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

INVITATION TO SUBMIT COMPETITIVE:	☒ **BIDS** ☐ **PROPOSALS**
INVITATION NO.: **EF04-19**	ISSUE DATE: **November 13, 2018**
CATEGORY: **Law Enforcement Speed Detection & Video Equipment**	

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 5,400 member local governments, districts, agencies in 44 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:	September 13, 2018
PRE-BID/PROPOSAL CONFERENCE:	October 11, 2018 @ 9:00 a.m. CT; Conference Room B
FINAL SPECIFICATION / INVITATION:	November 13, 2018
BID/PROPOSAL RESPONSES DUE:	December 13, 2018 @ 1:00 p.m. CT; H-GAC Clock
PUBLIC RESPONSE OPENING:	December 13, 2018 @ 2:00 p.m. CT; Conference Room C
RECOMMENDATIONS TO BOARD:	February 19, 2019
CONTRACT START DATE & TERM:	April 01, 2019 through March 31, 2021

The documents comprising this Invitation are available via web download at: **https://www.hgacbuy.org/bids/**

For assistance regarding this Invitation, please contact:

Name: **Beverly Levy**	Phone: **832-681-2592**	E-mail: **Beverly.Levy@h-gac.com**
Neal Witty	**713-499-6693**	**Neal.Witty@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.

H-GAC Cooperative Purchasing

Sealed Bid/Proposal No. **EF04-19**

DO NOT OPEN IN MAIL ROOM

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. EF04-19
DESCRIPTION: Law Enforcement Speed Detection & Video Equipment

TABLE OF CONTENTS

1. INTRODUCTION 2
2. DEFINITIONS, ABBREVIATIONS & ACRONYMS 2
3. NON-BINDING ORAL COMMENTS 4
4. STRUCTURE OF RESPONSE 4
5. BASIC REQUIREMENTS & CONDITIONS 4
6. OFFEROR'S AUTHORIZED SIGNATORY 5
7. SURETY FOR INSURANCE 6
8. CONFIDENTIAL / PROPRIETARY MATERIALS 6
9. REFERENCES 6
10. INSURANCE 6
11. OFFEROR CERTIFICATIONS 7
12. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PARTICIPATION 7
13. NON-RESIDENT RECIPROCAL SALES ACT 8
14. TEXAS MOTOR VEHICLE COMMISSION CODE & LICENSING 8
15. INTENT AND SCOPE OF SPECIFICATIONS 8
16. REQUIREMENTS APPLICABLE TO PHYSICAL GOODS 8
17. PRODUCT CODES 8
18. SPECIFIC DESCRIPTIVE REFERENCES 9
19. MANUALS 9
20. STANDARD FEATURES & OPTIONS 9
21. WARRANTIES, SALES & SERVICE 10
22. H-GAC ORDER PROCESSING CHARGE 11
23. PRE-PAYMENTS AND DISCOUNTS 11
24. INSPECTION / TESTING 11
25. PRODUCT DELIVERY 11
26. OFFERED PRODUCT ITEM VARIANCES 11
27. REQUIREMENTS FOR SUBMISSION OF A RESPONSE 11
28. CLARIFICATION TO SPECIFICATIONS & REQUIREMENTS 13
29. INCONSISTENT INFORMATION 14
30. REJECTION OF RESPONSES 14
31. WITHDRAWAL OR MODIFICATION OF RESPONSES 14
32. RESPONSE EVALUATION 14
33. ORDER OF PRECEDENCE PRIOR TO CONTRACT AWARD 15
34. AWARD OF CONTRACT 15
35. PRO-FORMA CONTRACT 15
36. CONTRACT TERM 15

37. PERFORMANCE & PAYMENT BOND 15
38. CHANGE ORDERS 15
39. DUPLICATION OF TERMS OR STATEMENTS 15
40. PUBLICITY 15
41. TAXES 16
42. DRUG FREE WORKPLACE 16
43. PRODUCT NOTICES & MAILINGS 16
44. HANDLING OF ORDERS & PAYMENTS 16
45. PRICE CHANGES 17
46. CONTRACT ITEM CHANGES 17
47. FORCE MAJEURE 18
48. PERFORMANCE UNDER CONTRACT 18
49. CONTRACTOR ORIENTATION/TRAINING 18
50. LEGAL & CONTRACTUAL REMEDIES 19
51. NATIONWIDE SALES OPPORTUNITIES 20

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 User**s). 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 by 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 = American **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. **E**nvironmental **P**rotection **A**gency
FAA = **F**ederal **A**viation **A**dministration
FMVSS = U.S. **F**ederal **M**otor **V**ehicle **S**afety **S**tandards
H-GAC = **H**ouston-**G**alveston **A**rea **C**ouncil of Governments
IEEE = **I**nstitute of **E**lectrical and **E**lectronics **E**ngineers
MVD = **M**otor **V**ehicle **D**ivision of Texas Department of Transportation
NFPA = **N**ational **F**ire **P**rotection **A**ssociation
NHTSA = **N**ational **H**ighway **T**raffic **S**afety **A**dministration
NIOSH = **N**ational **I**nstitute **F**or **O**ccupational **S**afety And **H**ealth
NIST = **N**ational **I**nstitute of **S**tandards and **T**echnology
NTEA = **N**ational **T**ruck **E**quipment **A**ssociation
OSHA = U.S. **O**ccupational **S**afety and **H**ealth **A**dministration
RRC = **R**ail**r**oad **C**ommission of Texas
SAE = **S**ociety of **A**utomotive **E**ngineers
TBPC = **T**exas **B**uilding and **P**rocurement **C**ommission (formerly GSC)
TxDOT = **T**exas **D**epartment **O**f **T**ransportation
UL = **U**nderwriter's **L**aboratories Inc.
VTCS = **V**ernon's **T**exas **C**ivil **S**tatutes

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. <u>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.</u>

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 **Offeror**s as **H-GAC** may select.
   - Amend, waive, modify, or withdraw (in part or in whole) this Invitation, or any requirements herein.
   - Hold discussions with **Offeror**s, 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 **Offeror**s 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 renedered 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 **Offeror**s 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.

> **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

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 User**s 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 an 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.

m. **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.

- **Form W-9 – Request for Taxpayer Identification Number and Certification**: Should be completed by each party to the response.
- **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.
- **Form 1295 – Certificate of Interested Parties** – Must be filled out electronically with the Texas Ethics Commission's online filing application, printed out, signed and provided from each entity that has submitted a Form A for this submission.
- **House Bill HB 89 Verification Form** – completed and signed and provided from each entity that has submitted a Form A for this submission.
- **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'.)

n. 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 it's sole discretion,** may also waive any formalities or irregularities in any response, or ask for corrected information except for pricing.

d. **The following occurrences require disqualification of the bid/proposals:**
   - Unsigned or unauthorized signatures on bids/proposals;
   - Bids received after the date and time for opening
   - Bids where prices are conditional on award of another bid or are subject to unlimited escalation

e. **H-GAC** may refuse to award a contract to or enter into a transaction with an apparent low bidder if that bidder is indebted to **H-GAC.**

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 it's 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 forty-five (45) calendar days after presentation by **H-GAC**. If a contract is not executed within forty-five (45) 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 send **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 send 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 it's 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 User**s, 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 User**s, 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 User**s, 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 User**s 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 User**s, 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. 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.

50. 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 Chief Operations Officer (COO) 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 Chief Operations Officer will initiate the informal resolution process.

Expedited Resolution

The Procurement Officer or Departmental Director 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 Chief Operations Officer of the resolution with specifics on each point addressed in the original complaint.

If the Procurement Officer or Departmental Director is not successful in resolving the allegations, the complaint along with the comments will be forwarded to the Chief Operations Officer immediately. The Chief Operations Officer 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 Chief Operations Officer'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**.

51. 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 User**s 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 And Conditions

SECTION B: PRODUCT SPECIFIC SECTION
For
EF04-19 - LAW ENFORCEMENT SPEED DETECTION & VIDEO EQUIPMENT

Table of Contents

Subsection **Page**
1. PURPOSE AND SCOPE....1
2. DEFINITIONS AND ABBREVIATIONS....1
3. EVALUATION OF RESPONSES AND AWARDS.... **Error! Bookmark not defined.**
4. RESPONSE REQUIREMENTS....2
5. PRODUCT CODES AND PRICING....2
6. TRAINING AND SUPPORT....3
7. INSURANCE REQUIREmeNTS....3
A: SPEED DETECTION INSTRUMENTS / SYSTEMS....3
B: VIDEO RECORDING SYSTEMS....3
C: AUTOMATED LICENSE RECOGNITION SYSTEMS....3
D: ELECTRIC STAND-UP VEHICLES....4
8. COMMITMENT....4
9. MARKETING & SERVICE PLAN (FORM-H)....4

1. PURPOSE AND SCOPE

In order to address the potential traffic enforcement equipment needs of our Cooperative Purchasing Program's Members, H-GAC has established this specification. It describes minimum configuration and performance standards on (1) various speed detectors (fixed vehicle-mounted, hand-held designs), (2) unmanned, speed radar displays (free-standing signs and trailers), (3) in-vehicle video recording systems, and (4) license plate recognition. Items may be priced by manufacturers and/or distributors.

This is a "catalog" style bid format based on complete manufacturers' published catalogs or manufacturer-dealer retail price books. Bidders will submit pricing as a percentage off list. Catalogs may be priced by manufacturers or distributors. Bidders who are awarded contracts pursuant to this Invitation will be able to sell, any products, parts or components contained in the included catalogs/price lists, to HGAC Members during the contract period, which will be **twenty-four (24)** months. As described earlier in this specification (Section A, Terms & Conditions), price changes may be allowed during the course of the contract, per the guidelines described.

2. DEFINITIONS AND ABBREVIATIONS

Catalog: Either a printed manufacturer's catalog, with models and accessories listed and indexed by model numbers/codes, with or without retail/list pricing; or, an internal manufacturer-to-distributor/dealer retail price list, listing models and accessories and their respective manufacture item number/codes, with retail/list pricing.**ALPR:** Automated License Plate Recognition

Doppler: Doppler radar/Doppler effect. A characteristic of reflected beam widths where the reflected signal has a frequency shift by an amount proportional to the distance from the reflecting object / speed of reflecting object.

FCC: Federal Communications Commission.

K-band: FCC regulated transmission frequency for traffic radar, in gigahertz (24.150 GHz +/- 100 MHz)

Ka-band: FCC regulated transmission frequency for traffic radar, in gigahertz (33.4 - 36.0 GHz)

FCC: Federal Communications Commission.

LIDAR: Laser Detection and Ranging. A system using laser light (e.g. infrared) for detection of speed, altitude, direction, and range (also known as laser radar). In traffic enforcement applications, it allows operator to target specific vehicle for speed measurement.

NHTSA: National Highway Traffic & Safety Administration.

Members: Local government agencies (cities, counties, schools, police and fire departments, et cetera) participating in Houston-Galveston Area Council's Cooperative Purchasing program, purchasing equipment and services through H-GAC from contracted manufacturers or distributors.

3. EVALUATIONS AND AWARDS

For each specific Form-D line item, H-GAC will recommend awards to the contractor with the highest overall score providing the best value.

- **Scoring Component: Pricing**
  For each line item, a review of Offerors' submitted bid prices will be conducted. Where pricing elements are satisfied, **(including a thorough and accurate Form-E,** electronic copies, et cetera), each Offeror will be ranked first, second, third, et cetera based upon system/product pricing or catalog discount levels, whichever is applicable for a given line item.

  Form-D Base Bid Price will be weighted to 90% of the total score

  For any given line item / product code evaluated, where there more than one Offeror exists, each Offeror will be assigned, based on the aforementioned price ranking (percentage discount level on catalog line items and Base Unit price on non-catalog line items) a rank (1, 2, 3, etc.). Each rank will then be adjusted against the weighed multiplier to arrive at this Pricing subsection score.

  HGAC reserves the right to utilize this Pricing component to adjust for an Offeror's inadequate Form-E pricing, whereby, the individual offeror's rank may be adjusted accordingly

- **Scoring Component: Past Performance**
  An evaluation will be conducted of the Offeror's previous sales performance as an HGACBuy Contractor. This is weighted at a maximum 10% of the total score. If an Offeror is a current vendor and has sales, they will receive the full 10%, no sales, 0%. First-time bids will receive the maximum 10% for this scoring component. Each Offeror's rank will be adjusted against the 10% / 0% index to arrive at this Past Performance subsection score

  For each line item, an offeror will receive a final score, comprised of the score for their Pricing and Past Performance scores.

In the event of a tie, H-GAC reserves the right to utilize additional factors in compiling a tie breaker, which may include an offeror's specific H-GAC member sales data, number and location of branches, depth and breadth of priced options, a vendor's reporting and fee remittance history with HGAC, vendor history with respect to HGAC members, et cetera.

NOTE: For joint bids (e.g. a single response from multiple dealers), each Form-A submitted in the offeror's response will be scored per the above criteria and an overall average will be taken of all Form-A's submitted to determine the overall score for each joint bid submission.

4. RESPONSE REQUIREMENTS

4.1 Dealers submitting responses must be authorized, under written franchise agreement with the manufacturer, to sell and service, including warranty work, any product offered hereunder.

4.2 Offerors MUST submit the **Service Organization** document required by Section A, Sub-section 28.g. Further, the Service Organization document must include a detailed description of the geographic area in which Offeror is authorized to sell and service any equipment bid.

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

5. PRODUCT CODES AND PRICING

Catalogs priced under this Invitation shall be done so on H-GAC's preformatted **Form D**, upon which bidder shall supply a percentage off retail/list price. Ideally, this will be a single percentage covering the entire catalog(s) bid, across all of the catalog's models and accessories. However, H-GAC recognizes that a given catalog may have varying margins associated with the different categories within a single catalog. Given this,

H-GAC will allow different percentage discounts within a given manufacturers' catalog (e.g. segmented by category or model). Such multi-tiered discounts for a given catalog should be bid on **Form D**. **Form E** is included in the bid package to allow pricing of those options that are not included in a particular catalog (e.g. distributor's services, extended warranties, and options sold by distributor that are not found on a particular catalog listed herein). The discount percentage price from List/Retail will determine the final price for each catalog. It is this bid price that will be used in the bid evaluations to determine contract awards. Only one catalog/item per line on **Form D** will be awarded. Consistent with Texas bid award statutes, for each specific Form D line item, H-GAC will recommend a single award to the lowest responsible Offeror. H-GAC will use other criteria submitted in the bidder's offering to determine a single awardee. Catalogs bid at 0 (zero) percent discount from list/retail price may be deemed non-compliant.

6. TRAINING AND SUPPORT

With the purchase of each base unit item under this Invitation's eventual contract, vendors shall provide H-GAC Members with adequate training, which, at the very least, shall be comprised of a comprehensive owner's manual, covering operation and maintenance (the price of which shall be included in the base system price). Where on-site (owner location) training is included in base unit pricing, bidder shall note in bid. Where on-site training is available as an option, bidder shall include its pricing on **Form E**. Additionally, H-GAC Members shall have an ongoing opportunity for communication with vendors' engineer, sales engineer, or qualified technician/trainer.

7. INSURANCE REQUIREMENTS

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** for those Contractors that take temporary possession of End User owned equipment. For those Contractors who do not take possession of End User owned equipment, this is not a required insurance coverage.

A: SPEED DETECTION INSTRUMENTS / SYSTEMS

This specification covers traffic enforcement speed detection equipment, highlighting both Doppler radar and lidar/laser technologies, in hand-held as well as fixed, vehicle, or trailer mounted designs. At the time of bid submittal, all instruments shall be certified to applicable, current performance and safety standards and requirements of NHTSA and the FCC, including, but not limited to the FCC/NHTSA Class A, Class I digital device standards, and the NHTSA's "Model Minimum Performance Specifications for Lidar Speed Measurement Devices" / "Model Minimum Performance Specifications for Traffic Radar Devices". These units shall be designed to maintain consistent readings while in the presence of a vehicle's ignition, alternator, AC components, or UHF, VHF, and HF transmitters, neon signs, traffic preemption equipment, power lines, or the vibrations, heat, and cold typically associated with patrol vehicle environments.

B: VIDEO RECORDING SYSTEMS, BODY WORN CAMERA, & DRONE

This specification covers police traffic enforcement video capture equipment, specifically, in-vehicle video-audio recording systems, in various technologies and styles, designed for recording pursuits, traffic stops, DUI evaluations, et cetera. These units shall be designed to maintain consistent readings while in the presence of a vehicle's ignition, alternator, AC components, or UHF, VHF, and HF transmitters, neon signs, traffic preemption equipment, power lines, or the vibrations, heat, and cold typically associated with patrol vehicle environments.

C: AUTOMATED LICENSE RECOGNITION SYSTEMS

This specification covers equipment and software systems used for the capture of vehicle license plate numbers used in intelligent transportation systems. Applications include Law Enforcement, Travel Time Systems, Parking Systems, Access Control, Tolling Systems, Commercial Vehicle Enforcement, Congestion Charging, and Homeland Security.

These units shall be designed to maintain consistent readings while in the presence of a vehicle's ignition, alternator, AC components, or UHF, VHF, and HF transmitters, neon signs, traffic preemption equipment, power lines, or the vibrations, heat, and cold typically associated with patrol vehicle environments.

D: ELECTRIC STAND-UP VEHICLES

This specification covers electric stand-up vehicles used in logistical solutions for law enforcement and private security. Units shall be designed with stability in mind to optimize operator safety and conform to industry standards for this type of vehicle.

8.0 COMMITMENT

Offeror is required to make some basic commitments to insure the overall success of this program. By submission of a response, offeror agrees to the following:

- Corporate/Sales Commitment
  A commitment that HGACBuy has the support of senior management and that HGACBuy will be the primary government contracting vehicle when offering services/products awarded from this solicitation to eligible end users nationwide. A further commitment to aggressively market the program, both independently as well in partnership with HGACBuy.

- Hub Participation
  It is H-GAC's goal to have Historically Underutilized Business Enterprise (HUB) participation in providing services under a contract. If Offeror(s) intends to employ subcontractors in providing services/products related to this solicitation, Offeror(s) shall make and demonstrate a good faith effort to include HUB participation under a contract. Offeror(s) good faith effort shall include, but is not limited to the following affirmative steps (Ref. 2CFR 200.321 as a guide):

  1. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
  2. Dividing total requirements, when economically feasible, into smaller task or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  3. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  4. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

NOTE: The term HUB as used in this solicitation is understood to encompass all programs/business enterprises such as Small Disadvantaged Business (SDB), Disadvantage Business Enterprise (DBE), Minority Owned Business Enterprise (MBE), Women Owned Business Enterprise (WBE) and Disabled Veteran Business Enterprise (DVBE).

9.0 MARKETING & SERVICE PLAN (FORM-H)

H-GAC expects proposer to have the capability and willingness to serve any H-GAC Member across the nation, and to promote this contract to the best of its ability. Consistent with this, proposer should acknowledge this, with a description of the resources that will most likely be employed in serving H-GAC Members (e.g. staff appointed to manage the contract, possible revised processes for purchase orders, staff training relating to this contract) and in promoting this contract (e.g. sales calls, mail-out campaigns, et cetera

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

H-GAC FORM D				Base Bid Items & Prices		
Bidder:						
Invitation #: EF04-19			Law Enforcement Speed Detection & Video Equipment			
	This form has been included in order to assist bidders. This form is intended for pricing only those models and configurations that correspond to the EF04-19 specification's base units (as denoted by the unique, 4-alpha-numeric character product code) and their HGAC descriptions. Model upgrades/options/accessories for each base unit priced shall be included as separate options pricing on HGAC's Form E. Bidder shall complete this form and include completed copies of this form with their bid.					
Offeror Name:						
Contract	**Manufacturer**	**Vendor**	**H-GAC Product Code**	**Description**	**Price**	**Percentage Discount off Retail/List Price**
	Speed Detection					
EF04-19	BEE III		EF041A	BEE III Moving Radar System Pricing Catalog		
EF04-19	Digital-Ally, Inc.		EF042A	Speed Detection Pricing Catalog		
EF04-19	DragonEye		EF043A	DragonEye Speed Enforcement LIDAR Pricing Catalog		
EF04-19	Enforcer		EF045A	Moving Radar System Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046A	Eagle II Radar Series Traffic Safety Radar Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046B	Falcon HR Traffic Safety Radar Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046L	SMART Radar Speed Trailer Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046M	Variable Message Sign Trailer Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046N	Eagle 3 RADAR Series Traffic Safety Radar Pricing Catalog		
EF04-19	Genesis		EF047A	Genesis Police Radar Pricing Catalog		
EF04-19	LaserAlly		EF048A	LaserAlly LIDAR Speed Gun Pricing Catalog		
EF04-19	LTI		EF0460A	Pulsemini Pricing Catalog		
EF04-19	LTI		EF0460B	TruPulse Pricing Catalog		
EF04-19	LTI		EF0460C	TruPoint Pricing Catalog		
EF04-19	LTI		EF0460D	QuickMap 3D Android Cedar CT7 Data Collector Basic Package Pricing Catalog		
EF04-19	LTI		EF0460E	Angle Encoder/TruAngle Kit Pricing Catalog		
EF04-19	LTI		EF0460F	Microsurvey IMS Mapping 360 Software & CCP Package Pricing Catalog		
EF04-19	Monitor Systems		EF049A	MSPM Speed Monitor & Radar Speed Pricing Catalog		
EF04-19	Onsite 200M		EF0410A	Onsite 200M Speed Signs Pricing Catalog		
EF04-19	Monitor Systems		EF0411A	Pacesetter speed display Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046C	Pole Mounted Displays Radar Speed Display Pricing Catalog		

EF04-19	Monitor Systems		EF0415A	Prodigy speed /message systems Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046D	ProLaser III Traffic Safety Radar & LIDAR Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046E	Pro-Lite Traffic Safety Radar Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046P	Portable Pole Mounted Display 10 & 12 Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046Q	ProLaser 4 Traffic Safety Radar & LIDAR Pricing Catalog		
EF04-19	Python		EF0416A	Series III Moving Radar System Pricing Catalog		
EF04-19	Railmaster		EF0417A	Railmaster speed radar Pricing Catalog		
EF04-19	Ranger		EF0418A	Ranger EZ Ranging Radar System Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046F	Raptor Safety Radar Traffic Safety Radar Pricing Catalog		
EF04-19	Speed Guardian		EF0421A	Speed Guardian speed Display Signs Pricing Catalog		
EF04-19	Speedgun Pro		EF0422A	Speedgun Pro Speed enforcement tools Pricing Catalog		
EF04-19	Speed Monitor		EF0420A	Speed Monitor Pricing Catalog		
EF04-19	Stalker		EF0423A	Stalker Dash Mount Law Enforcement Radar Pricing Catalog		
EF04-19	Stalker		EF0423B	Stalker Hand Held Law Enforcement Pricing Catalog		
EF04-19	Stalker		EF0423C	Stalker Speed, Message, Traffic Statistic Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046G	Talon Traffic Safety Radar Pricing Catalog		
EF04-19	Tru-Speed		EF0426A	LTI 20/20 TruSpeed Pricing Catalog		
EF04-19	UltraLyte		EF0427A	LTI 20/20 Ultralyte LRB Pricing Catalog		
EF04-19	Wanco		EF0499A	Wanco Portable Traffic Safety Pricing Catalog		
EF04-19	Wanco		EF0499B	Wanco 2Radar Speed Display Pricing Catalog		
	Video Equipment					
EF04-19	ALPR		EF0428A	3M ALPR Camera Pricing Catalog		
EF04-19	AXIS Communications		EF0461A	AXIS IP based Suveillence Cameras Pricing Catalog		
EF04-19	BodyVISION XV		EF0449A	BodyVision XV Camera Pricing Catalog		
EF04-19	Coban		EF0430A	Coban Body Worn Cameras Pricing Catalog		
EF04-19	Coban		EF0430B	Coban In Car Video Pricing Catalog		
EF04-19	Data911		EF0431A	Data911 Digital Video System Pricing Catalog		
EF04-19	Data911		EF0431B	Data911 Mobile Data Computer Pricing Catalog		
EF04-19	Data911		EF0431C	Data911 M Series Pricing Catalog		
EF04-19	Data911		EF0431D	Data911 Body Worn Camera (BX2) Pricing Catalog		
EF04-19	Data911		EF0431E	Data911 Tac5 All-In-One Pricing Catalog		
EF04-19	Decatur		EF0432A	Decatur In Car Video Pricing Catalog		
EF04-19	Digital-Ally, Inc.		EF0432A	Digital-Ally In Car Video Pricing Catalog		
EF04-19	Digital Ally, Inc.		EF0433A	Digital Ally Body Worn Camera Pricing Catalog		
EF04-19	edesix		EF0450A	edesix Wearable Security Pricing Catalog		
EF04-19	FirstVU HD		EF0433A	FirstVU HD Body Worn Camera Pricing Catalog		
EF04-19	Flasback		EF0434A	Flasback in Car Video System Pricing Catalog		
EF04-19	Getac		EF0462A	VERETOS In Car Video Pricing Catalog		
EF04-19	Getac		EF0462B	VERETOS Body Camera Pricing Catalog		
EF04-19	L-3 Mobile-Vision		EF0434A	L-3 Mobile-Vision Flasback in Car Video System Pricing Catalog		

EF04-19	L-3 Mobile-Vision		EF0434B	L-3 Mobile-Vision V-One Mobile Data Computer Pricing Catalog		
EF04-19	L-3 Mobile-Vision		EF0434C	L-3 Mobile-Vision ALPR Pricing Catalog		
EF04-19	L-3 Mobile-Vision		EF0434D	L-3 Mobile-Vision InMotion Pricing Catalog		
EF04-19	L-3 Mobile-Vision		EF0434E	L-3 Mobile-Vision BodyVision Body Worn Camera Pricing Catalog		
EF04-19	Laserwitness Lite		EF046H	Laserwitness Lite Digital Video Laser Pricing Catalog		
EF04-19	Muvi and MuviView		EF0437A	Muvi and MuviView bodyworn camcorders Pricing Catalog		
EF04-19	MVX1000		EF0436A	MVX1000 In-Car Video Pricing Catalog		
EF04-19	Panasonic		EF0463A	Panasonic Arbitrator In Car Video Pricing Catalog		
EF04-19	Panasonic		EF0463B	Panasonic Body Worn Camera Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046O	Body Worn Video Eyewitness Vantage Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046P	Eyewitness Data Vault Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046R	LaserCam 4 Digital Video Laser Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046S	Eyewitness HD In-Car Video System Bundled Package Pricing Catalog		
EF04-19	Safety Vision		EF0439A	Safety Vision Digital Video & Audio recording system Pricing Catalog		
EF04-19	Safety Vision		EF0439B	Safety Vision In-Car DVR System Pricing Catalog		
EF04-19	Safety Vision		EF0439C	Safety Vision DVR and software Pricing Catalog		
EF04-19	Safety Vision		EF0439D	Safety Vision PrimaFacie Elite Body Camera Pricing Catalog		
EF04-19	Safety Vision		EF0439E	Safety Vision Observer series Pricing Catalog		
EF04-19	Safety Vision		EF0439F	Safety Vision Dome or Wedge Camera Pricing Catalog		
EF04-19	Safety Vision		EF049A	Safety Vision Collision Avoidance System Pricing Catalog		
EF04-19	Safety Vision		EF050A	Safety Vision PrimaFacie Elite Body Camera Pricing Catalog		
EF04-19	Safety Vision		EF051A	Safety Vision Collision Avoidance System Pricing Catalog		
EF04-19	Slate		EF0429A	Slate Camera Pricing Catalog		
EF04-19	Kustom Signals, Inc.		EF046J	Smart 500 & 510 Directional Radar Speed Dolly Pricing Catalog		
EF04-19	Stalker		EF0423D	Stalker Car Video Equipment Pricing Catalog		
EF04-19	TruCam		EF0425A	LTI 20/20 TruCAM Pricing Catalog		
EF04-19	Vigilant Solutions		EF0464A	Vigilant Video, Inc CarDetector Pricing Catalog		
EF04-19	Vigilant Solutions		EF0464B	Vigilant Solutions LEARN Software Pricing Catalog		
EF04-19	WatchGuard Video		EF0465A	WatchGuard Video Body Worn Camera Pricing Catalog		
EF04-19	WatchGuard Video		EF0465B	WatchGuard Video Digital Video System Pricing Catalog		
EF04-19	VieVu		EF0441A	VieVu Body Worn Camera Pricing Catalog		
EF04-19	VieVu		EF0441B	VieVu video recording Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499A	Mobile LPR Camera 'Reaper' Kit with GPS Unit Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499B	Fixed LPR 'Reaper Camera Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499C	Camera LPR System Extended Warranty Software/Hardware Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499D	LPR Camera Mounting Kit Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499E	Local/State/Federal LPR/LEARN Data Access Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499F	Ballistics Package Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499G	Vigilant Trailer Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499H	Parking Pricing Catalog		

EF04-19	Vigilant Solutions		EF0499I	Vigilant Investigative Data Platform Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499J	Vigilant Intelligence Led Policing (ILP) Packages Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499K	Vigilant Body Worn Camera Hosting Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499L	Vigilant GunOps Software Service Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499M	Vigilant DNAOps Software Service Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499N	Vigilant BallisticSearch Software Service Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499O	Vigilant In-Car Video Service Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499P	Vigilant Camera Reaper LPR Subscriptions Pricing Catalog		
EF04-19	Vigilant Solutions		EF0499Q	Vigilant Training and Misc. ChargesPricing Catalog		
	Miscellaneous					
EF04-19	AutoVu		EF0442A	AutoVu SharpX Scofflaw DUAL Base KIT Pricing Catalog		
EF04-19	Boss		EF0443A	Boss System Software for system administration Pricing Catalog		
EF04-19	Coban		EF0430C	Coban Mobile Data Computers Pricing Catalog		
EF04-19	CradlePoint		EF0466A	CradlePoint Catalog pricing		
EF04-19	Gamber Johnson		EF0466B	Gamber Johnson Docking and mounting Solutions Catalog prricing		
EF04-19	Genetec		EF0444A	Genetec Security Center Pricing Catalog		
EF04-19	Genetec		EF0444B	Genetec AutoVu Pricing Catalog		
EF04-19	Genetec		EF0445C	Genetec Map Licence Pricing Catalog		
EF04-19	Getac		EF0462C	Getac Mobile computing Pricing Catalog		
EF04-19	Havis		EF0470A	Havis Docking and mounting Solutions Catalog Pricing		
EF04-19	Motorola		EF0447A	Motorola Automatic License Plate Reader Pricing Catalog		
EF04-19	Panasonic		EF0463C	Panasonic Mobile Computing Pricing Catalog		
EF04-19	Peplink		EF0467A	Peplink Catalog Pricing		
EF04-19	Sierria Wireless		EF0469A	Sierria Wireless Catalog Pricing		
EF04-19	Trinity Innovative		EF0468A	Speed Detection trailer Pricing Catalog		
EF04-19	Trinity Innovative Soluitons		EF0468B	Body Worn mounting solutions Catalog Pricing		
EF04-19	True Pulse		EF0446A	True Pulse Laser Range Pricing Catalog		
EF04-19	Vigilant Video		EF0448A	Vigilant Video, Inc CarDetector Pricing Catalog		

SPECIAL PROVISIONS

Incorporated by attachment, as part of the whole agreement, H-GAC and the Contractor do, hereby agree to the Special Provisions as follows:

ARTICLE 1: BIDS/PROPOSALS INCORPORATED

In addition to the whole Agreement, the following documents listed in order of priority are incorporated into the Agreement by reference: Bid/Proposal Specifications and Contractor's Response to the Bid/Proposal.

ARTICLE 2: END USER AGREEMENTS ("EUA")

H-GAC acknowledges that the **END USER** may choose to enter into an End User Agreement ("EUA) with the **Contractor** through this Agreement**,** and that the term of the EUA may exceed the term of the current **H-GAC** Agreement. **H-GAC's** acknowledgement is not an endorsement or approval of the End User Agreement's terms and conditions. **Contractor** agrees not to offer, agree to or accept from the **END USER**, any terms or conditions that conflict with those in **Contractor's** Agreement with **H-GAC.** Contractor affirms that termination of its Agreement with H-GAC for any reason shall not result in the termination of any underlying EUA, which shall in each instance, continue pursuant to the EUA's stated terms and duration. Pursuant to the terms of this Agreement, termination of this Agreement will disallow the **Contractor** from entering into any new EUA with **END USERS.** Applicable **H-GAC** order processing charges will be due and payable to **H-GAC** on any EUAs, surviving termination of this Agreement between **H-GAC** and **Contractor.**

ARTICLE 3: MOST FAVORED CUSTOMER CLAUSE

Contractor shall provide its most favorable pricing and terms to H-GAC. If at any time during this Agreement, Contractor develops a regularly followed standard procedure of entering 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, and this Agreement shall be deemed to be automatically retroactively amended, to the effective date of Contractor's most favorable past agreement with another entity. **Contractor** shall provide the same prices, warranties, benefits, or terms to **H-GAC** and its END USER as provided in its most favorable past agreement. 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** claims that a more favorable price, warranty, benefit, or term that was charged or offered to another entity during the term of this Agreement, does not constitute more favorable treatment, than **Contractor** shall, within ten (10) business days, notify **H-GAC** in writing, setting forth the detailed reasons **Contractor** believes the aforesaid offer is not in fact most favored treatment. **H-GAC**, after due consideration of Contractor's written explanation, may decline to accept such explanation and thereupon this Agreement 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 and the END USER.
EXCEPTION: *This clause shall not be applicable to prices and price adjustments offered by a bidder, Proposer or contractor, which are not within bidder's/proposer's control [example; a manufacturer's bid concession], or to any prices offered to the Federal Government and its agencies.*

ARTICLE 4: PARTY LIABILITY

Contractor's total liability under this Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, is limited to the price of the particular products/services sold hereunder. Contractor agrees either to refund the purchase price or to repair or replace product(s) that are not as warranted. Contractor accepts liability to repay, and shall repay upon demand to END USER, any amounts determined by H-GAC, its independent auditors, or any state or federal agency, to have been paid in violation of the terms of this Agreement.

ARTICLE 5: GOVERNING LAW & VENUE

Contractor and H-GAC agree that Contractor will make every reasonable effort to resolve disputes the **END USER** in accord with the law and venue rules of the state of purchase. **Contractor** shall immediately notify **H-GAC** of such disputes.

ARTICLE 6: SALES AND ORDER PROCESSING CHARGE

Contractor shall sell its products to **END USERS** based on the pricing and terms of this Agreement. **H-GAC** will invoice **Contractor** for the applicable order processing charge when H-GAC receives notification of an END USER order. **Contractor shall remit to H-GAC** the full amount of the applicable order processing charge, after delivery of any product or service and subsequent END USER acceptance**.** Payment of the Order Processing Charge shall be remitted from Contractor to H-GAC, within thirty (30) calendar days or ten (10) business days after receipt of an END USER's payment, whichever comes first, notwithstanding Contractor's receipt of invoice. For sales made by **Contractor** based on this Agreement**,** including sales to entities without Interlocal Agreements, **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 Agreement. **H-GAC** reserves the right to take appropriate actions including, but not limited to, Agreement termination if **Contractor** fails to promptly remit the appropriate order processing charge to H-GAC. In no event shall **H-GAC** have any liability to **Contractor** for any goods or services an **END USER** procures from **Contractor.** At all times, **Contractor** shall remain liable to pay to **H-GAC** any order processing charges on any portion of the Agreement actually performed**,** and for which compensation was received by **Contractor.**

ARTICLE 7: LIQUIDATED DAMAGES

Contractor and H-GAC agree that Contractor shall cooperate with the END USER at the time an END USER purchase order is placed, to determine terms for any liquidated damages.

ARTICLE 8: INSURANCE

Unless otherwise stipulated in Section B of the Bid/Proposal Specifications, **Contractor** must have the following insurance and coverage minimums:

a. **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 of the Bid/Proposal Specifications.

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 art 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 the Bid/Proposal, 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 **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 **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.

ARTICLE 9: PERFORMANCE AND PAYMENT BONDS FOR INDIVIDUAL ORDERS

H-GAC's contractual requirements DO NOT include a Performance & Payment Bond (PPB); therefore, Contractor shall offer pricing that reflects this cost savings. **Contractor** shall remain prepared to offer a PPB to cover any order if so requested by the **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.

ARTICLE 10: CHANGE OF STATUS

Contractor shall immediately notify **H-GAC,** in writing, of **ANY** change in ownership, control, dealership/franchisee status, Motor Vehicle license status, or name. Contractor shall offer written guidance to advise H-GAC if this Agreement 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 Agreement.

ARTICLE 11: TEXAS MOTOR VEHICLE BOARD LICENSING

All that deal in motor vehicles shall maintain current licenses that are required by the Texas Motor Vehicle Commission Code. If at any time during this Agreement term, any required **Contractor** license is denied, revoked, or not renewed, **Contractor** shall be in default of this Agreement, unless the Texas 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.

GENERAL PROVISIONS

This Agreement is made and entered into, by and between the Houston-Galveston Area Council hereinafter referred to as H-GAC having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027 and _____., hereinafter referred to as the Contractor, having its principal place of business at _____.

WITNESSETH:

WHEREAS, H-GAC hereby engages the Contractor to perform certain services in accordance with the specifications of the Agreement; and

WHEREAS, the Contractor has agreed to perform such services in accordance with the specifications of the Agreement;

NOW, THEREFORE, H-GAC and the Contractor do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY
The Contractor warrants and assures H-GAC that it possesses adequate legal authority to enter into this Agreement. The Contractor's governing body, where applicable, has authorized the signatory official(s) to enter into this Agreement and bind the Contractor to the terms of this Agreement and any subsequent amendments hereto.

ARTICLE 2: APPLICABLE LAWS
The Contractor agrees to conduct all activities under this Agreement in accordance with all applicable rules, regulations, directives, standards, ordinances, and laws, in effect or promulgated during the term of this Agreement, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Contractor shall furnish H-GAC with satisfactory proof of its compliance therewith.

ARTICLE 3: INDEPENDENT CONTRACTOR
The execution of this Agreement and the rendering of services prescribed by this Agreement do not change the independent status of H-GAC or the Contractor. No provision of this Agreement or act of H-GAC in performance of the Agreement shall be construed as making the Contractor the agent, servant or employee of H-GAC, the State of Texas or the United States Government. Employees of the Contractor are subject to the exclusive control and supervision of the Contractor. The Contractor is solely responsible for employee related disputes and discrepancies, including employee payrolls and any claims arising therefrom.

ARTICLE 4: WHOLE AGREEMENT
The General Provisions, Special Provisions, and Attachments, as provided herein, constitute the complete Agreement ("Agreement") between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 5: SCOPE OF SERVICES

The services to be performed by the Contractor are outlined in an Attachment to this Agreement.

ARTICLE 6: PERFORMANCE PERIOD

This Agreement shall be performed during the period which begins _____ and ends _____. All services under this Agreement must be rendered within this performance period, unless directly specified under a written change or extension provisioned under Article 15, which shall be fully executed by both parties to this Agreement.

ARTICLE 7: PAYMENT OR FUNDING

Payment provisions under this Agreement are outlined in the Special Provisions.

ARTICLE 8: REPORTING REQUIREMENTS

If the Contractor fails to submit to H-GAC in a timely and satisfactory manner any report required by this Agreement, or otherwise fails to satisfactorily render performances hereunder, H-GAC may terminate this agreement with notice as identified in Article 16 of these General Provisions. H-GAC has final determination of the adequacy of performance and reporting by Contractor. Termination of this agreement for failure to perform may affect Contractor's ability to participate in future opportunities with H-GAC. The Contractor's failure to timely submit any report may also be considered cause for termination of this Agreement.

Any additional reporting requirements shall be set forth in the Special Provisions of this Agreement.

ARTICLE 9: INSURANCE

Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement as outlined and defined in the attached Special Provisions.

ARTICLE 10: SUBCONTRACTS and ASSIGNMENTS

Except as may be set forth in the Special Provisions, the Contractor agrees not to subcontract, assign, transfer, convey, sublet or otherwise dispose of this Agreement or any right, title, obligation or interest it may have therein to any third party without prior written approval of H-GAC. The Contractor acknowledges that H-GAC is not liable to any subcontractor or assignee of the Contractor. The Contractor shall ensure that the performance rendered under all subcontracts shall result in compliance with all the terms and provisions of this Agreement as if the performance rendered was rendered by the Contractor. Contractor shall give all required notices, and comply with all laws and regulations applicable to furnishing and performance of the work. Except where otherwise expressly required by applicable law or regulation, H-GAC shall not be responsible for monitoring Contractor's compliance, or that of Contractor's subcontractors, with any laws or regulations.

ARTICLE 11: AUDIT

Notwithstanding any other audit requirement, H-GAC reserves the right to conduct or cause to be conducted an independent audit of any transaction under this Agreement, such audit may be performed by the H-GAC local government audit staff, a certified public accountant firm, or other auditors designated by H-GAC and will be conducted in accordance with applicable professional standards and practices. The Contractor understands and agrees that the Contractor shall be liable to the H-GAC for any findings that result in monetary obligations to H-GAC.

ARTICLE 12: EXAMINATION OF RECORDS

The Contractor shall maintain during the course of the work complete and accurate records of all of the Contractor's costs and documentation of items which are chargeable to H-GAC under this Agreement. H-GAC, through its staff or designated public accounting firm, the State of Texas, and United States Government, shall have the right at any reasonable time to inspect, copy and audit those records on or

off the premises by authorized representatives of its own or any public accounting firm selected by H-GAC. The right of access to records is not limited to the required retention period, but shall last as long as the records are retained. Failure to provide access to records may be cause for termination of the Agreement. The records to be thus maintained and retained by the Contractor shall include (without limitation): (1) personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of the Contractor's employees working full or part time on the work, as well as cancelled payroll checks, signed receipts for payroll payments in cash, or other evidence of disbursement of payroll payments; (2) invoices for purchases, receiving and issuing documents, and all other unit inventory records for the Contractor's stocks or capital items; and (3) paid invoices and cancelled checks for materials purchased and for subcontractors' and any other third parties' charges.

The Contractor further agrees that the examination of records outlined in this article shall be included in all subcontractor or third-party agreements.

ARTICLE 13: RETENTION OF RECORDS

The Contractor and its subcontractors shall maintain all records pertinent to this Agreement, and all other financial, statistical, property, participant records, and supporting documentation for a period of no less than seven (7) years from the later of the date of acceptance of the final payment or until all audit findings have been resolved. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the retention period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the seven (7) years, whichever is later, and until any outstanding litigation, audit, or claim has been fully resolved.

ARTICLE 14: CHANGES AND AMENDMENTS

A. Any alterations, additions, or deletions to the terms of this Agreement, which are required by changes in federal or state law or by regulations, are automatically incorporated without written amendment hereto, and shall become effective on the date designated by such law or by regulation.
B. To ensure the legal and effective performance of this Agreement, both parties agree that any amendment that affects the performance under this Agreement must be mutually agreed upon and that all such amendments must be in writing. After a period of no less than 30 days subsequent to written notice, unless sooner implementation is required by law, such amendments shall have the effect of qualifying the terms of this Agreement and shall be binding upon the parties as if written herein.

ARTICLE 15: TERMINATION PROCEDURES

The Contractor acknowledges that this Agreement may be terminated for Convenience or Default.

A. *Convenience*

   H-GAC may terminate this Agreement at any time, in whole or in part, with or without cause, whenever H-GAC determines that for any reason such termination is in the best interest of H-GAC, by providing written notice by certified mail to the Contractor. Upon receipt of notice of termination, all services hereunder of the Contractor and its employees and subcontractors shall cease to the extent specified in the notice of termination.

   The Contractor may cancel or terminate this Agreement upon submission of thirty (30) days written notice, presented to H-GAC via certified mail. The Contractor may not give notice of cancellation after it has received notice of default from H-GAC.
B. *Default*

H-GAC may, by written notice of default to the Contractor, terminate the whole or any part of the Agreement, in any one of the following circumstances:

(1) lf the Contractor fails to perform the services herein specified within the time specified herein or any extension thereof; or
(2) If the Contractor fails to perform any of the other provisions of this Agreement for any reason whatsoever, or so fails to make progress or otherwise violates the Agreements that completion of services herein specified within the Agreement term is significantly endangered, and in either of these two instances does not cure such failure within a period often (10) days (or such longer period of time as may be authorized by H-GAC in writing) after receiving written notice by certified mail of default from H-GAC.

ARTICLE 16: SEVERABILITY

H-GAC and Contractor agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 17: FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party 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.

ARTICLE 18: CONFLICT OF INTEREST

No officer, member or employee of the Contractor or subcontractor, no member of the governing body of the Contractor, and no other public officials of the Contractor who exercise any functions or responsibilities in the review or Contractor approval of this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or shall have any personal or pecuniary interest, direct or indirect, in this Agreement.

ARTICLE 19: FEDERAL COMPLIANCE

Contractor agrees to comply with all federal statutes relating to nondiscrimination, labor standards, and environmental compliance. Additionally, for work to be performed under the Agreement or subcontract thereof, including procurement of materials or leases of equipment, Contractor shall notify each potential subcontractor or supplier of the Contractor's federal compliance obligations. These may include, but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) the Fair Labor Standards Act of 1938 (29 USC 676 et. seq.), (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (e) the Age Discrimination in Employment Act of 1967 (29 USC 621 et. seq.) and the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (f) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in any specific statute(s)

applicable to any Federal funding for this Agreement; (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement; (l) applicable provisions of the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251 et seq.), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the Environmental Protection Agency regulations at 40 CPR Part 15; (m) applicable provisions of the Davis- Bacon Act (40 U.S.C. 276a - 276a-7), the Copeland Act (40 U.S.C. 276c), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), as set forth in Department of Labor Regulations at 20 CPR 5.5a; (n) the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

ARTICLE 20: CRIMINAL PROVISIONS AND SANCTIONS

The Contractor agrees to perform the Agreement in conformance with safeguards against fraud and abuse as set forth by the H-GAC, the State of Texas, and the acts and regulations of any related state or federal agency. The Contractor agrees to promptly notify H-GAC of any actual or suspected fraud, abuse, or other criminal activity through the filing of a written report within twenty-four (24) hours of knowledge thereof. Contractor shall notify H-GAC of any accident or incident requiring medical attention arising from its activities under this Agreement within twenty-four (24) hours of such occurrence. Theft or willful damage to property on loan to the Contractor from H-GAC, if any, shall be reported to local law enforcement agencies and H-GAC within two (2) hours of discovery of any such act.

The Contractor further agrees to cooperate fully with H-GAC, local law enforcement agencies, the State of Texas, the Federal Bureau of Investigation and any other duly authorized investigative unit, in carrying out a full investigation of all such incidents.

The Contractor shall notify H-GAC of the threat of lawsuit or of any actual suit filed against the Contractor pertaining to this Agreement or which would adversely affect the Contractor's ability to perform services under this Agreement.

ARTICLE 21: INDEMNIFICATION AND RECOVERY

H-GAC's liability under this Agreement, 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, judgements, and liens arising as a result of Contractor's negligent act or omission under this Agreement. Contractor shall notifiy H-GAC of the threat of lawsuit or of any actual suit filed against Contractor relating to this Agreement.

ARTICLE 22: 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 Agreement, whether for breach of contract, warranty, negligence, strict liability, in tort or otherwise, but excluding its obligation to indemnify H-GAC, 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, loss of 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 Agreement.

ARTICLE 23: TITLES NOT RESTRICTIVE

The titles assigned to the various Articles of this Agreement are for convenience only. Titles shall not be considered restrictive of the subject matter of any Article, or part of this Agreement.

ARTICLE 24: JOINT WORK PRODUCT

This Agreement is the joint work product of H-GAC and the Contractor. This Agreement has been negotiated by H-GAC and the Contractor and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against any party.

ARTICLE 25: DISPUTES

All disputes concerning questions of fact or of law arising under this Agreement, which are not addressed within the Whole Agreement as defined pursuant to Article 4 hereof, 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 the 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, the Contractor requests a rehearing from the Executive Director of H-GAC. In connection with any rehearing under this Article, the 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. 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. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Agreement and in accordance with H- GAC's final decision.

ARTICLE 26: CHOICE OF LAW: VENUE

This Agreement 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 the Agreement shall lie exclusively in Harris County, Texas. Disputes between END USER and Contractor are to be resolved in accordance with the law and venue rules of the state of purchase. Contractor shall immediately notify H-GAC of such disputes.

ARTICLE 27: ORDER OF PRIORITY

In the case of any conflict between or within this Agreement, the following order of priority shall be utilized: 1) General Provisions, 2) Special Provisions, 3) Scope of Work, and, 4) Other Attachments.

SIGNATURES:
H-GAC and the Contractor have read, agreed, and executed the whole Agreement as of the date first written above, as accepted by:

_____

Signature

Name

Title

Date

H-GAC

Signature

Name Chuck Wemple

Title Executive Director

Date