges and indemnifications afforded to Region 10 ESC under the Vendor Contract, and such rights, privileges and indemnifications shall accrue and apply with equal effect to Equalis Group, including, without limitation, Vendor's obligation to provide insurance and other indemnifications to Lead Public Agency.

- 1.2 Awarded vendor shall perform all duties, responsibilities and obligations, set forth in this agreement, and required under the Vendor Contract.
- 1.3 Equalis Group shall perform its duties, responsibilities and obligations as administrator of purchases, set forth in this agreement, and required under the Vendor Contract.
- 1.4 **Customer Support:** The vendor shall provide timely and accurate technical advice and sales support to Region 10 ESC staff, Equalis Group staff and participating agencies. The vendor shall respond to such requests within one (1) working day after receipt of the request.

2. ARTICLE 2 – ANTICIPATED TERM OF AGREEMENT

- 2.1 **Term:** The term of the Contract shall commence upon award and shall remain in effect for a period of two (2) years, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that Region 10 ESC shall have the right, at its sole option, to renew the Contract for three (3) additional one-year periods or portions thereof. In the event that Region 10 ESC exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.
- 2.2 **Automatic Renewal:** Renewal will take place automatically for one (1) year unless Region 10 ESC gives written notice to the awarded supplier at least ninety (90) days prior to the expiration.

3. ARTICLE 3 – REPRESENTATIONS AND COVENANTS

- 3.1 **Scope:** This contract is based on the need to provide the economic benefits of volume purchasing and reduction in administrative costs through cooperative purchasing to schools and other Members.
- 3.2 **Compliance:** Cooperative Purchasing Agreements between Equalis Group and its Members have been established under state procurement law.
- 3.3 **Respondent's promise:** Respondent agrees all prices, terms, warranties, and benefits granted by Respondent to Members through this contract are comparable to or better than the equivalent terms offered by Respondent to any present customer meeting the same qualifications or requirements.

4. ARTICLE 4 – FORMATION OF CONTRACT

- 4.1 **Respondent contract documents:** Region 10 ESC will review proposed Respondent contract documents. Vendor's contract document shall not become part of Region 10 ESC's contract with vendor unless and until an authorized representative of Region 10 ESC reviews and approves it.
- 4.2 **Form of contract:** The form of contract for this solicitation shall be the Request for Proposal, the awarded proposal(s) to the lowest responsible Respondent(s), and properly issued and reviewed purchase orders referencing the requirements of the Request for Proposal. If a firm submitting a proposal requires Region 10 ESC and/or Member to sign an additional agreement, a copy of the proposed agreement must be included with the proposal.
- 4.3 **Entire Agreement (Parol evidence):** The contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 4.4 **Assignment of Contract:** No assignment of contract may be made without the prior written approval of Region 10 ESC. Purchase orders and payment can only be made to awarded

vendor unless otherwise approved by Region 10 ESC. Awarded vendor is required to notify Region 10 ESC when any material change in operations is made that may adversely affect Members (i.e. awarded vendor bankruptcy, change of ownership, merger, etc.).

4.5 **Contract Alterations**: No alterations to the terms of this contract shall be valid or binding unless authorized and signed with a “wet signature” by a Region 10 ESC staff member.

4.6 **Order of precedence**: In the event of a conflict in the provisions of the contract as accepted by Region 10 ESC, the following order of precedence shall prevail:

- Purchase Order which may include plans, drawings, and supplemental technical specifications
- Standard specifications of the Region 10 ESC and Equalis Group Member, City, State or Federal Government, if any
- Section Three Parts A and B
- Section Four Construction Task Catalog
- Section Five Technical Specifications
- Section One Parts A and B
- Documents referenced or included in the solicitation

4.7 **Supplemental Agreements**: The entity participating in the Region 10 ESC contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor. Neither Region 10 ESC, Equalis Group, its agents, Members and employees shall be made party to any claim for breach of such agreement.

5. ARTICLE 5 – TERMINATION OF CONTRACT

5.1 **Cancellation for non-performance or contractor deficiency**: Region 10 ESC may terminate any contract if Members have not used the contract, or if purchase volume is determined to be low volume in any 12-month period. Region 10 ESC reserves the right to cancel the whole or any part of this contract due to failure by contractor to carry out any obligation, term or condition of the contract. Region 10 ESC may issue a written deficiency notice to contractor for acting or failing to act in any of the following:

- i. Providing material that does not meet the specifications of the contract;
- ii. Providing work and/or material that was not awarded under the contract;
- iii. Failing to adequately perform the services set forth in the scope of work and specifications;
- iv. Failing to complete required work or furnish required materials within a reasonable amount of time;
- v. Failing to make progress in performance of the contract and/or giving Region 10 ESC reason to believe that contractor will not or cannot perform the requirements of the contract; and/or
- vi. Performing work or providing services under the contract prior to receiving a Region 10 ESC reviewed purchase order for such work.

Upon receipt of a written deficiency notice, contractor shall have ten (10) days to provide a satisfactory response to Region 10 ESC. Failure to adequately address all issues of concern may result in contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by contractor under the contract shall become the property of the Member on demand.

- 5.2 **Termination for cause:** If, for any reason, the Vendor fails to fulfill its obligation in a timely manner, or if the vendor violates any of the covenants, agreements, or stipulations of this contract, Region 10 ESC reserves the right to terminate the contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the vendor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by vendor for this solicitation may become the property of the participating agency or entity. If such event does occur then vendor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.
- 5.3 **Delivery/Service failures:** Failure to deliver goods or services within the time specified or within a reasonable time period as interpreted by the purchasing agent, or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the contract to be terminated. In the event that the participating agency or entity must purchase in an open market, contractor agrees to reimburse the participating agency or entity, within a reasonable time period, for all expenses incurred.
- 5.4 **Force Majeure:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- 5.4.1 The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty
- 5.5 **Standard Cancellation:** Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 90 business days after the other party receives the notice of cancellation. After the 90th business day all work will cease following

completion of final purchase order. Region 10 ESC reserves the right to request additional items not already on contract at any time.

6. ARTICLE 6 – LICENSES

- 6.1 **Duty to keep current license:** Vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by vendor. Vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the contract. Region 10 ESC reserves the right to stop work and/or cancel the contract of any vendor whose license(s) expire, lapse, are suspended or terminated.
- 6.2 **Suspension or Debarment:** Respondent shall provide a letter in the proposal notifying Region 10 ESC of any debarment, suspension or other lawful action taken against them by any federal, state, or local government within the last five (5) years that precludes Respondent or its employees from participating in any public procurement activity. The letter shall state the duration of the suspension or action taken, the relevant circumstances and the name of the agency imposing the suspension. Failure to supply or disclose this information may be grounds for cancellation of contract.
- 6.3 **Survival Clause:** All applicable software license agreements, warranties or service agreements that were entered into between Vendor and Customer/participating Member under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Order Fulfiller shall survive expiration or termination of the Contract.

7. ARTICLE 7 – DELIVERY PROVISIONS

- 7.1 **Delivery:** Vendor shall deliver said materials purchased on this contract to the participating Member issuing a Purchase Order. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within the time specified by the Purchase Order the vendor must receive authorization from the purchasing agency for the delayed delivery. At this point the participating entity may cancel the order if estimated shipping time is not acceptable.
- 7.2 **Inspection & Acceptance:** If defective or incorrect material is delivered, purchasing agency may make the determination to return the material to the vendor at no cost to the purchasing agency. The vendor agrees to pay all shipping costs for the return shipment. Vendor shall be responsible for arranging the return of the defective or incorrect material.
- 7.3 **Responsibility for supplies tendered:** Vendor shall be responsible for the materials or supplies covered by this contract until they are delivered to the designated delivery point.
- 7.4 **Shipping Instructions:** Unless otherwise specified, each case, crate, barrel, package, etc, delivered under this contract must be plainly labeled, securely tagged, stating Vendor's name, purchase order number, quantity contained therein, and delivery address as indicated in the order. Deliveries must be made within the hours of 8:00 am – 4:00 pm. Deliveries at any other time (including Saturdays, Sundays and holidays) will not be accepted unless arrangements have been made in advance with the receiver at the delivery point. Vendor understands that it is their responsibility to ensure compliance with the delivery instructions outlined in this agreement.

- 7.5 **Additional charges:** Unless bought on F.O.B. “shipping point” and Vendor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, the difference between freight or mail and express charges may be added to the invoice.
- 7.6 **Buyer’s delays:** Region 10 ESC will not be responsible for any late fees due the prime contractor by the participating Member. The prime contractor will negotiate with the participating agency for the recovery of damages related to expenses incurred by the vendor for a delay for which the Member is responsible, which is unreasonable, and which was not within the contemplation of the parties to the contract between the two parties.

8. ARTICLE 8 – BILLING AND REPORTING

- 8.1 **Payments:** The participating entity using the contract will make payments directly to the awarded vendor. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.
- 8.2 **Tax Exempt Status:** Since this is a national contract, knowing the tax laws in each state is the sole responsibility of the Vendor.

9. ARTICLE 9 – PRICING

- 9.1 **Market competitive guarantee:** Vendor agrees to provide market competitive pricing, based on the value offered upon award, to Region 10 ESC and its participating public agencies throughout the duration of the contract.
- 9.2 **Price increase:** The Adjustment Factors submitted with the Contractor’s Proposal (Proposal Form 1 found in Section 2; Proposal Submission and Required Forms) shall be used for the full term of the Contract. On the annual anniversary of the Contract, Region 10 ESC shall issue the Contractor a new Construction Task Catalog. The Contractor will be issued the new Construction Task Catalog for review and acceptance prior to accepting new work. For more information see Section Three; Part A, Article 9 Option to Bilaterally Extend Contract.
- 9.3 **Additional Charges:** All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing.
- 9.4 **Price reduction and adjustment:** Price reduction may be offered at any time during contract and shall become effective upon notice of acceptance from Region 10 ESC. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all Members equally; 2) reduction is for a specific time period, normally not less than thirty (30) days; 3) original price is not exceeded after the time-limit; and 4) Region 10 ESC has approved the new prices prior to any offer of the prices to a Member. Vendor shall offer Region 10 ESC any published price reduction during the contract period.
- 9.5 **Prevailing Wage:** It shall be the responsibility of the Vendor to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the purchaser (Region 10 ESC or its Participating Members). It shall further be the responsibility of the Vendor to monitor the prevailing wage rates as established by the appropriate Department of Labor for any increase in rates during the term of this contract and adjust wage rates accordingly.
- 9.6 **Administrative Fees:** The Vendor agrees to pay administrative fees to Gordian based on the terms set in Section One; Part B, Article 14 Fees. All pricing submitted to Gordian shall include the administrative fee to be remitted to Equalis Group by the awarded vendor.
- 9.7 **Price Calculation:** Each Proposer must submit three (3) Adjustment Factors to be applied to every task in the CTC. The proposal will be an adjustment “decrease from” (e.g., 0.9800) or

“increase to” (e.g., 1.1000) the Unit Prices listed in the CTC. The three (3) Adjustment Factors submitted by Proposer will be considered applicable to each opportunity identified in the Solicitation Table within the stated Trade. Proposers that submit separate Adjustment Factors for separate line items will be considered non-responsive and its proposals will be rejected. See Section One; Part B, Article 10 Proposal Pricing: Adjustment Factors for more information.

10. ARTICLE 10 – PRICING AUDIT

- 10.1 **Audit rights:** Vendor shall, at Vendor’s sole expense, maintain appropriate due diligence of all purchases made by Region 10 ESC and any participating entity that accesses this Agreement. Equalis Group and Region 10 ESC each reserve the right to audit the accounting 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. Region 10 ESC shall have the authority to conduct random audits of Vendor’s pricing that is offered to eligible entities at Region 10 ESC’s sole cost and expense. Notwithstanding the foregoing, in the event that Region 10 ESC is made aware of any pricing being offered to eligible agencies that is materially inconsistent with the pricing under this agreement, Region 10 ESC shall have the ability to conduct an extensive audit of Vendor’s pricing at Vendor’s sole cost and expense. Region 10 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 10 ESC or Equalis Group.

11. ARTICLE 11 – PROPOSER PRODUCT LINE REQUIREMENTS

- 11.1 **Warranty conditions:** All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.
- 11.2 **Buy American requirement:** Vendors may only use unmanufactured construction material mined or produced in the United States, as required by the Buy American Act. Where trade agreements apply, to the extent permitted by applicable law, then unmanufactured construction material mined or produced in a designated country may also be used. Vendors are required to check state specific requirements to ensure compliance with this requirement.

12. ARTICLE 12 – SITE REQUIREMENTS

- 12.1 **Cleanup:** Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by Member. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition conducive to the Member’s business purpose.
- 12.2 **Site Preparation:** Vendor shall not begin a project for which Participating Member has not prepared the site, unless Vendor does the preparation work at no cost, or until Participating Member includes the cost of site preparation in a purchase order to the contractor. Site preparation includes, but is not limited to moving furniture, moving equipment or obstructions to the work area, installation of wiring for networks or any other necessary pre-installation requirements.
- 12.3 **Registered sex offender restrictions:** For work to be performed at schools, Vendor agrees that no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. 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 Participating Member's discretion. 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. Vendor is also responsible for ensuring that their employees or contractors who have direct contact with students are properly fingerprinted and background checked in accordance with local state law, if applicable.

- 12.4 **Safety measures**: 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. Vendor shall post warning signs against all hazards created by its 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.
- 12.5 **Smoking/Tobacco**: Persons working under the contract shall adhere to local tobacco and smoking (including e-cigarettes/vaping) policies. Smoking will only be permitted in posted areas or off premises.
- 12.6 **Stored materials**: Upon prior written agreement between the vendor and Member, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Participating Member with the application for payment seeking compensation for stored materials. Such materials must be stored and protected in a secure location and be insured for their full value by the vendor against loss and damage. Vendor agrees to provide proof of coverage and/or addition of Participating Member as an additional insured upon Participating Member's request. Additionally, if stored offsite, the materials must also be clearly identified as property of buying Participating Member and be separated from other materials. Participating Member must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.
- 12.7 **Maintenance Facilities and Support**: It is preferred that each contractor should have maintenance facilities and a support system available for servicing and repair of product and/or equipment. If a third party is to be used to provide maintenance and support to the participating Member, Respondent must notify Region 10 ESC of that third party information. All technicians, applicators, installers shall be fully certified, trained and licensed to perform said duties.

13. ARTICLE 13 – MISCELLANEOUS

- 13.1 **Funding Out Clause**: Any/all contracts exceeding one (1) year shall include a standard "funding out" clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the entity's current revenue only, provided the contract contains either or both of the following provisions:
 - 13.1.1 "Retains to the entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the entity to obtain appropriate funds for payment of the contract in the subsequent fiscal year."
- 13.2 **Disclosures**: Vendor affirms that he/she 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 contract.

- 13.2.1 Vendor has a continuing duty to disclose a complete description of any and all relationships that might be considered a conflict of interest in doing business with Members in Equalis Group.
- 13.2.2 Vendor affirms that, to the best of his/her knowledge, the offer was arrived at independently, and was 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 contract.
- 13.3 **Indemnity:** Vendor shall protect, indemnify, and hold harmless both Region 10 ESC and Equalis Group and its Members, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of Vendor, Vendor employees or Vendor subcontractors in the preparation of the solicitation and the later execution of the contract, including any supplemental agreements with Members. Any litigation involving either Region 10 ESC or Equalis Group, its administrators and employees and agents shall be in a court of competent jurisdiction in Dallas County, Texas. Texas law shall apply to any such suit, without giving effect to its choice of laws provisions. Any litigation involving Equalis Group participating Members shall be in the jurisdiction of the participating agency.
- 13.4 **Franchise Tax:** Vendor hereby certifies that he/she is not currently delinquent in the payment of any required franchise taxes, and shall remain current on any such franchise taxes throughout the term of this contract.
- 13.5 **Marketing:** Vendor agrees to allow Region 10 ESC and Equalis Group to use their name and logo within website, marketing materials and advertisement. Any use of the Region 10 ESC or Equalis Group name and logo or any form of publicity, inclusive of press releases, regarding this contract by Vendor must have prior approval from Region 10 ESC.
- 13.6 **Insurance:** Unless otherwise modified elsewhere in this document, prior to commencing services under this contract for a participating Member, contractor shall procure, provide and maintain during the life of this agreement comprehensive public liability insurance to include course of construction insurance and automobile liability, providing limits of not less than \$1,000,000.00 per occurrence. The insurance form will be an "all risk" type of policy with standard exclusions. Coverage will include temporary structures, scaffolding, temporary office trailers, materials, and equipment. Contractor shall pay for the deductibles required by the insurance provided under this agreement.
- 13.6.1 Certificates of insurance shall be delivered to the Member prior to commencement of work. The insurance company shall be licensed to do business and write the appropriate lines of insurance in the applicable state in which work is being conducted. Vendor shall give the participating entity a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. Vendor shall require all subcontractors performing any work to maintain coverage as specified.
- 13.6.2 Prior to commencing any work under this contract, any subcontractor shall also procure, provide, and maintain, at its own expense until final acceptance of the work performed, insurance coverage in a form acceptable to the prime contractor. All subcontractors shall provide worker's compensation insurance which waives all subrogation rights against the prime contractor and Member.

- 13.7 **Subcontracts/Sub Contractors:** If Vendor serves as prime contractor, it shall not enter into any subcontract subject to this solicitation without prior approval from Region 10 ESC. Any/all subcontractors shall abide by the terms and conditions of this contract and the solicitation.
- 13.7.1 No subcontract relationships shall be entered into with a party not licensed to do business in the jurisdiction in which the work will be performed. Contractor must use subcontractors openly, include such arrangements in the proposal, and certify upon request that such use complies with the rules associated with the procurement codes and statutes in the state in which the contractor is conducting business.
- 13.7.2 Contractor agrees to pay subcontractors in a timely manner. Failure to pay subcontractors for work faithfully performed and properly invoiced may result in suspension or termination of this contract. Prior to participating Member's release of final retained amounts, Contractor shall produce verified statements from all subcontractors and material suppliers that those entities have been paid in full amounts due and owing to them.
- 13.8 **Legal Obligations:** It is the Respondent's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services identified in this RFP and any awarded contract and shall comply with all while fulfilling the RFP. Applicable laws and regulation must be followed even if not specifically identified herein.
- 13.9 **Boycott Certification:** Respondents hereby certify that during the term of any Agreement, it does not boycott Israel and will not boycott Israel. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
- 13.10 **Venue:** All parties agree that venue for any litigation arising from this contract shall lie in Richardson, Dallas County, Texas, and that the laws of the State of Texas shall govern the rights of the parties and the validity and interpretation of any purchase order, contract, or service agreement that shall arise from and include this proposal request.

[Signatures follow on Signature Form]

14. CONTRACT SIGNATURE FORM

Please note: A copy of the Contract Signature Form has been provided in Section 2; Proposal Submission and Required Forms; Proposal Form 22.

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this proposal in collusion with any other Respondent and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

Company name

Address

City/State/Zip

Telephone No.

Fax No.

Email address

Printed name

Position with company

Authorized signature

Term of contract _____ **to** _____

Unless otherwise stated, all contracts are for a period of two (2) years with an option to renew annually for an additional three (3) years if agreed to by Region 10 ESC. Vendor shall honor all administrative fees for any sales made based on the contract whether renewed or not.

Region 10 ESC Authorized Agent

Date

Print Name

Equalis Group Contract Number _____

ATTACHEMENT A – EQUALIS GROUP ADMINISTRATIVE AGREEMENT

NOTE: This agreement is provided as a model agreement which winning supplier will enter into upon award with Equalis Group. Respondents are asked not to respond with redlines for this model contract. Respondent should complete Form 20 in the required forms checklist indicating acceptance of these terms, or if they wish to negotiate.

THIS ADMINISTRATION AGREEMENT (this "**Agreement**"), effective as of **Month Day, Year** (the "**Effective Date**"), is entered into by and between **Winning Supplier**, a **State** corporation with its principal place of business at **street address, City, State Zip** ("**Winning Supplier**") and Equalis Group LLC, a Delaware limited liability company with its principal place of business at 5550 Granite Parkway, Suite 298, Plano, Texas 75024 ("**Equalis**"). Throughout this Agreement, Winning Supplier and Equalis are referred to interchangeably as in the singular "**Party**" or in the plural "**Parties**."

SECTION 1. RECITALS

A. Education Service Center, Region 10 ("**Region 10**") serves as a lead public agency (a "**Lead Public Agency**") for Equalis Group ("**Equalis Group**"), a national cooperative purchasing organization, by publicly procuring master group purchasing agreements for products and services to be made available to Equalis Group members ("**Equalis Group Member**" or "**Member**").

B. The Gordian Group, Inc. ("**Gordian**") serves as a Job Order Contracting ("**JOC**") services provider for Equalis and Region 10, providing JOC support services to Region 10, Equalis and Program Participants.

C. Region 10 issued request for proposal ("**RFP**") #**Number** dated **Month Day, Year** for contracting on behalf of Region 10 and Equalis Group Members for **definition of products and services solicited in the RFP** ("**Products & Services**") and awarded a contract to Winning Supplier.

D. Region 10 and Winning Supplier entered into that certain master group purchasing agreement (the "**Master Agreement**") #**contract number** effective as of **Month Day, Year** to provide Products & Services to Equalis Group Members.

E. Equalis actively promotes Master Agreements to current and prospective Equalis Group Members (collectively "**Prospective Participants**") through a range of marketing, prospecting, and sales strategies, including, but not limited to, marketing and sales collateral development, direct mail, web marketing, electronic communications, attendance at events, Winning Supplier sales representative training, and Winning Supplier field sales support (collectively, "**Equalis Services**") as more fully defined in **Appendix A**.

F. Any Prospective Participant who purchases Products & Services from Winning Supplier subject to the Master Agreement shall be considered a "**Program Participant**".

G. Winning Supplier desires to promote and expand its operations and increase the sales of its Products & Services to public sector, private sector, and non-profit organizations through Equalis Group.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following terms and conditions:

SECTION 2. BUSINESS TERMS

2.1 Defined Terms. Any capitalized terms contained herein not defined in this Agreement shall have the same meaning as defined in the Master Agreement.

2.2 Appendices. Winning Supplier agrees to provide Products & Services to Program Participants as may be agreed to by the Parties in accordance with the specific terms and conditions set forth in the Master Agreement, this Agreement, and the appendices attached hereto and made a part of this Agreement (if one, an “**Appendix**” or more, “**Appendices**”).

(i)**Appendix A** sets forth the roles and responsibilities of the Parties.

2.3 Terms in Appendices. In all cases where the terms of this Agreement and any Appendices disagree, the terms in the Appendix shall control.

2.4 Publicity & Joint Marketing. Supplier authorizes Equalis to use Winning Supplier’s trademarks, names, and logos as provided by Winning Supplier to Equalis. Equalis authorizes Winning Supplier to use Equalis’ trademarks, names, and logos as provided by Equalis to Winning Supplier. Each Party’s use of the other Party’s trademarks, names, and logos will be limited to standard communication, including correspondence, newsletters, and website material, and joint marketing efforts, including, but not limited to, utilizing the same on correspondence, collateral, agreements, websites, newsletters, or other marketing materials promoting the Products & Services pursuant to the Master Agreement and this Agreement. Notwithstanding the foregoing, the Parties understand and agree that except as provided herein, neither Party shall have any right, title, or interest in the other Party’s trademarks, names, and logos. Upon termination of this Agreement, each Party shall immediately cease use of the other Party’s trademarks, names, and logos.

SECTION 3. TERMS & CONDITIONS

3.1 Independent Contractors. In the performance of this Agreement, Winning Supplier shall be an independent contractor to Equalis, and shall not be or act as, or be deemed to otherwise be an agent, employee, or representative of Equalis or any Member. Equalis shall be independent contractor to Winning Supplier, and shall not be or act as, or be deemed to be an agent, employee, or representative of Winning Supplier. Winning Supplier’s employees will not be deemed to be Equalis employees or employees of any Member. Equalis employees will not be deemed to be Winning Supplier’s employees. Nothing contained in this Agreement or an Appendix may be construed to be inconsistent with that relationship or status. Neither Party exercises direct control or supervision over the employees of the other Party and, in fact, each Party disavows any right to do so, and no Party in any way directs the operations of the other Party or the manner of the other Party’s performance. No partnership, joint venture, or other relationship between the Parties or any Member is created hereby.

3.2 Express Limitation of Equalis Liability. With respect to any purchases of Products & Services by Region 10 or any Program Participant pursuant to the Master Agreement, Equalis shall not be: (i) construed as a dealer, re-marketer, representative, partner, or agent of any type of the Winning Supplier, Region 10, or any Program Participant; (ii) obligated by, liable for, or in any way responsible for any order of Products & Services made by Region 10 or any Program Participant or any employee thereof under the Master Agreement or for any payment required to be made with respect to such

order for Products & Services; and (iii) obligated by, liable for, or in any way responsible for any failure by Region 10 or any Program Participant to comply with procedures or requirements of applicable law or the Master Agreement or to obtain the due authorization and approval necessary to purchase Products & Services under the Master Agreement. Equalis makes no representation or guaranty with respect to any minimum purchases by Region 10 or any Program Participant, whether individually or collectively, or any employee thereof under this Agreement or the Master Agreement. The terms of this section shall survive the termination of this Agreement.

3.3 Term & Termination. The Term of this Agreement is the same as the Term of the Master Agreement. This Agreement shall only be terminated, and shall be terminated, if and when the Master Agreement is terminated.

3.4 Indemnification. Equalis Group shall be afforded all of the rights, privileges and indemnifications afforded to Lead Agency by or from Supplier under the Lead Agency Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to Equalis Group, its agents, employees, directors, and representatives under this Agreement including, but not limited to, the Supplier's obligation to provide appropriate insurance.

3.5 Force Majeure. This Agreement will be temporarily suspended during any period to the extent that either Party during that period is unable to carry out its obligations under this Agreement or the Appendices by reason of an Act of God or the public enemy, act of terrorism, fire, flood, labor disorder not caused by Winning Supplier, civil commotion, closing of the public highways not caused by Winning Supplier, government interference, government regulations, or any other event or occurrence beyond the reasonable control of the affected Party ("**Event of Force Majeure**"). Neither Party will have any liability to the other Party for a delay in performance nor failure to perform to the extent this Agreement or any Appendix is so temporarily suspended; provided that nothing contained herein shall apply to payment obligations with respect to obligations which have already been performed under this Agreement.

3.6 Notices. All notices, claims, certificates, requests, demands, and other communications required or permitted hereunder ("**Notice**") must be in writing and will be deemed given to the addresses set forth herein (a) when delivered personally to the recipient, (b) upon delivery by reputable overnight courier service (charges prepaid), or (c) upon delivery or refusal of delivery by certified or registered mail, return receipt requested, and addressed to the intended recipient. The Parties agree that day-to-day business communications, including notification of a change of address or revisions to any Appendix, may be made via electronic communication, including email.

3.7 Addresses for Notices. This section may be modified at any time by either Party providing the other Party with written Notice, including via email, of a change of address or addition or deletion to the individuals who will be copied on all Notices.

a. If to **Winning Supplier:**

Winning Supplier
Attn: Name, Title
Street Address 1
Street Address 2
City, State Zip

and with copy to:

Company Name
Attn: Name, Title
Street Address 1
Street Address 2
City, State Zip

b. If to EQUALIS:

Equalis Group LLC
Attn: Eric Merkle, SVP
5550 Granite Parkway, Suite 298
Plano, Texas 75024

3.8 Waiver. Waiver by either Party of or the failure of either Party hereto to enforce at any time its rights with regard to any breach or failure to comply with any provision of this Agreement by the other Party may not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other future breach of or failure to comply with the same provision or any other provision of this Agreement.

3.9 Governing Law; Invalidity. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Texas without regard to rules of conflict of laws. If any provision of this Agreement is declared unlawful or unenforceable by judicial determination or performance, then the remainder of this Agreement shall continue in force as if the invalidated provision did not exist. Any suits filed by either Party pursuant to this Agreement shall be brought in a court of competent jurisdiction located in Dallas County, Texas. In the event either Party initiates a suit and that suit is adjudicated by a court of competent jurisdiction, the prevailing Party shall be entitled to reasonable attorney's fees and costs from the non-prevailing Party in addition to any other relief to which the court determines the prevailing Party is entitled or awarded.

3.10 Modification. No release, discharge, abandonment, waiver, alteration, or modification of any of the provisions of this Agreement, or any of the Appendices incorporated herein, shall be binding upon either Party unless set forth in a writing signed by authorized representatives of the Parties.

3.11 Assignment. This Agreement and the rights and obligations hereunder may not be assignable by either Party hereto without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed, provided, however, that either Party may assign its respective rights and obligations under this Agreement without the consent of the other Party in the event either Party shall hereafter effect a corporate reorganization, consolidation, merger, merge into, sale to, or a transfer of all or substantially all of its properties or assets to another entity. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Any instrument purporting to make an assignment in violation of this section shall be null and void. This Agreement may be extended to additional entities affiliated with either Party upon the agreement of the other Party. No such extension will relieve the extending Party of its rights and obligations under this Agreement.

3.12 No Third-Party Beneficiaries; Survival of Representations. This Agreement is made solely for the benefit of the Parties to it, and no other persons will acquire or have any right under or by virtue of this Agreement. Except as otherwise provided herein, all representations, warranties, covenants, and agreements of the Parties shall remain in full force and effect regardless of any termination of this Agreement, in whole or in part.

3.13 Entire Agreement. The Master Agreement and this Agreement, together with all attachments, appendices, and exhibits hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written representations and agreements with

regard to the same subject matter. The Parties acknowledge that this Agreement has been negotiated and incorporates their collective agreement as to the provisions to be contained herein. Therefore, no presumption will arise giving benefit of interpretation by virtue of authorship of any provision of this Agreement, and any ambiguity may not be construed for or against any Party.

3.14 Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original. For purposes of this Agreement, a facsimile, scanned, or electronic signature will be deemed an original signature.

3.15 Titles, Headings & Recitals. The Preamble to this Agreement is hereby incorporated herein and made part of this Agreement. The Recitals stated within this Agreement are deemed to be a part of this Agreement. The titles and headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

WINNING SUPPLIER

By: _____

Name: _____

As: _____

Date: _____

EQUALIS GROUP LLC

By: _____

Name: Eric Merkle

As: SVP, Sourcing

Date: _____

APPENDIX A: ROLES & RESPONSIBILITIES

This Appendix defines the roles and responsibilities of Equalis and Winning Supplier under this Agreement. This Appendix may be modified at any time with the mutual written consent of the Parties, including via email.

1. Equalis Services.

1.1. Winning Supplier Sales Representative Training. Equalis may develop, as appropriate, various sales training materials, sales tools, and marketing collateral to promote the Master Agreement and Winning Supplier's Products & Services. Equalis, as appropriate, may i) conduct periodic sales trainings with Winning Supplier sales representatives assigned to sell Products & Services, ii) provide sales representatives with marketing collateral and sales tools to utilize with sales prospects, with particular focus on the procurement process that led to the establishment of the Master Agreement, the legal ability for sales prospects in any state to purchase Products & Services through the Master Agreement without having to conduct their own bid or RFP process, and the key differentiators in the design of this program with Winning Supplier.

1.2. Sales Support. Equalis may engage in Winning Supplier sales efforts as agreed by the Parties through participating in i) individual sales calls, ii) joint sales calls, iii) communications and customer service, iv) discussions and communication with sales prospects during the sales process to address questions relating to the procurement process, legal authority to purchase through the Master Agreement, and program design, v) trainings for Equalis Members' teams, vi) regular business reviews to monitor Program success, and vii) general contract administration.

1.3. Marketing. Equalis may incorporate information about the Products & Services into Equalis Group's website and general collateral materials. Equalis and Winning Supplier will jointly develop and approve marketing materials to promote Products & Services, such as website content, brochures and collateral, talking points, press releases, and correspondence. Equalis will market the Products & Services to Prospective Participants as part of Equalis' ongoing marketing activities through Equalis Group; these marketing efforts may consist of a combination of i) general marketing of all of Equalis Group's master group purchasing agreements, including the Master Agreement and Winning Supplier's Products & Services, ii) marketing of Winning Supplier's Products & Services specifically and/or as part of a package of selected master group purchasing agreements to targeted Prospective Participants, and iii) attending trade shows, conferences, and meetings.

2. Winning Supplier Roles & Responsibilities.

As a condition to Winning Supplier entering into the Master Agreement, which is available to all Public Sector Entities, Winning Supplier must make certain representations, warranties, and covenants to Equalis designed to ensure the success of the Master Agreement for all Prospective Participants, sales prospects, and Winning Supplier.

2.1. Equalis Group Membership Agreement. In conjunction with the provision of Customer Agreements to Prospective Participants and/or initiating the sale of Products & Services to

Prospective Participants not required to enter into Customer Agreements, Winning Supplier will provide the Equalis Group Master Intergovernmental Cooperative Purchasing Agreement (whether in hard copy, electronically, or via www.EqualisGroup.org) and encourage any Prospective Participants subject to the Master Agreement who have not already joined Equalis Group to join Equalis Group in conjunction with executing Winning Supplier's Customer Agreements and/or beginning to purchase Products & Services from Winning Supplier to ensure that Winning Supplier and each Program Participant are in full compliance with applicable state procurement statutes.

2.2. Corporate Commitment. Winning Supplier commits that i) the Master Agreement has received all necessary corporate authorizations and support of Winning Supplier's executive management, ii) the Master Agreement will be promoted to Public Sector Entities in the geographies defined in the Master Agreement, including any existing customers, and Winning Supplier will transition existing customers, upon their request, to the Master Agreement, and iii) Winning Supplier will identify an executive corporate sponsor and a separate national account manager that will be responsible for the overall management of the Master Agreement and this Agreement.

2.3. Sales Commitment. Winning Supplier commits to market the Master Agreement as a market strategy in the public sector and that its sales force will be trained, engaged, and committed to offering the Master Agreement to Public Sector Entities through Equalis Group in the geographies defined in the Master Agreement.