



COOPERATIVE PURCHASING PROGRAM
Houston-Galveston Area Council of Governments
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INVITATION TO SUBMIT COMPETITIVE:

BIDS

PROPOSALS

INVITATION NO.: **MB11-10**

ISSUE DATE: **June 2, 2010**

CATEGORY: **New/Leased - Modular Buildings & Shelters**

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

DRAFT SPECIFICATION / INVITATION:	April 1, 2010
PRE-BID/PROPOSAL CONFERENCE:	May 4, @ 9:00 a.m. CT; Conference Room B
FINAL SPECIFICATION / INVITATION:	June 2, 2010
BID/PROPOSAL RESPONSES DUE:	July 6, 2010 @ 1:00 p.m. CT; H-GAC Clock
PUBLIC RESPONSE OPENING:	July 6, 2010 @ 2:00 p.m. CT; H-GAC Clock
RECOMMENDATIONS TO BOARD:	September 21, 2010
CONTRACT START DATE & TERM:	November 1, 2010
The documents comprising this Invitation are available via web download at: https://www.hgacbuy.org/bids/	
For assistance regarding this Invitation, please contact:	
Name: Bill Burton	Phone: 832-681-2514 E-mail: wburton@h-gac.com

CONTENTS OF THIS INVITATION

SECTION A - General Terms & Conditions

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

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

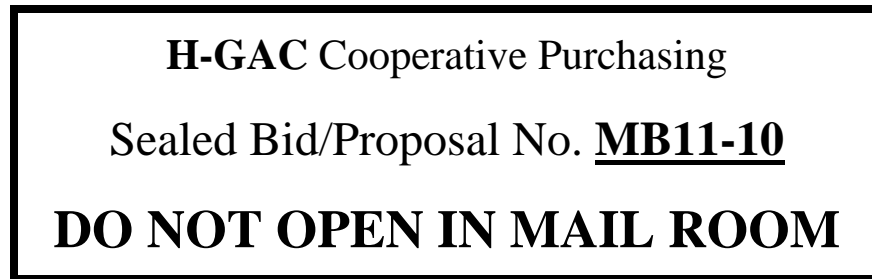
SECTION D - Pro-Forma (Sample) Contract

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. MB11-10

DESCRIPTION: New/Leased - Modular Buildings & Shelters

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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>NOTE: In accordance with the Texas Motor Vehicle Commission Code, contracts for motor vehicles to be sold within the state of Texas may be made ONLY with properly licensed Texas Motor Vehicle Dealers. Therefore, to be considered for a contract covering Texas End Users, the Response must include a Form A 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. 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 30th 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. 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 | • End User & Contractor information |
| • Response requirements & specifications | |

Functions

- | | |
|--|-----------------------------|
| • End User 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 REQUIREMENTS

For

NEW / LEASED - MODULAR BUILDINGS & SHELTERS

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14. MODIFICATION OF SECTION A5

1. PURPOSE & SCOPE

The Houston-Galveston Area Council (**H-GAC**) is a government agency which provides a Cooperative Purchasing Program as part of its services to other government agencies. The Program currently makes blanket type contracts, covering products and services in more than 40 categories, to over 5000 local government participants (End Users) including cities, counties, emergency service districts, school districts, and non-profit organizations. Any local government may participate in the Program so long as their state has “inter-local cooperation authority” or other joint power provisions which will allow participation in cooperative activities. Currently this practice is allowed in most states. There is also **no** cost to join and become a participating member of the **H-GAC** Cooperative Purchasing Program.

H-GAC is currently soliciting Competitive Bids for the purpose of selecting qualified manufacturers, distributors or re-sellers, to make their Modular/Portable Buildings and Shelters available to all current and future participants in this Cooperative Purchasing Program. This provides qualified governmental entities, political subdivisions and non-profit organizations the ability to (1) Purchase new modular/portable buildings, shelters and related equipment or (2) to Lease new/refurbished modular/portable buildings and related equipment, in an efficient, cost effective and competitive procurement method. This Invitation outlines the minimum design and performance standards, serving only as a starting point upon which **H-GAC** Participants can build their final desired Modular Buildings (through options add-ons or deducts). A comprehensive catalog or listing of components or services, related to this bid invitation, shall be priced and included on Form E, and shall also be provided in an electronic format. Discounts, if applicable, shall be clearly shown for ease of evaluation and clarity to End Users. The Contractor must have the ability to effectively sell and service all **H-GAC** Participants. **NOTE: These bid documents do not cover the ability of an H-GAC Cooperative Purchase member to purchase used/refurbished modular buildings or shelters.**

The **H-GAC** Cooperative Purchasing Program was established to provide purchasing services to local governments within the State of Texas, and that remains H-GAC’s primary focus. However, the Texas Government Code (Title 7, Chapters 771 and 791) establishes the authority for **H-GAC** to provide these products and services to local governments in other states as well. With that authority, **H-GAC** wishes to make contracted products and services available to out-of-state governments and or political entities, state agencies and non-profit agencies whenever practicable. Therefore, once a contract is awarded for the supply

of Products or services to End Users in Texas, the Contractor is expected to expand the scope of its marketing effort to include sales to End Users outside the state of Texas, but subject to the following:

- **H-GAC** will not make a separate award to Contractors of its Products or Services, for sales in Texas and for sales outside the state of Texas.
- For all Product and service items, Contractor must submit a fee rate, which will be valid for products and services to Texas End Users and End Users in other states as well.

2. SCOPE OF OFFERINGS:

H-GAC's expectation is to receive qualified bids and subsequently to establish blanket contracts for a comprehensive range of Modular/Portable Building Shelters and Equipment to offer Participants in our Cooperative Purchasing Program. In that regard, Contractors are expected to provide a complete offering of their available products and equipment for routine general acquisitions and for possible installation of stated equipment and to include any services, training or maintenance.

The basic equipment categories included in this Invitation are listed below. Specific base bid items and associated **H-GAC** Product Codes have been pre-listed on **Form D**.

Equipment Categories

- A. Classroom, Educational and Administrative
- B. Offices
- C. Medical, Health Care
- D. Restrooms and Specialty
- E. Stairs, Ramps, Service Rates and all other Accessories

Successful bidders who are awarded contracts pursuant to this Invitation will be able to sell awarded base Product Items, as well as quoted upgrades, downgrades, options, accessories and parts to any **H-GAC** End User during the term of the contract.

3. H-GAC ADMINISTRATIVE FEE AND PROCUREMENT PROCESS:

H-GAC will assess a 1.5% Purchase Order Processing Charge on the total value of each order placed with a contractor through the Program. This Cooperative Purchasing Program is supported solely by this processing fee.

Competitive Pricing: By submission of a response, Offeror certifies that offered pricing is as good as or better than pricing offered to local government customers thru any other program under normal circumstances. If such is not the case, Offeror shall explain how offered pricing differs from "best" pricing, and by how much.

Note: On each purchase order under this contract, H-GAC will invoice contractors directly for the 1.5% H-GAC Purchase Order Processing Charge. It is Bidder's responsibility to take this into Consideration when preparing Form-D and Form-E bid pricing, building this fee into Base Unit and options pricing accordingly.

The **HGACBuy** procurement process operates generally as follows:

- a) End User/Buyer contacts Contractor and discusses requirements.
- b) Contractor prepares an **HGACBuy** Contract Pricing Worksheet for End User/Buyer, based on **H-GAC** contract.
- c) End User/Buyer sends a purchase order to Contractor, and Contractor faxes a copy to **H-GAC** along with the Contract Pricing Worksheet.
- d) For each purchase order received, **H-GAC** will prepare an "Order Confirmation" and transmit it to both End User/Buyer and Contractor. The Order Confirmation verifies that Contractor has a valid **H-GAC** contract and that the order is being handled legally thru the **HGACBuy** Program.
- e) **H-GAC** will invoice Contractor for the Order Processing Charge.

- f) Contractor delivers the ordered product (s) and invoices End User/Buyer.
- g) End User/Buyer pays Contractor for products(s) received and accepted.
- h) Contractor remits Order Processing Charge to **H-GAC**.

4. LEASE PURCHASE OPTION

The Contractor may or may not offer a Lease/Purchase program. Lease pricing shall be furnished on **Form D** in the appropriate spaces provided. The **H-GAC** fee shall cover the entire term of the Lease and the fee payment shall be made to **H-GAC** in a lump-sum amount up front and not carried over the term of the lease. If the End User decides to purchase the building/equipment; either at the end of the leasing term or prior to the end of the leasing term, this process shall be at the sole discretion of the End User and Contractor and no additional **H-GAC** fees shall be assessed. Nor shall **H-GAC** reimburse fees to End Users when the leasing term has been prematurely cut short for whatever reason.

5. OPTIONS, PARTS & ACCESSORIES

As part of any response hereto, Contractor is expected to supply a complete listing (i.e. catalog) of other models of modular buildings or related equipment, model upgrades, model downgrades, options, replacement parts and accessories with bid prices. The listing may be provided on H-GAC **Form E**, or in such other format as Contractor may desire, e.g. published catalog with pricing. Discounts, if applicable, must also be clearly indicated on the **Form E**, for ease of evaluation and clarity to End Users. **Failure to submit a priced listing of options, parts and accessories may result in Contractor's bid being considered non-compliant.**

6. PRODUCT CODES

Each base Product item covered by this Invitation has been pre-listed on **Form D**, and is identified by a unique **H-GAC** four (4) character alphanumeric Product Code. Bidder shall decide which line items to bid and shall fill in a bid price in the appropriate cell on **Form D**. Awards will be based on the "New Sales Price" provided on **Form D** for each product code. Upgrades or downgrades to different base bid modular models shall be bid as options on **Form E**, with pricing equal to the differential amount between the base Product Item bid price on **Form D** and the optional model cost.

7. FURNISHING REQUIREMENTS

All furnishings such as tack boards, marker boards, desks, tables, cabinets or appliances, etc. should all be shown as Options on **Form E**. If a particular furnishing is not an option but a standard part of your buildings make sure that this is noted on the **Form E**.

8. BUILDING CODE REQUIREMENTS

Modular buildings shall be built in accordance with the applicable building mechanical, plumbing and electrical codes as well as other state and local codes that may apply where the building is manufactured as well as the state and local codes where the modular building will be temporarily or permanently located. All federal and state accessibility standards shall be adhered too such as the Texas Accessibility Standards, 1994.

9. BUILDING SITE REQUIREMENTS:

- **Site Preparation:**

No provisions for site work have been included. The End User is responsible for all clearing, filling, grubbing, backfilling, grading and associated compaction to achieve a uniform soil bearing capacity of 2500 psf. prior to delivery of the building units. In addition, the site shall be uniformly level ($\pm 3''$) so a finished floor to grade elevation of a maximum 36" shall be present at all building entries and at the entry of the step and ramp assembly. The site shall have adequate drainage to provide a positive flow of storm water away from the building. Also, storm water shall not pass under the building from any direction. The End User is also responsible for providing clear access to the site. Clear access to the site is defined as the building pad being accessible for both the delivery truck and

the building unit. Physical on site obstructions shall not prevent the delivery truck from being able to deliver the building unit to the pad site, detach from the building and depart the site.

- **Electric Utilities:**
The End User will be responsible for interconnecting the sub-panels to the building main distribution panel (MDP), extending and connecting the electrical service to the MDP. The meter base and weather head shall be provided by the End User.
- **Water Utilities:**
The End User will be responsible for bringing the fresh water service to the building and making the final connection.
- **Sewer Utilities:**
The End User will be responsible for bringing the sewer line to the building, providing and installing the drain, waste and vent manifold to the contractors supplied sewer and vent drops which are through the floor.
- **Foundation:**
Piers shall be installed down each I-beam at maximum 8' o.c. and columns in end walls at each end of building. Piers shall consist of a stacked CMU blocking installed on 4" x 16" x 16" precast concrete pad. Each building shall be securely anchored to the ground using auger type anchors.

10. **ADDITIONAL ITEMS NOT CONSIDERED PART OF THE BUILDING:**

NOTE: These are considered part of the End Users responsibility. However, the building manufacturer may offer these items as Options, Add-ons or Upgrades indicated on **Form E**.

- **Fire Alarm Systems:**
- **Fire Extinguishers and Accessories:**
- **Smoke Detectors:**
- **Sprinkler Systems:**
- **Gutters & Downspouts:**
- **Steps / Decks & Ramps:**
- **Parking Areas & Sidewalks:**
- **Landscaping:**
- **Site Development:**

11. **ADDITIONAL ITEMS NOT PART OF THE SCOPE OF WORK:**

- **Taxes:**
- **Building Permits:**
- **Surveys:**
- **Civil or Structural Design:**
- **Soil Testing and Analysis:**
- **Performance and Payment Bonds:**
- **Inspection Approvals:**

12. **WARRANTY & MAINTENANCE:**

- 12.1** Contractors must comply with the minimum warranty and maintenance requirements described below for any products or services provided under this Bid Invitation. The Warranty and Maintenance Services, including Extended Maintenance Agreements, must be described in detail on the **Form E**.
- 12.2** Contractor will warrant against defects in workmanship of product for a period of one (1) year from the date of acceptance of said equipment. This shall include but not limited to all parts, labor and related travel expenses.
- 12.3** Contractor will ensure that any part deemed to be defective or otherwise inoperative will be repaired or replaced at no cost to the End User, if the term of the standard warranty has not expired.

12.4 Contractor must provide, on **Form E**, a complete description of its warranty service, maintenance and extended maintenance programs, to include any End User costs, hourly rates and/or any other expenses. Also included shall be lead times with respect to service calls and 800 support numbers.

12.5 Extended Maintenance Agreements (post warranty maintenance agreements) are considered a part of this agreement and can include both remedial and preventive maintenance services to include all labor and parts (except consumables).

- An additional agreement containing the extended maintenance may need to be signed by the Contractor and End User.
- If purchased by the End User, the initial period begins after the expiration of the initial warranty period (minimum 1-yr.), and shall provide the same terms and conditions of the initial warranty.
- Contractor shall state on Form E, the annual Extended Maintenance Agreement cost for all equipment and components.

13. MULTIPLE UNIT DISCOUNTS:

The bidder must state in their bid response on **Form E**, any discounts for End Users placing multiple unit orders per purchase order and exactly what parameters must be met in order to receive those additional pricing discounts.

14. MODIFICATION OF SECTION A

Should any of the information or requirements in this Section B conflict with those in Section A, those in this Section B shall govern and take precedence.

NOTE: At no time shall this contract be used for the purchase of used or previously owned equipment. Purchases shall always be for the most current make/model of equipment

**End of Section B
For Information About This Invitation, Please Contact:**

**Bill Burton
Ph: 832-681-2514
Fax: 713-993-4548
E-mail: wburton@h-gac.com**



SECTION C - H-GAC FORMS

(Rev 12/02/09)

For Use In Responding To Competitive Bid And Proposal Invitations

Invitation No.: MB11-10

Title: New/Leased Modular Buildings & Shelters

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

FORM	DESCRIPTION
Form A:	Offeror Identification and Authorized Signatory
Form B:	Historically Underutilized Business Enterprises
Form C:	Response Checklist
Form D:	Offered Items Pricing
Form E:	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 **handwrite** this Form. Information must be typed in.)

Invitation No.: MB11-10

Invitation Title: New/Leased - Modular Buildings & Shelters

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: New/Leased - Modular Buildings & Shelters**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 comitted 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 relavant 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.

FORM C - RESPONSE CHECKLIST

Procurement No.: MB11-10

Title: New/Leased - Modular Buildings & Shelters

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 <u>COMPLETE</u> submission, including all required <i>FORMS</i> , plus one copy, each in a separate hard-sided 3-ring binder. | |
| 2 A copy of the <u>COMPLETE</u> submission, including all required <i>FORMS</i> , in electronic format (CD, DVD, flash drive). | |
| 3 An originally signed Form A 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 References . | |
| 5 Details of " Service Organization ", including locations, hours, personnel and parts/service availability. (Applies to hard goods only.) | |
| 6 Complete Warranty Documentation for all Products offered. | |
| 7 The manufacturer's latest Specification Documents detailing standard features, operating characteristics, etc., for all products offered. | |
| 8 Form CIQ , if required by law, completed and signed. (The Form, and instructions for its use, can be found at: http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm) If Form CIQ does not apply, put "N/A" in the box to the right. | |
| 9 If the Non-Resident Reciprocal Bid Act 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. | |
| 11 A Bid/Proposal Bond , or Cashier's Check in the amount of \$3000 . (A percentage bond is NOT acceptable.) | N/A |

FORM D - PRODUCT ITEM BASE OFFERING PRICES

Offeror Name:	
Invitation No.:	MB11-10 - New / Leased Modular Buildings & Shelters
NOTES:	1. Remember to bid options and accessories on Form E . 2. On Form D , fill-in the Sales Price and applicable Lease/Purchase costs under the corresponding monthly headings.

A. CoMark

Base Product Code	Description	Sales Price New	Monthly Lease Cost / Term in Months (New/Refurbished)					
			6 to 12	13 to 24	25 to 36	37 to 48	49 to 60	61 plus

A. Classroom, Educational and Administrative

AA01	24X40, Single Classroom with Restrooms							
AA02	24X40, Single Classroom without Restrooms							
AA03	24X64, Double Classroom with Restrooms							
AA04	24X64, Double Classroom without Restrooms							
AA05	28X72, Double Classroom with Restrooms							
AA06	44X68, 4 Classroom with Restrooms							
AA07	44X68, 4 Classroom without Restrooms							
AA08	56X64, 4 Classroom Wing without Restrooms							
AA09	70X64, 4 Classroom Wing with Restrooms							
AA10	84X64, 6 Classroom Wing without Restrooms							
AA11	98X64, 6 Classroom Wing with Restrooms							
AA12	112X64, 8 Classroom Wing without Restrooms							
AA13	126X64, 8 Classroom Wing with Restrooms							
AA14	140X64, 10 Classroom Wing without Restrooms							
AA15	154X64, 10 Classroom Wing with Restrooms							

AA16	168X64, 12 Classroom Wing without Restrooms							
AA17	182X64, 12 Classroom Wing with Restrooms							
AA18	212X128, 22 Classroom Charter School							
B. Offices								
AB01	12X40, Small Open Office Building							
AB02	24X56, 6 Office Building							
AB03	24X64, 7 Office Building							
AB04	28X76, 8 Office Building							
AB05	48X64, 10 Office Building							
AB06	56X64, 16 Office Building							
AB07	72X68, 20 Office Building							
AB08	60X116, 25 Office Building							
AB09	252X76, Large Office Complex							
AB10	56X196, 28 Room Dormitory							
AB11	216X30, 52 Person Dormitory							
C. Medical, Health Care								
AC01	28X56, One Doctor Clinic							
AC02	38X64, Two Doctor Clinic							
AC03	55X68, Three Doctor Clinic							
AC04	28X60, Dentist Office (Maybe One & Two Dentist)							
AC05	32X128, WIC/Public Health Building							
AC06	84X76, Urgent Care Center							
AC07	42X72, Medical Clinic							
AC08	86X128, Large Medical Clinic							
AC09	120X120, Medical Complex							
D. Restrooms and Specialty								
AD01	14X36, Restrom Facility							
AD02	14X36, Restroom Module							
AD03	24X56, Restroom and Shower Facility							
AD04	24X56, Restroom and Shower Module							
AD05	24X56, Lockerroom, Shower, & Restroom Module							
AD06	14X40, Shower Module							
AD07	64X64, Food Service Building							
AD08	72X44, Field House							
AD09	16X44, Concession Stand							

B. Mobile Modular

	Description	Sales Price New	Monthly Lease Cost / Term in Months					
			6 to 12	13 to 24	25 to 36	37 to 48	49 to 60	61 plus

A. Classroom, Educational and Administrative

BA01	24' x 64' Double Classroom w/ Restroom							
BA02	24' x 64' Double Classroom w/o Restroom							
BA03	24' x 32' Single Classroom w/ Restroom							
BA04	24' x 32' Single Classroom w/o Restroom							

B. Offices

BB01	12' x 56' Std. Sales Office, w (1) Restroom							
BB02	12' x 44' Std. Sales Office, w (1) Restroom							
BB03	8' x 20' Std. Mobile Office w/o Restroom							
BB04	8' x 32' Std. Mobile Office w/o Restroom							
BB05	12' x 20' Std. Mobile Office w/o Restroom							
BB06	12' x 32' Std. Mobile Office w/o Restroom							
BB07	12' x 32' Std. Mobile Office w (1) Restroom (1) Office							
BB08	12' x 44' Std. Mobile Office w/o Restroom							
BB09	12' x 44' Std. Mobile Office w (1) Restroom (2) Office							
BB10	12' x 56' Std. Mobile Office w/o Restroom							
BB11	12' x 56' Std. Mobile Office w (1) Restroom (2) Office							
BB12	12' x 60' Std. Mobile Office w/o Restroom							
BB13	12' x 60' Std. Mobile Office w (1) Restroom (2) Office							

BB14	24' x 64' w/ (4) Offices (0) Restrooms							
BB15	24' x 64' w/ (4) Offices (2) Restrooms							
BB16	24' x 64' Open							
BB17	36' x 56' Open w/ (6) Offices (2) Restrooms							
BB18	48' x 56' Open w/ (8) Offices (2) Restrooms							
BB19	60' x 56' Open w/ (10) Offices (2) Restrooms							
BB20	12' x 56' Additional Center Section w/ (2) Offices							
BB21	12' x 12' Additional (1) Office Nominal							
BB22	Add (1) ADA-compliant Single Occupant Restroom							

D. Restrooms and Specialty

BD01	12' x 34' Multi-Restrooms Only							
BD02	12' x 44' Multi-Restrooms Only							

E. Stairs, Ramps, Service Rates and all other Accessories

BE01	Ramp & Landing Skirting, Metal (cost per linear foot)							
BE02	Ramp & Landing Skirting, Wood (cost per linear foot)							
BE03	5' x 5½' Landing w/ up to 30' ADA ramp (alum.)							
BE04	15' x 5½' Landing w/ up to 30' ADA ramp (alum.)							
BE05	Add 4' wide steps to landing, 21" (alum.)							
BE06	Add 4' wide steps to landing, 28" (alum.)							
BE07	Additional Ramp & Landing (inc. rail) cost per sq. ft.							
BE08	5' x 5' Landing w/ up to 30' ADA ramp (wood)							
BE09	15' x 10' Landing w/ up to 30' ADA ramp (wood)							
BE10	Add Ramp Landing (cost per sq. ft.) (wood)							
BE11	Additional Guardrail (cost per sq. ft.) (wood)							

BE12	Prefabricated metal steps, 3-risers / each							
BE13	Prefabricated metal steps, 4-risers / each							
BE14	Step assembly or disassembly cost							
BE15	Towbar Removal or Installed, Each							
BE16	Axles Removed or Installed, Each							
BE17	Tires Removed or Installed, Each							
BE18	Std. Ser. Rate Per Hour - Except: Overtime & Holidays							

C. Ramtech

Base Product Code	Description	Sales Price New	Monthly Lease Cost / Term in Months					
			6 to 12	13 to 24	25 to 36	37 to 48	49 to 60	61 plus

A. Classroom, Educational and Administrative

CA01	Double Classroom Modular Building w/Restrooms, 24' x 64'							
CA02	Double Classroom Modular Building w/o Restrooms, 24' x 64'							
CA03	4 - Classroom Modular Building w/Restrooms, 43'-3" x 66"							
CA04	4 - Classroom Modular Building w/o Restrooms, 43'-3" x 66'							
CA05	6 - Classroom Modular Building Wing w/Restrooms, 96'-3" x 64'							
CA06	8 - Classroom Modular Building Wing w/Restrooms, 123'-9" x 64'							
CA07	10-Classroom Modular Building Wing w/Restrooms, 151'-3" x 64'							
CA08	12 - Classroom Modular Building Wing w/Restrooms, 178'-9" x 64'							
CA09	6-Classroom "PermaClass" Permanent Modular Building, 98' X 64'							
CA10	8-Classroom "PermaClass" Permanent Modular Building, 126' x 64'							
CA11	10-Classroom "PermaClass" Permanent Modular Building, 154' X 64'							
CA12	12-Classroom "PermaClass" Permanent Modular Building, 182' X 64'							

CA13	14-Classroom "PermaClass" Permanent Modular Building, 210' X 64'							
CA14	16-Classroom "PermaClass" Permanent Modular Building, 238' X 64'							
B. Offices								
CB01	Modular Office Building, 23'-6" X 56'-0"							
CB02	Modular Office Building, 27'-6" X 70'-0"							
CB03	Six Office, Modular Office Building, 56'-0" x 56'-0"							
CB04	Eight Office, Modular Office Building, 70'-0" x 56'-0"							
CB05	Ten Office, Modular Office Building, 84'-0" x 56'-0"							
CB06	Twelve Office, Modular Office Building, 98'-0" x 56'-0"							
CB07	Multi-Office Modular Office Building, 40'-0" x 72'-0"							
CB08	Multi-Office Modular Office Building, 48'-0" x 72'-0"							
CB09	Multi-Office Modular Office Building, 108'-0" x 62'-0"							
CB10	Multi-Office Modular Office Building, 134'-0" x 120'-0"							
C. Medical, Health Care								
CC01	One Doc Clinic, Modular Building, 27'-6" x 56'-0"							
CC02	Two Doc Clinic, Modular Building, 38'-0" x 66'-0"							
CC03	Four Doc Clinic, Modular Building, 55'-0" x 68'-0"							
CC04	X-Ray Module, 14'-0" X 30'-0"							
D. Restrooms and Specialty								
CD01	Toilet Trailer, 12'-0" X 20'-0"							
CD02	Toilet Trailer, 12'-0" X 48'-0"							
CD03	Toilet Trailer, 12'-0" X 34'-0"							
D. M/Space Holdings								

Base Product Code	Description	Sales Price New	Monthly Lease Cost / Term in Months					
			6 to 12	13 to 24	25 to 36	37 to 48	49 to 60	61 plus
A. Classroom, Educational and Administrative								
DA01	14' x 45' Single Classroom (steel)							
DA02	18' x 44' Single Classroom (steel)							
DA03	24' x 36' Single Classroom (steel)							
DA04	24' x 64' Double Classroom (steel)							
DA05	56' x 68' (4) Classroom (steel)							
DA06	84' x 68' (6) Classroom (steel)							
DA07	112' x 68' (8) Classroom (steel)							
DA08	140' x 68' (10) Classroom (steel)							
DA09	168' x 68' (12) Classroom (steel)							
DA10	48' x 60' Multi-Purpose Building (steel)							
DA11	36' x 60' Food Service Building (steel)							
DA12	10' x 40' Press Box (steel)							
DA13	12' x 40' Press Box (steel)							
DA14	14' x 45' Single Classroom (wood)							
DA15	18' x 44' Single Classroom (wood)							
DA16	24' x 36' Single Classroom (wood)							
DA17	24' x 64' Double Classroom (wood)							
DA18	56' x 68' (4) Classroom (wood)							
DA19	84' x 68' (6) Classroom (wood)							
DA20	112' x 68' (8) Classroom (wood)							
DA21	140' x 68' (10) Classroom (wood)							
DA22	168' x 68' (12) Classroom (wood)							
DA23	48' x 60' Multi-Purpose Building (wood)							
DA24	36' x 60' Food Service Building (wood)							
DA25	10' x 40' Press Box (wood)							
DA26	12' x 40' Press Box (wood)							
B. Offices								
DB01	12' x 60' M-Plex "A" (steel)							
DB02	12' x 60' M-Plex "B" (steel)							
DB03	12' x 60' M-Plex "c" (steel)							
DB04	12' x 60' M-Plex "D" (steel)							
DB05	12' x 60' M-Plex "E" (steel)							
DB06	24' x 60' (4) Office Building (steel)							
DB07	36' x 60' (6) Office Building (steel)							
DB08	48' x 60' (8) Office Building (steel)							

DB09	12' x 60' Designer / Sales Center (steel)							
DB10	24'x 60' Designer / Sales Center (steel)							
DB11	12' x 60' M-Plex "A" (wood)							
DB12	12' x 60' M-Plex "B" (wood)							
DB13	12' x 60' M-Plex "c" (wood)							
DB14	12' x 60' M-Plex "D" (wood)							
DB15	12' x 60' M-Plex "E" (wood)							
DB16	24' x 60' (4) Office Building (wood)							
DB17	36' x 60' (6) Office Building (wood)							
DB18	48' x 60' (8) Office Building (wood)							
DB19	12' x 60' Designer / Sales Center (wood)							
DB20	24'x 60' Designer / Sales Center (wood)							

C. Medical, Health Care

DC01	(1) Doc Clinic (steel)							
DC02	(2) Doc Clinic (steel)							
DC03	(3) Doc Clinic (steel)							
DC04	(4) Doc Clinic (steel)							
DC05	12' x 20' X-Ray Building (steel)							
DC06	14' x 70' MRI Building (steel)							
DC07	14' x 70' BSL Lab (steel)							
DC08	28' x 70' BSL Lab (steel)							
DC09	60' x 60' Dialysis Clinic (steel)							
DC10	(1) Doc Clinic (wood)							
DC11	(2) Doc Clinic (wood)							
DC12	(3) Doc Clinic (wood)							
DC13	(4) Doc Clinic (wood)							
DC14	12' x 20' X-Ray Building (wood)							
DC15	14' x 70' MRI Building (wood)							
DC16	14' x 70' BSL Lab (wood)							
DC17	28' x 70' BSL Lab (wood)							
DC18	60' x 60' Dialysis Clinic (wood)							

D. Restrooms and Specialty

DD01	12' x 40' Toilet Trailer (steel)							
DD02	12' x 60' Toilet Trailer (steel)							
DD03	12' x 40' Shower Trailer (steel)							
DD04	12' x 60' Shower Trailer (steel)							
DD05	8' x 20' Hazmat Trailer (steel)							
DD06	12' x 60' Toilet (Insert) Module (steel)							
DD07	24' x 60' Locker / Shower Building (steel)							
DD08	14' x 48' Bunkhouse (steel)							
DD09	12' x 60' Open Module (steel)							

DD10	12' x 40' Toilet Trailer (wood)							
DD11	12' x 60' Toilet Trailer (wood)							
DD12	12' x 40' Shower Trailer (wood)							
DD13	12' x 60' Shower Trailer (wood)							
DD14	8' x 20' Hazmat Trailer (wood)							
DD15	12' x 60' Toilet (Insert) Module (wood)							
DD16	24' x 60' Locker / Shower Building (wood)							
DD17	14' x 48' Bunkhouse (wood)							
DD18	12' x 60' Open Module (wood)							

E. BLU-MED

Base Product Code	Description	Sales Price New	Monthly Lease Cost / Term in Months					
			6 to 12	13 to 24	25 to 36	37 to 48	49 to 60	61 plus

C. Medical, Health Care

EC01	Medical Shelter, Type 1, 20'X32.5'X10'							
EC02	Medical Shelter, Type 2, 20'X40.5'X10'							
EC03	Medical Shelter, Type 3, 7'X8'X9'							
EC04	Shelter Connector Flap							
EC05	Vestibule End Panel with zipper entry							
EC06	Vestibule End-panel with Bump-through-door							
EC07	Ramp							
EC08	HVAC, 2.5 Ton Capacity							
EC09	HVAC, 5 Ton Capacity							
EC10	Wheel Set for 2.5 Ton HVAC							
EC11	Handle Set for 2.5 Ton HVAC							
EC12	Wheel Set for 5 Ton HVAC							
EC13	Exterior Electrical Distribution System, Single Shelter							
EC14	Exterior Electrical Distribution System, 2 Shelter							
EC15	Exterior Electrical Distribution System, 4 Shelter							
EC16	Exterior Electrical Distribution System, 6 Shelter							
EC17	Fluorescent Light, Shatterproof, 50W							
EC18	Fluorescent Light, Shatterproof, 50W, EMI Shielded							
EC19	Fluorescent Light, Shatterproof, 25W							
EC20	Interior Electrical Panel, 60 amp							

EC21	Interior Light Cable Set							
EC22	Interior Electrical Outlet Distribution Cable Set							
EC23	Negative Pressure Isolation Filtration System							
EC24	Negative Pressure Isolation Anteroom							
EC25	Negative Pressure Isolation Alarm System							
EC26	24' Trailer, Tandem Axle, with HVAC and Office Lighting							
EC27	24' Storage Trailer, Tandem Axle							
EC28	28' Trailer, Tandem Axle, with HVAC and Office Lighting							
EC29	28' Storage Trailer, Tandem Axle							
EC30	28' Trailer, Triple Axle, with HVAC and Office Lighting							
EC31	28' Storage Trailer, Triple Axle							
EC32	14' Storage Trailer							
EC33	Portable Sink							
EC34	Hygeinic Kit (2-toilet)							
EC35	Hygeinic Kit (2-shower)							
EC36	Hygeinic Kit (1-shower 1-Toilet)							
EC37	Privacy Divider w/velcro Door							
EC38	Privacy Curtain, Vinyl (pair)							
EC39	Generator - 20 KW w/ trailer and fuel tank							
EC40	Generator - 20 KW w/ pull cart							
EC41	Generator-35KW w/trailer							
EC42	Generator-60KW w/trailer							
EC43	Generator-125KW w/trailer							
EC44	Ground rod kit							
EC45	6' step ladder							
EC46	Sledgehammer-10 lb							
EC47	Ward Bed (w/ linens, IV pole, mattress)							
EC48	ICU Bed (w/ linens, IV pole, mattress)							
EC49	Bed Cart Restraining System							
EC50	Bag Set, Type 1 Shelter							
EC51	Bag Set, Type 2 Shelter							
EC52	Bag Set, Type 3 Shelter							
EC53	Bag Set, Doors							
EC54	Bag, Lights							
EC55	Shelter Container, Large							

EC56	Shelter Container, Small							
F. Resun Space Solutions								
Base Product Code	Description	Sales Price New	Monthly Lease Cost / Term in Months					
			6 to 12	13 to 24	25 to 36	37 to 48	49 to 60	61 plus
A. Classroom, Educational and Administrative								
FA01	24 X 32 Single Classroom w/ Restroom							
FA02	24 X 32 Single Classroom w/o Restroom							
FA03	24 X 64 Double Classroom w/ Restroom							
FA04	24 X 64 Double Classroom w/o Restroom							
B. Offices								
FB01	12 X 44 Std Office w/ Restroom							
FB02	12 X 56 Std Office w/ Restroom							
FB03	8 X 20 Mobile Office w/o Restroom							
FB04	8 X 32 Mobile Office w/o Restroom							
FB05	12 X 32 Mobile Office w/o Restroom							
FB06	12 X 32 Mobile Office w/ Restroom (1) office							
FB07	12 X 44 Mobile Office w/o Restroom							
FB08	12 X 44 Mobile Office w/ Restroom (2) office							
FB09	12 X 56 Mobile Office w/o Restroom							
FB10	12 X 56 Mobile Office w/ Restroom (2) office							
FB11	12 X 60 Mobile Office w/o Restroom							
FB12	12 X 60 Mobile Office w/ Restroom (2) office							
FB13	24 X 64 w/o Restroom (4) Offices							
FB14	24 X 64 w/ 2 Restroom (4) Offices							
FB15	36 X 56 w/ 2 Restrooms (6) Offices							
FB16	48 X 56 w/ 2 Restrooms (8) Offices							
FB17	60 X 56 w/ 2 Restrooms (10) Offices							
D. Restrooms and Specialty								
FD01	24 X 64 Open w/ center post							

FD02	12 X 56 Additional Center section W/ (2) Office							
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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__