



Texas Lottery Commission Pre-Bid/Proposal Conference

Historically Underutilized Business Subcontracting Plan (HSP)



Texas Lottery Commission Pre-Bid/Proposal Conference Introduction

Thank you for attending the Texas Lottery Commission's Pre-Bid/Proposal Conference. We appreciate your interest in our procurement process, and hope to provide useful information to you today.

The HUB Subcontracting Plan (HSP) is a pass/fail element of the solicitation. Bids/Proposals that do not include a completed HSP prepared in accordance with 34 Texas Administrative Code §20.285 will be rejected. **Bids/Proposals that have been rejected due to HSP failure will not be further evaluated.**

We encourage you to ask any questions that you may have about the HSP while you are here today. In addition, you may submit written questions following this meeting. Please take advantage of the many additional resources that are available to assist you in completing the HSP portion of the solicitation document.

Thank you again for your participation.

NOTE: House Bill 194, as passed by the 83rd Regular Session of the Texas Legislature amended the definition of HUB to include "veterans as defined by 38 U.S.C. Section 101(2) who have suffered at least a 20 percent service-connected disability as defined by 38 U.S.C. Section 101(16)." This provision went into effect on September 1, 2013.

Presentation



Texas Lottery Commission Pre-Bid/Proposal Conference

Historically Underutilized Business Subcontracting Plan (HSP)

HSP is Pass/Fail Element

Bids/Proposals that do not include a completed HUB Subcontracting Plan prepared in accordance with 34 Texas Administrative Code §20.285 shall be rejected. Bids/Proposals that have been rejected due to HSP failure will not be further evaluated.

Definition of Subcontractor

A person who contracts with the Successful Bidder/Proposer to work, to supply commodities, or contribute toward completing work for the Texas Lottery.

Self-Performance

A Bidder/Proposer who is capable of fulfilling the entire contract with its own equipment, supplies, materials and/or employees is not required to subcontract, but must still complete and submit the HSP form.

Good Faith Effort Methods

Bidders/Proposers who intend to subcontract any portion of the contract must indicate in the HSP form that they intend to subcontract, and must perform one of the following three good faith effort methods.

Method A (1): Using 100% HUB Subcontractors

Bidder/Proposer will use only Texas certified HUBs for all subcontracting opportunities identified in their HSP.

Method A (2): Meeting the Specified HUB Contract Goal

Bidder/Proposer will use Texas certified HUBs with whom the Bidder/Proposer has contracted for five years or less in an aggregate percentage that meets the specific contract goal.

Method B: Good Faith Effort Outreach

Bidder/Proposer will perform good faith effort outreach by contacting at least three (3) Texas certified HUBs, and two (2) trade organizations or development centers that serve members of the HUB groups, for each identified subcontracting opportunity.

NOTE: Bidders /Proposers using this method must perform outreach even for areas where a Bidder/Proposer has a pre-existing subcontracting relationship.

HSP Evaluation Process

- The agency will review and evaluate the HSP and supporting documentation.
- The agency may request clarifications, if necessary.
- There are no evaluation points assigned to the HSP; it is strictly a pass/fail element.

Post Contract Award

- Any proposed changes to the HSP must be submitted for review and approval by the agency. A written change approval form will be provided by the TLC.
- Subcontracting without prior authorization is a breach of contract.
- Monthly subcontracting expenditure reports are required as a condition of payment.

Post Contract Award

Successful Bidder/Proposer must provide written notice to each subcontractor, informing them of their selection. A copy of this notice must be provided to the TLC no later than ten working days after contract award.

HSP Resources & Assistance

- Pre-Bid/Proposal Conference video and booklet
- HSP Quick Check List included in IFB or RFP
- Opportunity to submit written questions
- Review of draft HSP forms
- One-on-one workshops upon request

HSP

Quick Check List



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - ☐ Section 2 c. - Yes
 - ☐ Section 4 - Affirmation
 - ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - ☐ Section 2 c. - No
 - ☐ Section 2 d. - Yes
 - ☐ Section 4 - Affirmation
 - ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - ☐ Section 2 c. - No
 - ☐ Section 2 d. - No
 - ☐ Section 4 - Affirmation
 - ☐ GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:
 - ☐ Section 1 - Respondent and Requisition Information
 - ☐ Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - ☐ Section 3 - Self Performing Justification
 - ☐ Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

HUB/CMBL

Instructions

Using the Centralized Master Bidders List – HUB Directory to Locate Historically Underutilized Businesses (HUBs)

General Information

As part of the good faith effort outreach process (Method B), Bidders/Proposers are responsible for utilizing the Centralized Master Bidders List (CMBL) - HUB Directory to locate potential HUB subcontractors. The list is maintained by the Texas Comptroller of Public Accounts (CPA). Bidders/Proposers using Methods A (1) or A (2) should use the database to verify the HUB status of all subcontractors listed/notified in their HSP. The Texas Lottery Commission does not endorse, recommend or attest to the capabilities of any company or individual listed.

The database may be accessed via the internet at:

<https://mycpa.cpa.state.tx.us/tpasscmbblsearch/tpasscmbblsearch.do>

The CMBL - HUB Directory is a “live” database that is updated on a continuous basis. **NOTE: Vendors who are currently HUB certified will have a HUB status of “A- Active” when viewed in the Detail List format. When viewing a vendor’s complete profile, a certified HUB will show a HUB status of “Active Bidder (A – Approved; Active Texas certified HUB).” All other HUB status codes indicate that a vendor is either inactive or not a HUB.** Be sure to list or solicit only HUB vendors who are certified at the time that you are preparing the HSP.

When using Method B, you must also access the following list on the CPA website to locate at least two trade organizations or development centers that serve members of the HUB groups, in order to notify them of each identified subcontracting opportunity:

<https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>

These entities have expressed their willingness to accept notices of subcontracting opportunities from vendors to distribute to their members.

The following pages contain general information to assist Bidders/Proposers in using the CPA database.

Using the Centralized Master Bidders List (CMBL) – HUB Directory to Locate Historically Underutilized Businesses (HUBs)

Instructions

I. Introduction

This guide is designed to assist you in accessing and using the CMBL – HUB Directory to locate HUB vendors who can provide specific goods or services and/or to verify HUB status. Note that you can view additional information by clicking on the “help” link displayed in the upper right hand corner of the CMBL – HUB Directory search screen.

II. Access the CMBL – HUB Directory via the internet:

<https://mycpa.cpa.state.tx.us/tpasscmblsearch/tpasscmblsearch.do>

III. CMBL – HUB Directory Search Screen

Use the various search selection criteria to create lists of potential vendors as well as retrieve specific vendor information. The “help” sections below explain the search criteria options.

After selecting desired search criteria, click on the “**Search**” button to begin the search.

Clicking on the “**Clear Search**” button will remove all information you have entered or selected, and thereby defaulting back to the original settings.

Specific vendor data options

Use the following optional fields to refine vendor-specific search results:

“Search For” - This feature is used to specify whether you want to search for vendors who are registered on the CMBL, and/or vendors who are a Texas certified HUB.	
CMBL Only	Search results will consist of active vendors who are registered on the CMBL regardless of whether they are a Texas certified HUB. This result will include both HUB and non-HUB vendors. NOTE: Only those vendors marked with a HUB status of “A-Active” are currently certified.
HUBs Only	Search results will consist of Active vendors who are a Texas certified HUB, regardless of whether they are registered on the CMBL.
HUBs on CMBL	Search results will consist of Active vendors who are a Texas certified HUB registered on the CMBL.
All Vendors	Search results will consist of Active vendors that are registered on the CMBL, and active vendors who are a Texas certified HUB. This result will include both HUBs and non-HUB vendors.

Note that the check list in the “Select Fields for Output” box allows the user to customize the information that will be displayed in the search results. You may check as many or as few fields as appropriate. These selections will not work with the following two output options: 1) all contact information, or 2) two column mailing labels, because these options have a pre-determined format.

“Output” Options	
The user can determine output format by selecting the appropriate option from the drop down menu located next to the words “Output as” at the bottom of the search screen.	
Detail List	Produces a list of summary information for each vendor that meets the search criteria. Clicking on the links to either a vendor name or vendor ID will provide more detailed information, including a list of the commodity classes and items that the vendor has associated with their profile.
All Contact Information	Produces a profile box that displays complete contact information for each vendor, including address, phone, fax, contact name, and a business description.
Excel Spreadsheet	Generates a list in an Excel spreadsheet (this option will only work if the list is 1,000 vendors or less).
Other available options are: downloading to a text file (Max 1000 vendors), producing a comma or Pipe () Delimited List, or generating two column mailing labels.	

“Sort by” Options
The user can sort by Vendor Name, Vendor ID, City, Zip Code, HUB Eligibility/HUB Gender, or HUB Status, by selecting the appropriate option from the drop down menu next to the words “Sort by” at the bottom of the search screen.

IV. Using the “Single Vendor Search” to Locate a Specific Vendor

“Single Vendor Search” - This feature may be used to narrow your search to a specific vendor.	
Vendor ID (VID) Number	Enter at a minimum, the first 10-digits of the company’s 13-digit VID Number you are searching for. Example: 199999999900. Search results will consist of vendor profiles matching the VID Number you entered based on the “Search For” criteria you selected.
Vendor Number	Enter the 5 or 6-digit Vendor Number of the company you are searching for. Example: 99999 or 999999. Search results will provide the vendor profile matching the Vendor Number you entered based on the “Search For” criteria you selected.
Vendor Name	Enter a portion of the company’s name you are searching for. Example: ABC Logistics Company. In the example given, it is recommended that you enter “Logistics” because “ABC” may have spaces or periods between them. The search results will provide the vendor profiles that have a company name containing “Logistics” based on the “Search For” criteria you selected.
Include Inactive Vendors	This feature can be used to include inactive vendor profiles to the search results based on the “Search For” criteria you selected, and the VID Number, or Vendor Number or Vendor Name you entered.

V. Using the “Multiple Vendor Search” to Generate a List of HUB Vendors

“Multiple Vendor Search” - This feature can be used to narrow your search to vendors who can provide goods and/or services based on the National Institute of Governmental Purchasing codes they have identified in their company’s CMBL/HUB vendor profiles.	
NIGP Class Code	NIGP Class Codes are 3-digit numbers that represent a general description of the goods or services vendors may provide. As referenced in the NIGP Commodity Code Book, the general description for 3-digit Class Code “005” is “Abrasives” whereas the general description for 3-digit Class Code “010” is “Acoustical Tile, Insulating Materials, and Supplies.”
Items	Item codes are 2-digit numbers that represent a more defined description of the goods or services vendors can offer. As referenced in the NIGP Commodity Code Book, the 2-digit Item code “05” represents “Abrasive Equipment and Tools” within Class Code “005” whereas the 2-digit Item code “14” represents “Abrasives, Coated: Cloth, Fiber, Sandpaper, etc.” within Class Code “005.” Note: You must use a comma to separate multiple Item codes. Example: Item = 05,14,21
Highway District(s)	The State of Texas is divided into 25 <u>Highway Districts</u> which include designated counties. Vendors specify within their CMBL/HUB vendor profiles the highway districts to which they can provide their goods and services. Note: You must use a comma to separate multiple Highway District codes. Example: 01,03,22

For more information about using NIGP commodity codes, please refer to Section VII of this document.

Step	Action
1.	Select a search option. You may use either “HUBs Only” or “HUBs on the CMBL.”
2.	Select the desired format from the drop-down menu next to the words “Output as” in the “Output Options” box. If you would like to customize the information that will be displayed, check the appropriate fields in the “Select Fields for Output” box.
3.	Select the desired sort option from the drop-down menu next to the words “Sort by” in the “Output Options” box.
4.	In the “Multiple Vendor Search” box, enter the appropriate class and item codes into the field labeled “Selection 1” in the. You may enter up to three class codes to produce a list of HUBs who can provide one or more of the selected classes. You may also enter multiple item numbers, separated by a comma in the “items” field for a list of HUBs who can provide one or more of the selected items. NOTE: You may view the Commodity Code List by clicking on the “Class Code” or “Item Code” blue hot keys.
5.	If you choose to limit the list by highway district, enter the district number. NOTE: You may view highway district Information by clicking on the “Highway District” blue hot key.
6.	If you choose to limit the list by County, City or Zip Code, enter the appropriate information into the fields in the “Business Category/Vendor Location Search” box. If you have already limited by district, this additional information is not necessary.
7.	Press the “Search” button in the bottom left hand corner of the screen.

The HUB status codes indicate whether or not a particular vendor is an active HUB. The status codes may be viewed on-line by clicking on the “HUB Status” hot key. **NOTE: Vendors who are currently HUB certified will have a HUB status of “A- Active” when viewed in the Detail List format. When viewing a vendor’s complete profile, a certified HUB will show a HUB status of “Active Bidder (A – Approved; Active Texas certified HUB)”. All other HUB status codes indicate that a vendor is either inactive or not a HUB.**

VI. Business Category/Vendor Location Search

Business Category/Vendor Location Search” - This feature may be used to identify vendors within a general Business Category and/or located within a specific County, City, Zip Code or Highway District.

Business Category	For the purposes of CMBL/HUB registration, vendors are grouped into one of the following categories: 01 - Heavy Construction other than Building Contracts 02 - Building Construction, including General Contractors and Operative Builders 03 - Special Trade Construction 04 - Financial and Accounting Services 05 - Architectural/Engineering and Surveying Services 06 - Other Services including Legal Services 07 - Commodities Wholesale 08 - Commodities Manufacturers 09 - Medical
County Location	Texas County in which the vendor is located based on the mailing address in its CMBL/HUB vendor profile.
City Location	City in which the vendor is located based on the mailing address in its CMBL/HUB vendor profile.
Zip Code Location	Zip code in which the vendor is located based on the mailing address in its CMBL/HUB vendor profile. Specify 5-digit zip codes like “78701” or 9-digit zip codes like “78701-1234”.
Highway District(s) Location	The State of Texas is divided into 25 Highway Districts which include designated counties. Vendors specify within their CMBL/HUB vendor profiles the highway districts to which they can provide their goods and services. Note: You must use a comma to separate multiple Highway District codes. Example: 01,03,22

“Select Fields For Output” - Select the fields of information that you would like have displayed in the search results. Some fields are preselected and may be unchecked if desired.

“Output Options” - Select the format in which you would like the information to be displayed. Note: If the search results exceed 1,000 vendors, you will have to select “Comma Delimited List” or “Tab Delimited List” which you can save and import into another median such as Excel.

VII. Using the NIGP Commodity Code

The NIGP Commodity Code is a system of classifying goods and services by general descriptions (classes) and specific descriptions (items). NIGP Class-Item Codes contain five digits. To obtain the five digit code, combine the three digit class code with its corresponding two digit item number. Note that all class codes of 900 and above are for services.

EXAMPLE: Class 615 is described as “Office Supplies, General,” and Item 81 is described as “Staples.” If you were looking for vendors to provide staples, you would use Class/Item 615-81 to do your CMBL - HUB Directory search.

There are several ways to view the NIGP code on the CPA website:

Commodity Code Listing by Class

This list includes a “hot key” for each class code. By clicking on the hot key, you can view the particular class with a sub-listing of individual item codes and descriptions. Classes are general headings, so if you can’t locate an item, try using the Commodity Code Search Screen.

Access the Commodity Code Listing by Class at:

https://cmbldreg.cpa.state.tx.us/commodity_book/Numeric_index.cfm

Commodity Code Search Screen

From this screen, you can enter a key word or words to match. Matches will contain all words entered. You can also do a search by three digit class code.

Access the Commodity Code Search Screen at:

https://cmbldreg.cpa.state.tx.us/commodity_book/Alpha_index_inquiry.cfm

Minority/Women Organization Links

This page is located at:

<https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>

Minority & Women Organization Links

The Statewide HUB Program collaborates with various minority and women business trade organizations and development centers to circulate information pertaining to the initiatives of the Statewide HUB Program. Identified below are some of the minority and women trade organizations and development centers the Statewide HUB Program has work with. In addition, these entities have expressed their willingness to accept notices of subcontracting opportunities from vendors to distribute to their minority and woman-owned business members.

Asian Contractor Association

Dallas/Fort Worth Minority Supplier Development Council

El Paso Hispanic Chamber of Commerce

Golden Triangle Minority Business Council

Hispanic Contractors Association de San Antonio

Houston Minority Supplier Development Council

Regional Hispanic Contractors Association (RHCA)

Southwest Minority Supplier Development Council

Texas Association of African American Chambers of Commerce (TAAACC)

Texas Association of Mexican American Chambers of Commerce (TAMACC)

Tri-County Black Chamber of Commerce

US Pan Asian American Chamber of Commerce SW

Women's Business Council - Southwest

Women's Business Enterprise Alliance

NOTE: The entities listed above have consented to be listed on this site and have agreed to participate in allowing vendors to provide them with notice of their subcontracting opportunities per TAC §20.285. To be added to the list, please call or email the Statewide HUB Marketing Coordinator, at (512) 463-5894 or Texas4HUBS@cpa.texas.gov.

HSP Forms



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

-- Agency Special Instructions/Additional Requirements --

In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract* in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Requisition #: _____ Bid Open Date: _____
(mm/dd/yyyy)

Enter your company's name here: _____

Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- ☐ - **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- ☐ - **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- ☐ - **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract* in place with for more than five (5) years, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- ☐ - **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature

Printed Name

Title

Date
(mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

Rev. 2/17

Enter your company's name here: _____ Requisition #: _____

IMPORTANT: If you responded "**No**" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

☐ - Yes (If **Yes**, continue to SECTION B-4.)

☐ - No / Not Applicable (If **No** or **Not Applicable**, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs **at least seven (7) working days** to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/passcblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers **in Texas** to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers **at least seven (7) working days** prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.
- d. List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

Rev. 2/17

Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/toasscblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in **Section C, Item 2**, reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: _____
Point-of-Contact: _____
E-mail Address: _____

State of Texas VID #: _____
Phone #: _____
Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____
Point-of-Contact: _____
Requisition #: _____

Phone #: _____
Bid Open Date: _____
(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

☐ - Not Applicable

4. Bonding/Insurance Requirements:

☐ - Not Applicable

5. Location to review plans/specifications:

☐ - Not Applicable

HUB Rule § 20.285

Subcontracts

Texas Administrative Code

TITLE 34	PUBLIC FINANCE
PART 1	COMPTROLLER OF PUBLIC ACCOUNTS
CHAPTER 20	STATEWIDE PROCUREMENT AND SUPPORT SERVICES
SUBCHAPTER D	SOCIO-ECONOMIC PROGRAM
DIVISION 1	HISTORICALLY UNDERUTILIZED BUSINESSES
RULE §20.285	Subcontracts

(a) Analyzing potential contracts of \$100,000 or more. In accordance with Government Code, Chapter 2161, Subchapter F, each state agency that considers entering into a contract with an expected value of \$100,000 or more over the life of the contract (including any renewals) shall, before the state agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract.

(1) State agencies shall use the following steps to determine if subcontracting opportunities are probable under the contract:

(A) examining the scope of work to be performed under the proposed contract and determining if it is likely that some of the work may be performed by a subcontractor;

(B) research the Centralized Master Bidders List, the HUB Directory, the Internet, and other directories, identified by the comptroller, for HUBs that may be available to perform the contract work; and

(C) a state agency may determine that subcontracting is probable for only a subset of the work expected to be performed or the funds to be expended under the contract. If a state agency determines that subcontracting is probable on only a portion of a contract, it shall document its reasons in writing for the procurement file.

(2) In addition, determination of subcontracting opportunities may include, but is not limited to, the following:

(A) contacting other state and local agencies and institutions of higher education to obtain information regarding similar contracting and subcontracting opportunities; and

(B) reviewing the history of similar state agency purchasing transactions.

(b) Receipt of HUB subcontracting plans.

(1) If, through the analysis in subsection (a) of this section, a state agency determines that subcontracting opportunities are probable, then its invitation for bids, request for proposals or other purchase solicitation documents shall state that probability and require a HUB subcontracting plan. A bid, proposal, offer, or other expression of interest to such a solicitation must include a completed HUB subcontracting plan to be considered responsive.

(2) The HUB subcontracting plan shall be submitted with the respondent's response on or before the due date for responses, except for construction contracts involving alternative delivery methods. For construction contracts involving alternative delivery methods, the HUB subcontracting plan may be submitted up to 24 hours following the date/time that responses are due provided that responses are not opened until the HUB subcontracting plan is received.

(3) Responses that do not include a completed HUB subcontracting plan in accordance with this subsection shall be rejected due to material failure to comply with Government Code, §2161.252(b).

(4) If a properly submitted HUB subcontracting plan contains minor deficiencies (e.g., failure to sign or date the plan, failure to submit already-existing evidence that three HUBs were contacted), the state agency may contact the respondent for clarification to the plan if it contains sufficient evidence that the respondent developed and submitted the plan in good faith.

(c) Requirements of a HUB subcontracting plan.

(1) A state agency shall require a respondent to state whether it is a certified HUB. A state agency shall also require a respondent to state overall subcontracting and overall certified HUB subcontracting to be provided in the contract. Respondents shall follow procedures in paragraph (2) (A) - (D) of this subsection when developing the HUB subcontracting plan.

(2) The HUB subcontracting plan shall include the state agency's HUB goals for its HUB business plan, and shall consist of completed forms prescribed by the comptroller and shall include the following:

(A) certification that respondent has made a good faith effort to meet the requirements of this section;

(B) identification of the subcontractors that will be used during the course of the contract;

(C) the expected percentage of work to be subcontracted; and

(D) the approximate dollar value of that percentage of work.

(3) The successful respondent shall provide all additional documentation required by the state agency to demonstrate compliance with good faith effort requirements prior to contract award. If the successful respondent fails to provide supporting documentation (phone logs, fax transmittals, electronic mail, etc.) within the timeframe specified by the state agency to demonstrate compliance with this subsection prior to contract award, that respondent's bid/proposal shall be rejected for material failure to comply with advertised specifications and state law.

(d) Establishing good faith effort by respondent.

(1) Any person submitting a bid, proposal, offer or other applicable expression of interest in obtaining a contract with the state shall submit a completed HUB subcontracting plan demonstrating evidence of good faith effort in developing that plan. Good faith effort shall be shown through utilization of the methods specified below, and in full conformance with all directions for demonstration and submission specified in the HUB subcontracting plan forms prescribed by the comptroller.

(A) Divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices.

(B) Provide written justification of the selection process if the selected subcontractor is not a HUB.

(C) Provide documentation of meeting one or more of the following requirements:

(i) notify trade organizations or development centers that serve members of groups identified in §20.282(19)(C) of this title (relating to Definitions) according to methods established by the comptroller to assist in identifying HUBs by disseminating subcontracting opportunities to their membership/participants. The notice shall, in all instances, include the scope of work, information regarding location to review plans and specifications, information about bonding and insurance requirements, and identify a contact person. Respondent must provide notice to organizations or development centers no less than seven (7) working days prior to submission of the response unless circumstances require a different time period, which is determined by the state agency and documented in the contract file. The respondent must document compliance with this subsection on the forms prescribed by the comptroller in the manner directed on such forms;

(ii) submit documentation that 100% of all available subcontracting opportunities will be performed by one or more HUBs; or

(iii) submit documentation that one or more HUB subcontractors will be utilized and that the total value of those subcontracts will meet or exceed the statewide goal for the appropriate contract category found in §20.284(b) of this title (relating to Statewide Annual HUB Utilization Goals), or the state agency-specific goal for the contracting category established by the procuring state agency, whichever is higher. When utilizing this demonstration method, HUB subcontractors with which the respondent has existing contracts that have been in place for more than five years can not be claimed for purposes of demonstrating that the applicable goal has been met or exceeded.

(D) Provide documentation of meeting one or more of the following requirements:

(i) notify at least three (3) HUB businesses of the subcontracting opportunities that the respondent intends to subcontract. The respondent shall provide the notice described in this section to three or more HUBs per each subcontracting opportunity that provide the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees. The notification shall be in writing, and the respondent must document the HUBs contacted on the forms prescribed by the comptroller. The notice shall, in all instances, include the scope of the work, information regarding the location to review plans and specifications, information about bonding and insurance requirements, and identify a contact person. The notice shall be provided to potential HUB subcontractors at least seven (7) working days prior to submission of the respondent's response, unless circumstances require a different time period, which is determined by the state agency and documented in the contract file;

(ii) submit documentation that 100% of all available subcontracting opportunities will be performed by one or more HUBs; or

(iii) submit documentation that one or more HUB subcontractors will be utilized and that the total value of those subcontracts will meet or exceed the statewide goal for the appropriate contract

category found in §20.284(b) of this title, or the state agency-specific goal for the contracting category established by the procuring state agency, whichever is higher. When utilizing this demonstration method, HUB subcontractors with which the respondent has existing contracts that have been in place for more than five years can not be claimed for purposes of demonstrating that the applicable goal has been met or exceeded.

(2) The respondent shall use the comptroller's Centralized Master Bidders List, the HUB Directory, Internet resources, and/or other directories as identified by the comptroller or the state agency when searching for HUB subcontractors. Respondents may utilize the services of minority, women, and community organizations contractor groups, local, state, and federal business assistance offices, and other organizations that provide assistance in identifying qualified applicants for the HUB program who are able to provide all or select elements of the HUB subcontracting plan.

(3) In making a determination if a good faith effort has been made in the development of the required HUB subcontracting plan, a state agency may require the respondent to submit supporting documentation explaining how the respondent has made a good faith effort according to each criterion listed in subsection (c)(2)(A) - (D) of this section. The documentation shall include at least the following:

(A) how the respondent divided the contract work into reasonable lots or portions consistent with prudent industry practices;

(B) how the respondent's notices contain adequate information about bonding, insurance, the availability of plans, the specifications, scope of work, required qualifications and other requirements of the contract allowing reasonable time for HUBs to participate effectively;

(C) how the respondent negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value responsive bidder;

(D) how the respondent provided notice to trade organizations or development centers to assist in identifying HUBs by disseminating subcontracting opportunities to their membership/participants;

(E) for contracts subject to paragraph (1)(D)(ii) of this subsection, which HUBs were contracted to perform the subcontracting services for each subcontracting opportunity; and

(F) for contracts subject to paragraph (1)(D)(iii) of this subsection, which contractor(s) were utilized to perform the subcontracting opportunities, and the relevant dates for the respondent's contractual agreements with the contractor(s).

(4) A respondent's participation in a Mentor-Protégé Program under Government Code, §2161.065, and the submission of a protégé as a subcontractor in the HUB subcontracting plan constitutes a good faith effort for the particular area to be subcontracted with the protégé. When submitted, state agencies may accept a Mentor-Protégé Agreement that has been entered into by the respondent (mentor) and a certified HUB (protégé). The state agency shall consider the following in determining the respondent's good faith effort:

(A) if the respondent has entered into a fully executed Mentor-Protégé Agreement that has been registered with the comptroller prior to submitting the plan, and

(B) if the respondent's HUB subcontracting plan identifies the areas of subcontracting that will be performed by the protégé.

(5) If the respondent is able to fulfill all of the potential subcontracting opportunities identified with its own equipment, supplies, materials and/or employees, respondent must sign an affidavit and provide a statement explaining how the respondent intends to fulfill each subcontracting opportunity. The respondent must agree to provide the following if requested by the state agency:

- (A) evidence of existing staffing to meet contract objectives;
- (B) monthly payroll records showing company staff fully engaged in the contract;
- (C) on site reviews of company headquarters or work site where services are to be performed; and
- (D) documentation proving employment of qualified personnel holding the necessary licenses and certificates required to perform the work.

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SOCIO-ECONOMIC PROGRAM

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HISTORICALLY UNDERUTILIZED BUSINESSES

RULE §20.285

Subcontracts

(e) Reviewing the HUB subcontracting plan. The HUB subcontracting plan shall be reviewed and evaluated prior to contract award and, if accepted, shall become a provision of the state agency's contract. Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort. State agencies shall review the documentation submitted by the respondent to determine if a good faith effort has been made in accordance with this section. If the state agency determines that a submitted HUB subcontracting plan was not developed in good faith, the state agency shall treat that determination as a material failure to comply with advertised specifications, and the subject response (bid, proposal, offer, or other applicable expression of interest) shall be rejected. The reasons for rejection shall be recorded in the procurement file.

(f) Maintaining records.

(1) Prime contractors shall maintain business records documenting compliance with the HUB subcontracting plan and shall submit a compliance report to the contracting state agency monthly, in the format required by the comptroller. The compliance report submission shall be required as a condition for payment.

(2) During the term of the contract, the state agency shall monitor the HUB subcontracting plan monthly to determine if the value of the subcontracts to HUBs meets or exceeds the HUB subcontracting provisions specified in the contract. Accordingly, state agencies shall audit and require a prime contractor to report to the state agency the identity and the amount paid to its subcontractors in accordance with §20.287(b) of this title (relating to State Agency Reporting Requirements). If the prime contractor is meeting or exceeding the provisions, the state agency shall maintain documentation of the prime contractor's efforts in the contract file. If the prime contractor fails to meet the HUB subcontracting provisions specified in the contract, the state agency shall notify the prime contractor of any deficiencies. The state agency shall give the prime contractor an opportunity to submit documentation and explain to the state agency why the failure to fulfill the HUB subcontracting plan should not be attributed to a lack of good faith effort by the prime contractor.

(g) Monitoring HUB subcontracting plan during the contract.

(1) If the selected respondent decides to subcontract any part of the contract in a manner that is not consistent with its HUB subcontracting plan, the selected respondent must comply with provisions of this section and submit a revised HUB subcontracting plan before subcontracting any of the work under the contract. If the selected respondent subcontracts any of the work without prior

authorization and without complying with this section, the selected respondent is deemed to have breached the contract and is subject to any remedial actions provided by Government Code, Chapter 2161, other applicable state law and this section. Agencies shall report nonperformance relative to its contracts to the comptroller in accordance §20.509 of this title (relating to Performance Reporting).

(2) If at any time during the term of the contract, the selected respondent desires to make changes to the approved HUB subcontracting plan, proposed changes must be received for prior review and approval by the state agency before changes will be effective under the contract. The selected respondent must comply with provisions of this section, relating to developing and submitting a subcontracting plan for substitution of work or of a subcontractor, prior to any alternatives being approved under the HUB subcontracting plan. The state agency shall approve changes by amending the contract or by another form of written state agency approval. The reasons for amendments or other written approval shall be recorded in the procurement file.

(3) If a state agency expands the original scope of work through a change order or contract amendment, including a contract renewal that expands the scope of work, the state agency shall determine if the additional scope of work contains additional probable subcontracting opportunities not identified in the initial solicitation. If the state agency determines probable subcontracting opportunities exist, the state agency will require the selected respondent to submit a HUB subcontracting plan/revised HUB subcontracting plan for the additional probable subcontracting opportunities.

(4) To determine if the prime contractor is complying with the HUB subcontracting plan, the state agency may consider the following:

(A) whether the prime contractor gave timely notice to the subcontractor regarding the time and place of the subcontracted work;

(B) whether the prime contractor facilitated access to the resources needed to complete the work; and

(C) whether the prime contractor complied with the approved HUB subcontracting plan.

(5) If a determination is made that the prime contractor failed to implement the HUB subcontracting plan in good faith, the state agency, in addition to any other remedies, may report nonperformance to the comptroller in accordance with §20.585 of this title (relating to Debarment) and §20.586 of this title (relating to Procedures for Investigations and Debarment). In addition, if the prime contractor failed to implement the HUB subcontracting plan in good faith, the state agency may revoke the contract for breach of contract and make a claim against the prime contractor.

(6) State agencies shall review their procurement procedures to ensure compliance with this section.

Source Note: The provisions of this §20.285 adopted to be effective January 24, 2017, 42 TexReg 235

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