



**COOPERATIVE PURCHASING PROGRAM**  
Houston-Galveston Area Council of Governments  
3555 Timmons, Suite 120, Houston, TX 77027  
Phone: 800-926-0234 Fax: 713-993-4548  
[www.hgacbuy.org](http://www.hgacbuy.org)

INVITATION TO SUBMIT COMPETITIVE:

**BIDS**

**PROPOSALS**

INVITATION No.: **GC01-11**

ISSUE DATE: **August 11, 2010**

CATEGORY: **Refuse Containers & Lifters**

### PURPOSE OF THIS INVITATION

The Cooperative Purchasing Program (**HGACBuy**) of the Houston-Galveston Area Council of Governments is soliciting offerings for the furnishing of products/services as described herein. These products/services may be purchased by any of more than 2,000 member local governments, districts, agencies in 37 states across the nation.

Responses must be submitted in an original and one (1) copy, and shall be subject to the terms, conditions, requirements and specifications detailed in the documents comprising this Invitation. Responses are scheduled to be opened publicly at **H-GAC** offices on the date indicated. For Bid Invitations, responses will be available for public review until 4:00 p.m. CT that day, and on subsequent days by appointment only. Any Responses submitted later than 1:00 p.m. on the due date will be returned unopened to the bidder/proposer.

### PROCUREMENT SCHEDULE & DETAILS

<b>DRAFT SPECIFICATION / INVITATION:</b>	June 02, 2010
<b>PRE-BID/PROPOSAL CONFERENCE:</b>	July 07, 2010 @ 9:00 a.m. CT; Conference Room B
<b>FINAL SPECIFICATION / INVITATION:</b>	August 11, 2010
<b>BID/PROPOSAL RESPONSES DUE:</b>	September 08, 2010 @ 1:00 p.m. CT; H-GAC Clock
<b>PUBLIC RESPONSE OPENING:</b>	September 08, 2010 @ 2:00 p.m. CT; H-GAC Clock
<b>RECOMMENDATIONS TO BOARD:</b>	November 16, 2010
<b>CONTRACT START DATE &amp; TERM:</b>	January 01, 2011 thru December 31, 2012
The documents comprising this Invitation are available via web download at: <a href="https://www.hgacbuy.org/bids/">https://www.hgacbuy.org/bids/</a>	
For assistance regarding this Invitation, please contact:	
Name: <b>Brian Denzel</b>	Phone: <b>832-681-2554</b> E-mail: <b>bdenzel@h-gac.com</b>

### CONTENTS OF THIS INVITATION

**SECTION A** - General Terms & Conditions

**SECTION B** - Product/Service Specific Requirements & Specifications (Final)

**SECTION C** - **HGACBuy** *FORMS* (Final)

**SECTION D** - Pro-Forma (Sample) Contract

**This procurement conforms to government requirements for Competitive Procurement.**

## LABELING OF SEALED RESPONSE PACKAGE

### **IMPORTANT:**

You must affix an identifying label to the outside of your Sealed Response Package to ensure proper identification and log-in at **HGACBuy** offices on receipt. **HGACBuy** is not responsible for any response that might be lost or misdirected due to improper or unclear labeling. Your label should look as follows and should be affixed conspicuously to the package.



**Responses by E-mail or FAX will not be acceptable. Hard copies, as described herein, plus appropriate electronic media are required.**

## NOTICE REGARDING NATIONWIDE SALES POTENTIAL

**HGACBuy** is conducting this procurement with the objective of establishing one or more blanket type contracts for use by our Members. Because our Members are located not only in Texas, but throughout the country, we strongly urge you to participate in the process at the corporate level. If you do not sell direct, your dealer network may still service customers while you handle the administrative functions of providing quotes, accepting purchase orders, and collecting payments. If this is not feasible, we will work with you to subsequently assign your contract to your dealers as necessary to service customers.

Whatever approach you choose to take, there is considerable potential sales value because **HGACBuy** is being used not only in the State of Texas, but **NATIONWIDE**. This means that **HGACBuy** contractors will have a special advantage available to them in promoting sales to government agencies throughout the country... the ability to sell products without the need for the buyer to duplicate the competitive bidding process and expend the associated staff time and taxpayer dollars. We believe an **HGACBuy** contract would enhance your competitive position in the government marketplace, and are eager to work with you to promote the best interests of our participating local governments and qualifying non-profit organizations.

We look forward to your participation in our process. Please contact the **HGACBuy** staff member listed on the cover of this Invitation for additional information.



**SECTION A**  
**GENERAL TERMS & CONDITIONS**  
**FOR BIDS AND PROPOSALS**

**INVITATION No. GC01-11**  
**DESCRIPTION: Refuse Containers & Lifters**

**TABLE OF CONTENTS**

1. INTRODUCTION .....2

2. DEFINITIONS, ABBREVIATIONS & ACRONYMS .....2

3. NON-BINDING ORAL COMMENTS .....4

4. STRUCTURE OF RESPONSE .....4

5. BASIC REQUIREMENTS & CONDITIONS.....4

6. OFFEROR'S AUTHORIZED SIGNATORY .....5

7. SURETY FOR INSURANCE .....5

8. CONFIDENTIAL / PROPRIETARY MATERIALS .....6

9. REFERENCES .....6

10. INSURANCE .....6

11. OFFEROR CERTIFICATIONS.....6

12. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION.....7

13. NON-RESIDENT RECIPROCAL SALES ACT .....7

14. TEXAS MOTOR VEHICLE COMMISSION CODE & LICENSING.....8

15. INTENT AND SCOPE OF SPECIFICATIONS .....8

16. REQUIREMENTS APPLICABLE TO PHYSICAL GOODS.....8

17. PRODUCT CODES .....8

18. SPECIFIC DESCRIPTIVE REFERENCES.....9

19. MANUALS .....9

20. STANDARD FEATURES & OPTIONS .....9

21. WARRANTIES, SALES & SERVICE .....10

22. H-GAC ORDER PROCESSING CHARGE .....10

23. PRE-PAYMENTS AND DISCOUNTS .....10

24. INSPECTION / TESTING .....11

25. PRODUCT DELIVERY .....11

26. OFFERED PRODUCT ITEM VARIANCES .....11

27. REQUIREMENTS FOR SUBMISSION OF A RESPONSE.....11

28. CLARIFICATION TO SPECIFICATIONS & REQUIREMENTS .....13

29. INCONSISTENT INFORMATION.....13

30. REJECTION OF RESPONSES.....13

31. WITHDRAWAL OR MODIFICATION OF RESPONSES .....13

32. RESPONSE EVALUATION .....14

33. ORDER OF PRECEDENCE PRIOR TO CONTRACT AWARD .....14

34. AWARD OF CONTRACT .....14

35. PRO-FORMA CONTRACT .....14

36. CONTRACT TERM .....14

37. PERFORMANCE & PAYMENT BOND .....14

38.	CHANGE ORDERS.....	15
39.	DUPLICATION OF TERMS OR STATEMENTS.....	15
40.	PUBLICITY .....	15
41.	TAXES .....	15
42.	DRUG FREE WORKPLACE .....	15
43.	PRODUCT NOTICES & MAILINGS .....	15
44.	HANDLING OF ORDERS & PAYMENTS.....	15
45.	PRICE CHANGES.....	16
46.	CONTRACT ITEM CHANGES .....	17
47.	FORCE MAJEURE.....	17
48.	PERFORMANCE UNDER CONTRACT .....	17
49.	IMPLEMENTATION OF INTERNET BASED E-COMMERCE .....	18
50.	CONTRACTOR ORIENTATION/TRAINING.....	18
51.	LEGAL & CONTRACTUAL REMEDIES .....	18
52.	NATIONWIDE SALES OPPORTUNITIES.....	19

## 1. INTRODUCTION

The Houston-Galveston Area Council (**H-GAC**) is a "Government-to-Government" procurement service for States, State Agencies, Local Governments, Districts, Authorities, and qualifying Not-for-Profit Corporations (**End Users**). End Users become **Members** of the **H-GAC** Cooperative Purchasing Program (**HGACBuy**) by executing an Interlocal Contract, which is free of cost and evergreen unless cancelled. **HGACBuy**, acting on behalf of **Members**, is soliciting competitive offerings for the furnishing of products and/or services, as described elsewhere, which MAY be purchased by **Members** during the contract term. **Members** using the Program issue purchase orders directly to **HGACBuy** contractors.

## 2. DEFINITIONS, ABBREVIATIONS & ACRONYMS

The following definitions, abbreviations and acronyms may be found in these specifications, and shall be interpreted herein as specified below.

### Definitions and Abbreviations:

**Acceptance.** Acceptance takes place when the **End User** agrees with the **Contractor** that the terms and conditions of the contract have been met and verified. Acceptance is not the same as Receipt, and can only occur after intact shipping, inspection by **End User**, and any onsite testing that has been stipulated as part of the order

**Aggregate/Single Occurrence.** The term "*aggregate*" in insurance terms is the sum of all claims against a specific policy for a specific loss incident. The term "*single occurrence*" differentiates between multiple claims and single claims against a specific policy. The inherent value of a policy's aggregate value is less important to an **End User** than is the value of a single claim as stated under "*single occurrence*."

**Approved.** Acceptable to the "authority having jurisdiction."

**ARO.** "After Receipt of Order". Used in conjunction with a defined time period (usually days or weeks) to establish the delivery or lead time pursuant to any individual purchase transaction. In the case of orders for bodies which will be mounted on a customer furnished cab/chassis, the term ARO shall be construed to mean "After Receipt Of Cab/Chassis".

**Authority Having Jurisdiction.** The authority shall be either **H-GAC** or the relevant **End User** based on the requirements as stated in each specification item. Unless specifically stated, the authority shall be **H-GAC**.

**Bidder.** Any entity that submits a competitive bid to this Invitation. (See also "**Offeror**")

**Change Order.** Request by an **End User** for a change in the composition of an already submitted purchase order, for example to change quantity ordered, add or delete items, etc.

**Contract.** Specifically, a contract between **H-GAC** and a successful **Offeror** which is executed based on an award made pursuant this Invitation.

**Contract Pricing Worksheet.** The standard **H-GAC** form to be used by **Contractor** in preparing a quotation to an End User, upon which End User's purchase order will be based. **Contractor** may use another quotation form provided it contains required information, and only if approved by **H-GAC**.

**Contractor.** The contracted business entity responsible for fulfilling a contract executed pursuant to this Invitation.

**Dealer/Distributor.** A duly authorized and/or franchised business entity which sells and services a manufacturer's product in a specified marketing area.

**Defect.** A discontinuity in a part or a failure to function that interferes with the service or reliability for which the part was intended.

**Electronic Media.** As used herein, means computer based media such as 100mb Zip Disk, CDROM, e-mail, e-mail attachment, file downloaded from the web, etc.

**End User.** (See "**Participant**" and "**Member**")

**Listed.** Equipment or materials included in a list published by an organization, acceptable to the "Authority Having Jurisdiction" and concerned with product evaluation, that conducts periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or materials meet appropriate standards or has been tested and found suitable for use in a specified manner. NOTE: The means for identifying listed equipment may vary for each organization concerned with product evaluation, some of which do not recognize equipment as listed unless it is also labeled. The "authority having jurisdiction" should utilize the system employed by the listing organization to identify a listed product.

**Manufacturer.** The person or persons, company firm, corporation, partnership, or other organization responsible for taking raw materials or components and making a finished product.

**May.** A term indicating a permissive use or an acceptable alternative to a specified requirement.

**Member.** An authorized Participant in the Program. (See "**Participant**" and "**End User**")

**Motor Vehicle.** The meaning of this term shall be based on the legal definition ascribed to it by the laws and/or regulations of the state in which any specific sale made pursuant to a Contract takes place.

**Must.** A term indicating a mandatory requirement.

**Offer or Offering.** Any product or service offered in reply to this Invitation.

**Offeror.** Any entity that submits a competitive bid or proposal in response to this Invitation. Bidder or Proposer.

**Participant.** Generally, any qualifying governmental or non-profit entity which has executed an Interlocal Contract for cooperative purchasing services with **H-GAC**.

**Product Liability Insurance.** Failure of Components and/or assembled equipment resulting in personal injury, disability or death and/or property damage is covered under the product liability insurance provisions.

**Product or Product Item.** Any of the specific goods, materials, equipment or service(s) specified in this Invitation. This term encompasses the base line item itself, and any and all accessories, options, modifications, ancillary services, assembly, testing, etc. that may be included in the delivered Product.

**Proposer.** Any entity that submits a competitive proposal in response to this Invitation. (See also "**Offeror**")

**Purchaser.** The **End User** having responsibility for the specification, requisition, ordering and acceptance of the Product or Service. (See also "**End User**")

**Purchasing Authority.** The agency that has sole responsibility and authority for negotiating, placing and, if necessary, modifying any solicitation, purchase order, or other award issued by a governing body [**H-GAC**].

**Quotation.** See "Contract Pricing Worksheet".

**Receipt.** Receipt takes place when a Product or Service is delivered to an **End User** and a document is executed that establishes that the Product is now in the possession of the **End User** or that the Service has been completed. Receipt DOES NOT connote or imply Acceptance.

**Response.** All or part of any offering submitted in response to this Invitation.

**Shall.** A term indicating a mandatory requirement or action.

**Should.** A term indicating a recommended or advised response to a specified requirement.

**Vendor.** A manufacturer's representative or dealer authorized to make sales and supply parts and service.

#### **Acronyms:**

**ANSI** = **A**merican **N**ational **S**tandards **I**nstitute

**ASTM** = **A**merican **S**ociety for **T**esting and **M**aterials

**ASME** = **A**merican **S**ociety of **M**echanical **E**ngineers

**CFR** = U.S. **C**ode of **F**ederal **R**egulations

**DOJ** = U.S. **D**epartment **O**f **J**ustice

**DOT** = U.S. **D**epartment **O**f **T**ransportation

EPA = U.S. Environmental Protection Agency  
FAA = Federal Aviation Administration  
FMVSS = U.S. Federal Motor Vehicle Safety Standards  
H-GAC = Houston-Galveston Area Council of Governments  
IEEE = Institute of Electrical and Electronics Engineers  
MVD = Motor Vehicle Division of Texas Department of Transportation  
NFPA = National Fire Protection Association  
NHTSA = National Highway Traffic Safety Admistration  
NIOSH = National Institute For Occupational Safety And Health  
NIST = National Institute of Standards and Technology  
NTEA = National Truck Equipment Association  
OSHA = U.S. Occupational Safety and Health Admistration  
RRC = Railroad Commission of Texas  
SAE = Society of Automotive Engineers  
TBPC = Texas Building and Procurement Commission (formerly GSC)  
TxDOT = Texas Department Of Transportation  
UL = Underwriter's Laboratories Inc.  
VTCS = Vernon's Texas Civil Statutes

---

### 3. NON-BINDING ORAL COMMENTS

No oral comment, utterance or response made by any employee, member, or agent of **H-GAC** or any Member of the Cooperative Purchasing Program shall be considered factual or binding with regard to this Invitation, or any contract awarded as a result of this Invitation. Valid and binding terms, conditions, provisions, changes or clarifications, or requests thereof, shall ONLY be communicated written form.

---

### 4. STRUCTURE OF RESPONSE

Depending on the Product or Service, market structures and sales practices can differ substantially. For example, dealers may sell into any market or may be restricted to certain territories, manufacturers may sell direct or may be limited by law to selling thru independent dealerships, etc. **H-GAC's** objective is to ensure that **End Users**, no matter where located, can buy contracted products/services and receive quality and timely service and support, while at the same time allowing for the most appropriate and effective response to this Invitation. Therefore, responses to this Invitation will be accepted in conformance with the following scenarios and requirements:

#### **A. Single Respondent Acting Alone Or As "Lead" For A Group:**

**Offeror** shall complete and sign a **Form A** and, if contracted, shall be solely responsible for all contractual requirements including administration, processing of purchase orders and handling of payments for transactions which may involve other dealers who actually deliver the products or services.

#### **B. Multiple Respondents Acting Jointly:**

A single Response shall be submitted, and each party to the Response shall complete and sign a separate **Form A** to be included in the single Response. If the Response is successful each party shall sign a separate contract with **H-GAC** and shall be responsible for compliance with all terms and conditions. Only those which have executed a written contract with **H-GAC** may process purchase orders and payments.

**In any event, Offeror may be a party to one, and only one, response.**

---

### 5. BASIC REQUIREMENTS & CONDITIONS

- a. The final requirements and specifications contained herein may be different, perhaps materially, from those in the "Invitation To Attend Pre-Bid / Pre-Proposal Conference", if any. It is **Offeror's** sole responsibility to thoroughly examine and review all documentation associated with this Invitation, including any Addendums, and to insure that any response submitted complies in every respect with all requirements.
- b. Any Addendum to this Invitation which may be required prior to the Response due date will be delivered to those prospective Offerors of record who have previously obtained a copy of this Invitation from **H-GAC**. Prospective Offerors shall be responsible for obtaining all documents relating to submission of a Response.
- c. **Offeror** shall thoroughly examine any drawings, specifications, schedules, instructions and any other documents, supplied as a part of this Invitation, and is solely responsible for understanding and compliance.

- d. **H-GAC** shall not be liable for **Offeror's** incomplete documentation, or for any costs associated with preparation and submission of any Response hereto. Additionally, all components of any Response become the property of **H-GAC**, and shall be considered to be in the public domain.
- e. **Offeror** shall make all investigations necessary to become thoroughly informed regarding any plan and/or infrastructure that may be required to support delivery of any Product or Service covered by this Invitation. No plea of ignorance by **Offeror** stemming from failure to investigate conditions that may now or hereafter exist, shall be accepted as a basis for varying **H-GAC's** requirements, or **Offeror's/Contractor's** obligations or entitlements.
- f. Requests for changes to the requirements or specifications herein must be in writing (e-mail, fax, letter) and must be received by **H-GAC** no later than fifteen (15) calendar days prior to the Response Due Date. **H-GAC** will review such requests, but may or may not make changes at its sole discretion. Changes, if any, will only be made by written Addendum sent to addressees of record. In any event, it is **Offeror's** sole responsibility to insure that any and all Addendums which may have been issued have been received and addressed.
- g. By submission of a response, **Offeror** expressly understands and agrees that all terms and conditions herein will be part of any subsequent contract that is executed pursuant to this Invitation.
- h. **Offeror** is advised that all **H-GAC** contracts are subject to the legal requirements established in any applicable Local, State or Federal statute.
- i. **Offeror/Contractor** must be in compliance with all licensing, permitting, registration and other applicable legal or regulatory requirements imposed by any governmental authority having jurisdiction. It is **Offeror/Contractor's** responsibility to insure that this requirement is met, and to supply to **H-GAC** upon request, copies of any license, permit or other documentation bearing on such compliance.
- j. Unless otherwise established elsewhere in this Invitation, NO minimum purchase quantities or spending levels are provided or guaranteed by **H-GAC** or any **End User**.
- k. This Invitation is not meant to restrict competition, but rather is intended to allow for a wide range of responses.
- l. Responses which are 'qualified' with conditional clauses or alterations of or exceptions to any of the terms and conditions in this Invitation may be deemed non-compliant at **H-GAC's** sole discretion.
- m. The term '**Offeror**', or derivative thereof, shall become synonymous with '**Contractor**' for any successful **Offeror** recommended for a contract pursuant to this Invitation.
- n. **H-GAC** reserves the right to:
  - Reject any and all offers received in response to this Invitation.
  - Reject any part of an offer received in response to this Invitation.
  - Determine the correct price and/or terminology in the event of any discrepancies in any response.
  - Accept a response from, and enter into agreement with, other than the lowest price **Offeror**.
  - Accept responses and award contracts to as many or as few **Offerors** as **H-GAC** may select.
  - Amend, waive, modify, or withdraw (in part or in whole) this Invitation, or any requirements herein.
  - Hold discussions with **Offerors**, although award may be made without discussion.
  - Request an **Offeror** to give a presentation of the Response at a time and place scheduled by **H-GAC**.
  - Exercise any of these rights at any time without liability to any **Offeror**.
- o. **H-GAC** reserves the right to determine that conditions exist which prevent the public opening of responses on the date and at the time advertised, and to reschedule the public opening for a future date and time. Responses received by **H-GAC** by the original deadline will be secured unopened until the rescheduled opening date and time, and those having timely submitted such responses will be notified.

---

## 6. OFFEROR'S AUTHORIZED SIGNATORY

The signatory shall be authorized to sign and contractually bind **Offeror**, and shall sign any and all Response documentation requiring a signature.

---

## 7. SURETY FOR INSURANCE

**Contractor** shall be responsible for using a surety company properly licensed by any and all states in which Contractor will do business with Participants. The surety company shall not expose itself to any loss on any one risk in an amount exceeding ten percent (10%) of its surplus to policy holders, provided any risk or portion of any risk shall have been reinsured, and such reinsurance shall be deducted in determining the limitation of risk applicable to **H-GAC's** insurance requirements.

---

## 8. CONFIDENTIAL / PROPRIETARY MATERIALS

All documentation submitted as part of **Offeror's** response to this Invitation will be considered to be in the public domain and may be made available to Members and others, after contract award, upon properly submitted request. If **Offeror** submits documents marked "confidential" or "proprietary", the Response may be deemed non-compliant.

---

## 9. REFERENCES

- a. **Offeror** shall list the names of at least five government agencies within the continental United States which have purchased from **Offeror** products or services similar to those covered by this Invitation, within the last two years. **H-GAC** reserves the right to determine if such products or services are appropriately similar.
- b. **Offeror** may provide reference information in whatever format desired, but each should include the following specific information:
  - Agency name
  - Contact person name
  - Address
  - Phone & Fax numbers
  - Description of product(s) or service(s) and date sold
- c. Other information, including criticism however learned, may be used by **H-GAC** in evaluation of responses.

---

## 10. INSURANCE

- a. Unless otherwise stipulated in Section B, **Offeror/Contractor** must have the following insurance and coverage minimums:

**General liability** insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit.

**Product liability** insurance with a Single Occurrence limit of at least \$1,000,000.00, and a General Aggregate limit of at least two times the Single Occurrence limit for all Products except Automotive Fire Apparatus. For Automotive Fire Apparatus, see Section B – Product Specific of this Invitation.

**Property Damage or Destruction** insurance is required for coverage of **End User** owned equipment while in **Contractor's** possession, custody or control. The minimum Single Occurrence limit is \$500,000.00 and the General Aggregate limit must be at least two times the Single Occurrence limit. This insurance may be carried in several ways, e.g. under an Inland Marine policy, as part of Automobile coverage, or under a Garage Keepers policy. In any event, this coverage must be specifically and clearly listed on insurance certificate(s) submitted to **H-GAC**.
- b. Insurance coverage shall be in effect for the length of any contract made pursuant to this Invitation, and for any extensions thereof, plus the number of days/months required to *deliver* any outstanding order after the close of the contract period.
- c. Original Insurance Certificates must be furnished to **H-GAC** on request, showing **Offeror/Contractor** as the insured and showing coverage and limits for the insurances listed above.
- d. If any Product(s) or Service(s) will be provided by parties other than **Offeror/Contractor**, all such parties are required to carry the minimum insurance coverages specified herein, and if requested by **H-GAC**, a separate insurance certificate must be submitted for each such party.
- e. **H-GAC** reserves the right to contact insurance underwriters to confirm policy and certificate issuance and document accuracy.

---

## 11. OFFEROR CERTIFICATIONS

**Offeror, by submission of a Response hereto, makes the following certifications under penalty of perjury and possible contract termination if any of these certifications are found to be false.**

### Non-Collusive Response

- a. The prices in the Response have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other **Offeror** or potential competitor.

- b. The prices which have been quoted in the Response (unless otherwise required by law), have not been knowingly disclosed by **Offeror** and will not be knowingly disclosed by **Offeror** prior to the public response opening, either directly or indirectly, to any other **Offeror** or competitor.
- c. No attempt has been made or will be made by **Offeror** to induce any other person, partnership or corporation to submit or not to submit a response for the purpose of restricting competition.

#### **Non-Biased Specifications**

This Invitation contains no requirements considered to be unduly biased in favor of **Offeror** or any other **Offerors** that may be competing for this procurement.

#### **No Financial Interest or Other Conflict**

- a. No **H-GAC** officer, employee, Board of Directors member or member of any **H-GAC** board or commission, nor family member of any such person, has a financial interest, direct or indirect, in **Offeror** or in any contract **Offeror** might enter into with **H-GAC**.
- b. No economic or employment opportunity, gift, loan, gratuity, special discount, trip, favor or service has been, or will be, offered or given to any officer, employee, Board of Directors member, or member of any **H-GAC** board or commission, nor to any family member of any such person.

#### **Debarment and Suspension Status**

- a. **Offeror** is not currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any government agency, nor is **Offeror** an agent of any person or entity that is currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transaction by any government agency.
- b. **Offeror** has not within a three year period preceding this Invitation been convicted of or had a civil suit judgement rendered against **Offeror** for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property.
- c. **Offeror** is not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated above.
- d. Offeror has not, within a three year period preceding this Invitation, had any government (federal, state, or local) transactions terminated for cause or default.

#### **Insurance Coverages**

**Offeror** has and will maintain insurance coverage in accordance with the requirements of this Invitation.

#### **Licensing & Permits**

**Offeror(s)** has (have) all licenses and/or permits, required by any and all governmental entities having jurisdiction, to legally sell the products/services offered.

---

### **12. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION**

- a. To satisfy Texas' statutory requirements [Government Code, Chapter 2161, Subchapter D], **H-GAC** requires all **Offerors** to supply information in any bid/proposal response listing (1) the total number of subcontracts and (2) the total number of HUB contracts applicable to the Products or Services offered in the response. Local governments often require this information for their own reporting requirements prior to placing orders through the **H-GAC** Cooperative Purchasing Program.
- b. **Offeror** must complete **Form B** and include subcontracts with HUB's that provide any materials or services related to sales that may be made thru **H-GAC's** Cooperative Purchasing Program.

---

### **13. NON-RESIDENT RECIPROCAL SALES ACT**

As required by Texas Civil Statutes in the award of contracts, an offeror which is not a Texas resident business must determine if its state of residence prohibits award of government contracts to Texas resident offerors without penalty. If **Offeror's** resident state DOES penalize Texas offerors, **Offeror** must provide this information along with a copy of its applicable resident state's statute in the Response.

---

#### 14. TEXAS MOTOR VEHICLE COMMISSION CODE & LICENSING

Sales of motor vehicles in the State of Texas are subject to the Texas Motor Vehicle Commission Code. If this Invitation includes any motor vehicle to be sold in the State of Texas, **Offeror** certifies by submission of a response hereto that all required Texas Motor Vehicle Commission licenses are in place and current, and that copies of all such licenses **have been submitted with the Response**. Further, it shall be **Contractor's** responsibility to keep current all required Texas Motor Vehicle Commission licensing during the term of the contract, and to furnish license copies at any time on request by **H-GAC**. If **Contractor** does not maintain current licensing, **H-GAC** reserves the right to immediately terminate the contract.

<p><b>NOTE:</b> In accordance with the Texas Motor Vehicle Commission Code, contracts for motor vehicles to be sold within the state of Texas may be made <b>ONLY</b> with properly licensed Texas Motor Vehicle Dealers. Therefore, to be considered for a contract covering Texas End Users, the Response must include a <b>Form A</b> from a licensed Texas Motor Vehicle Dealer</p>
---

---

#### 15. INTENT AND SCOPE OF SPECIFICATIONS

- a. The intent of the specifications herein is to provide **Offeror** with sufficient information concerning the Products/Services to be contracted such that **Offeror** can prepare and submit an acceptable Response.
- b. The specifications may be detailed or general in nature with regard to any particular Product/Service. Where not otherwise specified, details of construction, materials, or the way in which services will be provided, are left to the discretion of the **Offeror**, provided only that any offering shall conform, as a minimum, to best Industry standards and practices and to what is currently being sold in the marketplace.
- c. Responses shall be considered only from **Offerors** that have established good reputations in their markets, and who furnish satisfactory evidence of ability to supply the Products/Services specified herein.
- d. **Offeror** shall show proof of ability to provide to **End Users** prompt and competent service, including parts if applicable, for all Products/Services covered by this Invitation, by proper completion of a Service Organization Document as described elsewhere herein.

---

#### 16. REQUIREMENTS APPLICABLE TO PHYSICAL GOODS

In the case of physical goods (e.g. equipment, material, supplies, as opposed to services), all Products offered must, unless otherwise stipulated in Section B:

- a. Be new, unused, and not refurbished.
- b. Not be a prototype insofar as the general design, operation and performance. This requirement is NOT meant to preclude **Offeror** from offering new models or configurations which incorporate improvements in a current design or add functionality, but which in such new model or configuration may be new to the marketplace.
- c. Include any and all accessories which may or may not be specifically mentioned herein, but which are normally furnished or which are necessary to make a delivered Product ready for its intended use. Such accessories shall be assembled, installed and adjusted such that the Product is ready for continuous operation at time of delivery.
- d. Have assemblies, sub-assemblies and component parts that are standard and interchangeable throughout the entire quantity of a particular Product as may be purchased simultaneously by any individual **End User**.
  - a. Be designed and constructed using current industry accepted engineering and safety practices, and materials.
  - b. Be available for inspection at any time prior to or after procurement.

---

#### 17. PRODUCT CODES

Unless otherwise addressed in Section B of this Invitation, the following requirements shall apply:

- a. Each Product/Service offered shall be uniquely identified using an **H-GAC** Product Code, which shall be determined as described in Section B of this Invitation. **Offeror** shall offer **ONLY ONE** Product for any particular Product Code. For example, **Offeror** may wish to submit a bid for Product Code ABC and may have another offering that also meets the requirements for ABC. **Offeror** **MAY NOT** submit two offerings for ABC. The alternate offering that also meets the requirements for ABC must be offered as an option "upgrade/downgrade" to ABC on **Form E**.
- b. Pricing for optional upgrades or downgrades to base bid items should be quoted as an "adder" or "deduct" amount as appropriate, to be applied to the offered price of the base Product Item listed on **Form D**.
- c. Base bid items and their associated HGACBuy Product Codes are included in the Section B and/or on **Form D**.

- d. Selection of Product Codes for which to submit an offer is at **Offeror's** sole discretion.

---

## 18. SPECIFIC DESCRIPTIVE REFERENCES

Except for Base Product Items listed on **Form D**, any reference to a specific catalog, data sheet, form, brochure, model name or number, etc. used herein to describe an item such as an option or accessory is only descriptive and is not to be considered restrictive unless otherwise noted. Such references are normally used only to indicate a type, general description, level of quality and/or required performance standards.

---

## 19. MANUALS

Unless otherwise specified or superceded herein, each Product delivered under an **H-GAC** contract, and if applicable any options thereto, shall be supplied with at least one (1) copy of a safety and operating manual. The cost of any such manuals must be included in the base price for any Product Item offered hereunder. If more detailed and technically orientated parts and maintenance manuals are available for a Product or option, at a cost, they shall be offered as options on the *FORM* designated herein for such options, or elsewhere in the Response as may be directed herein.

---

## 20. STANDARD FEATURES & OPTIONS

The following requirements are applicable primarily to physical goods.

### Standard Features

- a. The stated minimum requirements for all Products listed herein include what **H-GAC** considers to be "standard" features. Even though such features might normally be offered as options rather than as standard, they are nonetheless considered to be standard in this Invitation, and must be included in the base price for any Product offered. Such features **SHOULD NOT** be offered as options except as deducts for their omission from the base Product.
- b. If it is unclear in the Response that an **H-GAC** standard feature is included in the base price, it will be assumed that such is the case. If awarded a contract **Offeror** will be expected to sell the Product with all **H-GAC** specified standard features included in the base price.
- c. Any feature or accessory normally offered by manufacturer as "standard" shall be considered a standard feature and shall be included in the base price of any offering, even though not specifically listed as a requirement in **H-GAC's** specifications. Such features **SHOULD NOT** be offered as options except as deducts for their omission from the base Product.

### Options - General

- a. Options are considered to be any features or accessories, other than **H-GAC's** and Manufacturer's "standard" features or accessories.
- b. Options should be offered on the *FORMS* designated for quoting options. Each option should be listed and described on a separate line, and should include any Manufacturer's/Dealer's code number. If no Manufacturer's/Dealer's code number exists, **Offeror** should create one.
- c. Prices for all offered options shall be assumed to include any installation or mounting required to make it a fully functional component of the Product, unless otherwise stated in **Offeror's** response.

### Required Options

- a. Product specifications in this Invitation may include **H-GAC** "Required Options". If so, **Offeror** must quote a price for ALL such options, and, if there is an **H-GAC** Option Code provided in this Invitation for such options, it MUST be used as part of the description.
- b. For any specific "Required Option", **Offeror** may quote an equivalent so long as its design and performance are as good as, or better than, the specified option item. Responses which do not include pricing for Required Options may be considered non-compliant.

### Other Options

- a. "Suggested" or "Other" options may be listed for any particular Product in this Invitation, and **Offeror** is encouraged to quote pricing for such options. The extent of offered options in any response may be taken into consideration as part of the award criteria, at **H-GAC's** sole discretion.

- b. **Offeror** is encouraged to include options for non-equipment items that may be applicable to a sale, such as: Extended Warranties, Maintenance Agreements, Buy-back or Trade-In Agreements, Out-of-state Delivery Charges, Quantity or Special Discounts, Extended Training Classes, etc.

### **Published & Unpublished Options**

- a. H-GAC Cooperative Purchasing Program (Program) contracts are awarded through a public competitive bid or proposal (RFP) process. Further to that process, Program policy considers an 'option' listed and priced in a bid or RFP Response: (1) To be a "**Published Option**"; (2) To be part of any awarded contract; and (3) To be available for purchase by Program members separately and independently from associated base line items. However, since Published Options may have not been subjected to the same scrutiny as the associated base line items, it cannot be concluded they were directly competed. Therefore, pursuant to Local Government Code 252.021(a), purchase of a published option costing more than \$50,000 shall not be allowed. Furthermore, **H-GAC** reserves the right at its sole discretion to disallow purchase of any Published Option through the Program if deemed contrary to the intent of the law.
- b. Any option that has not been listed and priced in the Response is considered to be an "**Unpublished Option**". Unpublished Options may be sold, but only in connection with the sale of a base Product Item, and only insofar as the total cost of all Unpublished Options remains below twenty five percent (25%) of the total summed cost of the base Product(s) plus any Published Options.
- c. No Published or Unpublished Option may be sold which essentially converts a Product such that it competes with a Product Item awarded to another contractor.

---

## **21. WARRANTIES, SALES & SERVICE**

Unless otherwise addressed in Section B, the following requirements shall apply:

- a. Offeror must be a properly franchised dealer authorized to sell and service, including warranty service, all products offered and sold in response to the bid invitation or under any **H-GAC** contract.
- b. **Offeror** shall provide detailed Parts and Labor Warranty information with the Response. If **Offeror** submits a warranty with the Response which does not meet the minimum requirements herein, **Offeror** agrees by submission of a Response that such warranty shall be considered to be amended to meet those minimums.
- c. Warranties shall be manufacturer's standard and shall be inclusive of any other warranty requirements which may be stipulated elsewhere herein.
- d. Any warranties offered by a dealer shall be in addition to the manufacturer's standard warranty, and shall not be a substitute for such. **Offeror's** base price for any Product shall be inclusive of the standard warranty.
- e. Complete warranty information will be supplied to **End User** with each Product sold.
- a. Warranties need not apply to normal maintenance service or adjustments, or to any product reasonably shown to have been repaired or altered in any way so as to affect its stability, or to any product which has been subject to misuse, negligence, or accident.
- f. **Offeror/Contractor** is encouraged to offer extended warranties as an option.
- g. Neither **H-GAC** nor **End User** assume any warranty or liability on **Contractor's** behalf unless made or assumed in writing, initiated by **Contractor**, and agreed to in writing by **H-GAC** or the **End User** respectively.
- h. **Contractor** shall be responsible for the execution and effectiveness of all product warranty, and shall be the sole source for solution to problems arising from warranty claims. **Contractor** agrees to respond directly to correct warranty claims and to ensure reconciliation of warranty claims that have been assigned to a third party.

---

## **22. H-GAC ORDER PROCESSING CHARGE**

**H-GAC** will levy an Order Processing Charge on **Contractor** for each sale done thru the **H-GAC** contract, with the exception of orders for motor vehicles. Any bid pricing submitted will be considered to include the Charge. The amount of the applicable charge shall be per the most current **H-GAC** schedule. For motor vehicle orders, the Processing Charge shall be levied on and paid by the **End User**.

---

## **23. PRE-PAYMENTS AND DISCOUNTS**

- a. Progress, pre-payment and special discounts of any kind may be offered and detailed in the Response. Such discounts shall be clearly explained, but shall not be a determining factor in awarding contracts except in the case of tie offerings.
- b. Quantity discounts applicable to similar Products sold to one or more **End User** Departments may be offered. Determination as to product similarity shall rest solely with **Contractor**.
- c. For specific purchases, any proposed quantity, pre-payment or special discounts shall be clearly shown on the Contract Pricing Worksheet.

---

## 24. INSPECTION / TESTING

All Products sold pursuant to this Invitation shall be subject to inspection/testing by or at the direction of **H-GAC** and/or the ordering **End User**, either at the delivery destination or the place of manufacture. In the event a Product fails to meet or exceed all requirements of this Invitation, and unless otherwise agreed in advance, the cost of any inspection and/or testing, shall be borne by the **Contractor**.

---

## 25. PRODUCT DELIVERY

Unless otherwise addressed in Section B, the following requirements shall apply:

- a. Title to goods, and responsibility and liability for loss and/or damage in shipping pass to **End User** at the delivery destination after receipt and acceptance have taken place. Cost of shipping/delivery shall be paid by **End User** unless otherwise agreed to by **Contractor**. If **Contractor** will be paying for shipping/delivery, shipping terms must be "F.O.B. Destination, Freight Prepaid". If **End User** will be paying for shipping/delivery, shipping terms must be "F.O.B. Destination – Freight Collect".
- b. The details for the application and calculation of shipping and delivery charges must be stated in the Response on **Form E**. Any freight, shipping or delivery charged to **End User** will be prepaid and added to the invoice, and will be clearly shown on any Contract Pricing Worksheet or other quote presented to the **End User**.
- c. The estimated delivery time after receipt of order (ARO), inclusive of Saturdays, Sundays and holidays, for all Products offered must be stated in the Response. Actual delivery for any particular order must be confirmed with **End User** at time of order placement, and must be stated clearly on the Contract Pricing Worksheet.
- d. **Contractor** shall be responsible for delivery and Acceptance according to the requirements of the Contract and the Purchase Order.
- e. Contractor shall advise **End User** prior to making any shipment/delivery, and shall make such shipment/delivery in accordance with **End User's** requirements, providing only that such arrangements do not contravene any requirement of the **H-GAC** contract unless agreed to by **Contractor**.
- f. The execution of all required tests, certifications and/or licensing, and costs thereof, shall be the responsibility of **Contractor**. Upon request by **End User** or **H-GAC**, **Contractor** shall provide any documentation or certification related to such tests, certifications or licensing.

---

## 26. OFFERED PRODUCT ITEM VARIANCES

Any variance in the specifications or performance of Products offered pursuant to this Invitation shall be acceptable to **H-GAC** only insofar as it MEETS or EXCEEDS the specifications and requirements of this Invitation.

---

## 27. REQUIREMENTS FOR SUBMISSION OF A RESPONSE

Unless otherwise addressed in Section B, the following requirements shall apply:

- a. Responses shall be submitted in two complete printed sets including an Original and one (1) Copy in separate "hard side" three-ring binders. The outer spine of each binder shall be labeled showing this Invitation No., **Offeror** Name, and either "Original" or "Copy", as applicable. The Original printed response will be considered to be the binding Response in case of any conflicts between printed copies and electronic copies. Except for required forms, **H-GAC** Invitation documents should not be included in the Response.
- b. The Original and the Copy shall be submitted complete, except that the Electronic Media should be submitted only with the Copy.
- c. All required **H-GAC FORMS** and documents shall be properly completed, without exception or **Offeror's** Response may be deemed non-compliant. **Offeror** may not modify the format of any **H-GAC FORM** in any way. **Offeror** may photocopy or print blank **FORMS** as needed. Information submitted on the printed copies of the **FORMS** may not be handwritten except for signatures and initials. It is **Offeror's** responsibility to insure that printed **FORMS** are clear and legible. Handwritten and illegible entries may be rejected. **Offeror's** printed, stamped or typed name shall appear on every **FORM** submitted in the Response.
- d. The entire response submission shall also be submitted on electronic media, including all required **H-GAC FORMS**. **Offeror** is strongly advised to make and work with copies of the original electronic **FORMS**. The originals can then be used to make additional electronic or printed copies of the blank **FORMS**. Signatures are not required on the electronic **FORMS**.
- e. The Response shall include ample written evidence, in the form of technical specifications, cut/tear sheets, brochures, pictures, drawings, etc., to demonstrate that all specifications herein have been met and/or exceeded.

- f. The Response shall include, in any format desired, an overview of the **Service Organization** which will support Products sold under any **H-GAC** contract. The overview must include facility locations, phone numbers and Service Manager names, as well as the following:
- The procedure to be used by an **End User** requiring repairs.
  - Typical turn-around time on repairs.
  - Service Department days and hours of operation.
  - Number of qualified / factory trained service personnel normally on hand.
  - Description of the parts inventory on hand.
  - Training services, facilities and personnel available.
- g. Responses shall be enclosed in a sealed package(s) addressed to the Houston-Galveston Area Council, Cooperative Purchasing. The following information shall be stated on the exterior of the package(s):
- Name and address of **Offeror**.
  - Date and hour of public response opening.
  - Bid/Proposal Invitation number.
  - The statement: "**SEALED BID/PROPOSAL, DO NOT OPEN IN MAIL ROOM**".
- H-GAC** shall not be responsible for any Response not properly labeled.
- h. Submission of a COMPLETE Response by telegraphic or electronic transmission is not acceptable. However, Responses may be modified by telegraphic or electronic notice if such notice is received prior to the deadline for submission.
- i. Samples, when required, shall be submitted within the time specified and at no expense to **H-GAC**. If not destroyed or consumed during testing, samples will be returned upon request at **Offeror's** expense.
- j. **Offeror** shall provide firm contract pricing for all Products and Options being offered.
- k. If applicable, responses shall include copies of all current licensing which may be required by the Texas Motor Vehicle Division for execution of sales pursuant to any contract with **H-GAC**.
- l. Due to the complexity of responses and to aid in evaluation, the Response should contain **ALL** required information in tabbed sections as detailed below. Omission of any required FORM or information will be sufficient grounds for H-GAC to consider your response to be non-compliant. **NOTE** – Items in the Fourth Section should be supplied **ONLY** in the Original.

**First Section:**

- **Form(s) A – Offeror Identification & Signatory:** Identifies the offering party(ies), and should be completed by each party to the Response. If awarded, a contract will be executed with each.
- **Form B – Historically Underutilized Business Enterprises:** Used to collect information about disadvantaged and minority suppliers and subcontractors, and to commit **Offeror** to working with Participants toward their program goals.
- **Form C – Response Checklist:** Certification, and also an aid, to insure that all required information has been included in your Response.
- References, formatted as described elsewhere herein.
- Service Organization Document, formatted as described elsewhere herein.

**Second Section:**

- **Form D – Offered Items Pricing:** For Bids, contains the list of the Product Items covered by this Invitation. Select the items offered and fill in the price for each. (For RFPs, follow the instructions in Section B as this **Form** may or may not be used.)
- **Form E – Published Options:** Used to list and price all offered options. List, each on a separate line, all upgrades, downgrades, optional equipment, features, accessories and services which you desire to sell thru the **H-GAC** contract, if awarded. Published catalogs/price sheets may be listed, along with the discount structure that will apply. (For RFPs, follow the instructions in Section B as this **Form** may or may not be used.)

**Third Section:**

- Technical Specifications, Product Brochures, Tear Sheets, Cut Sheets, Strippers, etc. which clearly list and show all the standard features and capabilities of each Product Item offered on Form D.
- Warranty Documentation, as described elsewhere herein, for all items offered.

**Fourth Section:**

- Copies of any applicable Texas MVD Licenses.
  - Electronic Media, containing the complete response including all required *FORMS*, stored in a pouch or an envelope such that it will not fall out of the binder. (Required in 'Copy' only, not in 'Original'.)
  - **Form CIQ – Conflict Of Interest Questionnaire:** Chapter 176 of the Texas Local Government Code requires vendors and consultants contracting or seeking to contract with **H-GAC** to file a Conflict of Interest Questionnaire (CIQ) if they have an employment or other business relationship with an **H-GAC** officer or an officer's close family member. The required questionnaire is located at the Texas Ethics Commission website: [http://www.ethics.state.tx.us/whatsnew/conflict\\_forms.htm](http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm). It is Bidder's responsibility to download the form and furnish a completed copy with the Response, if it is applicable.
- m. By submittal of Response, **Offeror** certifies to the best of its knowledge that all information is true and correct.

---

**28. CLARIFICATION TO SPECIFICATIONS & REQUIREMENTS**

- a. If **Offeror** is in doubt as to the meaning of any item in this Invitation, a written request for clarification may be submitted to **H-GAC** up to fifteen (15) calendar days prior to the deadline for response submission. **H-GAC** shall not be responsible for late delivery. Requests may be transmitted by FAX or e-mail to the assigned Specification Specialist, and should clearly reference this Invitation number and the specific page and paragraph in question. If there are multiple questions, they should be stated separately and numbered.
- b. Any interpretation of Invitation documents, if made, will be by written Addendum duly issued. A copy of such Addendum will be mailed or delivered to each person officially on record as having been sent a copy of this Invitation. **H-GAC** will not be responsible for any other explanation or interpretation of the Invitation documents made or given prior to the award of the contract.
- c. Any objections to the Invitation documents must be filed in writing with **H-GAC** on or before fifteen (15) calendar days prior to the deadline for submission of responses.
- d. Prospective offerors are advised that, after a draft specification has been issued, the Pre-Bid/Proposal Conference is the primary forum through which comments and suggestions may be offered for consideration by **H-GAC** prior to issuance of the final invitation and specifications.
- e. All best efforts have been made to insure that the product/service descriptions and associated specification information in Sections B & C are correct, and adequate time has been given to prospective Offerors to point out mistakes. However, if an error remains and is caught by Offeror before the scheduled bid/proposal opening, Offeror shall make note of the required correction in the Response, and shall also notify **H-GAC** prior to the opening of responses.

---

**29. INCONSISTENT INFORMATION**

**H-GAC** review of responses supplied on **H-GAC FORMS** is a significant part of the evaluation process. **Offeror** shall state clearly all information required on the *FORMS*. **Offeror's** information supplied on the *FORMS* shall take precedence in the event any standard "boilerplate" type language included in **Offeror's** response is inconsistent with the information supplied by **Offeror** on the **H-GAC FORMS**. In all cases, information on **H-GAC's** printed *FORMS* supplied as part of **Offeror's** response shall take precedence over information supplied on electronic media.

---

**30. REJECTION OF RESPONSES**

- a. **H-GAC** may reject a response if:
  - **Offeror** misstates or conceals any material fact in the Response, or if,
  - **Offeror** does not strictly conform to law or the requirements of this Invitation.
- b. **H-GAC** may reject any and all responses, and may reject any part of a response.
- c. **H-GAC, at its sole discretion,** may also waive any formalities or irregularities in any response, or ask for corrected information except for pricing.

---

**31. WITHDRAWAL OR MODIFICATION OF RESPONSES**

Once received by **H-GAC**, responses may be modified or withdrawn prior to the submission deadline only if the request to do so is in writing submitted by **Offeror's** authorized representative. Responses and requests for modification received after the submission deadline will not be accepted. Requests for response withdrawal

received after the submission deadline will be accepted if the request to do so is in writing submitted by **Offeror's** authorized representative.

---

### 32. RESPONSE EVALUATION

#### For Bid Responses:

- a. Section B will state whether the contract will be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for **H-GAC** and its participants.
- b. If the contract will be awarded based on best value, Section B will state any relevant criteria which **H-GAC** will consider.
- c. For each offered Product Item, **H-GAC** may use the offered price, prices for Required Options, and the prices of selected common Published Options to determine the lowest responsible offer.
- d. Failure of **Offeror** to submit pricing for **frequently purchased** options and any **H-GAC** required options may cause response to be considered non-compliant at **H-GAC's** sole discretion.

#### For Proposal Responses:

- e. **H-GAC** will evaluate proposals as detailed in Section B.
- f. By submission of a Response Offeror indicates acceptance of the evaluation technique, and recognizes and accepts that **H-GAC** may at its sole discretion make subjective judgments during the evaluation process.

---

### 33. ORDER OF PRECEDENCE PRIOR TO CONTRACT AWARD

In the event of conflict between this document and any references or documents cited herein, this document shall take precedence prior to contract award.

---

### 34. AWARD OF CONTRACT

- a. **H-GAC** reserves the right to accept or reject any Product Item or option offered. Additionally, all options included in Offeror's response and accepted by **H-GAC** are understood to be included in any contract.
- b. **H-GAC** shall award contract(s) for line items or groups of line items, at its sole discretion.
- c. With authority granted by the **H-GAC** Board of Directors, a written contract shall be presented to the successful **Offeror(s)** and shall be subject to acceptance by the successful **Offeror(s)** within thirty (30) calendar days after presentation by **H-GAC**. If a contract is not executed within thirty (30) calendar days, **H-GAC** may rescind the contract offer and award a contract to the next **Offeror** in order of rank as determined by **H-GAC**.
- d. Delivery time and prompt payment discounts, including time allowed for payment, may be considered in tie-breaking of offers which are judged by **H-GAC** to be equal in all other criteria.
- e. The contract shall include the following documents in the stated order of precedence:
  - 1st The contract document signed by **H-GAC** and **Offeror**.
  - 2nd This Invitation and all specifications referenced herein.
  - 3rd **Offeror's** response to this Invitation.

---

### 35. PRO-FORMA CONTRACT

This Invitation includes a Pro-Forma (sample) Contract which successful offerors will be expected to sign. The actual final contract will be the same or nearly the same as the Pro-Forma. NOTE: Successful Offerors MAY NOT process any purchase orders until the contract documents have been executed and returned to **H-GAC**.

---

### 36. CONTRACT TERM

The contract shall be in effect throughout the period stated elsewhere in the contract documents, and thereafter until such time as any outstanding orders against the contract have been fulfilled. The contract may be extended if deemed by **H-GAC** to be in the best interests of the Program, and subject to mutual agreement of the parties.

---

### 37. PERFORMANCE & PAYMENT BOND

**H-GAC's** contractual requirements DO NOT include a Performance & Payment Bond (PPB), and offered pricing should reflect this cost saving. However, **Contractor** must be prepared to offer a PPB to cover any specific order if so requested by **End User**. **Contractor** shall quote a price to **End User** for provision of any requested PPB, and agrees to furnish the PPB within ten business (10) days of receipt of **End User's** purchase order.

---

### 38. CHANGE ORDERS

**End Users** shall have the right to make additions by addenda for the purpose of clarification or inclusion of additional specifications, qualifications, conditions, etc. Any such addenda shall be made in writing and agreed upon by **Contractor** and the **End User** agency prior to issuance of any Change Order. A copy of any such Change Order shall be furnished by **Contractor** to **H-GAC**.

---

### 39. DUPLICATION OF TERMS OR STATEMENTS

Where statements or terms are duplicated or are extremely similar, **H-GAC** and the **End User** reserve the right to use the statement or term most favorable to **H-GAC** and/or the **End User**.

---

### 40. PUBLICITY

**H-GAC** encourages contractors to "market" the Program, and can provide some information and artwork to be used in published promotional materials. However, any publicity or published material released by **Contractor** referencing the contract, whether in the form of a press release, brochure, photographic coverage, or verbal announcement, shall be issued only with prior review and approval by **H-GAC**.

---

### 41. TAXES

**HGAC** and **End User** participants are either units of government or qualified non-profit agencies, and are generally exempt from Federal and State sales, excise or use taxes. **Offeror** shall not include any such taxes in the Response. Further, it shall be the responsibility of **Contractor** to determine the applicability of any taxes to a particular order and act accordingly. Exemption certificates will be provided upon request.

---

### 42. DRUG FREE WORKPLACE

**Contractor** shall provide notice to its employees and sub-contractors, as required under the Drug-Free Workplace Act of 1988. A copy of **Contractor's** Drug-Free Workplace policy shall, on request, be furnished to any **End User**.

---

### 43. PRODUCT NOTICES & MAILINGS

**H-GAC** is **NOT** the owner of Products sold pursuant to this Invitation, but acts only in the capacity of purchasing agent. In that regard, **Contractor** accepts sole responsibility for insuring that notices and mailings, such as Safety Alerts, Safety Recall Notices and Customer Surveys, are sent directly to the **End User** of record.

---

### 44. HANDLING OF ORDERS & PAYMENTS

In general, orders and payments will be handled as described below. More specific instructions and information regarding handling of purchase orders and the Order Processing Charge may be provided after contract award. Established procedures may be changed at any time by **H-GAC** as may be dictated by efficient business practice. The particulars of any sale, e.g. specific products, pricing, delivery, warranty, etc., will be in strict accordance with the terms and conditions of this Invitation and the specific contract awarded to **Contractor**. Beyond that:

- a. For any particular procurement to be made under the provisions of an **H-GAC** contract, **End User** and **Contractor** will discuss requirements and agree as to what will be provided.
- b. **Contractor** will prepare a Contract Pricing Worksheet and provide it to **End User**. The Worksheet will list everything being purchased including the base bid item(s), all published and unpublished options and the delivery date. All pricing shall be per the current contract.
- c. **End User** will send a purchase document to **Contractor**, which **Contractor** will fax **H-GAC** together with the Contract Pricing Worksheet. **NOTE: Contractor** agrees not to offer, agree to or accept from **End User** any terms or conditions that conflict with or contravene those in **Contractor's** **H-GAC** contract, except for pricing discounts.
- d. **H-GAC** will prepare an "Order Confirmation" and transmit it to **End User** and to **Contractor**. The Order Confirmation verifies that **Contractor** has a valid **H-GAC** contract and that the order is in compliance with the requirements of the **H-GAC** Cooperative Purchasing Program. **Contractor** will not ship any goods before receipt of both **End User's** purchase document and **H-GAC's** Order Confirmation.
- e. On notification that **Contractor** has received an order, **H-GAC** will invoice **Contractor** for the applicable Order Processing Charge. **NOTE: The Order Processing Charge is charged to Contractor, EXCEPT in the**

**case of motor vehicles.** For all sales of motor vehicles the Order Processing Charge is levied on the **End User**, collected by **Contractor**, and remitted to **H-GAC** by Contractor.

- f. **Contractor** will deliver products/services ordered, and will invoice **End User** for products/services accepted by **End User**. (See other Sub-Section herein dealing with Product Delivery.) **Contractor** will not invoice before shipment has been made.
- g. **End User** will pay **Contractor** for those products and/or services ordered which have been received and accepted. Under no circumstances shall any check be made payable to a representative or agent. Should a representative or agent submit an invoice to **End User** for any cost related to a purchase order issued to **Contractor** for products/services covered by an **H-GAC** contract, such invoice shall be forwarded to **Contractor** and **Contractor** will take action to correct the error.
- h. Upon delivery of any product/service by **Contractor** and acceptance by **End User**, **Contractor** shall remit to **H-GAC** the full amount of the applicable Order Processing Charge in accordance with the payment terms established in the **H-GAC** contract. Note, the Order Processing Charge is due whether or not **Contractor** has ever received an invoice from **H-GAC**. Sales executed based on the particulars of **Contractor's H-GAC** contract, without payment of the Order Processing Charge, may constitute fraud.

---

#### 45. PRICE CHANGES

- a. Any permanent increase or decrease in offered pricing for a base contract item or published option is considered to be a price change. Temporary increases in pricing by whatever name (e.g. 'surcharge', 'adjustment', 'equalization charge', 'compliance charge', 'recovery charge', etc.), are also considered to be price changes.
- b. Except in the case of contracted published catalogs and price sheets, prices for Base Bid Items and Published Options are expected to be held firm for a minimum of 90 days from the date an awarded Offeror signs the H-GAC contract. Thereafter, changes will be considered if accompanied by justifying documentation satisfactory to H-GAC. For published catalogs and price sheets which are on an H-GAC contract, requests to amend the contract to reflect any new published catalog or price sheet may be submitted whenever the manufacturer publishes the new document. Any such request must include the new catalog or price sheet.
- c. If **Contractor** routinely offers discounted contract pricing, **H-GAC** may request **Contractor** to accept amended contract pricing equivalent to the routinely discounted pricing.
- d. No price change will be allowed unless it has been reviewed and approved by **H-GAC** in writing. **Contractor** must have received **H-GAC's** written approval of any change prior to charging the new price or using it in any quotation prepared for an End User.
- e. Price change requests must be submitted to **H-GAC** in writing and must be received by **H-GAC** at least thirty (30) calendar days prior to the requested effective date of the change, and must state the time period for which the requested pricing will remain firm.
- f. Price change requests shall include **H-GAC Forms D** and **E**, or whatever documentation was used to submit pricing in the original Response hereto, showing all affected items with current contract price, requested price, and percentage change shown clearly for each. This documentation should be submitted in MSExcel format to facilitate analysis and updating of the website.
- g. Price change requests **MUST** be supported with substantive documentation (e.g. manufacturer's price increase notices, copies of invoices from suppliers, etc.) showing that **Contractor's actual costs** have increased. The Producer Price Index (PPI) may be used as partial justification, subject to approval by **H-GAC**, but no price increase based solely on an increase in the PPI will be allowed.
- h. All Products shall, at time of sale, be equipped as may be required under any then current applicable local, state, and federal government requirements. If, during the course of any contract, changes are made to such government requirements which cause a manufacturer's costs of production to increase, **Contractor** may increase Product pricing to the extent of **Contractor's** actual cost increase. The increase must be substantiated with support documentation acceptable to **H-GAC** prior to taking effect. Modifications to a Product required to comply with such requirements which become effective after the date of any sale shall be the responsibility of the **End-User**.
- i. In cases involving contract extensions exceeding sixty-one (61) days beyond the stated expiration date of the contract, **Contractor** may request a price change based on the same conditions as stated above. However the thirty (30) day prior notice is waived and **H-GAC** will consider the request immediately on receipt.
- j. **H-GAC** reserves the right to accept or reject any price change request. Acceptance, if granted, will be in writing and the approved changes will become part of the contract.

---

#### 46. CONTRACT ITEM CHANGES

- a. If a manufacturer discontinues a contracted item, that item will automatically be considered to be deleted from the contract with no penalty to Contractor. However, **H-GAC** may at its sole discretion elect to make a contract award to the next low offeror for the item, or take any other action deemed by **H-GAC** to be in the best interests of **End Users**, at its sole discretion.
- b. If a manufacturer makes any change in a contracted item which does not affect the contract price, Contractor shall advise **H-GAC** of the details. If the 'new' item is equal to or better than the originally contracted item, the 'new' item shall be approved as a replacement. Otherwise **H-GAC** may allow or reject the change, or take any other action deemed by **H-GAC** to be in the best interests of **End Users**, at its sole discretion. If the change is rejected there will be no penalty to Contractor.
- c. If a manufacturer makes any kind of change in a contracted item which affects the contract price, Contractor shall advise **H-GAC** of the details. **H-GAC** may allow or reject the change at its sole discretion. If the change is rejected there will be no penalty to Contractor. However, **H-GAC** may elect to make a contract award to the next low offeror for the item, or take any other action deemed by **H-GAC** to be in the best interests of **End Users**, at its sole discretion.
- d. In the case of specifically identified catalogs or price sheets which have been contracted as base bid items or as published options, routine published changes to products and pricing shall be automatically incorporated into the contract. However, **Contractor** must still provide thirty (30) calendar days written notice and an explanation of the changes to products and pricing. **H-GAC** will respond with written approval.

---

#### 47. FORCE MAJEURE

If either party shall be wholly or partially prevented from the performance of any contractual obligation or duty by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident., order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed. Determination of Force Majeure shall rest solely with **H-GAC**.

---

#### 48. PERFORMANCE UNDER CONTRACT

**H-GAC** is committed to insuring that **Contractor** provides effective and efficient service to all Participants in the Cooperative Purchasing Program, and expects that certain Performance Conditions must be met. Failure to meet these conditions may result in contract termination. In that regard, **Contractor shall:**

- a. Appoint a dedicated representative to be the contact person and focal point for all matters relating to End User quotations and orders. The representative shall have: A toll free phone number with voice mail; A fax number; A working e-mail address; and A postal address.
- b. Insure that the representative timely monitors all communication modes listed above, and promptly responds to communications from **End Users** and **H-GAC** in any of these modes. Phone calls will be promptly returned, in any event not later than the next business day. Acceptable failure will be due only to Force Majeure.
- c. Maintain sufficient qualified staff to promptly process all communications from **H-GAC** or **End Users**, and to efficiently, effectively and accurately service all requirements of the contract.
- d. As may be requested by **H-GAC**, replace any staff members who are not providing the service and expertise deemed necessary by **H-GAC** for acceptable support of **End Users**.
- e. Properly prepare and provide to **End User** a Contract Pricing Worksheet, or a quotation in other format as approved by **H-GAC**, for each and every order that is to be executed.
- f. Furnish, on request of **H-GAC**, reasonable data, forms and graphic material to be used in brochures or other print media, or on **H-GAC**'s website.
- g. Allow access to **H-GAC** authorized personnel for inspection of operating facilities, and auditing of purchase orders during the contract period, and for a period extending thru the completion of any outstanding orders. Site inspection may be arranged not less than ten (10) calendar days prior, shall include the names of all participants, and shall be at no expense to **Contractor**.
- h. **Reporting Requirements:**
  - **Contractor** agrees to submit written quarterly reports to **H-GAC** detailing all transactions during the previous three month period. Such reports shall include, but are not limited to the following:
  - **End User** name
  - Product/Service purchased, including Product Code if applicable

- End User Purchase Order Number
- Purchase Order Date
- Product/Service dollar amount
- **HGACBuy** Order Processing Charge amount
- Reports must be provided to **H-GAC** in MSEXcel or other acceptable electronic format, and are due by the 30<sup>th</sup> day of the month following the applicable quarter being reported.

i. Should **Contractor** default in providing Products or Services as required by this Invitation and the contract, recourse may be exercised thru cancellation of the contract and other legal remedies as may be appropriate.

#### 49. IMPLEMENTATION OF INTERNET BASED E-COMMERCE

**H-GAC** Cooperative Purchasing has adopted E-Commerce as part of its business model and maintains an internet website at [www.HGACBuy.org](http://www.HGACBuy.org). At any point in time, various information and process functions may be implemented and made operational thru the website, including but not limited to items such as:

##### Information Items

- |  |  |
|--|--|
| • Contract information                   | • Product and option item catalog listings     |
| • Procurement schedules                  | • <b>End User &amp; Contractor</b> information |
| • Response requirements & specifications |  |

##### Functions

- |  |                             |
|--|-----------------------------|
| • <b>End User</b> product inquiries      | • Shipping/Delivery notices |
| • Product configuration and price quotes | • Invoice generation        |
| • Purchase Orders and Confirmations      | • Payment remittances, etc. |

All **H-GAC Contractors**, as a condition of contract, will be required to work with **H-GAC** and it's E-Commerce provider(s) to maximize use of E-Commerce within the context of **H-GAC** Cooperative Purchasing business. **Offeror** is encouraged to refer to **H-GAC's** Cooperative Purchasing web site where additional information can be found. If you have any questions, please contact **H-GAC** for assistance.

#### 50. CONTRACTOR ORIENTATION/TRAINING

**H-GAC** believes that **Contractor's** familiarity with the operational policies and requirements of the Cooperative Purchasing Program is a key factor in achieving **End User** satisfaction. In that regard, the Contact Person listed on **Form A**, or an alternate, shall be required to participate in an **H-GAC** vendor orientation/training as soon as possible after contract award. In addition, any other of **Contractor's** staff who will be involved in any way with the **HGACBuy** Program should participate in orientation. The orientation may be presented as a teleconference or webinar, or may be held in **H-GAC's** offices as may be determined by **H-GAC** and **Contractor** to be the most efficient and effective form of delivery.

#### 51. LEGAL & CONTRACTUAL REMEDIES

##### RESOLUTION OF PROTESTED SOLICITATIONS AND AWARDS

##### Procedure

Any actual or prospective **Offeror** or **Contractor** who is aggrieved in connection with a purchase transaction may file a grievance. The grievance may be filed at any phase of the procurement. In order for an above mentioned party to enter the grievance process, a written complaint must be sent to the Office Services Manger of **H-GAC** by certified mail which identifies the following:

1. Name, mailing address and business phone number of the complainant.
2. Appropriate identification of the procurement being questioned.
3. A precise statement of reasons for the protest.
4. Supporting exhibits evidence or documents to substantiate any claims.

The grievance must be based on an alleged violation of **H-GAC's** Procurement Procedures, a violation of State or Federal law (if applicable), or a violation of applicable grant or contract agreements to which **H-GAC** is a party. Failure to receive a procurement award from **H-GAC** in and of itself does not constitute valid grievance. Upon receipt of grievance, the Office Services Manager will initiate the informal resolution process.

##### Expedited Resolution

The Procurement Officer or Departmental Manager responsible for the solicitation shall contact the complainant and all interested parties and attempt to resolve the allegations informally within ten (10) working

days from date of complaint. If the allegations are successfully resolved by mutual agreement, documentation will be forwarded to the Office Service Manager of the resolution with specifics on each point addressed in the original complaint.

If the Procurement Officer or Departmental Manager is not successful in resolving the allegations, the complaint along with the comments will be forwarded to the Office Service Manager immediately. The Office Service Manager will review all documentation. All interested parties will be given written notice of the date, time, and place of the hearing and an opportunity to present evidence. A written decision will be issued within five (5) working days after the hearing along with notice of appeal rights.

### **Appeals**

The complainant may appeal the Office Service Manager's decision by submitting a written appeal, within five (5) working days, to the Executive Director of **H-GAC**. The Executive Director, upon receipt of a written notice of appeal, shall contact the complainant and schedule a hearing within ten (10) working days. The Executive Director of **H-GAC** has the option of appointing a Hearing Officer to preside over the hearing. If appointed, the Hearing Officer shall conduct a hearing and forward a summary and recommended resolution to the Executive Director.

The decision reached by the Executive Director or his designee shall be final and conclusive. This decision will be forwarded to the complainant in writing within thirty (30) working days.

The **Contractor** may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a Court of competent jurisdiction.

### **RESOLUTION OF CONTRACT DISPUTES**

Upon breach or default, **H-GAC** shall give the **Contractor** written notice of default. If the default is not remedied, within a reasonable specified time from date of notification, to the satisfaction and approval of **H-GAC**, default will be declared.

Upon breach of contract or default, **H-GAC** may exercise any and all of its rights afforded by law, including but not limited to those referenced in the General Contract Provisions.

### **SOLICITATIONS OR AWARDS IN VIOLATION OF THE LAW**

Contracts awarded in violation of the competitive process or otherwise in violation of the law are voidable by **H-GAC**.

---

## **52. NATIONWIDE SALES OPPORTUNITIES**

**HGACBuy** provides purchasing services to local governments qualifying non-profits throughout the nation, and desires to make established contracts available to them wherever and whenever practicable. Therefore, once a contract is awarded, **Contractor** is expected to expand the scope of its marketing effort to include sales to **End Users** in all areas of the United States, and/or to assign any **H-GAC** contract to another contractor(s) as deemed appropriate by **H-GAC** in the interest of its End Users.

- **Contractor** may sell through **HGACBuy** anywhere subject to compliance with applicable laws and regulations. If the market structure in which **Contractor** operates requires a contract assignment for any particular sale, **H-GAC** will expect **Contractor** to assign the contract to a Manufacturer or to another Dealer(s). Such assignment must be approved by **H-GAC**.
- **Contractor**'s differential costs (e.g. transportation & delivery charges) and allowances (e.g. manufacturer's sales incentives) related to any sale may be charged to buyer.

**End of Section A**  
**GENERAL TERMS & CONDITIONS**

**Section B: - Product Specific Section  
for  
Refuse & Recycling Containers & Lifters**

1.0 INTENT AND SCOPE ..... 1  
2.0 STANDARD MODELS & ACCESSORIES ..... 1  
3.0 DEFINITIONS AND ABBREVIATIONS ..... 1  
4.0 GENERAL ..... 2  
5.0 PRODUCT ITEMS AND PRODUCT CODES ..... 2  
6.0 OPTIONS ..... 2  
7.0 REQUIRED OPTIONS PRICING ..... 3  
8.0 MANUFACTURING PROCESS ..... 3  
9.0 MATERIAL ..... 3  
10.0 COLOR ..... 3  
11.0 CONTAINER REQUIREMENTS ..... 3  
12.0 COMPONENTS ..... 3  
13.0 WARRANTY ..... 4

**1.0 INTENT AND SCOPE**

This specification covers residential, industrial/commercial plastic or plastic & steel refuse/recycling collection containers. This Section details specific **H-GAC** minimum requirements and other specifications applicable to the containers bid in this Invitation. All products bid pursuant to this Invitation must meet or exceed the requirements and specifications listed or referenced herein.

The categories of refuse equipment covered by this specification include:

- A. Residential Rollout Containers
- B. Curbside Recycling Bins
- C. Indoor Containers
- D. Industrial/Outdoor Containers
- E. Lifters

**2.0 STANDARD MODELS & ACCESSORIES**

All products specified in this invitation shall be new, unused, and in current production. No prototypes shall be accepted. All products bid and purchased herein must be the manufacturer's complete standard models, with all basic features as shown in the manufacturer's printed literature, except as may be explicitly modified by this specification's minimums.

**3.0 DEFINITIONS AND ABBREVIATIONS**

The following product definitions and abbreviations may be found throughout this section of the specifications:

**ASTM:** American Society for Testing and Materials

**ANSI:** American National Standards Institute. Industry standard for safety, durability, and compatibility.

**Automated Loader:** One person (driver) vehicle that picks up and dumps fully automated or universal carts using an articulated arm with cart gripper.

**Blow Molding:** Process by which an extruded polyethylene bubble is expanded inside a mold by low pressure compressed air, under moderate heat, to form a molded part in the shape of the mold cavity.

**Dump Height:** Height of container's lower edge to ground measurement through movement of lifter for which a minimum allowance on a dump truck door, warehouse environment, et cetera, can be ascertained.

**G.P.M.:** Gallons of oil flow Per Minute.

**High-Density Polyethylene:** HDPE. A highly crystalline lightweight thermoplastic, with characteristics of chemical resistance, toughness, relatively high softening temperatures. Example: milk containers.

**Injection Molding:** Process by which plastic is melted and injected under high pressure into a mold cavity. Once the plastic is in the mold, it cools to the shape of the product desired.

**LDPE:** Low-Density Polyethylene. Thermoplastic obtained through the high-pressure free radical polymerization of ethylene. Characteristics: clarity, chemical inertness, seal ability, easily processed. Example; coffee can lids.

**Members:** Government agencies that are formal members in HGAC's Cooperative Purchasing program. Examples are counties, cities, police and fire departments, schools (public and private), hospital districts, water districts, et cetera).

**Polyethylene:** A thermoplastic material composed by polymers of ethylene used to manufacture solid waste containers.

**Post Consumer Material:** Products or packages generated by a business or consumer which have served their intended end uses, but have been separated or diverted from solid waste for recycling and reused in future products.

**RMA:** Reliable Maintainable Analysis.

**Roll-out Containers:** Trash or recycling containers with wheels located on the back of the cart so that it can easily be tipped back and rolled out for curbside collection.

**Rotational Molding:** A process in which powdered polyethylene utilizing stress relief methods, is tumbled, melted, and then cooled in a mold that is rotating on twin axes. Plastic material conforms to shape of mold.

**Semi-Automated Cart:** Cart designed for Semi-Automated dumpers.

**Semi-Automated Collection:** Type of solid waste collection that requires one person to operate the lifter from inside the truck and another to hook the Semi-Automated or Universal cart onto the dumper

**Stop Bar:** Safety bar located on the front of the Universal and Semi-Automated cart that prevents the cart from slipping off the dump unit.

**Universal Cart:** Roll-out cart designed for a Semi-Automated or an Automated dumper system.

**UV Stabilizer:** Components of plastic resin added to protect plastic carts from the ultraviolet (UV) component of sunlight.

**Wall Thickness:** Measurement of plastic in walls, usually specified in bids as a minimum.

#### 4.0 GENERAL

The specifications herein are the minimum requirements for new plastic refuse collection containers and bins, which must comply with all applicable requirements established by the most recent ANSI standards at the time of bid invitation, as well as all specification minimums detailed herein.

**HGACBuy will assess contractors an Order Processing Charge of 1.5% of the order amount on all orders placed by Members under any contract executed pursuant to this procurement.** Offerors are responsible for taking this into account in determining bid pricing.

#### 5.0 PRODUCT ITEMS AND PRODUCT CODES

For purposes of this Invitation and any subsequent contract, ALL Base Product Items offered shall be identified by a three (3) character alpha-numeric Product Code. The first character designates the primary equipment category **as outlined in section 1.0**. The second characters designate the manufacturer, the third, fourth, and fifth the model number. Base Product Items and associated Product Codes are detailed on **Form D**. The base price will determine the final price for each item. It is this bid price that will be used in the bid evaluations to determine contract awards.

Bidder should bid variations on Base Product Items on **Form E** as options with bid pricing equal to the differential amount between the Base Product Item price and the Option Price. Bidders are urged to price additional quantity discounts on form E.

#### 6.0 OPTIONS

For each model priced, bidder shall submit, on Form E, a thorough listing of, and prices for, its manufacturer parts/accessories/options. Options pricing shall be the HGAC discounted price.

**7.0 REQUIRED OPTIONS PRICING**

Where normally available, bidder shall include pricing for, but not limited to, the following options:

- 7.1 Non-standard colors
- 7.2 User logo
- 7.3 Assembly
- 7.4 "Truckload Pricing"

**8.0 MANUFACTURING PROCESS**

The body and the lid of the container shall be injection, rotational, or blow molded. Molded parts shall be free from color streaks, cracks, blowholes, webs, or shrink holes.

**9.0 MATERIAL**

Body and lid components shall be composed of Linear Polyethylene (LLDPE, LMDPE, or HDPE), or Crosslinked Polyethylene (HDXLPE), as produced by a primary manufacturer such as Quanta, Exxon, and Mobil (or equivalently performing plastics). Polyethylene shall be certified to contain UV stabilization provided by the equivalent of 0.5% of UV stabilization compound and 1.0% color hot-compounded into the material. Polyethylene resin shall be one hundred percent (100%) virgin material, with no more than 50% post consumer recycled (PCR) material for LMDPE.

**10.0 COLOR**

Base units shall be priced with manufacturer's standard color. For any model bid, where no such standard color exists bidder shall designate a base unit color in bid documents. Color shall be ultraviolet light stabilized to reduce fading during normal use. The color shall be non-fading throughout the warranty period.

**11.0 CONTAINER REQUIREMENTS**

11.1 Where a particular model design requires assembly, bidder shall price it unassembled. If assembly is an option, bidder shall price it as an option on **Form E**.

11.2 Containers shall be compatible with ANSI Type B (barlock) and G (automated) lifters, as applicable.

11.3 Container volume, as specified, shall be measured in U.S. liquid gallons in the body only, per the reporting requirements in ANSI Z245, with a deviation allowance of +/- one (1) percent.

11.4 The body must have a molded top rim for added container strength and rigidity and to provide a rain and insect seal. The body shall have a reinforced bottom/wear rings/strips to extend cart life and to protect against wear from dragging. The bottom of the container shall rest parallel with the ground on all points of contact. Containers must be sealed to prevent any leakage from the lower portion of the container as it stands resting in normal position.

11.5 Where markings are designated by user (molded, stamped, raised relief, or hot stamped), they shall be permanent in nature, designed for the life of the container and conform to ANSI Z245.

**12.0 COMPONENTS**

12.1 **LID:** Base unit curbside rollout carts shall be priced with a standard lid. Base unit rollout cart lids shall provide a water-resistant cover and be crowned / domed to permit water run-off. On other styles of containers, where lids are sold as separate options, bidder shall include them as separately priced Form E options.

12.2 STOP BAR: The stop bar shall be either integrally molded as part of the container body, or a rotating lower bar, made of galvanized steel tubing (or comparable plating).

12.3 HANDLE: Handles shall be an attached plastic or galvanized steel tubing (or comparable plating), or integrally molded container "lips". Handles shall provide for safe movement of the container and shall conform to ANSI Z245 standards.

**13.0 WARRANTY**

Bidder shall warrant any priced rollout carts and their components for five (5) years, all other types of containers/bins for two (2) years. Lifters shall be warranted for a minimum of one (1) year. Any component parts which fail in materials or workmanship to perform as originally designed shall be replaced or repaired at no charge to HGAC Member, including transportation. Bidder shall include detailed warranty documents with bid.

**\*\*\* End of Section B \*\*\***

**Specifications prepared by**

**Houston-Galveston Area Council  
Cooperative Purchasing Program**

**For questions about this Invitation, please contact:**

**Brian Denzel**

**Ph: 832-681-2554**

**Email: bdenzel@h-gac.com**



## SECTION C - H-GAC FORMS

(Rev 12/02/09)

### For Use In Responding To Competitive Bid And Proposal Invitations

**Invitation No.:** GC01-11

**Title:** Refuse Containers & Lifters

---

This Section contains the following **H-GAC FORMS**.

FORM	DESCRIPTION
<b>Form A:</b>	Offeror Identification and Authorized Signatory
<b>Form B:</b>	Historically Underutilized Business Enterprises
<b>Form C:</b>	Response Checklist
<b>Form D:</b>	Offered Items Pricing
<b>Form E:</b>	Published Options

These *FORMS* are hereby made available in electronic format. They should be copied to Offeror's computer for completion and/or printout as required. The *FORMS* **may not** be changed or altered in any way, except as may be specified on the *FORM*.

**ALL** completed *FORMS* must also be submitted electronically on electronic media (DVD, CDROM, flash/thumb drive), excepting of course for signatures. The printed "Original" of the response will be considered as the official copy in case of any discrepancy between the electronic version and the printed Original.

**FORM A - OFFEROR IDENTIFICATION & AUTHORIZED SIGNATORY**  
**(DO NOT handwritten this Form. Information must be typed in.)**

Invitation No.: GC01-11

Invitation Title: Refuse Containers & Lifters

Offeror Company: \_\_\_\_\_

(Legal name of business which will appear on contract, if awarded)

Offeror Status:  Manufacturer  Dealer/Distributor  Other

Response Type(1):  Single Offeror Acting Alone Or As Lead  Multiple Offerors Acting Jointly

Contract Signatory(2): \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address(3): \_\_\_\_\_

Street/PO Box

City

State & Zip

Physical Address: \_\_\_\_\_

Street

City

State & Zip

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

Federal Tax ID No.: \_\_\_\_\_

Web Page URL: \_\_\_\_\_

- (1) If Joint Offering, all parties must submit a signed Form A. A contract will be offered to each.
- (2) Person who will sign final contract documents if an award is made.
- (3) Address to which final contract documents would be sent for signature.

**Member Contact Information**

Contact Person(4): \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street/PO Box

City

State & Zip

Physical Address: \_\_\_\_\_

Street

City

State & Zip

Toll Free Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

- (4) Person who End Users will contact for product information and to get pricing quotes.

**The Signatory below, on behalf of Offeror:**

- Acknowledges having thoroughly reviewed the Invitation;
- Attests to having the authority to sign this response and commit Offeror to honor all requirements;
- Makes, under penalty of perjury, all required Offeror Certifications as detailed in General Terms;
- Certifies that all information provided in this Response is true and correct.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Title:** Refuse Containers & Lifters**Offeror:** \_\_\_\_\_

Most, if not all, of the Members of HGACBuy are subject to various requirements relative to purchasing goods and services from Historically Underutilized Business Enterprises (HUBs)(See Note 1). These requirements are promulgated by federal and state governmental authorities, and include measureable criteria such as 'percentage of total dollars spent directed to HUBs', 'number of HUB contractors used', 'HUB subcontractors employed by primary contractors', etc. These requirements are generally formalized in goal oriented programs.

HGACBuy is committed to promoting full and equal business opportunities for HUB contractors, and to assisting Cooperative Purchasing Program (COOP) Members in meeting mandated HUB goals. In that regard, Contractor shall make a good faith effort to use the services of Certified/Listed (See Note 2) HUBs whenever possible.

As part of a good faith effort, Contractor agrees to work with and assist HGACBuy Members in meeting HUB targets and goals, as may be required by any rules, processes or programs they might have in place. Such assistance may include such things as compliance with reporting requirements, provision of documentation, consideration of 'Certified/Listed' subcontractors, provision of documented evidence that an active participatory role for a HUB entity was considered in a procurement transaction, etc.

Note 1: There are many designations other than "HUB" used across the country within various jurisdictions. Examples include terms such as Disadvantaged Business Enterprise (DBE), Minority Owned Business Enterprise (MBE), Woman Owned Business Enterprise (WBE), Small Disadvantaged Business (SDB), Small, Woman or Minority-owned Business (SWAM), etc. Regardless of the formal designation, the overall objective of the relevant programs is basically the same, i.e. to insure that disadvantaged and underutilized members of the business community receive a fair share of public spending. The term HUB as used herein shall be understood to encompass all such programs/business enterprises, no matter what terminology is used by the Member.

Note 2: The terms "Certified" and "Listed" as used in conjunction with HUB programs relate to the process of HUB qualification review. Jurisdictions usually require that companies claiming HUB status be reviewed and confirmed as meeting certain minimum requirements to claim that status, and that the review and confirmation process be carried out by certain designated entities. They are then "Certified" or "Listed" by having their name included on an official listing published by the Certifying or Listing Authority.

Accepted and Agreed By:

Title:

Date:

**HUB Status Of Offeror** Offeror is a HUB, as detailed below. Offeror is not a HUB.

Designation(s):

 HUB DBE MBE WBE Other

Certifying/Listing Authority(s):

**Subcontracts**

On a separate sheet, list any subcontractors that would be employed in providing products or services related to this procurement. Include subcontractor name, designation (HUB, DBE, etc.) and certifying/listing authority.

 Subcontractor List attached. No Subcontractors will be used.

**Title:** Refuse Containers & Lifters

**Offeror:** \_\_\_\_\_

This *FORM* is provided to help insure that all required Response elements have been completed and included, or certified as being available upon request. **Responses that do not comply with all requirements may be considered non-compliant.** Offeror's signatory must review each item below, and certify by initialing in the space to the right.

This Response Includes:	Init.
1 An "Original" hard copy of the <b><u>COMPLETE</u></b> submission, including all required <i>FORMS</i> , plus one copy, each in a separate <b>hard-sided</b> 3-ring binder.	
2 A copy of the <b><u>COMPLETE</u></b> submission, including all required <i>FORMS</i> , in <b>electronic format</b> (CD, DVD, flash drive).	
3 An originally signed <b>Form A</b> from all entities who are party to this submission and who should be offered a contract if this submission is successful.	
4 The required list of <b>References</b> .	
5 Details of " <b>Service Organization</b> ", including locations, hours, personnel and parts/service availability. (Applies to hard goods only.)	
6 Complete <b>Warranty Documentation</b> for all Products offered.	
7 The manufacturer's latest <b>Specification Documents</b> detailing standard features, operating characteristics, etc., for all products offered.	
8 <b>Form CIQ</b> , if required by law, completed and signed. (The Form, and instructions for its use, can be found at: <a href="http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm">http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm</a> ) If Form CIQ does not apply, put "N/A" in the box to the right.	
9 If the <b>Non-Resident Reciprocal Bid Act</b> applies, a copy of your state statute and a determination of the status of Texas bidders/proposers in your home state. If not applicable, indicate "N/A"	
10 If offer includes motor vehicles to be sold in Texas, copies of all current licenses as required by the Texas Motor Vehicle Commission.	N/A

Offeror Name:			
H-GAC Product Code	Item Description (Offeror may not change any description or add items)	Offered Price	Mininum Qty
	<b>A. Big Belly Solar</b>		
CA001	Indoor Compactor : 50.4"H X 26.1"W X 25.9"D, galvanized sheet metal interior and exterior, heavy duty plastic side panels, trash bin: low-density polyethylene plastic. 1250lbs. max compaction force. plugs into standard 110v/220v outlets		
DA002	Solar Compactor : 32 gallon bin, 50.4"H X 26.1"W X 25.9"D, galvanized sheet metal interior and exterior, heavy duty plastic side panels, trash bin: low-density polyethylene plastic. 1250lbs. max compaction force.		
DA003	Solar Compactor with 1 recycling unit: 50 gallon bin (19"x19"x34"), 50.1"W X 25.9"D X 50.4"H		
DA004	Solar Compactor with 2 recycling units: 50 gallon bins (19"x19"x34"), 73.7"W X 25.9"D X 50.4"H		
	<b>B. Busch Systems International</b>		
BB005	TRUE14: 14 gallon capacity recycling container: 19.75"L X15.75"W X 13.5"H, injection molded.		
BB006	TRUE16: 16 gallon capacity recycling container: 19.5"L X15.75"W X 16"H, injection molded.		
BB007	US18: 18 gallon capacity recycling container: 23"L X16"W X 14.25"H, injection molded.		
BB008	SIR21: 21 gallon capacity curbside recycling container: 22.25"L X17.25"W X 15.5"H, injection molded.		
BB009	SIR24: 24 gallon capacity curbside recycling container: 22.25"L X17"W X 17.75"H, injection molded.		
CB010	7 GAL UP: 7 gallon capacity upright container with lid: 11.38"L X 11.38"W X 14.25"H, injection molded, metal handles, custom opening.		
CB011	14 GAL UP: 14 gallon capacity upright container with lid: 14.5"L X 14.5"W X 18"H, injection molded, metal handles, custom opening.		
CB012	26 GAL UP: 26 gallon capacity upright container with lid: 17.25"L X 17.25"W X 22.5"H, injection molded, metal handles, custom opening.		
CB013	14 QUART: 14 quart capacity plastic recycling container: 11.24"L X 8.25"W X 12.24"H, injection molded.		
CB014	28 QUART: 28 quart capacity plastic recycling container: 14.25"L X 10.5"W X 15"H, injection molded.		
CB015	BC-1000: 6 gallon capacity deskside recycler container: 15"L X 12"W X 8"H, injection molded.		
CB016	BC-1500: hanging waste basket with lid: 7.5"L X 5"W X 6.5"H, injection molded.		
CB017	9 Gallon: 9 gallon deskside container: 16.25"L X 12"W X 13.25"H, injection molded.		
CB018	549 A&B: 19 gallon rectangular recycling unit: 20.5"L X 11"W X 35"H, rotational molded, round or slot hole.		
CB019	559 A&B: 36 gallon rectangular recycling unit: 20.5"L X 20.5"W X 34"H, rotational molded, round or slot hole.		
CB020	ARB: apartment recycling bag: 10.5"L X 14.5"W X 18"H, injection molded, 2 handles.		
CB021	Smart Sort recycling unit: 15.5"L x 14"W x 26"H (with out lid), injection molded		

CB022	Waste Watcher recycling unit: 11"L x 20"W x 30"W (without lid), injection molded		
CB023	Waste Watcher Lid, Lid for Waste Watcher unit, different openings available		
CB024	Clearview Lid with Opening (for 26 GAL UP)		
CB025	PDC Personal Document Destruction Container		
CB026	41Qrt 41 Quart Recycling Container 15.25 x 11 x 19.9"H		
CB027	Multi 6 Gallon Multi Recycling Container 14.25" x 10.5" x 13.37"H		
CB028	WaveDuo Indoor 45 Gal 24.25" x 22.5" x 42"h		
CB029	WaveSolo Indoor Double 2 X 30 Gal 24.25" x 22.5" x 42"h		
CB030	KC5 1.32 Gal Kitchen Compost Container		
CB031	4 in 1 Quad Multi Sort 49"l x 23"w x 45"h		
CB032	Rx1 Event Conatiners hold 1 40 Gallon		
CB033	Rx2 Event Container Holds 2 30 Gallon		
CB034	Shred30 23 Gallon Lockable Document Destruction Bin		
DB035	35 GAL SUPER SORTER: 35 gallon capacity rollout cart: universal dumping design, injection molded, custom opening in top.		
DB036	65 GAL SUPER SORTER: 65 gallon capacity rollout cart: universal dumping design, injection molded, custom opening in top.		
DB037	95 GAL SUPER SORTER: 95 gallon capacity rollout cart: universal dumping design, injection molded, custom opening in top.		
DB038	ONE in ONE: 30 gallon centralized outdoor unit: 20.5"L X 15.75"W X 44.5"H rotational molded.		
DB039	ALL in ONE: triple outdoor multi-sort unit: 49"L X 23"W X 45"H rotational molded.		
DB040	TWO in ONE double outdoor multi-sort unit: 37.25"L x 23.25"W x 45"H rotational molded.		
DB041	108JB: 54 gallon capacity outdoor cans & bottles recycler: 24.5"L X 24.5"W X 34"H rotational molded.		
	<b>C. Cascade Engineering</b>		
AC042	35 gallon universal cart: 35 gallon capacity residential rollout cart/recycler: universal dumping, injection molded, rotating steel stop bar, 8" wheels.		
AC043	64 gallon universal cart: 64 gallon capacity residential rollout cart/recycler: universal dumping, injection molded, rotating steel stop bar, 10" wheels.		
AC044	96 gallon universal cart: 96 gallon capacity residential rollout cart/recycler: universal dumping, injection molded, rotating steel stop bar, 10" wheels.		
AC045	96 gallon fully-automated cart: 96 gallon capacity residential rollout cart/recycler: fully-automated dumping design, injection molded, 10" wheels.		
BC046	14 gallon recycling bin: 14 gallon capacity curbside recycling bin: injection molded		
BC047	18 gallon recycling bin: 18 gallon capacity curbside recycling bin: injection molded		
DC048	Waste Mate: industrial/public litter can/recycler: 64 gallon, with dome top, and snap-in insert for recycling		
DC049	Front Load Container: 2 cubic yard capacity commercial/industrial container/dumpster, front loader application, rotational molded		

DC050	Front Load Container: 3 cubic yard capacity commercial/industrial container/dumpster, front loader application, rotational molded		
DC051	Front Load Container: 4 cubic yard capacity commercial/industrial container/dumpster, front loader application, rotational molded		
DC052	Rear Load Container: 1.5 cubic yard capacity commercial/industrial container/dumpster, rear loader application, rotational molded		
DC053	Rear Front Load Container: 2 cubic yard capacity commercial/industrial container/dumpster, rear loader application, rotational molded		
EC054	CRL-SL commercial/residential rear or side load applications lifter: low profile, cylinder actuated style lifter, 45.75" dump height		
EC055	LP-CTB: commercial/residential rear load, lower tipping roll bar applications; H25-N-8041 slim style, for use with lower tipping bars on commercial rearload trucks; hopper sill mounting height - 41-43".		
EC056	H15-N-4539/41 Rotary Actuator lifter for rear load applications; can be used with overhead winch for commercial container service if notched into the hopper sill.		
EC057	XHD-612-N-M extra heavy duty commercial rear load applications lifter; cylinder actuated style lifter; 39-41" hopper sill mount height		
EC058	CTB-10: commercial/residential rear load, lower tipping roll bar applications lifter: rotary actuator style lifter, 47.25" dump height		
EC059	RLSL-16/24 commercial/residential rear, side, and front load applications lifter; Rotary actuator style lifter with dump heights from 37" to 45".		
EC060	XHD H25-8041 Rotary Actuator lifter for rear load applications; can be used with overhead winch for commercial container service if notched into the hopper sill. 37"-44" hopper sill mounting height.		
	<b>D. Chevy Lane Fabrications</b>		
CD061	SE-BIN Folding Special Event Bin: heavy guage steel		
CD062	SE-PKG Special Event Recycling Package: heavy guage steel		
CD063	Wall-P Wall Station-Recycling: lightweight aluminum		
DD064	Parks-32 Parks Container: 32 gallon capacity, heavy guage mesh		
DD065	Parks-50 Parks Container: 50 gallon capacity, heavy guage mesh		
DD066	Pole-20 Pole Mount Mesh Container: 20 gallon capacity, heavy guage mesh		
DD067	Oval-54 Combination Waste/Recycle Oval: 2 X 27 gallon capacity, heavy guage steel		
DD068	Strap-R20 Metal Strap Recycling Container: 20 gallon capacity, heavy guage steel		
DD069	W20 Metal Strap Waste Container: 20 gallon capacity, heavy guage steel		
DD070	40 Combination Oval- Medium duty Container: 2 X 20 gallon capacity, heavy guage steel		
DD071	20 Square Waste/Recycle Container: 20 gallon capacity, heavy guage steel		
DD072	30 Square Waste/Recycle Container: 30 gallon capacity, heavy guage steel		
DD073	42 Square Waste/Recycle Container: 42 gallon capacity, heavy guage steel		
	<b>E. Norseman Environmental Products</b>		
CE074	NPL200: 4 gallon underdesk recycling bin: 15.5"L x 12.7"W x 8.1"H, injection molded		
CE075	NPL210: 4.5 gallon deskside recycling bin: 11.6"L x 6.1"W x 16.1"H, injection molded		
CE076	NPL215: MURFE, 6 gallon stackable recycling bin: 14.2"L x 11.6"W x 13"H, injection molded		
BE077	NPL250: 12 gallon recycling bin: 17"L x 14"W x 12"H, injection molded		
BE078	NPL252: 12 gallon stackable recycling bin: 17.5"L x 13.7"W x 12"H, injection molded		
BE079	NPL258: 14 gallon recycling bin: 19"L x 14"W x 12"H, injection molded		
BE080	NPL260: 16 gallon recycling bin: 19"L x 14"W x 15"H, injection molded		
BE081	NPL265: 18 gallon recycling bin: 23"L x 14"W x 14.8"H, injection molded		
BE082	NPL266: Lid for NPL265 18 gallon bin		

BE083	NPL268: 18 gallon recycling bin: 23"L x 14"W x 14.8"H, injection molded		
BE084	NPL270: 22 gallon recycling bin: 17"L x 14"W x 20.5"H, injection molded		
BE085	NPL 254: lid for 12, 16, & 22 Gallon bins models NPL250, NPL263 and NPL270, injection molded		
DE086	NPL315R: 55 gallon recycling bin for cans and bottles. Base and lid included. Injection molded		
DE087	NPL315: SYSTEMN Rain Barrel, comes complete with all accessories. Injection molded		
DE088	NPL300: Earth Machine Compost Bin. Injection molded		
DE089	HW-0059: Compost Turner tool		
CE090	NPL290: Kitchen Collector for food waste collection. Injection molded		
BE091	NPL280: Green Bin. 13 gallon container with latching lid and castors. Injection molded		
BE092	NPL285: Green Bin+. 21 gallon cart with latching lid and 8 inch wheels. Designed for food waste collection. Injection molded		
	<b>F. Otto Environmental Systems</b>		
AF093	MSD-32C: 32 gallon capacity "Classic" model residential rollout cart: universal dumping design, injection molded, integrally molded stop bar,8" wheels		
AF094	MSD-35EV: 35 gallon capacity "Evolution" residential rollout cart: universal dumping design, injection molded, rotating steel stop bar, 10" wheels		
AF095	MSD-65C: 65 gallon capacity "Classic" model residential rollout cart: universal dumping design, injection molded,rotating or integrally molded stop bar, 12" wheels		
AF096	MSD-95C: 95 gallon capacity "Classic" model residential rollout cart: universal dumping design, injection molded,rotating or integrally molded stop bar, 12" wheels		
AF097	MSD-95M: 94 gallon capacity "Millennium" residential rollout cart: universal dumping design, injection molded, rotating steel stop bar, 12" wheels		
AF098	ALR-40: 40 gallon automated litter receptacle, rotationally molded, hinged flip lid.		
AF099	ALR-58: 58 gallon automated litter receptacle, rotationally molded, hinged flip lid.		
BF100	RC-14: curbside recycling bin, 14 gallon capacity, injection molded		
BF101	RC-18: curbside recycling bin, 18 gallon capacity, injection molded		
DF102	Two Cubic Yard Commercial Container: "Pioneer" model, 400 gallon capacity, commercial/industrial container, front load application, injection molded, steel lift pockets, dual hinged lid		
EF103	OMR/A: Industrial/commercial/residential rear or side load application hydraulic lifter; rotary actuated style lifter, 2 bar/2 wheeled cart compatible		
EF104	OttoMate "A": Industrial/commercial/residential rear or side load application hydraulic lifter; cylinder actuated style lifter, 2 bar/2wheeled cart compatible		
EF105	OttoMate "B": Industrial/commercial/residential rear or side load application hydraulic lifter; cylinder actuated style lifter, 2 bar/2wheeled cart compatible		
EF106	Sunset Hi-Lift: Commercial/residential rear or side load application hydraulic lifter; cylinder actuated lifter style lifter, two bar/two wheeled cart compatible		
EF107	Sunset Hi-Lift II: Commercial/residential rear or side load application hydraulic lifter; cylinder actuated lifter style lifter, two bar/two wheeled cart compatible		
DF108	One Cubic Yard Commercial Container: Plastic-steel hybrid "Triumph" model, 200 gallon capacity, commercial/industrial container, front load application, rotationally molded, dual hinged lid		
DF109	Three Cubic Yard Commercial Container: Plastic-steel hybrid "Triumph" model, 600 gallon capacity, commercial/industrial container, front load application, rotationally molded, dual hinged lid		

DF110	Four Cubic Yard Commercial Container: Plastic-steel hybrid "Triumph" model, 800 gallon capacity, commercial/industrial container, front load application, rotationally molded, dual hinged lid		
DF111	Six Cubic Yard Commercial Container: Plastic-steel hybrid "Triumph" model, 1,200 gallon capacity, commercial/industrial container, front load application, rotationally molded, dual hinged lid		
DF112	Eight Cubic Yard Commercial Container: Plastic-steel hybrid "Triumph" model, 1,600 gallon capacity, commercial/industrial container, front load application, rotationally molded, dual hinged lid		
DF113	Two Cubic Yard Commercial Container: Plastic-steel hybrid "Triumph" model, 400 gallon capacity, commercial/industrial container, rear load application, rotationally molded, dual hinged lid		
DF114	One Cubic Yard Commercial Container: All-plastic "Challenger" model, 200 gallon capacity, commercial/industrial container, front load application, rotationally molded, molded-in plastic lift pockets, dual hinged lid		
DF115	Three Cubic Yard Commercial Container: All-plastic "Challenger" model, 600 gallon capacity, commercial/industrial container, front load application, rotationally molded, molded-in plastic lift pockets, dual hinged lid		
DF116	Four Cubic Yard Commercial Container: All-plastic "Challenger" model, 800 gallon capacity, commercial/industrial container, front load application, rotationally molded, molded-in plastic lift pockets, dual hinged lid		
DF117	Six Cubic Yard Commercial Container: All-plastic "Challenger" model, 1,200 gallon capacity, commercial/industrial container, front load application, rotationally molded, molded-in plastic lift pockets, dual hinged lid		
DF118	Seven Cubic Yard Commercial Container: All-plastic "Challenger" model, 1,400 gallon capacity, commercial/industrial container, front load application, rotationally molded, molded-in plastic lift pockets, dual hinged lid		
DF119	Eight Cubic Yard Commercial Container: All-plastic "Challenger" model, 1,600 gallon capacity, commercial/industrial container, front load application, rotationally molded, molded-in plastic lift pockets, dual hinged lid		
DF120	Two Cubic Yard Commercial Container: All-plastic "Challenger" model, 400 gallon capacity, commercial/industrial container, rear load application, rotationally molded, molded-in steel trunnion bar, dual hinged lid		
DF121	Three Cubic Yard Commercial Container: All-plastic "Challenger" model, 600 gallon capacity, commercial/industrial container, rear load application, rotationally molded, molded-in steel trunnion car, dual hinged lid		
AF122	MSD-65EV: 65 gallon capacity "Evolution" model residential rollout cart: universal dumping design, injection molded, rotating or integrally molded stop bar, 12" wheels		
AF123	MSD-65E: 65 gallon capacity "Edge" model residential rollout cart: universal dumping design, injection molded, rotating or integrally molded stop bar, 12" wheels		
AF124	MSD-95E: 95 gallon capacity "Edge" model residential rollout cart: universal dumping design, injection molded, rotating or integrally molded stop bar, 12" wheels		
BF125	RC-18L: lid for RC-18 recycle bin, injection molded, 2 gallon capacity		
DF126	OSG55OW-CS-236: Outdoor public litter cylindrical litter "Guardian" receptacle, 55 gallon capacity, black steel frame, clear 0.236" polycarbonate Homeland Security panels		
DF127	OSG35OW-CS-236: Outdoor public litter cylindrical litter "Guardian" receptacle, 35 gallon capacity, black steel frame, clear 0.236" polycarbonate Homeland Security panels		
DF128	HS45OW-CS236: Outdoor public litter rectangular litter "Sentinel" receptacle, 45 gallon capacity, black steel frame, clear 0.236" polycarbonate Homeland Security panels		

DF129	5998-7935J: Rain barrel, 58 gallon capacity, rotationally molded, spice granite finish		
DF130	5996-7935J: Rain barrel, 48 gallon capacity, rotationally molded, khaki finish		
	<b>G. Rehrig Pacific Company</b>		
AG131	ROC-20: 20 gallon capacity residential rollout cart: universal dumping design, injection molded, integrally molded stop bar, 8" wheels		
AG132	ROC-35: 35 gallon capacity residential rollout cart: universal dumping design, injection molded, integrally molded stop bar, 8" wheels		
AG133	ROC-65: 65 gallon capacity residential rollout cart: universal dumping design, injection molded, integrally molded stop bar, 10" wheels		
AG134	ROC-65Y: 65 gallon capacity residential rollout cart: for yard waste, universal dumping design, injection molded, integrally molded stop bar, 10" wheels		
AG135	ROC-95: 95 gallon capacity residential rollout cart: universal dumping design, injection molded, integrally molded stop bar, 10" wheels.		
AG136	ROC-95FA: 95 gallon capacity residential rollout cart: fully automated dumping design, injection molded, 10" wheels		
AG137	ROC-95Y: 95 gallon capacity residential rollout cart: for yard waste, universal dumping design, injection molded, integrally molded stop bar, 10" wheels		
AG138	ROC-40L: 40 Liter Organic Waste Recycling Cart: pull handle and air tight snap lock lid, injection molded		
AG139	ROC-80L: 80 Liter Organic Waste Recycling Cart: Weatherproof Rodent Resistant Locking Lid, Lightweight, 8" Snap Wheels, injection molded		
AG140	ROC-65L: 65 Liter Residential Roll Out Cart: Universal Dumping Design, 8" Snap-On Wheels, injection molded		
AG141	ROC-80L: 80 Liter Residential Roll Out Cart: Universal Dumping Design, 8" Snap-On Wheels, injection molded		
AG142	ROC-35DD: 35 Gallon Capacity Document Destruction Cart with Slotted Lid: Locking Hasp or Internal Lock with Key		
AG143	ROC-65DD: 65 Gallon Capacity Document Destruction Cart with Slotted Lid: Locking Hasp or Internal Lock with Key		
AG144	ROC-95DD: 95 Gallon Capacity Document Destruction Cart with Slotted Lid: Locking Hasp or Internal Lock with Key		
BG145	RB-14: curbside recycling bin: 14 gallon capacity, injection molded		
BG146	RB-18: curbside recycling bin: 18 gallon capacity, injection molded		
BG147	RB25: industrial/public litter/refuse container/recycling bin: 25 gallon capacity, injection molded, manual/automated dumping design		
BG148	RB32: industrial/public litter/refuse container/recycling bin: 32 gallon capacity, injection molded, manual/automated dumping design		
BG149	RB-SS: stacking recycling bins: 11.85 gallon capacity, 3 bin stacking system, injection molded		
CG150	ARB-6G: apartment recycling bin: 6 gallon capacity, injection molded with handle		
CG151	ORB-4G: office recycling bin: 4.0 gallon capacity, injection molded, desk side bin		
CG152	FWC-2G: kitchen food waste container: 2.0 gallon capacity, injection molded		
DG153	Commercial Container-2Y: 2 yard Front Load dumpster: rotational molded, replaceable molded in plastic sleeves, includes Lids and Casters		
DG154	Commercial Container-3Y: 3 yard Front Load dumpster: rotational molded, replaceable molded in plastic sleeves, includes Lids and Casters		
DG155	Commercial Container-4Y: 4 yard Front Load dumpster: rotational molded, replaceable molded in plastic sleeves, includes Lids and Casters		

DG156	Commercial Container-6Y: 6 yard Front Load dumpster: rotational molded, replacable molded in plastic sleeves, includes Lids and Skid Plates		
DG157	Commercial Container-2YR: 2 yard Rear Load dumpster: rotational molded, trunnion bar and 1.5 ton rear mounted cable hook, includes Lids and Casters		
DG158	Commercial Container-3YR: 3 yard Rear Load dumpster: rotational molded, trunnion bar and 1.5 ton rear mounted cable hook, includes Lids and Casters		
DG159	PLC-60G: public litter container: 60 gallon capacity, rotational molded, manual/automated collection		
DG160	PLC-75G: public litter container: 75 gallon capacity, rotational molded, manual/automated collection		
<b>H. Rotonics Manufacturing</b>			
AH161	RMI 40S: 40 gallon capacity residential rollout cart: semi-automated dumping design, rotational molded, rotating steel stop bar, 10" wheels.		
AH162	RMI 60S: 60 gallon capacity residential rollout cart: semi-automated dumping design, rotational molded, rotating steel stop bar, 10" wheels.		
AH163	RMI 95S: 95 gallon capacity residential rollout cart: semi-automated dumping design, rotational molded, rotating steel stop bar, 10" wheels.		
AH164	RMI 40: 40 gallon capacity residential rollout cart: fully automated dumping design, rotational molded, 10" wheels.		
AH165	RMI 60: 60 gallon capacity residential rollout cart: fully automated dumping design, rotational molded, 10" wheels.		
AH166	RMI 90: 90 gallon capacity residential rollout cart: fully automated dumping design, rotational molded, 10" wheels.		
DH167	40P: 40 Gallon Progressive Litter Receptacle, Fully Automated, Gravity Release Latch		
DH168	58P: 58 Gallon Progressive Litter Receptacle, Fully Automated, Gravity Release Latch		
DH169	RMI 200: 200 gallon capacity, barrel style, stationary refuse container: fully automated dumping design, rotational molded with hinged double wall split lid		
DH170	RMI 300: 300 gallon capacity, barrel style, stationary refuse container: fully automated dumping design, rotational molded with hinged double wall split lid		
DH171	RMI 450: 450 gallon capacity, barrel style, stationary refuse container: fully automated dumping design, rotational molded with hinged double wall split lid		
DH172	RMI 2: 2 Yard Poly Dumpster, 411 gallon capacity, stationary refuse container: fully automated side load dumping design, rotational molded with hinged double wall split lid		
DH173	3: 3.0 Yard Poly Dumpster, stationary refuse container: fully automated side load dumping design, rotational molded with hinged double wall split lid		
<b>I. Shaefer Systems International</b>			
AI174	USD35B: 35 gallon capacity residential rollout cart: universal dumping design, injection molded, rotating lower steel bar, 8" wheels.		
AI175	USD65B: 65 gallon capacity residential rollout cart: universal dumping design, injection molded, rotating lower steel bar, 10" wheels.		
AI176	USD95B: 95 gallon capacity residential rollout cart: universal dumping design, injection molded, rotating lower steel bar, 12" wheels.		
AI177	USD65BV: 65 gallon capacity residential yard waste rollout cart: universal dumping design, injection molded, rotating lower steel bar, 10" wheels.		
AI178	USD95BV: 95 gallon capacity residential yard waste rollout cart: universal dumping design, injection molded, rotating lower steel bar, 12" wheels.		
BI179	GMT120: 32 gallon capacity European refuse/recycling container: injection molded, 8" wheels.		

BI180	GMT140: 38 gallon capacity European refuse/recycling container: injection molded, 8" wheels.		
BI181	GMT240: 64 gallon capacity European refuse/recycling container: injection molded, 8" wheels.		
BI182	GMT360: 96 gallon capacity European refuse/recycling container: injection molded, 12" wheels.		
DI183	GMT360M: 96 gallon medical waste container: Special design lid for stacking, roto-lock key, neoprene seal, D.O.T. markings, 8" wheels. (optional model GMT140M)		
DI184	MGB660: 174 gallon capacity commercial/industrial European style dumpster: flat lid, injection molded, 4-caster wheeled. (optional model: MGB1100)		
<b>J. Toter</b>			
AJ185	EVR52532: 32 gallon residential rollout cart: automated dumping design, rotational molded, 10" wheels (qty 1,140)		
AJ186	EVR 52535: 35 gallon residential rollout cart: automated dumping design, rotational molded, 10" wheels (qty 1,140)		
AJ187	EVR57564: 64 gallon residential rollout cart: automated dumping design, rotational molded, 10" wheels (qty 648)		
AJ188	EVR57596: 96 gallon residential rollout cart: automated dumping design, rotational molded, 10" wheels (qty 636)		
AJ189	EVR 76532: 32 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 1,140)		
AJ190	EVR 76535: 35 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 1,140)		
AJ191	EVR 76564: 64 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 648)		
AJ192	EVR 76596: 96 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 636)		
AJ193	EVR II 79248: 48 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 900)		
AJ194	EVR II 79264: 64 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 840)		
AJ195	EVR II 79296: 96 gallon capacity residential rollout cart: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 588)		
BJ196	EVR Yard Waste Cart 76864: 64 gallon capacity residential rollout cart for plant waste: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 648)		
BJ197	EVR Yard Waste Cart 76896: 96 gallon capacity residential rollout cart for plant waste: universal dumping design, rotational molded, rotating steel stop bar, 10" wheels (qty 528)		
BJ198	EVR Co-Collection Cart 77564: 64 gallon capacity residential rollout cart: dual compartmentalized, universal dumping design, rotating steel stop bar, 10" wheels (qty 360)		
BJ199	EVR Co-Collection Cart 77596: 96 gallon capacity residential rollout cart: dual compartmentalized, universal dumping design, rotating steel stop bar, 10" wheels (qty 336)		
DJ200	840: Industrial public litter container: 45 gallon capacity, rotational molded, dome top, weighted base capability (Optional 860 available) (qty 25)		
EJ201	3065-HL-8C24: HighLift residential rear or side lift applications lifter: hydraulic rotary actuator lifter, 350 pound rating, 21" x 15" x 32"		
EJ202	3065-HL-8C20: HighLift residential rear or side lift applications lifter: hydraulic rotary actuator lifter, 21" x 15" x 28"		
EJ203	3065-HL-8C18: HighLift residential rear or side lift applications lifter: hydraulic rotary actuator lifter, 21" x 15" x 36"		
EJ204	3063-TL-5M22: TrimLift residential rear or side lift applications lifter: slim profile, hydraulic rotary actuator lifter, 350 pound rating, 21" x 6" x 28"		

EJ205	3063-TL-5M24: TrimLift residential rear or side lift applications lifter: slim profile,hydraulic rotary actuator lifter, 21" x 6" x 30"		
EJ206	3063-TL-5M32: TrimLift residential rear or side lift applications lifter: slim profile,hydraulic rotary actuator lifter, 21" x 6" x 38"		
EJ207	3063-TL-4M16: TrimLift residential rear or side lift applications lifter: slim profile,hydraulic rotary actuator lifter, 21" x 6" x 19"		
EJ208	3069-00-2000: EconoLift residential rear lift applications lifter: hydraulic rotary actuator lifter, 350 pound rating, 15" x 13" x 23".		



**This is a sample of the contract that will be sent to you for execution IF you are recommended for a contract award. Do NOT complete and return with your Response.**

A CONTRACT BETWEEN HOUSTON-GALVESTON AREA COUNCIL, Houston, Texas AND \_\_\_\_\_

This Contract is made and entered into by the **Houston-Galveston Area Council of Governments**, hereinafter referred to as **H-GAC**, having its principal place of business at 3555 Timmons Lane, Suite 100, Houston, Texas 77027, AND, \_\_\_\_\_ hereinafter referred to as the **CONTRACTOR**, having its principal place of business at \_\_\_\_\_.

#### **ARTICLE 1: SCOPE OF SERVICES**

The parties have entered into a \_\_\_\_\_ Contract to become effective as of \_\_\_\_\_, and to continue through \_\_\_\_\_ (the "**Contract**"), subject to extension upon mutual agreement of the **CONTRACTOR** and **H-GAC**. **H-GAC** enters into the Contract as Agent for participating governmental agencies, each hereinafter referred to as **END USER**, for the purchase of \_\_\_\_\_ offered by the **CONTRACTOR**. The **CONTRACTOR** agrees to sell \_\_\_\_\_ through the **H-GAC** Contract to **END USERS**.

#### **ARTICLE 2: THE COMPLETE AGREEMENT**

The Contract shall consist of the documents identified below in order of precedence:

1. The text of this Contract form, including but not limited to, Attachment A
2. General Terms and Conditions
3. Bid Specifications No: \_\_\_\_\_, including any relevant suffixes
4. **CONTRACTOR's** Response to Bid No: \_\_\_\_\_, including but not limited to, prices and options offered

All of which are either attached hereto or incorporated by reference and hereby made a part of this Contract, and shall constitute the complete agreement between the parties hereto. This Contract supersedes any and all oral or written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Contract cannot be modified without the written consent of both parties.

#### **ARTICLE 3: LEGAL AUTHORITY**

**CONTRACTOR** and **H-GAC** warrant and represent to each other that they have adequate legal counsel and authority to enter into this Contract. The governing bodies, where applicable, have authorized the signatory officials to enter into this Contract and bind the parties to the terms of this Contract and any subsequent amendments thereto.

#### **ARTICLE 4: APPLICABLE LAWS**

The parties agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, directives, issuances, ordinances, and laws in effect or promulgated during the term of this Contract.

#### **ARTICLE 5: INDEPENDENT CONTRACTOR**

The execution of this Contract and the rendering of services prescribed by this Contract do not change the independent status of **H-GAC** or **CONTRACTOR**. No provision of this Contract or act of **H-GAC** in performance of this Contract shall be construed as making **CONTRACTOR** the agent, servant or employee of **H-GAC**, the State of Texas or the United States Government. Employees of **CONTRACTOR** are subject to the exclusive control and supervision of **CONTRACTOR**. **CONTRACTOR** is solely responsible for employee payrolls and claims arising therefrom.

#### **ARTICLE 6: END USER AGREEMENTS**

**H-GAC** acknowledges that the **END USER** may choose to enter into an End User Agreement with the **CONTRACTOR** through this Contract and that the term of said Agreement may exceed the term of the **H-GAC** Contract. However this acknowledgement is not to be construed as **H-GAC's** endorsement or approval of the End User Agreement terms and conditions. **CONTRACTOR** agrees not to offer to, agree to or accept from **END USER** any terms or conditions that conflict with or contravene those in **CONTRACTOR's** **H-GAC** contract. Further, termination of this Contract for any reason shall not result in the termination of the underlying End User Agreements entered into between **CONTRACTOR** and any **END USER** which shall, in each instance, continue pursuant to their stated terms and duration. The only effect of termination of this Contract is that **CONTRACTOR** will no longer be able to enter into any new End User Agreements with **END USERS** pursuant to this Contract. Applicable **H-GAC** order processing charges will be due and payable to **H-GAC** on

any End User Agreements surviving termination of this Contract between **H-GAC** and **CONTRACTOR** .

**ARTICLE 7: SUBCONTRACTS & ASSIGNMENTS**

**CONTRACTOR** agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Contract or any right, title, obligation or interest it may have therein to any third party without prior written notice to **H-GAC**. **H-GAC** reserves the right to accept or reject any such change. **CONTRACTOR** shall continue to remain responsible for all performance under this Contract regardless of any subcontract or assignment. **H-GAC** shall be liable solely to **CONTRACTOR** and not to any of its Subcontractors or Assignees.

**ARTICLE 8: EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS**

**CONTRACTOR** shall maintain during the course of its work, complete and accurate records of items that are chargeable to **END USER** under this Contract. **H-GAC**, through its staff or its designated public accounting firm, the State of Texas, or the United States Government shall have the right at any reasonable time to inspect copy and audit those records on or off the premises of **CONTRACTOR**. Failure to provide access to records may be cause for termination of this Contract. **CONTRACTOR** shall maintain all records pertinent to this Contract for a period of not less than five (5) calendar years from the date of acceptance of the final contract closeout and until any outstanding litigation, audit or claim has been resolved. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. **CONTRACTOR** further agrees to include in all subcontracts under this Contract, a provision to the effect that the subcontractor agrees that **H-GAC'S** duly authorized representatives, shall, until the expiration of five (5) calendar years after final payment under the subcontract or until all audit findings have been resolved, have access to, and the right to examine and copy any directly pertinent books, documents, papers, invoices and records of such subcontractor involving any transaction relating to the subcontract.

**ARTICLE 9: REPORTING REQUIREMENTS**

**CONTRACTOR** agrees to submit reports or other documentation in accordance with the General Terms and Conditions of the Bid Specifications. If **CONTRACTOR** fails to submit to **H-GAC** in a timely and satisfactory manner any such report or documentation, or otherwise fails to satisfactorily render performance hereunder, such failure may be considered cause for termination of this Contract.

**ARTICLE 10: MOST FAVORED CUSTOMER CLAUSE**

If **CONTRACTOR**, at any time during this Contract , routinely enters into agreements with other governmental customers within the State of Texas, and offers the same or substantially the same products/services offered to **H-GAC** on a basis that provides prices, warranties, benefits, and or terms more favorable than those provided to **H-GAC**, **CONTRACTOR** shall notify **H-GAC** within ten (10) business days thereafter of that offering and this Contract shall be deemed to be automatically amended effective retroactively to the effective date of the most favorable contract, wherein **CONTRACTOR** shall provide the same prices, warranties, benefits, or terms to **H-GAC** and its **END USER**. **H-GAC** shall have the right and option at any time to decline to accept any such change, in which case the amendment shall be deemed null and void. If **CONTRACTOR** is of the opinion that any apparently more favorable price, warranty, benefit, or term charged and/or offered a customer during the term of this Contract is not in fact most favored treatment, **CONTRACTOR** shall within ten (10) business days notify **H-GAC** in writing, setting forth the detailed reasons **CONTRACTOR** believes aforesaid offer which has been deemed to be a most favored treatment, is not in fact most favored treatment. **H-GAC**, after due consideration of such written explanation, may decline to accept such explanation and thereupon this Contract between **H-GAC** and **CONTRACTOR** shall be automatically amended, effective retroactively, to the effective date of the most favored agreement, to provide the same prices, warranties, benefits, or terms to **H-GAC**.

The Parties accept the following definition of routine: A prescribed, detailed course of action to be followed regularly; a standard procedure. *EXCEPTION: This clause shall not be applicable to prices and price adjustments offered by a bidder, or contractor, which are not within bidder's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.*

**ARTICLE 11: SEVERABILITY**

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

**ARTICLE 12: DISPUTES**

Any and all disputes concerning questions of fact or of law arising under this Contract, which are not disposed of by agreement, shall be decided by the Executive Director of **H-GAC** or his designee, who shall reduce his decision to writing and provide notice thereof to **CONTRACTOR**. The decision of the Executive Director or his designee shall be final and conclusive unless,

within thirty (30) days from the date of receipt of such notice, **CONTRACTOR** requests a rehearing from the Executive Director of **H-GAC**. In connection with any rehearing under this Article, **CONTRACTOR** shall be afforded an opportunity to be heard and offer evidence in support of its position. The decision of the Executive Director after any such rehearing shall be final and conclusive. **CONTRACTOR** may, if it elects to do so, appeal the final and conclusive decision of the Executive Director to a court of competent jurisdiction. Pending final decision of a dispute hereunder, **CONTRACTOR** shall proceed diligently with the performance of this Contract and in accordance with **H-GAC'S** final decision.

#### **ARTICLE 13: LIMITATION OF CONTRACTOR'S LIABILITY**

Except as specified in any separate writing between the **CONTRACTOR** and an **END USER**, **CONTRACTOR'S** total liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify **H-GAC** described in Article 14, is limited to the price of the particular products/services sold hereunder, and **CONTRACTOR** agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. In no event will **CONTRACTOR** be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. **CONTRACTOR** understands and agrees that it shall be liable to repay and shall repay upon demand to **END USER** any amounts determined by **H-GAC**, its independent auditors, or any agency of State or Federal government to have been paid in violation of the terms of this Contract.

#### **ARTICLE 14: LIMIT OF H-GAC'S LIABILITY AND INDEMNIFICATION OF H-GAC**

**H-GAC'S** liability under this Contract, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to its order processing charge. In no event will **H-GAC** be liable for any loss of use, loss of time, inconvenience, commercial loss, lost profits or savings or other incidental, special or consequential damages to the full extent such use may be disclaimed by law. Contractor agrees, to the extent permitted by law, to defend and hold harmless **H-GAC**, its board members, officers, agents, officials, employees, and indemnities from any and all claims, costs, expenses (including reasonable attorney fees), actions, causes of action, judgments, and liens arising as a result of **CONTRACTOR'S** negligent act or omission under this Contract. **CONTRACTOR** shall notify **H-GAC** of the threat of lawsuit or of any actual suit filed against **CONTRACTOR** relating to this Contract.

#### **ARTICLE 15: TERMINATION FOR CAUSE**

**H-GAC** may terminate this Contract for cause based upon the failure of **CONTRACTOR** to comply with the terms and/or conditions of the Contract; provided that **H-GAC** shall give **CONTRACTOR** written notice specifying **CONTRACTOR'S** failure. If within thirty (30) days after receipt of such notice, **CONTRACTOR** shall not have either corrected such failure, or thereafter proceeded diligently to complete such correction, then **H-GAC** may, at its option, place **CONTRACTOR** in default and the Contract shall terminate on the date specified in such notice. **CONTRACTOR** shall pay to **H-GAC** any order processing charges due from **CONTRACTOR** on that portion of the Contract actually performed by **CONTRACTOR** and for which compensation was received by **CONTRACTOR**.

#### **ARTICLE 16: TERMINATION FOR CONVENIENCE**

Either **H-GAC** or **CONTRACTOR** may cancel or terminate this Contract at any time by giving thirty (30) days written notice to the other. **CONTRACTOR** may be entitled to payment from **END USER** for services actually performed; to the extent said services are satisfactory to **END USER**. **CONTRACTOR** shall pay to **H-GAC** any order processing charges due from **CONTRACTOR** on that portion of the Contract actually performed by **CONTRACTOR** and for which compensation is received by **CONTRACTOR**.

#### **ARTICLE 17: CIVIL AND CRIMINAL PROVISIONS AND SANCTIONS**

**CONTRACTOR** agrees that it will perform under this Contract in conformance with safeguards against fraud and abuse as set forth by **H-GAC**, the State of Texas, and the acts and regulations of any funding entity. **CONTRACTOR** agrees to notify **H-GAC** of any suspected fraud, abuse or other criminal activity related to this Contract through filing of a written report promptly after it becomes aware of such activity.

#### **ARTICLE 18: GOVERNING LAW & VENUE**

This Contract shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under or in connection with this Contract shall lie exclusively in Harris County, Texas. Disputes between **END USER** and **CONTRACTOR** are to be resolved in accord with the law and venue rules of the state of purchase. **CONTRACTOR** shall immediately notify **H-GAC** of such disputes.

**ARTICLE 19: PAYMENT OF H-GAC ORDER PROCESSING CHARGE**

**CONTRACTOR** agrees to sell its products to **END USERS** based on the pricing and other terms of this Contract, including, but not limited to, the payment of the applicable **H-GAC** order processing charge. On notification from an **END USER** that an order has been placed with **CONTRACTOR**, **H-GAC** will invoice **CONTRACTOR** for the applicable order processing charge. Upon delivery of any product/service by **CONTRACTOR** and acceptance by **END USER**, **CONTRACTOR** shall, within thirty (30) calendar days or ten (10) business days after receipt of payment, whichever is less, pay **H-GAC** the full amount of the applicable order processing charge, whether or not **CONTRACTOR** has received an invoice from **H-GAC**. For sales made by **CONTRACTOR** based on this contract, including sales to entities without Interlocal Contracts, **CONTRACTOR** shall pay the applicable order processing charges to **H-GAC**. Further, **CONTRACTOR** agrees to encourage entities who are not members of **H-GAC's** Cooperative Purchasing Program to execute an **H-GAC** Interlocal Contract. **H-GAC** reserves the right to take appropriate actions including, but not limited to, contract termination if **CONTRACTOR** fails to promptly remit **H-GAC's** order processing charge. In no event shall **H-GAC** have any liability to **CONTRACTOR** for any goods or services an **END USER** procures from **CONTRACTOR**.

**ARTICLE 20: LIQUIDATED DAMAGES**

Any liquidated damages terms will be determined between **CONTRACTOR** and **END USER** at the time **END USER's** purchase order is placed.

**ARTICLE 21: PERFORMANCE BONDS FOR INDIVIDUAL ORDERS**

Except as described below for fire apparatus, **CONTRACTOR** agrees to provide a Performance Bond at the request of **END USER** within ten (10) days of receipt of **END USER's** purchase order.

It shall be standard procedure for every order received for fire apparatus that a Performance Bond in the amount of the order be provided to the **END USER**. Failure of **CONTRACTOR** to provide such performance bond within ten (10) days of receipt of **END USER's** order may constitute a total breach of contract and shall be cause for cancellation of the order at **END USER's** sole discretion. **END USER** may choose to delete the requirement for a Performance Bond at **END USER's** sole discretion. If the bond requirement is waived, **END USER** shall be entitled to a price reduction commensurate with the cost that would have been incurred by **CONTRACTOR** for the bond.

**ARTICLE 22: CHANGE OF CONTRACTOR STATUS**

**CONTRACTOR** shall immediately notify **H-GAC**, in writing, of ANY change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name, and shall also advise whether or not this Contract shall be affected in any way by such change. **H-GAC** shall have the right to determine whether or not such change is acceptable, and to determine what action shall be warranted, up to and including cancellation of Contract.

**ARTICLE 23: LICENSING REQUIRED BY TEXAS MOTOR VEHICLE BOARD [IF APPLICABLE]**

**CONTRACTOR** will for the duration of this Contract maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Contract period, any **CONTRACTOR'S** license is not renewed, or is denied or revoked, **CONTRACTOR shall** be deemed to be in default of this Contract unless the Motor Vehicle Board issues a stay or waiver. Contractor shall promptly provide copies of all current applicable Texas Motor Vehicle Board documentation to **H-GAC** upon request.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives.

Signed for **Houston-Galveston Area Council**, Houston, Texas: \_\_\_\_\_  
Jack Steele, Executive Director

Attest for **Houston-Galveston Area Council**, Houston, Texas: \_\_\_\_\_  
Deidre Vick, Director of Public Services  
Date: \_\_\_\_\_, 20\_\_

Signed for \_\_\_\_\_

Printed Name & Title: \_\_\_\_\_ Date: \_\_\_\_\_, 20\_\_

Attest for \_\_\_\_\_

Printed Name & Title: \_\_\_\_\_ Date: \_\_\_\_\_, 20\_\_