

**The Galveston Bay Estuary Program,
a Program of the Texas Commission on Environmental Quality (TCEQ)**

announces

**THE GALVESTON BAY MULTIPLE PROJECT WETLAND RESTORATION
GRANT**

Request for Grant Applications (RFGA)

RFGA NUMBER: 582-7-77831

DUE DATE/TIME: Tuesday, March 6, 2007 at 3:00 P.M. CST

Exclusive Addresses for Delivery of Application

US Postal Service Mail:

TCEQ
MC 182 - Contracts
Attention: David Hill
PO Box 13087
Austin, Texas 78711-3087

Overnight/Express Mail or Hand-deliver proposal to:

TCEQ
MC 182 – Contracts
Attn: David Hill
12100 Park 35 Circle
Bldg. A, 1st Floor
Austin, TX 78753

Note: All Submissions must include an 'Application form' and the 'Grant Proposal.' All Submissions must be clearly marked on side of package as follows:

1. Applicant's name and address
2. The Galveston Bay Multiple Project Wetland Restoration Grant
3. RFGA Number 582-7-77831
4. Due: **Tuesday, March 2, 2007 at 3:00 P.M. CST**

Grant Applicant Workshop and Obtaining Additional Information

A workshop for grant applicants will be held from 9:00 to 11:00 A.M. at the Galveston Bay Estuary Program (GBEP) offices on Wednesday, February 21, 2007. The Galveston Bay Estuary Program office is located at 17041 El Camino Real, Suite 210, Houston, TX 77058. For directions or questions regarding the workshop, call 281.486.1242.

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Introduction

The Galveston Bay Estuary Program (GBEP) of the Texas Commission on Environmental Quality (TCEQ) announces the opportunity for an eligible entity to secure grant funding up to \$500,000 (five hundred thousand dollars) each year for up to four years to perform multiple wetland restoration, invasive species, and wetland-related community education efforts. Eligible entities include city and county governments; state agencies; colleges and universities; councils of governments and other regional authorities, and nonprofit 501c3 organizations.

GBEP was established in 1989 to develop and implement a conservation and restoration plan for the Galveston Bay ecosystem. The Comprehensive Conservation Management Plan for the Galveston Bay area, *The Galveston Bay Plan* establishes goals and prioritizes actions promoting the conservation and restoration of the natural resources of Galveston Bay. Habitat Protection, including the preservation and restoration of coastal wetlands in Galveston Bay, is the highest priority activity outlined in *The Plan*. Water quality protection, promoting public access to bay resources, and conducting public outreach and education are also very high priority activities.

Description of The Galveston Bay Multiple Project Wetland Restoration Grant

TCEQ intends this grant award to assist an entity by providing funds to implement the wetland restoration, invasive species control, and wetland-related public education goals of *The Galveston Bay Plan*. Activities under this grant are limited to those that take place within the lower Galveston Bay watershed and within or proximate to the coastal management boundary. Maps delineating the lower Galveston Bay watershed and the state's coastal management boundary may be found at <http://www.glo.state.tx.us/coastal/maps/cmp/index.html>.

The Umbrella Grant Mechanism

Eligible applicants are encouraged to return the attached application and a response to the Proposals for Grant Activities categories, listed on page 13. The Grant Activity Descriptions submitted by the applicants will be reviewed, and TCEQ will select a Grantee. Upon the selection, TCEQ will invite the Grantee to propose projects.

The RFGA provides the successful applicant, upon execution of a grant agreement with TCEQ, the opportunity to receive funds for multiple projects in the fiscal year. The Grant Agreement, however, does not guarantee that funds will be available.

The Galveston Bay Multiple Project Wetland Restoration Grant may provide funds for several project efforts to a single entity in an amount not to exceed \$500,000 (five hundred thousand dollars) in state Fiscal Year 2007.

Additionally, once the term of the Umbrella Grant has begun, TCEQ the sole discretion to offer up to three, one-year renewal opportunities to extend the contract beyond the initial year. The entire term including renewals allows for up to \$4 million (four million dollars) in total project

activities. Each option is for one state fiscal year (September 1 through August 31) and has a maximum limit of \$500,000.

Unlike wetland and educational grant solicitations and agreements, where projects are defined in advance with a set scope of work that describes on-the-ground implementation, deliverables, and agreed upon costs, this resulting umbrella grant agreement will provide for project proposals by TCEQ and discretion on the part of the grant recipient whether to accept each proposal.

Instead, the RFGA and the subsequent grant contract are based on the:

- (1) capacity of the organization to perform projects;
- (2) qualification of the organization to perform projects;
- (3) reasonableness of the organization's overall costs for the type of projects to be performed; and
- (4) amount of community support and partnerships that the organization has secured in pursuit of the RFGA award.

After an organization is awarded a Grant and signs an Agreement with TCEQ, TCEQ will negotiate directly with the Grantee for specific projects.

At this time, TCEQ anticipates, but does not guarantee, offering the Grantee the opportunity to conduct approximately \$150,000 in projects in state Fiscal Year 2007. However, additional project funds may become available up to the \$500,000 annual maximum.

Funding amounts for each fiscal year are subject to legislative appropriation and other factors. Projected funding for an individual Fiscal Year shall be for that year only and shall not carry into the next Fiscal Year.

The amount of total funds potentially awarded under renewal opportunities does not "carry forward" from year to year. For example, if TCEQ only awards \$150,000 in *Grant Project* funds in state Fiscal Year 2007 and opts to exercise a renewal opportunity for state Fiscal Year 2008, the maximum amount of *Grant Project* funds awarded in Fiscal Year 2008 is \$500,000. The unawarded balance (\$350,000) for state Fiscal Year 2007 shall not carry forward to the Fiscal Year 2008.

Once TCEQ selects a Grantee and enters into a contract, TCEQ will submit to the Grantee a *Proposal for Grant Activities*. The Grantee will respond this proposal by either declining it or developing a "*Grant Activity Description*" to implement the proposal. If TCEQ is satisfied with the *Grant Project Activity Plan*, as written, and the budget it contains, TCEQ will issue a *Notice To Commence* to the Grantee. At this point, funds will be awarded to the Grantee to implement the *Grant Project Activity Plan*, in accordance with 30 TAC § 14.10.

Grantee may propose projects that include the following elements:

- (1) subgrant funds to other entities on a competitive basis as part of a *Grant Project Activity Plan* approved by TCEQ;

(2) act as a coapplicant, when appropriate, on state and federal applications for additional grant funds that TCEQ may opt to pursue; and

(3) avail itself of TCEQ's ability to assist in project development and grant writing, if available.

Nothing in the proposal prevents the successful applicant from competing in other TCEQ RFGAs, Requests for Proposals (RFPs) or other forms of grant or work solicitations.

Additionally, nothing in this proposal prevents TCEQ from issuing RFGAs, RFPs or other forms of grant and work solicitations for wetland restoration activities, public education activities, and invasive species control efforts in Galveston Bay watershed or elsewhere. TCEQ may also opt to enter into agreements with governmental entities to perform projects similar to that described in this RFGA, or work that overlaps with the RFGA Scope of Work or Proposal for Grant Activities. However, TCEQ shall not reimburse the Grantee for work for which it has already received reimbursement.

TCEQ will not enter into an agreement with any applicant unable to meet state contract administration requirements. State contract administration requirements can be found at [\[http://www.tbpc.state.tx.us/stpurch/cmg/contractguide.html\]](http://www.tbpc.state.tx.us/stpurch/cmg/contractguide.html)

Relating to the selection of Grant Applications, the TCEQ reserves the right to:

- reject any or all proposals and is under no obligation to execute a contract with any Applicant. The TCEQ shall not be liable for any costs incurred in the preparation, submission, or clarification of a Grant Application.
- make recommendations regarding equipment, logistical considerations, and other program elements and to require implementation of such recommendations on a case by case basis as a condition of any and all grant awards.
- select parts of a proposal for funding and may offer to fund smaller amounts of money than requested in a proposal.
- add geographic location as a criterion in order to achieve the goal of diverse geographic distribution of grant resources and grant assigned projects.
- add innovation or uniqueness in approach or technology as a criterion in order to achieve the goal of diversity of the type of projects.
- to conduct discussions with applicants to clarify applications or to improve the quality of applications.

The awarding of any funds is contingent on the receipt of state and federal funds and the successful response by the Grantee of TCEQ's requests for "*Grant Project Activity Plans.*"

The grant program is implemented under the authority of Texas Water Code §5.124.

Instructions for Submitting Grant Applications

Each grant application must include a completed TCEQ Grant Application Form and Grant Proposal (Pages 9-11).

Entities eligible to apply are: city and county governments; state agencies; colleges and universities; political subdivisions of the state; councils of governments and other regional authorities; and nonprofit 501 (c) (3) organizations.

Applicants must submit five physical copies to TCEQ headquarters in Austin by **(Exact date to be determined upon issuance of RFGA)**, 2007 by 3:00 p.m.

Addresses for Delivery of Proposal Application

US Postal Service Mail:
TCEQ
MC 182 - Contracts
Attention: David Hill
PO Box 13087
Austin, Texas 78711-3087

Hand-deliver application to:

TCEQ
MC 182 – Contracts
Attn: David Hill
12100 Park 35 Circle
Bldg. A, 1st Floor
Austin, TX 78753

Overnight/Express Mail:
TCEQ
MC 182 - Contracts
Attn: David Hill
12100 Park 35 Circle
Bldg. A, Rm 123
Austin, Texas 78753

No fax or electronic submissions will be considered. Applications that are incomplete or do not conform to RFGA requirements as described herein may be rejected.

Note: All Submissions must include an 'Application form' and the 'Grant Proposal.' All Submissions must be clearly marked on side of package as follows:

1. Applicant's name and address

2. The Galveston Bay Multiple Project Wetland Restoration Grant
3. RFGA Number 582-7-77831
4. Due: Tuesday, March 2, 2007 at 3:00 P.M. CST

Grant Application, Selection Process and Additional Information

Introduction

The TCEQ is looking to fund projects for the restoration of wetlands. Organizations interested in submitting project proposals for wetland revitalization should submit applications to TCEQ for evaluation and selection. The following information describes how to submit an application and how the applications will be evaluated.

Project Evaluation

Each proposal that meets the RFGA minimum requirements will be reviewed by a team of natural resource managers familiar with Galveston Bay natural resource needs and individuals familiar with program and organizational development.

Reviewers will evaluate each proposal based on the criteria outlined in the RFGA, assigning points to each category based on the merits of the proposal. The points from each category will be added to determine a total score. An application can score a maximum of 100 points. The total score from each reviewer will be averaged for each project, and the proposal with the highest average total score will be selected as the grant recipient.

Required Copies of Grant Application and Proposal

An applicant must submit five copies of the grant application and proposal. No more than one proposal can be submitted by any entity.

Matching Funds

No matching funds are required.

Entities Eligible to Apply

Eligible entities include city and county governments; state agencies; colleges and universities; school districts; political subdivisions of the state; councils of governments and other regional authorities; and nonprofit 501 (c) (3) organizations.

Project Location

Project activities must be located within the Galveston Bay watershed, have direct and significant benefits to the bay, and be within or proximate to the state's coastal management boundary. The Galveston Bay watershed is defined as the parts of Chambers, Liberty, Harris, Galveston, and Brazoria Counties that drain into the bay.

Contract Start Date

TCEQ intends to, but does not guarantee, entering into a contract with the successful applicant by **April 6, 2007**.

Payment Procedures

This grant does not come with a predetermined allocation of project funding. If funds are allocated to the contract for *Grant Project Activities*, TCEQ will reimburse reasonable and allowable costs under state grant expenditure guidelines. Reimbursements can be scheduled monthly, quarterly, or some other agreed upon interval.

Grant Applicant Workshop and Obtaining Additional Information

A workshop for grant applicants will be held from 9:00 to 11:00 A.M. at the Galveston Bay Estuary Program (GBEP) offices on Wednesday, February 21, 2007. The Galveston Bay Estuary Program office is located at 17041 El Camino Real, Suite 210, Houston, TX 77058. For directions or questions regarding the workshop, call 281.486.1242.

Addenda

Any additional information or changes in this RFGA shall be posted on the Electronic State Business Daily <<http://esbd.tbpc.state.tx.us>>. All addenda are part of the RFGA. No other explanation or interpretation will be considered official or binding.

Reservation of Rights

TCEQ reserves the right to accept or reject all or any part of any response, to waive any or all of these procedures for submitting responses, to waive any formalities and/or minor technicalities, and to award by item or groups of items, whichever best serves the interests of the TCEQ. TCEQ reserves the right to cancel this procurement and withdraw this Solicitation at any time before a Response is accepted by TCEQ. TCEQ shall be the sole judge of the best interests of the TCEQ. To determine the best value Response, in addition to price, TCEQ may consider other relevant criteria, including without limitation those set forth in the Texas Government Code, Title 10, Subtitle D, Sections 2155.074, 2156.007, and 2157.003.

Public Information

YOUR RESPONSE IS A PUBLIC RECORD. By submitting a Response, you are affirmatively waiving confidentiality of its contents and you give permission for:

- the public disclosure of your entire Response, including any information that might otherwise be confidential by law, even if it is marked confidential, and
- the reproduction of your Response for TCEQ purposes or in response to public information requests.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

GRANT APPLICATION FORM

Please Print or Type All Information

Section I: Applicant Information

- Applicant Name:
- Vendor ID/FEI#:\
- Street/mailling address:
- City:
- State/Country:
- Zip:
- Phone:()
- Fax:
- E-mail:
- Contact name:
- Project site location or geographic area (if different from above):
- Authorized Representative for contracting purposes (name and title):
- Number of Applications submitted for this grant:
- Total amount of funds requested:

Section II: General Certifications and Assurances

By signing the Grant Application, applicant certifies and assures TCEQ the following statements are true.

- Legal Authority. Applicant possesses legal authority in the State of Texas to apply for the grant, and that the Applicant's governing body has authorized the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the authorized official to act in connection with the application and to provide such additional information as may be required.
- Conflict of Interest. Applicant will establish safeguards to prohibit employees from using their positions for the purpose motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties, or give the appearance of such. All conflicts of interest, potential conflicts of interest, or appearances of conflicts of interest must be disclosed in writing at the time of application, or upon discovery.
- Debt to the State. Applicant is not indebted to the state or have an outstanding tax delinquency. The Applicant understands that the Texas Comptroller is precluded by state law from paying any person who is indebted to the state or has a tax delinquency.

The Applicant must comply with all State and Federal tax laws and fee requirements and is solely responsible for filing all required State and Federal tax and fee forms.

- Child Support Payments. Applicant is neither an individual nor a business organization with an ownership interest of at least 25% by an individual who is in arrears on child support payments. Under Section 231.006, Family Code (relating to child support), the Applicant certifies that the individual or business entity named in this offer is not ineligible to receive the specified payment and acknowledges that this grant agreement may be terminated and/or payment may be withheld if this certification is inaccurate.
- The proposed activities are not required by any state or federal law, rule, or regulation, memorandum of agreement, or other legally binding document.
- All financial assistance that will be used by the applicant that directly reduce the costs of the proposed activities, including tax credits or deductions, other grants, or any other public financial assistance have been properly listed where indicated on the application forms.
- Applicant will monitor the use of grant-funded activities and, equipment, and to report annually to the TCEQ for the life of each activity funded under the grant. The applicant further agrees that failure on the part of the applicant to monitor and/or properly report on the activity for the life of the activity will be sufficient grounds for the TCEQ to require a refund of all or part of the grant funds.
- Applicant will complete the grant activities and notify and request authorization from TCEQ prior to cessation or change of any grant activity and sale, transfer, theft or accidental or intentional destruction, of grant-funded equipment during the life of each activity funded under the grant. The applicant further agrees that the TCEQ is entitled to a refund all or part of the grant funds if the change or cessation of the grant activities or loss in use of equipment will result in a failure to complete the grant activities.
- If authorized by law, Applicant will purchase insurance to cover the risk of loss of equipment and will use the proceeds to replace the equipment without delay.
- The Responder has not given, offered to give, nor intends to give at anytime hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.

- Responder certifies that Responder complies with Texas Government Code, Title 6, Subtitle B, Section 669.003 of the Government Code, relating to contracting with executive head of a state agency. If Section 669.003 applies, respondent will complete the following information in order for the proposal to be evaluated:

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Position with Responder: _____

Date of Employment with Responder: _____

- Suspension, debarment, and terrorism: Responder certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that responder is in compliance with the State of Texas statutes and rules relating to procurement and that responder is not listed on the Federal Governments terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

I hereby certify that all information and certifications provided in this Grant Application and any attachments are true and correct.

Signature of Authorized Official:

Date:

Printed Name of Authorized Official:

Title:

Texas Commission On Environmental Quality
Grant Proposal

Project proposals should contain the following information in the order listed below.

Applicants must use the same headings as those underlined below when formatting the grant proposal.

Proposals should not exceed ten pages (8 ½" x 11") in length, excluding the grant application, partnership letters and any supporting material (brochures, pictures, etc.).

Proposals should be submitted in at least 11 point font and use standard (1-1/2 inch) margins.

Project and Organizational Qualifications

- Project Title
- Project Manager's Name
- Organizational Experience

Describe your organization. (5 points)

Describe your organization's experiences with assisting other organizations meet their restoration and wetland-education goals. (5 points)

Describe how your organization has been successful at obtaining private, federal, state, and local funds to support conservation. (5 points)

Describe how your organization has successfully restored wetlands along the Texas Coast or within the Galveston Bay watershed. (10 points)

- Organizational Capacity

Provide the names and describe the qualifications of your key staff (5 points)

Describe your accounting and budgeting systems (5 points)

What is your average annual budget? Explain how your organization has the financial capacity to administer the additional funds that may be provided under this RFGA (5 points)

Is your organization audited on an annual basis? (5 points)

Note: Nonprofit 501c)(3) organizations must: (1) submit a copy of their most recent annual, year-end financial report; and (2) disclose any audit findings for the previous 2 years if the organization has had financial audits or reviews performed. If an audit or financial review has not been performed, the applying organization needs to state that fact in the application and explain why a review has not been performed.

- Sample Grant Activity Descriptions

Provide short Grant Activity Descriptions (not to exceed two pages each) for projects that you may have, or would be willing to propose under these categories:

1. a saltwater marsh wetland restoration project (15 points);
2. a wetland public education event (10 points); and
3. an invasive species control project on public lands or in public waters (5 points).

For each project description, include:

- goal statements,
- measurable objectives,
- a project timeline;
- an estimate of total project cost;
- a description of how you would perform implementation,
- identify likely project partners and how you would go about securing their participation;
- identify how you would go about securing additional funds for the project, if needed;
- describe how you would use volunteers, if any
- describe how your organization would evaluate the project throughout project implementation and once the project is complete; and
- describe how you would determine success.

- Project Costs/Sample Project Budget (15 points) Fill out the sample budget below.

Assume the budget is for a project to restore 50 acres of near-shore saltwater marsh lost to coastal subsidence. There are no erosion problems at the site.

Below the table, please explain any unusual costs and all cost allocated to the *equipment*, *contractual*, *construction*, and *other* cost categories.

Sample Budget

Cost Category	Amount
Personnel/Salary <i>position #1 Title/Rate</i> <i>position #2, Title/Rate</i> <i>position #3, Title/Rate, etc.</i>	
Fringe Benefits	
Travel	
Supplies	
Equipment	
Contractual	
Construction	
Other	
Total Direct Costs	
Indirect Costs	
Total Costs	

TCEQ will reimburse a maximum of 15 percent of a recent audited indirect rate.

The state cannot reimburse certain categories of expenses. The most common categories of non-reimbursable expenses likely to be encountered by grant applicants include food, beverages, entertainment, and promotional items such as event T-shirts.

If you have a question as to whether or not an expense is eligible for reimbursement, please consult UGMS or contact the Galveston Bay Estuary Program office.

- Project Partners (10 points) - Provide a list of your project partners and indicate what type of contribution each partner brings to the project. Include letters of support from each partner that state specifically what contribution they will make to the project.
- Optional Attachments (0 points, for illustrative purpose only) - Provide any additional information you think needs to be considered including pictures, brochures, etc. Please keep attachments to a minimum.

MULTIPLE PROJECT GRANT AGREEMENT

SCOPE OF GRANT ACTIVITIES

I. PURPOSE

The purpose of this Multiple Project (Umbrella) Grant is to support to wetland restoration efforts, invasive species control measures, and the general public education goals found in *The Galveston Bay Plan*, a federally-approved comprehensive conservation management plan.

The Texas Commission on Environmental Quality (TCEQ) is authorized to implement the plan by Section 320 of the Clean Water Act, as amended in 1987 and Texas Water Code §§5.601 through 5.609.

TCEQ and the GRANTEE, a governmental body, agency, or political subdivision of a local government or a not-for-profit organization organized under Internal Revenue Code Section 501(c)(3), enter this grant agreement (Grant Agreement) to cooperatively conduct authorized functions and activities under one or more laws of the State of Texas, including, without limitation, the Interagency Cooperation Act, the Interpositional Cooperative Act, the Texas Estuaries Act, and the Texas Water Code §§ 5.124, 5.229 and 5.609.

This Scope of Grant Work is a general description of activities that the TCEQ may fund under this Grant Agreement.

II. Procedure

A. Proposals for Grant Activities / Grant Activity Description

The TCEQ may issue Proposals for Grant Projects under this Grant. These grant projects may include:

- Wetland restoration including feasibility studies, engineering, and on-the-ground implementation through direct service, subcontracting/subgrantee, or the use of volunteer labor and in-kind contributions and services;
- Invasive species control including identification and deployment of environmentally appropriate control mechanisms; and
- Habitat and wetland related environmental education that is specific to Galveston Bay which may include hosting community events, workshops, volunteer activities, and public events that further the water quality and habitat goals of *The Galveston Bay Plan*.

The GRANTEE shall respond within 14 days to the Proposal for Grant Project with a statement of no interest or a *Grant Project Activity Plan*, which shall detail how the

GRANTEE shall execute the proposal. For a complete description of Proposals for Grant Projects and Grant Project Activity Plans, refer to the section entitled "Procedure for Grant Activities and Proposals Section" starting on page 20.

B. Reliance on Grant Activity Description Estimates

The GRANTEE shall be extremely attentive to the preparation of cost estimates contained in the Grant Project Activity Plan that are prepared in response to Proposal for Grant Projects.

The GRANTEE agrees to complete the activities within the original estimate or budget provided in the GRANTEE's Grant Project Activity Plan unless the TCEQ agrees to an adjustment.

The TCEQ budgets for and encumbers funds only up to the not-to-exceed dollar amount contained in each Grant Project Activity Plan and, therefore, materially relies on the GRANTEE's diligence in the preparation of estimates submitted for approval in the Grant Project Activity Plan.

The essence of the reliance is that partially completed project activities, which could be a consequence of inadequately prepared estimates, may be of little or no use to the TCEQ or create insignificant environmental or educational benefit. The GRANTEE acknowledges and agrees that the TCEQ may materially rely on these GRANTEE-prepared estimates.

TCEQ may amend the maximum dollar amount of a Grant Project Activity Plan. GRANTEE must submit a written request to amend the maximum dollar amount for TCEQ consideration and approval. Should the parties not agree to whether the GRANTEE can complete the Grant Project Activity Plan, project shall be terminated by written notice given by one of the parties. TCEQ may also undertake other remedies available to it under this Grant Agreement.

C. Ability to Subgrant Funds on a Competitive Basis

Consistent with TWC § 5.124 and 30 TAC § 14.7 and as part of an approved Grant Project Activity Plan, the GRANTEE may be authorized by TCEQ to competitively award subgrants to other organizations. The GRANTEE will be responsible for ensuring that all subgrantees following the State of Texas Uniform Grant Management guidelines, as well as other state and federal grant management standards.

D. Ability to Coapply for Federal Funds with TCEQ

Consistent with 40 CRF Part 31 and as part of an approved Grant Project Activity Plan, the GRANTEE may be authorized by TCEQ to partner with TCEQ in the development and pursuit of federal grants.

E. Ability to Seek Grant Writing and Project Development Assistance from TCEQ.

TCEQ may, at its sole discretion and if resources are available, assist the GRANTEE in project development and the development of grant proposals and scopes of work intended for submission to the private or public funding sources.

TCEQ participation in the preparation of such documents does not constitute an endorsement of the proposal.

In pursuing funds from private or public sources, the GRANTEE is expressly prohibited from indicating that TCEQ endorses the grant or scope of work in a written proposal for funds or any verbal solicitation of funds.

In no case, can the GRANTEE solicit funds, whether in writing or verbally, for a project proposal prepared in part with TCEQ resources, from an entity that is regulated by the TCEQ or a party in any TCEQ regulatory action. If TCEQ becomes aware that such representations have been made or suspects, even without proof or further investigation, that such representation have been made, TCEQ may immediately terminate this grant agreement or pursue other remedies available under Terms and Conditions Sections 17 and 19 of this agreement.

The Galveston Bay Council, an advisory body to the TCEQ, may formally vote to endorse a GRANTEE's proposal prepared in part with TCEQ resources. However, the GRANTEE may not use that endorsement unless it contains the following disclaimer ***"this endorsement represents the consensus (or majority) view of the Galveston Bay Council and does not necessarily represent the views of the TCEQ, any other organization or individual on the council."***

F. Copies

When reports are required to fulfill a Grant Agreement condition or for a Grant Activity Description, one copy of each report shall be provided in paper form and in an electronic form acceptable to TCEQ.

G. Availability for Questions

The GRANTEE agrees to respond to questions raised by the TCEQ staff about the Grant Activity Description during the grant period and for a period of one year after the conclusion of the specific Grant Project. The purpose of this is to ensure that TCEQ staff has access to GRANTEE's staff that can assist the TCEQ staff in being responsive to questions or requests for clarification about the project or the project documentation.

G. Quality Assurance / Quality Control

If any Proposal for grant Activities requires the development of a Quality Assurance Performance Plan (QAPP), the Grantee shall thoroughly quality assure / quality control (QA/QC) all work performed, including but not limited to, QA/QC of raw data (e.g. check

for data entry errors, conduct checks of spreadsheet calculations, check validity of modeling inputs, conduct checks of programming algorithms, employ any automated reasonability, range/parameter checks that may be available to QA data, etc.), and shall employ statistical and/or graphical analysis techniques as appropriate.

H. Key Personnel

1. TCEQ has the right to reasonably object with fourteen (14) days notice to any key personnel of the GRANTEE listed under the Grant Activity Description. Objections shall be provided in writing to the GRANTEE.
2. Prior to diverting or substituting any key personnel specified in the Grant Activity Description, the GRANTEE shall notify TCEQ, in writing, with fourteen (14) days advanced notice of the proposed change or proposed substitutions. Proposed substitutions shall have comparable qualifications to those of key personnel being replaced. No diversion or substitution of key personnel shall be made without the written consent of the TCEQ.

III. WORK

It is contemplated that the GRANTEE shall receive Proposals for Grant Activities, and develop corresponding Grant Activity Descriptions related to the following:

- A.
 1. Wetland restoration including feasibility studies, and on-the-ground implementation through direct service, subcontracting/subgrantee, or the use of volunteer labor and in-kind contributions and services;
 2. Invasive species control including identification and deployment of environmentally appropriate control mechanisms; and
 3. Habitat and wetland related environmental education that is specific to Galveston Bay, which may include hosting community events, workshops, volunteer activities, and public events that further the water quality and habitat goals of *The Galveston Bay Plan*.
- B.
 1. Issuance and management of subgrants for projects identified in paragraph A, above.
 2. Coordination of scientific studies and other evaluative studies designed to determine the effectiveness of projects identified in paragraph A, above.

PROCEDURE FOR GRANT ACTIVITIES AND PROPOSALS SECTION

1. Overview

This section delineates the procedure for the submission of Grant Activity Proposals and the corresponding Grant Activity Descriptions. In general, the TCEQ shall submit a Proposal for Grant Activities to the grant recipient. In response, the grant recipient shall submit a Grant Activity Description to TCEQ. After the substance of the Grant Activity Description has been agreed upon by the TCEQ and grant recipient, the TCEQ shall issue a Notice to Commence, which indicates approval and allows the grant recipient to begin the Work.

2. "Proposal for Grant Activities"

2.1 The first deliverable of each Proposal for Grant Activities will be a Grant Activity Description. Fourteen (14) calendar days after receipt of a Proposal for Grant Activities issued under this grant, unless otherwise specified in the Proposal for Grant Activities, the Grant Recipient must submit one (1) copy of a Grant Activity Description to the designated TCEQ Proposal for Grant Activities Project Manager. (See also the "Sample Proposal for Grant Activities" section.)

2.2 Among the information required to be in the Proposal for Grant Activities is:

- 2.2.1 The title of the research project and Proposal for Grant Activities number;
- 2.2.2. The name of the GRANTEE Principal Investigator;
- 2.2.3 A description of the project;
- 2.2.4. A description of the tasks and deliverables to be completed;
- 2.2.5. A total not-to-exceed cost for the Proposal for Grant Activities, and other financial information as necessary;
- 2.2.6 The expected time line for the Work, including the beginning date and expiration date of the Work;
- 2.2.7. The name of the TCEQ Proposal for Grant Activities Project Manager and the names of any other TCEQ staff contacts available for consultation regarding the Work;
- 2.2.8. What percentage, if any, of the Work will be shared by TCEQ staff;
- 2.2.9. Description of any required software or models;
- 2.2.10. Discussion of any specifically required quality assurance/quality control procedures or formats;
- 2.2.11. Discussion of any data, reports, or models that the TCEQ shall provide to the grant recipient to complete the work;
- 2.2.12. Whether there is federal money involved in the Proposal for Grant Activities (see also General Condition 24, "Applicability of Federal Conditions"); and,
- 2.2.13. Acknowledgments in technical articles.

3. "Grant Activity Description"

3.1 Minimum Requirements. The Grant Activity Description shall contain, at a minimum, the following:

- 3.1.1 A description of the methods and technical approach to be taken to complete the Proposal for Grant Activities, including completion of each task and/or subtask described in the Proposal for Grant Activities and preparation of the deliverables related to each task and/or subtask.
 - 3.1.2. Grant recipient's Project Manager and other contacts assigned to the Proposal for Grant Activities;
 - 3.1.3. Key Personnel assigned to the Proposal for Grant Activities, with an estimate of the time to be spent by each person on each deliverable, and a current resume for key personnel, if one was not previously provided;
 - 3.1.4. Time Line: A list of the tasks and deliverables and a schedule including, the start date and end date for each deliverable. Include the hours of each labor classification required to complete each task and subtask.;
 - 3.1.5. Quality Assurance / Quality Control Procedures: Describe the process and procedures to be performed by the Grant recipient to ensure the product meets the user requirements. Include proposed testing procedures and proposed acceptance criteria.
 - 3.1.6. The Proposal for Grant Activities Budget. Calculate and provide estimates of all charges, by task and sub task, required to complete the Proposal for Grant Activities and produce each deliverable. The budget submitted shall be sufficiently detailed to allow TCEQ to easily determine the hours, prices and personnel, by labor classification related to each deliverable, and shall also include prices for requested reimburseables and a total for the proposed Grant Activity Description. Include items and item descriptions, and unit and extended prices. The estimated level of effort per labor classification and estimates of material costs and any other reimbursable costs (e.g., travel, meals, lodging, etc...) shall include direct labor, material, other direct costs, indirect costs, consultants and subcontractors.
 - 3.1.7. Describe the process for providing the required reports to TCEQ.
 - 3.1.8. A description of the quality assurance and quality control procedures which shall be used to insure quality of work.
 - 3.1.9. Signature: The Grant recipient shall have the Grant Activity Description document signed and dated by a person with the authority to bind the Grant recipient to the performance of the Grant Activity Description, include the title and printed name of the person signing the Grant Activity Description. The Grant Activity Description shall include the Grant recipient's company or organization name in a prominent place on the Grant Activity Description document.
- 3.2 Fourteen calendar days after receipt of a Proposal for Grant Activities issued under this Grant, unless otherwise specified in the Proposal for Grant Activities, the grant recipient shall either decline the Proposal for Grant Activities or submit one (1) copy of a Grant Activity Description to the designated Project Representative. Grant recipient has the right to decline any Proposal for Grant Activities which falls outside the Scope of its mission or available expertise. The Grant Activity Description is subject to the approval of the Project Representative.

4. "Notice to Commence"

4.1. TCEQ approval of Grant Activity estimates. Upon approval by the TCEQ of the Grant Activity Description, TCEQ shall issue a Notice to Commence. Upon receipt of the Notice to Commence, Grant recipient shall begin Work. If TCEQ approves a discrete portion of a Grant Activity Description and rejects or otherwise fails to approve a portion, TCEQ may, at its discretion, issue a Limited Notice to Commence with a specified approved portion. This does not waive any deficiencies in the Grant Activity Description as a whole.

4.2. Termination. Without intent to waive the requirement that time is of the essence in this Grant, in the event the Grant recipient does not obtain TCEQ approval of a Grant Activity Description within 30 days after the 14 day time limit stated in paragraph above titled Acceptance/Revisions to Grant Activity Description, the TCEQ may terminate the Grant for cause.

4.3. Grant Activity Maximum. The amount stated in the Proposal for Grant Activities shall be the maximum amount paid by TCEQ for any given Proposal for Grant Activities. In no event shall any Grant Activity Description or Proposal for Grant Activity exceed the total amount of this grant.

4.4. Acceptance/Revisions to Grant Activity Description

4.4.1 The TCEQ will either accept the grant recipient's Grant Activity Description or disapprove it and, if desirable, request modifications. The grant recipient must submit a modified Grant Activity Description within fourteen (14) days of TCEQ's request for modifications. When the TCEQ finds the Grant Activity Description acceptable, the TCEQ will issue a Notice to Commence, and the Grant recipient shall start work on the date indicated in the Notice to Commence. The Grant recipient must not begin working until a Notice to Commence is issued, except for the Initial Analysis required to produce the Grant Activity Description. In no event shall TCEQ have any payment obligation to grant recipient for grant recipient's efforts in developing a Grant Activity Description.

4.4.2 The approved Grant Activity Description and the Notice to Commence will become a part of the Intergovernmental Agreement Grant Documents and all terms and conditions in the Grant apply to and govern the Grant Activity Description and the Proposal for Grant Activities. The grant recipient may submit recommended revisions to the Grant Activity Description when the grant recipient believes such revision is deemed desirable for optimum achievement of the Grant and Proposal for Grant Activities objectives. Grant recipient must obtain TCEQ approval of every recommended revision to the Grant Activity Description prior to implementation. A copy of each revision shall be submitted to the TCEQ Project Manager.

5. Amendments. TCEQ and the grant recipient shall execute appropriate Grant Activity Description Amendments or Revisions to the Proposal for Grant Activities covering: Changes in the Work as described in the Proposal for Grant Activities, agreed to by both

of the parties; or, changes in the Grant Activity Description amount or time, agreed to by both of the parties.

- 5.1. Without cancelling the Grant, the TCEQ may, at any time or from time to time, order additions, deletions or revisions to a Proposal for Grant Activities issued under this Grant, which may include a change in the level of funding when necessary. Such additions, deletions, or revisions shall be authorized by a Grant Activity Amendment. Upon receipt and acceptance of a Grant Activity Description Amendment, grant recipient shall promptly proceed with the Work involved.
- 5.2. Revisions to Grant Activity Description. The grant recipient must submit revisions to the Grant Activity Description described above where:
 - 5.2.1. When the original is disapproved by the Project Representative;
 - 5.2.2. When directed by the Project Representative;
 - 5.2.3. Whenever the Proposal for Grant Activities requirements are changed by appropriate Proposal for Grant Activity Amendments; and
 - 5.2.4. As soon as it appears that the completion date or funding level stated in the approved Grant Activity Description may be exceeded.

5.3 The GRANTEE may submit recommended revisions to the Grant Activity Description when the GRANTEE believes such revision is deemed desirable for optimum achievement of grant objectives. Every recommended revision to the Grant Activity Description shall be approved by the Project Representative prior to implementation by the grant recipient. A copy of each revision shall be submitted to the Project Representative.

6. Reporting.

6.1 Progress Reports. The requirements for Progress reports shall be stated in each Proposal for Grant Activities.

6.2. Results Report. The Grant Recipient shall provide a written results report on Grant Activities funded during the fiscal year documenting the accomplishments of those activities. Grant Recipient must include all the information contained in the "Activity Confirmation Report." Furthermore, the Results Report must state a project overview and include all conclusions.

7. It may become apparent that a series of related Proposals for Grant Activities may form a single project after an initial Proposal for Grant Activities are issued. In this event, TCEQ may amend Proposal for Grant Activities or issue additional Proposal for Grant Activities requiring overall Grant Activity Description, and other types of Work necessary to integrate all the Proposal for Grant Activities so that the integrated Proposal for Grant Activities may be submitted for acceptance as an entire project.

8. TCEQ may terminate a Proposal for Grant Activities with ten (10) days notice for convenience or force majeure. Termination shall not prejudice any other right or remedy of TCEQ. Grant recipient may request payment for: completed and accepted Work and timely, reasonable expenses directly attributable to termination. Grant recipient shall not be paid for:

work not performed, loss of anticipated profits or revenue, consequential damages or other economic loss arising out of or resulting from the termination.

9. Grant recipient shall adhere to all schedules, project timelines, and deliverable dates set forth in the Grant Activity Description. Grant recipient acknowledges that TCEQ has allocated resources and funding based on Grant recipient's projected schedules included in the Grant Activity Description, and that failure to adhere to the schedule will cause substantial damage to TCEQ, the precise value of which is difficult to ascertain. Therefore, TCEQ shall not provide funding beyond the amount stated in the Notice to Commence. The parties further acknowledge that nothing in this section shall prevent or restrict TCEQ from exercising its right to terminate for material breach for failure to adhere to project schedules and deadlines, and to seek all available damages (consistent with this clause) and remedies, if any.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Reimbursement / Grant

GENERAL CONDITIONS

1. AGREEMENT

1.1 The Texas Commission on Environmental Quality (TCEQ) and the GRANTEE enter this agreement (Agreement) as: (1) two or more governmental entities cooperatively conducting their governmental functions as authorized under one or more laws of Texas including the Interagency Cooperation Act, the Interlocal Cooperation Act, and the Texas Water Code §5.229 (TCEQ general contract authority) and §5.124 (TCEQ grant authority); or (2) as TCEQ, acting under the authority provided to coordinate the implementation of Comprehensive Conservation and Management Plan.

1.2 GRANTEE conducts the Agreement Activities as part of its own authorized governmental functions or in the case of nonprofit corporation as part of its mission within the parameters allowed by the Internal Revenue Code, and is not as a vendor of goods or services.

2. GRANT DOCUMENTS.

The General Conditions apply to all matters. The Documents List designates the documents, which comprise the entire Agreement between TCEQ and the GRANTEE. In the event of a conflict of terms, the Grant Documents, as amended, control in the descending order of the list; however, all the provisions are subject to control by the latest and most specific provision and by the applicable state and federal laws, rules and regulations.

3. AGREEMENT PERIOD

3.1 Agreement Period. The Agreement begins on the Effective Date and ends on the Expiration Date as provided on the Signature Page of this Agreement (Agreement Period). If a date is are not provided, the Effective Date is September 1 of the Fiscal Year in which authorized Agreement Activities begin and the Expiration Date is August 31 of the same Fiscal Year. A Fiscal Year is the period from September 1 of one calendar year to August 31 of the following calendar year. An Appropriation Biennium is the period of two Fiscal Years for which the Texas Legislature has adopted an Appropriation Act.

3.2 Renewal Period. The Agreement Period may be extended by a renewal of the Agreement for a maximum of three (3) additional one (1) year terms defined as a State Fiscal Year.

3.3 Extension Period. Without renewing the Agreement, the Agreement may be extended by notice of TCEQ beyond expiration of a Agreement Period or a Renewal Period for up to ninety (90) days (Extension Period) during which the parties may renew. Renewals and extensions do not extend any other deadlines or due dates other that the expiration of the Agreement Period. Any reference to a period of the Agreement the Extension Period.

3.4 Agreement Conditions Continue. Unless otherwise agreed to by the parties, the Agreement terms effective at the end of the Agreement Period, or any other period during which the Agreement is effective continue without change through any subsequent effective period of the Agreement.

4. AUTHORIZATION.

The GRANTEE must obtain authorization from the TCEQ Grant Manager through a Notice to Commence to undertake the effort associated with each Project Grant Activity Plan for each Fiscal Year. TCEQ may amend the authorization to provide for additional funds and Grant Activities for that Fiscal Year. TCEQ may revoke all or part of the authorization when funds become unavailable and when the Grant Activities are not performed in conformity with the Grant.

5. FUNDS.

5.1 Amount Limits on Funds. TCEQ will reimburse GRANTEE for the costs of the conforming Grant Activities. The maximum reimbursement for each Fiscal Year is shown on the Signature Page.

5.2 The amounts shown on the Signature Page for any Fiscal Year are further limited to cumulative value of the Grant Project Activity Plans receiving a Notice to Commence from TCEQ Grant Manager for that Fiscal Year.

5.3 The Grant does not guarantee a minimum amount of reimbursement.

5.4 Time Limits on Funds. The State Comptroller will not pay invoices it receives after expiration of a period consisting of the Fiscal Year (for which the funds were appropriated) plus the next two fiscal years.

5.5 In issuing Proposal for Grant Activities, TCEQ will include a provision that notifies the GRANTEE of fund expiration and the due dates for final billing. These dates will also be included in any Notice to Proceed.

5.6 Expenditure of Funds. This Umbrella Grant may not expend projected funds for Fiscal Years until the contract is amended to add particular Fiscal Year funds; and, in addition, the appropriate Notice to Commence has been issued.

6. THE CONTRACT ACTIVITIES

The activities to be conducted by the GRANTEE are generally described in Grant Documents including the Scope of Grant Activities. Costs of Grant Activities are reimbursable (Allowable Costs) only when they are authorized by a Notice to Commence in response to the Grant Activity Description.

7. ALLOWABLE COSTS

- 7.1 Allowable Costs. TCEQ will reimburse the GRANTEE for Allowable Costs incurred and paid by the GRANTEE in performance of the Activities conforming to the Grant. Allowable Costs are those costs for conforming Grant Activities which are reasonable, necessary, actual and authorized by this Grant, and confirmed by the Notice to Commence.
- 7.2 Uniform Grant Management Standards. Allowable Costs are restricted to those which comply with the Texas Uniform Grant Management Standards (UGMS) (1Texas Administrative Code §§ 5.141- 5.167), additional state and federal rules and law. Regardless of whether GRANTEE is subject to the UGMS by the terms of the Uniform Grant and Contract Management Act, all the requirements of the UGMS apply to this Grant, including the criteria for Allowable Costs. Additional federal requirements may apply when TCEQ utilizes federal funds for reimbursement.

8. REIMBURSEMENT

- 8.1 Reimbursement Requests. Not more often than once a month, GRANTEE may request reimbursement of Allowable Costs (by invoice) for performing the Grant Activities. GRANTEE's request must conform to TCEQ's reimbursement requirements.
- 8.2 Reimbursement Invoices. Reimbursement requests will be submitted in using TCEQ form, if supplied, and must include the supporting documentation required by this Agreement and TCEQ form, where supplied.
 - 8.2.1 Invoicing Proposal for Grant Activities. Invoicing on Proposal for Grant Activities must be separate. The Grant recipient may not issue an invoice that contains more than one Proposal for Grant Activities.
- 8.3 Travel, Other Costs. Travel costs outside of the State of Texas must be specifically stated in the budget and authorized in writing and in advance of the travel by the TCEQ Contract Manager. Travel costs, including per diem, will be reimbursed only in the amount of actual costs, up to the maximum allowed by law for Texas state employees' travel at the time the cost is incurred. Reimbursement for costs will not exceed actual costs and in no case will they exceed the market price in the local area where the Grant Activities is performed.
- 8.4 Supporting Records. GRANTEE will maintain records of costs and records of performance of the Grant Activities. Upon request, GRANTEE will submit records in support of reimbursement requests.
- 8.5 Conditional Payments. Reimbursements are conditioned on the Grant Activities being performed in compliance with the Agreement. Upon demand, GRANTEE will restore to

TCEQ any reimbursement for the costs of Grant Activities which are non-compliant in the judgment of the TCEQ.

- 8.6 No Interest on Reimbursement. The Parties agree TCEQ is not required nor authorized to pay interest on reimbursements for the following reasons:
- 8.7 GRANTEE is not a vendor of goods and services within the meaning of Texas Government Code, Chapter 2251;
- 8.8 The Interagency Cooperation Act, the Interlocal Cooperation Act, the UGMS and this Grant do not authorize payment of amounts in excess of the actual costs of performing the Grant Activities.
- 8.9 Payment Request Deadline. GRANTEE agrees that, due to the State of Texas payment statutes, all payment requests must be presented prior to July 15 of the second Fiscal Year following the Fiscal Year for which the applicable funds were appropriated (Appropriation Fiscal Year).

9. APPLICABLE LAW AND RULES

This Grant is subject to all laws and rules of the state including, but not limited to: (1) the Uniform Grant and Contract Management Act, Texas Government Code, Section 783.001 et seq., and the Uniform Grant Management Standards, 1 Texas Administrative Code, Section 5.141 et seq. (UGMS); (2) Chapter 2259, Texas Government Code (pertaining to cost reimbursement contracts); (3) Chapter 391 Local Government Code and implementation rules, and the Governor's Office of Budget and Planning Rules (pertaining to costs only for entities defined as Regional Planning Councils, etc.); (4) Texas Government Code 556.0055 (pertaining to lobbying); (5) TCEQ rules and policies (pertaining to TCEQ contracts and grants), and other applicable Federal and State rules and statutes; (6) TCEQ Allowable Expenditure Guidelines (pertaining to allowable costs for cost reimbursement contracts and grants); (7) Interlocal Cooperation Act, Chapter 791, Texas Government Code; (8) Interagency Cooperation Act, Chapter 771, Texas Government Code, (9) Texas Water Code, Sections 5.124, 5.229; and (10) Is there anything specific to (a) nonprofit organizations and (b) the Texas Estuaries Act.

10. AMENDMENTS, DEFINITIONS, CLARIFICATIONS TO THE GRANT

- 10.1 Amendments. Changes to the Agreement may only be made by a written amendment, signed and agreed to by the Parties.
- 10.2 Definitions.
 - 10.2.1 "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

- 10.2.2 "Grant Activities" (Activity), "Work": The terms mean the activities described in the Grant Activities and Scope of Grant Activities and all other performance required of the GRANTEE by the Grant. The terms also include the entire completed undertaking, or the various separately identifiable parts thereof, required to be performed, created or produced under the Grant, including the results of performing, creating or producing, all as required by the Grant.
- 10.2.3 "Grant Project": This term means individual projects based on the Grant Activity Description, as agreed upon by the parties, and the Proposal for Grant Activities, as initiated by the TCEQ.
- 10.2.4 "Grant Activity Description": Description of Grant Project provided by Grantee that shows how the specific project will be accomplished, including the budget, and in accordance with the Procedure for Grant Activities and Proposals Section.
- 10.2.5 "Proposal for Grant Activities": Proposal by TCEQ providing suggestion to Grantee regarding potential project for reimbursement.
- 10.2.6 "Notice to Commence": The document provided by TCEQ that acknowledges that the Grant Activity Description as provided by the Grantee is appropriate for TCEQ reimbursement.
- 10.2.7 "Nonprofit": This term shall be understood as entities organized under U.S.C. Title 26, the Internal Revenue Code, section 501(c)3.
- 10.2.8 "Conforming". The terms mean the GRANTEE's performance, Grants Activities, activities, goods, materials, equipment or personnel comply with the requirements of the Grant including any applicable or widely accepted industrial, scientific or technical standards and requirements, all of which are incorporated by reference.
- 10.2.9 State, Federal Law. This Grant shall be governed by, and construed and interpreted under the laws of the State of Texas, as well as applicable federal law.
- 10.2.10 "Subgrantee": The subgrantee shall be the contractor or grantee in relation to the Grantee. The Subgrantee is explicitly not an agent of TCEQ.

11. COMMUNICATIONS, NOTICES

- 11.1 Grant Manager. Each party shall maintain a Grant Manager designated in writing at all times. All notices and communications required or allowed under this Grant will be delivered to a party's designated Grant Manager. Each party may also designate a Project Manager as a point of contact for technical matters. The Grant Manager may also serve as the Project Manager.

- 11.2 Notices, Communications. All notices and communications shall be deemed to be duly given, on the date they are received if they are: hand-delivered, as evidenced by a signed acknowledgment of the receipt; delivered by nationally recognized courier service, as evidenced by the confirmation of delivery rendered by the courier service; or mailed by the United State Postal Service by certified or registered mail, return receipt requested, as evidenced by the acknowledgment of receipt returned to the sender by the postal authorities. Electronic transfer by facsimile or e-mail is not effective for notice unless acknowledged by the other party.
- 11.3 Bankruptcy Notice. GRANTEE is required to provide written notice to TCEQ of GRANTEE's filing of a petition for bankruptcy protection. Notice must be provided within 24 hours to the TCEQ Grant manager and separately to the TCEQ Bankruptcy Section. Your notice to the bankruptcy program must include your Grant number or numbers. Send notice to TCEQ Bankruptcy Program, Attn.: Denise Espinosa, P.O. Box 13087, MC 132, Austin, Texas 78711-3087.
- 11.4 Notice of Change. GRANTEE agrees that all information it provided to TCEQ including any approved proposal for reimbursement funding remains correct and acknowledges that in entering this Grant, TCEQ has materially relied on all the information (including certifications) provided by GRANTEE, regardless of whether the information is incorporated into this Grant. GRANTEE agrees to give prompt written notice to TCEQ if there is any material change in the information.

12. GRANTEE'S RESPONSIBILITIES.

- 12.1 GRANTEE's Responsibility for the Grant Activities. GRANTEE undertakes performance of the Grant Activities (Scope of Activities) as its own work and project and does not act in any capacity on behalf of the TCEQ nor as a TCEQ-hired Grant Recipient or vendor of goods or services. TCEQ acts as administrator of reimbursement funds provided by the State of Texas and, where applicable, for agencies of the government of the United States.
- 12.2 GRANTEE's Responsibility for Subcontractors and Subgrantees. All acts and omissions of Subcontractors, Subgrantees, Suppliers and other persons and organizations performing or furnishing any of the Grant Activities under a direct or indirect contract with GRANTEE shall be considered to be the acts and omissions of GRANTEE. GRANTEE shall be fully responsible for all such acts and omissions just as if they were acts and omissions of GRANTEE.
- 12.3 Nothing in the Grant shall create a contractual relationship between TCEQ and any of GRANTEE's subcontractors, subgrantees, suppliers or other persons or organizations with a contractual relationship with the GRANTEE.
- 12.4 Nothing in the Grant creates any obligation on the part of TCEQ to pay or to see to the payment of any monies due any such subcontractor, subgrantee, supplier or other person or organization except as may otherwise be required by Laws and Regulations.

- 12.5 Coordination of Subcontractors and Subgrantees. GRANTEE shall be solely responsible for scheduling and coordinating the Grant Activities of subcontractors, subgrantees, suppliers and others furnishing any of the Grant Activities under a direct or indirect contract with GRANTEE. GRANTEE shall be responsible for all communications to direct or indirect subcontractors, suppliers and others performing or furnishing any of the Grant Activities.
- 12.6 Supervision of the Grant Activities. GRANTEE agrees that the Grant Activities is furnished and performed at GRANTEE's sole risk as to the methods, design, processes, procedures and conduct of the Grant Activities. GRANTEE agrees to be solely responsible for understanding and utilizing the appropriate methods, design, processes, procedures and conduct of the Grant Activities, including control of associated hazards, to assure the safety of its performance and that of its subcontractors and suppliers under this Grant, and for the protection of all persons, property, premises or facilities, regardless of the owner of the property or premises.
- 12.7 Superintendence of the Grant Activities. Project Manager. GRANTEE shall maintain at all times during its progress a competent project manager, who shall not be replaced without written notice to TCEQ except under extraordinary circumstances. The project manager will be GRANTEE's representative and shall have authority to act on behalf of GRANTEE. All communications to the project manager shall be as binding as if given to GRANTEE. GRANTEE shall maintain on the site of the Grant Activities a superintendent capable of overseeing the Grant Activities being performed.
- 12.8 Independent Entity. GRANTEE is an independent governmental entity or a 501(c)3 nonprofit corporation in performing the Grant Activities and shall not act as an agent or employee of TCEQ. GRANTEE shall be responsible for all acts and omissions of its employees, subcontractors, and agents and for their compensation, coverages, claims and taxes.
- 12.9 Material Reliance. The TCEQ materially relies on GRANTEE to perform the Grant Activities in conformity with the Grant without the superintendence or direction of the TCEQ. The TCEQ may observe or inspect the Grant Activities and upon discovery of a non-conformity, may take one or more of the following actions: demand the Grant Activities be brought into conformity, reject reimbursement, withhold reimbursement temporarily or permanently, obtain restitution of previous reimbursements, setoff previous reimbursements against future reimbursements, and terminate the Grant.
- 12.10 No Third-Party Beneficiary. The TCEQ does not assume any duty to exercise any of its rights and powers under the Grant for the benefit of third parties.
13. GRANTEE PERFORMANCE EVALUATION.

The evaluations may be a factor in the selection criteria for future contracts. The GRANTEE acknowledges that these evaluations are on a subject TCEQ and its officers and employees

have an interest or duty, and are for communicating with other persons having a corresponding interest or duty. The TCEQ may provide this information to state agencies and upon request, to others, under the Public Information Act. GRANTEE consents to the disclosure of any information or opinion contained therein. The evaluations may be posted on the TCEQ database and on the State's other contract performance database.

14. GRANTEE'S CONTRACTORS AND EMPLOYEES.

- 14.1 Reasonable Objections. GRANTEE shall not use any contractor, employee, supplier or other person or organization whether initially or as a substitute, against whom TCEQ has a reasonable objection.
- 14.2 Key Personnel & Contractors. The qualifications of the personnel and contractors named in the GRANTEE's Proposal are considered to be essential to the Grant Activities. Timely information on proposed substitutions of Key Personnel shall be provided to the TCEQ. Proposed substitutions shall have comparable qualifications to those of the personnel or contractors being replaced.
- 14.3 Personnel. GRANTEE shall provide competent, suitably qualified personnel to perform the Grant Activities as required by the Grant Documents. GRANTEE shall at all times maintain good discipline and order at the site of the Grant Activities. GRANTEE shall require its employees to execute any confidentiality agreements, and any other required assignments, licenses or other instruments, and to provide information related to Intellectual Property, as may be necessary to effectuate the provisions of the Grant Documents.
- 14.4 Require Warranty. GRANTEE will require by contract that contractors performing the Grant Activities on its behalf warrant and guarantee the Grant Activities.
- 14.5 Employment Practices and Assurances. The GRANTEE agrees that in the performance of the Grant Activities, it will not discriminate against any employee or applicant because of race, religion, color, sex, age, or national origin and it will comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). The GRANTEE assures that no person will, on the grounds of race, creed, color, disability, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefit of, or be subject to discrimination under any program or activity funded hereunder in whole or in part. Prohibited discrimination shall constitute substantial failure by the GRANTEE to fulfill its obligations, and the TCEQ may terminate for cause.
- 14.6 Americans with Disabilities Act. The GRANTEE shall comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. 1213 et seq, as amended.
- 14.7 OSHA. GRANTEE must comply with all regulations of the United States Occupational Safety and Health Administration (OSHA).

15. CONFLICT OF INTEREST

The GRANTEE shall notify the TCEQ in writing of any actual, apparent, or potential conflict of interest regarding the GRANTEE or any related entity or individual performing or having access to information regarding any portion of the Grant Activities. Any entity with an organizational conflict of interest and any individual with a personal conflict of interest shall not take part in any way in the performance of any portion of the Grant Activities that creates the conflict of interest or have access to information regarding any portion of the Grant Activities that creates the conflict of interest. GRANTEE agrees that TCEQ has sole discretion to determine whether a conflict exists and that TCEQ may at any time terminate all or part of the Grant, on the grounds of actual, potential or apparent conflict of interest.

16. INTELLECTUAL PROPERTY

- 16.1 Third Party Intellectual Property. Unless specifically waived, GRANTEE shall obtain all licenses incident to the use or possession in the performance of the Grant Activities or the incorporation in the Grant Activities of any Intellectual Property. GRANTEE shall obtain and furnish TCEQ with any necessary Intellectual Property owned by third parties the following: documentation on the use of such Intellectual Property, and a perpetual, irrevocable, enterprise-wide license to reproduce, publish, otherwise use, or modify such Intellectual Property and associated user documentation, and to authorize others to reproduce, publish, otherwise use, or modify such Intellectual Property for TCEQ purposes.
- 16.2 Grant of License. GRANTEE hereby grants to TCEQ a nonexclusive, perpetual, irrevocable, enterprise-wide license to reproduce, publish, modify or otherwise use for any TCEQ purpose any preexisting intellectual property belonging to the GRANTEE that is incorporated into the Grant Activities and intellectual property created under this Grant, and any associated user documentation. If federal funds are involved, GRANTEE shall grant the same licence to EPA or other applicable federal agency, as required under federal law.

17. TIME DELAYS, SUSPENSION, TERMINATION

- 17.1 Time is of the Essence. GRANTEE's timely performance is essential to this Grant.
- 17.2 Delays. Where GRANTEE's performance is delayed, except by Force Majeure or act of the TCEQ, TCEQ may withhold or suspend reimbursement or may terminate the Grant.
- 17.3 Suspension of Reimbursement. By written notice, TCEQ may suspend the reimbursement of subsequently performed Grant Activities or any portion thereof for a period of ninety days. Any of the Grant Activities performed after notice will not be reimbursable unless specifically approved by the TCEQ.
- 17.4 Termination for Cause.

- 17.4.1 Procedure. TCEQ may, upon 10 days written notice, terminate this Grant for cause if GRANTEE substantially fails to comply with the Grant Documents including any one or more of the following acts or omissions: nonconforming Grant Activities, failure to provide evidence of required insurance coverage and failure to comply with HUB requirements in law or this Grant. Upon notification GRANTEE must immediately cease all work. TCEQ will not pay for any work performed after the notice of termination has been issued. Cancellation for cause does not prejudice TCEQ's other remedies authorized by this Grant or by law.
- 17.4.2 Solicitation of Funds. In no case, can the GRANTEE solicit funds, whether in writing or verbally, for a project proposal prepared in part with TCEQ resources, from an entity that is regulated by the TCEQ or a party in any TCEQ regulatory action. If TCEQ becomes aware that such representations have been made or suspects, even without proof or further investigation, that such representation have been made, TCEQ may immediately terminate this grant agreement or pursue other remedies available under Terms and Conditions Sections 17 and 19 of this agreement.
- 17.5 Termination for Convenience. TCEQ may, upon 10 days written notice, terminate this Grant for convenience or Force Majeure. Upon notification GRANTEE must cease all work within the 10 day period. TCEQ will not pay for any work performed after the notice of termination has been issued. Termination shall not prejudice any other right or remedy of TCEQ. GRANTEE may request reimbursement for: conforming Grant Activities and timely, reasonable costs directly attributable to termination. GRANTEE shall not be paid for: work not performed, loss of anticipated profits or revenue, consequential damages or other economic loss arising out of or resulting from the termination.

18. INSURANCE AND INDEMNIFICATION

- 18.1 Required Insurance. Unless prohibited by law, the GRANTEE shall require its subgrantees, contractors and suppliers to obtain and maintain during the Agreement Term adequate insurance coverages sufficient to protect the GRANTEE and the TCEQ from all claims and liability for injury to persons and for damage to property arising from the Agreement, whether caused by the GRANTEE or by the, subgrantee(s), contractor(s) or by anyone directly or indirectly employed by either. The GRANTEE shall insure the activity of its subgrantee and contractor in GRANTEE's own policies. Unless specifically waived by the TCEQ, GRANTEE shall acquire sufficient coverage protect the GRANTEE and the TCEQ, including but are not limited to the following insurance coverage:
- 18.1.1 Worker's Compensation and Employer's Liability Insurance. Elective exemptions or coverage through an employee leasing arrangement will not satisfy this requirement.

- 18.1.2 General Liability Insurance. Coverage for claims of personal injury and bodily injury, including accidental death, and property damage which may arise from the performance of the Contract. Required coverage types: Blanket, Broad Form Property Damage, Premises and Operations hazards, Products and Completed Operations hazards, Independent Contractor's, and Contractual Liability. Contractor will obtain contractual liability coverage for all provisions of this contract concerning obligations, liability, duty and standard of care, together with the indemnification provisions
- 18.1.3 Directors and Officers. GRANTEE will purchase and maintain insurance or equivalent insurance coverage or other financial assurance sufficient to protect the interests of the state in the event of an actionable actor or omission by a director or officer of the GRANTEE.
- 18.1.4 Volunteers and Minors. Grantee must provide Insurance for its Projects, subcontracts, and subgrants involving volunteers and minors.
- 18.1.5 There may be additional insurance requirements depending on the nature of the proposal.
- 18.2 Agencies of the State. Required Insurance requirements will be satisfied for State agencies where documentation is provided that the state agency or University is either self insured or prevented by law from satisfying the insurance provisions of this Article.
- 18.3 Certificate of Insurance. The Grantee is required to provide the completed TCEQ Certificate of Insurance prior to the signature of the Grant Agreement. The Certificate of Insurance shall become an Attachment to the Contract.
- 18.4 INDEMNIFICATION. TO THE EXTENT AUTHORIZED BY LAW, THE GRANTEE SHALL REQUIRE ALL CONTRACTORS AND SUBGRANTEES PERFORMING THE GRANT ACTIVITIES ON BEHALF OF GRANTEE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE TCEQ AND GRANTEE AND THEIR OFFICERS, EMPLOYEES AND REPRESENTATIVES FROM AND AGAINST ALL LOSSES, LIABILITIES, DAMAGES, AND OTHER CLAIMS OF ANY TYPE ARISING FROM THE PERFORMANCE OF THE GRANT ACTIVITIES BY THE GRANTEE OR ITS CONTRACTORS, SUPPLIERS AND AGENTS, INCLUDING THOSE ARISING FROM A DEFECT IN DESIGN, WORKMANSHIP, MATERIALS, OR FROM INFRINGEMENT OF ANY U.S. OR FOREIGN PATENT, TRADEMARK OR COPYRIGHT; OR FROM A BREACH OF APPLICABLE LAWS, REGULATIONS, SAFETY STANDARDS OR DIRECTIVES REGARDLESS OF WHETHER SUCH ACTS OR OMISSIONS ARE NEGLIGENTLY OR RECKLESSLY PERFORMED. THE DEFENSE OF THE TCEQ SHALL BE SUBJECT TO THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS TO REPRESENT THE TCEQ. THIS COVENANT SURVIVES THE TERMINATION OF THE GRANT.

19. DISPUTES, CLAIMS, REMEDIES

- 19.1 Continuing the Grant Activities. GRANTEE shall carry on the Grant Activities and adhere to the progress schedule during all disputes or disagreements with TCEQ unless ordered to stop the Grant Activities. No Grant Activities shall be delayed or postponed pending resolution of any disputes or disagreements.
- 19.2 Payment not a Release. Neither payment by TCEQ nor any other act or omission other than an explicit written release constitutes a release of GRANTEE from liability for losses under this Grant.
- 19.3 Schedule for Remedies available to the TCEQ. The following Schedule of Remedies applies to this grant. In the event of GRANTEE's nonconforming, TCEQ may:
 - 19.3.1 Issue notice of nonconforming performance.
 - 19.3.2 Reject nonconforming performance and request corrections without charge to the TCEQ.
 - 19.3.3 Reject a reimbursement request and/or suspend further payments pending accepted revision of the nonconformity.
 - 19.3.4 Suspend all or part of the Grant Activities and/or payments pending accepted revision of the nonconformity.
 - 19.3.5 Demand restitution and recover previous payments where performance is subsequently determined nonconforming.
 - 19.3.6 Terminate the Agreement without further obligation for pending or further payment by the TCEQ and receive restitution of previous payments.
- 19.4 Cumulative Remedies. The rights and remedies provided to the TCEQ in this Agreement, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available under state and federal rules, regulations, and laws and at common law.

20. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB)

GRANTEE will reasonably provide opportunities for HUBs to participate in subcontracting under this Grant. GRANTEE will include with each invoice a completed report of contracting activity for the invoiced period. The report must be on the Progress Assessment Report (PAR)] form. The GRANTEE must request the form from the TCEQ.

21. FINANCIAL RECORDS, ACCESS, AND AUDITS.

- 21.1 Financial Records. GRANTEE will establish and maintain financial records including records of costs of the Grant Activities in accordance with generally accepted accounting practices. Upon request GRANTEE will submit records in support of reimbursement requests. GRANTEE will allow access during business hours to its financial records by TCEQ and other state agencies for the purpose of inspection and audit. Records must be maintained for a minimum of three years beyond the termination of this Agreement.

- 21.2 Annual Audit. Unless waived by TCEQ, GRANTEE shall engage an independent financial auditor and conduct an annual audit in accordance with the Single Audit provisions of UGMS and those items set forth in this Article. In addition, the GRANTEE shall require the independent auditor to supply all audit work papers substantiating the work performed, at the request of the TCEQ or its designee.
- 21.3 Submit Audit Report. The GRANTEE shall submit to TCEQ a copy of the report of any audit conducted of the GRANTEE's financial records within 20 days of receipt of an audit report. At the same time, the GRANTEE will also provide a statement containing an explanation of the conditions giving rise to each exception in the audit report as well as a plan for correction of any significant deficiencies in the GRANTEE's operations or performance. At the option of the TCEQ, the GRANTEE may revise and resubmit. If the statement is initially or subsequently rejected by the TCEQ with no further opportunity to revise, the TCEQ may suspend reimbursement or may terminate the Agreement for cause and may undertake any other remedies or sanctions provided under this Agreement, as appropriate.
- 21.4 Contractor Requirements. Unless waived by TCEQ, GRANTEE will contractually require subgrantees, subcontractors and vendors to comply with applicable requirements of the Part IV of UGMS, Single Audit Circular.
- 21.5 State Auditor's Office and Federal Government Audits. GRANTEE understands that acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency and the federal government, to conduct an audit on investigation in connection with those funds. Grant Recipient further agrees to cooperate fully with the State Auditor's Office or its successor and the federal government in the conduct of the audit or investigation, including providing all records requested.
- 21.6 Audit Clause Required for Subcontractors and Subgrantees. GRANTEE will ensure that a clause concerning the authority of the state and federal government to audit funds received indirectly by subcontractors and subgrantees through GRANTEE and the requirement to cooperate is included in any subcontract or subgrant it awards under this Agreement.

22. INDIRECT COST RATE

- 22.1 TCEQ will not pay in excess of a fifteen percent (15%) of an audited indirect rate under this Agreement.
- 22.2 If Indirect Costs are authorized in budget of costs in this Agreement, the following requirements apply:
- 22.2.1 The GRANTEE shall comply with OMB Circular A-87 and the Uniform Grant Management Standards (UGMS) relating to Indirect Cost Rates.

22.2.2 The GRANTEE shall maintain all records related to indirect rate for inspection or audit by the TCEQ and will submit records to TCEQ within 10 days of request.

22.2.3 The indirect cost rate will be either the default rate or an audited rate.

22.2.4 The audited rate is determined by the following process:

22.2.4.1 Initially, the GRANTEE will utilize as a provisional rate either:

22.2.4.1.1 the indirect rate approved by the GRANTEE's federal cognizant agency or state coordinating agency within the past 24 months, or:

22.2.4.1.2 If the GRANTEE does not have an assigned federal cognizant agency or a designated state coordinating agency or if no rate is approved by the designated oversight agency within the past 24 months, the TCEQ and the GRANTEE may negotiate a provisional indirect rate in accordance with UGMS. A final audited rate determined under a previous contract between the parties for similar activities may be used as the provisional rate in this Grant.

22.2.4.2. GRANTEE will conduct an indirect rate audit. A final indirect rate will be established based on the actual allowable costs, as provided in UGMS, for the period as established by an audit (audit period) conducted by a currently licensed independent certified public accountant and submitted to the GRANTEE and the TCEQ. This indirect rate audit may be conducted at the same time as any other audit required of the GRANTEE. The cost of the indirect rate audit is accounted for within the indirect rate, not as a direct cost. If the indirect rate audit is not provided to TCEQ within 135 days of the close of the GRANTEE's Fiscal Year, the default indirect rate set out below will apply.

22.2.4.3 In the event, prior to the termination date of this Grant, an audited indirect rate which is different from the initial provisional indirect rate set forth in this Article is accepted by TCEQ, the TCEQ and the GRANTEE may negotiate a new Reimbursement Budget and incorporate the final indirect rate into the Grant by way of an amendment.

22.2.4.4 The provisional rate will be included in the authorized Reimbursement Budget and shall remain in effect subject to determination of a final indirect rate which is based on an audit of the Grant period, performed by a currently licensed independent certified public accountant, which specifically examines and

reports the indirect rate for the GRANTEE's accounting period(s) covered under this Grant.

22.2.4.5 The GRANTEE agrees to reimburse the TCEQ any overpayments received as a result of this provisional rate being higher than the approved final audited indirect rate for the period under consideration. Nothing in this section, or the results of any indirect cost audit or final indirect rate approval, shall cause the TCEQ to owe the GRANTEE more than the Maximum Reimbursement Amount or result in a reduction in the Grant Activities to be performed under the Grant. If the final indirect rate is higher than the provisional rate, an adjustment may be made in a future year Grant.

22.3 Default Indirect Cost Rate. Unless a provisional is submitted and is accepted by TCEQ, the reimbursement rate for indirect costs is 10% of the direct salary and wage costs of providing the service, in accordance with UGMS Part II, Attachment E, Paragraph E.2.d. No audit of this rate will be required by the TCEQ.

23. MISCELLANEOUS.

23.1 Assignment. No delegation of the duties or obligations, rights under or interests in the Grant Documents and no assignment of payments by GRANTEE will be binding on TCEQ without its written consent except as restricted by law. No assignment will release or discharge the GRANTEE from any duty or responsibility under the Grant Documents.

23.2 Sovereign Immunity. The parties hereby agree that this Grant does not waive the State's sovereign immunity relating to suit, liability, and the payment of damages.

23.3 Severability. If any provision of this Grant is held to be invalid, illegal or unenforceable, the remainder of the Grant shall be construed to conform to the intent of the parties.

23.4 Venue. GRANTEE agrees that the Grant is being performed in Travis County, Texas, because this Grant has been solicited, executed, and will be administered in Travis County, Texas. The GRANTEE agrees that any permissible cause of action involving this Grant arises solely in Travis County. This provision does not waive either party's TCEQ's sovereign immunity.

23.5 Public Information. The Texas Public Information Act, Tex. Gov't. Code ch. 552, applies to all data and information delivered to TCEQ in the course of performance of this Grant Activities. TCEQ assumes no obligation to make legal arguments in support of any claims pertaining to confidentiality, patents, trade secrets, or copyright.

23.6 Publication. GRANTEE is not authorized to publish or advertise information about this Grant without the express consent of the TCEQ.

- 23.7 Available Funding. This Grant and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the availability of funds appropriated by the Texas Legislature for the purposes of this Agreement or for the respective claim, suit, or obligation, as applicable. In the event the appropriation of funds for this Grant is insufficient or funding is withdrawn, TCEQ may terminate the Grant without obligation for payment.
- 23.8 Waiver. With the exception of an express, written document signed with authority by TCEQ, no act or omission will constitute a waiver or release of GRANTEE's obligation to perform conforming Grant Activities. No waiver on one occasion, whether expressed or implied, shall be construed as a waiver on any other occasion. The making of a payment does not constitute acceptance of the invoiced Grant Activities nor does it constitute a waiver of the TCEQ's claims against the GRANTEE or its sureties.
- 23.9 Permits and Licenses. GRANTEE is relied upon to perform all Grant Activities in conformity with all applicable laws, regulations, and rules and obtain all necessary permits and licenses.
- 23.10 Release of Claims. As a condition to final payment/settlement, the GRANTEE shall execute and deliver to the TCEQ a release of all claims against the TCEQ arising under or by virtue of this Agreement.
- 23.11 Survival of Obligations. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Grant Documents, as well as all continuing obligations indicated in the Grant Documents, will survive for twenty-four months beyond the termination or completion of the Agreement.
24. FEDERAL CONDITIONS
- 24.1. Applicability of Federal Requirements. This Contract is funded in part with federal grant money. The following conditions apply to this Contract in addition to all other contract terms. All applicable requirements of TCEQ's federal grants and 40 CFR Parts 30 through 35 are incorporated herein by reference (TCEQ will provide copies of applicable federal grants or regulations upon request). The term "PERFORMING PARTY" as used in these *Federal Conditions* means either PERFORMING PARTY or CONTRACTOR, as applicable.
- 24.2. Federal Intellectual Property Requirements. A nonexclusive, perpetual, irrevocable license to use, copy, publish, and modify any intellectual property to which rights are granted or assigned to TCEQ in this Contract are hereby also granted to, assigned to, or reserved by the Federal Government. To the extent consistent with the rights of third parties, the Federal Government shall also have the right to sell any intellectual property right it reserves or acquires through this Contract.

- 24.3. Acknowledgement of Financial Support. The PERFORMING PARTY shall acknowledge the financial support of the TCEQ and the U.S. EPA whenever work funded, in whole or part, by this Contract is publicized or reported in news media or publications. All reports and other documents completed as a part of this Contract, other than documents prepared exclusively for internal use within the TCEQ, shall carry the following notation on the front cover or title page:

*PREPARED IN COOPERATION WITH THE
Texas Commission on Environmental Quality AND
U.S. ENVIRONMENTAL PROTECTION AGENCY*

The preparation of this report was financed through grants from the U.S. Environmental Protection Agency through the Texas Commission on Environmental Quality.

If the funding source is a U.S. agency other than U.S. EPA, the name of the appropriate federal agency should be substituted.

- 24.4. Cost and Price of Agreement. If this Contract was not competitively procured or if payment is based on reimbursement of actual costs, then PERFORMING PARTY shall submit cost information sufficient for a cost analysis as required by 40 CFR §31.36. This information must be submitted on forms provided by the TCEQ.
- 24.5. Accounting Systems and Property Management Systems
- 24.5.1. PERFORMING PARTY shall have an accounting system which accounts for costs in accordance with generally accepted accounting standards or principles and complies with 40 CFR §31.20. This system shall provide for the identification, accumulation, and segregation of allowable and unallowable project costs among projects.
- 24.5.2. PERFORMING PARTY shall have a property management system that complies with the standard of and requirements in 40 CFR §§ 31.32 through 31.33.
- 24.6. RECORD DOCUMENTS, DATA, RECORDS, ACCESS, AND AUDIT. The Federal Government and its agencies will have the same rights of access to records as are granted to, assigned to, or reserved by the TCEQ under this Contract.

- 24.7. Debarment. On or prior to the effective date of this Contract, PERFORMING PARTY must submit a *Certification Regarding Debarment, Suspension, and Other Responsibility Matters*. PERFORMING PARTY must also submit a *Certification Regarding Debarment, Suspension, and Other Responsibility Matters / Lower Tier* for each subcontractor it employs to conduct the Work. These certifications must be submitted on forms provided by the TCEQ.
- 24.8. Minority Business Enterprises / Women's Business Enterprises (MWBES)
- 24.8.1. PERFORMING PARTY shall take steps to encourage participation by minority business enterprises and women's business enterprises (MWBES) in the performance of this Contract.
- 24.8.2. If the *General Conditions* of this Contract do not contain a requirement that PERFORMING PARTY submit information regarding its subcontracts with Historically Underutilized Businesses (HUBs) as defined by Texas law, then PERFORMING PARTY shall comply with the MBE/WBE requirements imposed on TCEQ in the federal grant or grants funding this Contract, and submit information regarding its subcontracts with MBE/WBEs on forms provided by the TCEQ.
- 24.8.3. PERFORMING PARTY agrees that qualified MWBEs shall have the maximum practicable opportunity to participate in the performance of the Work required under this Contract through possible subcontracts to carry out portions of the Work and by way of goods and/or services procurement contracts that directly support the required Work.
- 24.8.4. PERFORMING PARTY will submit a completed HUB PROGRESS ASSESSMENT REPORT with each reimbursement request submitted. At a minimum this report shall include the name of the MWBE, a description of the work, services or materials provided, the amount paid to the MWBE, and the name and telephone number of a contact person within the MWBE.
- 24.8.5. The PERFORMING PARTY shall conduct the following actions in connection with solicitations for subcontractors and for suppliers (vendors) of contract-required goods and/or services:
- 24.8.5.1. Place qualified MWBEs on solicitation lists for subcontractors and vendors;

- 24.8.5.2. Assure that at least three (3) MWBEs are solicited whenever they are potential sources for subcontractor-performed work or vendor-provided goods and/or services;
- 24.8.5.3. Each solicitation shall include a copy of the specifications, adequate information about the plans, Scope of Service, and requirements of the work to be subcontracted or the goods and/or services to be procured, and shall provide sufficient time to allow all interested parties the opportunity to participate effectively;
- 24.8.5.4. Records of solicitations for subcontractor and/or vendor services, including the responses received from potential MWBE subcontractors and vendors, shall be maintained and reported to TCEQ;
- 24.8.5.5. Submit explanatory information in cases where bids were not solicited prior to obtaining the services of subcontractors or vendors, or where a MWBE was low bidder but the subcontract or procurement contract was awarded to a non MWBE;
- 24.8.5.6. Divide total subcontractor or vendor requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such business enterprises; if sufficient subcontracting or goods and/or service provider opportunities are not available, PERFORMING PARTY shall submit explanatory information to TCEQ;
- 24.8.5.7. Establish delivery schedules, where requirements permit, which encourage participation by MWBEs;
- 24.8.5.8. Utilize the Texas Building and Procurement Commission (BPC) Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Directory (<http://www.tbpc.state.tx.us>) and the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce (<http://www.doc.gov>) when searching for MWBE subcontractors and/or vendors; and

24.8.5.9. Require its subcontractors to take the actions listed in 24.8.5.1 – 24.8.5.8 of this Article in all of its subgrants that contemplate the letting of lower-tier subgrants.

24.9. Prohibition Use of federal Funds for Lobbying and Litigation. Contractor agrees that none of the funds paid under this Contract will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. When Contractor applies for final payment, Contractor will certify on a written form provided by the TCEQ that Contractor has complied with this provision.

25. LIMITATION ON OVERHEAD SPENDING

The funds provided under this agreement shall not be used for more than 15% of the general overhead for the grant recipient. The pass through overhead to Grant Recipient subcontractors shall not exceed 2%. Grant Recipient must provide itemized invoicing from its subcontractors to show that it has complied with the overhead limitation.

26 COMPUTATION OF TIMES.

When any period of time is referred to in the Grant Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a state or federal holiday, such day will be omitted from the computation. A calendar day of twenty-four hours measured from midnight to the next midnight constitutes a day. A period referred to as a month is the applicable calendar month or if none, a period of thirty consecutive days. A period referred to as "week" is the applicable calendar week or if none, a period of seven consecutive days.

EPA Project Control Number

EPA

United States Environmental Protection Agency
Washington, DC 20460

**Certification Regarding
Debarment, Suspension, and Other Responsibility Matters**

The Prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this Offer been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) 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 statements, or receiving stolen property;
- (c) Are 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 in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/Offer had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this Offer or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

☐ I am unable to certify to the above statements. My explanation is attached.
EPA Form 5700-49 (11-88)

LOWER TIER

EPA Project Control Number

EPA
United States Environmental Protection Agency
Washington, DC 20460

Certification Regarding
Debarment, Suspension, and Other Responsibility Matters

The Prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this Offer been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) 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 statements, or receiving stolen property;
- (c) Are 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 in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/Offer had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this Offer or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

☐ I am unable to certify to the above statements. My explanation is attached.
EPA Form 5700-49 (11-88)

CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loan, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including Subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to the civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ORGANIZATION NAME AWARD NUMBER

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

SIGNATURE DATE

Please check appropriate box below:

- ☐ Disclosure Form attached
- ☐ Disclosure Form Forthcoming
- ☐ Disclosure Form Not Applicable

1. Type of Federal Action: ☐] a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐] a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐] a. initial filing b. material change For Material change only: year _____ Quarter _____ date of last report _____	
4. Name and Address of Report Entity ☐] prime ☐] subawardee tier _____, if known: Congressional District, if known: _____	5. If Reporting Entity in No. 4 is Subawardee, enter name and address of Prime: Congressional District, if known _____		
6. Federal Department/Agency: _____	7. Federal Program name/Description: _____ CFDA Number, if applicable: _____		
8. Federal Action Number, if known: _____	9. Award Amount if known: \$ _____		
10. a. Name and address of Lobbying Entity (if individual, last name, first name, MI): _____ (attach Continuation Sheet(s))	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): SF--LLL-A if necessary)		
11. Amount of Payment (check all that apply): \$ _____ ☐] actual ☐] planned 12. Amount of payment (check all that apply): ☐] a. cash ☐] b. in-kind; specify nature _____ value _____	13. Type of Payment (check all that apply): ☐] a. retainer ☐] b. one-time fee ☐] c. commission ☐] d. contingent fee ☐] e. deferred ☐] f. other, specify: _____		
14. Brief description of services performed or to be performed and date(s) of service, including officer(s), employee(s), or Member(s) contacted for Payment indicated in Item 11: (attach Continuation sheet(s) SF-LLL-A if necessary)			
15. Continuation sheet(s) SF-LLL-A attached: ☐] Yes ☐] No			
<u>16. Information requested through this form is authorized by Title 31 U.S.C. , Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</u>		Signature _____ Print Name _____ Title _____ Telephone No. _____ Date _____	

DISCLOSURE OF LOBBYING
CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form - LLL-A

INSTRUCTIONS FOR COMPLETION OF SF-LL DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to Subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal Agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Offer (RFP) number, invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/Offer control number assigned by the Federal agency) Include prefixes, e.g., RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code for the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Management and Budget Paperwork Reduction Project (0348-0046), Washington, D.C. 29503.

**PURPOSE AND APPLICABILITY OF THE COST OR PRICE SUMMARY
(COST OR PRICE SUMMARY IS ATTACHED BELOW)**

The purpose of this form is to provide a simple form for the display of cost and price data. 40 CFR 33.290 requires the recipient to perform cost or price analysis for every procurement action, including subagreement modifications. This form is not required by EPA, but may be used at the recipient's option. If the recipient currently uses a cost and price analysis form which accomplishes the same objectives as this form, the recipient may use its own form.

INSTRUCTIONS

If this form is used, CAREFULLY READ AND FOLLOW ALL INSTRUCTIONS. Many items are not self-explanatory. Attach additional sheets if necessary.

Use only the applicable portion of this form:

Part I is applicable to all subagreements.
Part II is applicable to all subagreements requiring a cost analysis pursuant to EPA procurement regulations.
Part III is applicable to all subagreements where review is based on price comparison (i.e., price analysis).
Part IV certification will be executed as required by the instructions for each block.

PART I - GENERAL

Item 1 - Enter the name of the of the recipient as shown on the assistance agreement.
Item 2 - Enter the assistance identification number shown on the assistance agreement (or assigned to the project, if no assistance agreement has yet been executed).
Item 3 - Enter the name of the contractor or Subcontractor with whom the subagreement is proposed to be executed.
Item 4 - Enter the date of the contractor's or Subcontractor's Offer to the recipient.
Item 5 - Enter the full mailing address of the contractor or Subcontractor.
Item 6 - Give a brief description of the work to be performed under the proposed subagreement.

Part II - COST SUMMARY

This portion of the form is to be completed by the contractor (or his/her Subcontractor) with whom a subagreement is a formally advertised, competitively bid, fixed price subagreement.

Nothing in the following discussion should be interpreted as recommending the inclusion as direct costs any items normally treated as overhead costs in the firm's accounting or estimating system. 40 CFR Part 30 identifies general cost principles applicable to subagreements under EPA assistance. Pursuant to that Part, all subagreements awarded to profit-making organizations are subject to cost principles of 48 CFR 31.2. Architect engineer and construction contracts are also subject to 48 CFR 31.105.

Item 7 - Direct Labor

Direct labor costs normally include salaries at a regular time rate. Overtime premiums should be identified separately on an attachment. Incurrence of unanticipated overtime costs requires the approval of the recipient at the time of incurrence. If

significant overtime is known to be needed at the time of completion of the cost review form, the reasons therefore, labor categories, rates and hours should be identified on the attachment. Also included is the cost of partners' or principals' time when they are directly engaged in services to be rendered under the subagreement. In case the full time of any employee is not to be devoted to work to be performed under the subagreement, only the cost of actual time to be applied should be included. The compensation of a partner or principal shall be included as direct cost only for the time that she/he is expected to be engaged directly in the performance of work under the subagreement and only if it is the firm's normal practice to charge such time directly to all jobs. The rate of compensation of a partner or principal shall be commensurate with the cost of employing another qualified person to do such work, but the salary portion shall not exceed the actual salary rate of the individual concerned. Distribution of profits shall not be included in the rate of compensation.

Enter in block 7 the categories of professional or technical personnel necessary to perform each major element of work under the subagreement scope of services. Estimate hours worked for each category and extend them by the wage rates to be paid during the actual performance of the work. Current rates, adjusted for projected increases, if any should be useful for the actual categories of labor contemplated. All projected increases should be supported by recent experience or established personnel policy. Enter in the far right column the total estimated direct labor cost.

Supporting records to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

- a. The method of estimating proposed hours worked.
- b. The computation techniques used in arriving at proposed labor rates.
- c. The specific documents, books or other records used as factual source material to develop proposed hours worked and labor rates.
- d. Detailed rate computations which were used in computing the information submitted on the form.

If in block 14a, the contractor has checked "No," a brief narrative description of the methods used in arriving at items a through d above shall be included on an attached sheet.

Item 8- Indirect Costs

Indirect cost may consist of one or more pools of expenses which are grouped on the basis of the benefits accruing to the cost objectives represented by the distribution base or bases to which they are allocated. Since accounting practices vary, the use of particular groupings is not required. Neither is the use of any particular allocation base mandatory. However, it is mandatory

that the method used results in an equitable allocation of indirect costs objectives which they support.

Normally, the firm's accounting system and estimating practices will determine the method used to allocate overhead costs. The firm's established practices, if in accord with generally accepted accounting principles and PROVIDED THEY PRODUCE EQUITABLE RESULTS IN THE CIRCUMSTANCES, will generally be accepted. Proposed overhead rates should represent the firm's best estimate of the rates to be experienced during the subagreement period. They should be based upon recent experience and be adjusted for known factors which will influence experienced trends.

Common overhead groupings are overhead on direct labor and general and administrative expenses. The first groupings usually include employment taxes, fringe benefits, holidays, vacation idle time, bonuses, applicable and direct labor, etc. The second generally includes the remaining costs, which, because of their incurrence for common or joint objectives, are not readily subject to treatment as direct costs. It is expected, however, that Offer groupings will correspond with the firm's normal method for accumulating indirect costs. (Under some accounting systems, the first grouping would be included instead under item 7.) No special categorization is required, provided the results are realistic and equitable.

Direct salaries are the normal distribution base for overhead cost but in some circumstances other bases produce more equitable results. As in the case of overhead cost groupings, the method to be used will depend upon the firm's normal practices and the equity of the results produced in the circumstances.

In the case of multibranch firms, joint ventures, or affiliates, it is expected that overhead costs applicable to specific location(s) where work is to be based on cost data from the most recent fiscal periods updated to reflect changes in volume of business or operations.

Enter in block 8 the indirect cost pools normally used by the firm for allocation of indirect costs. Enter indirect cost rate for each pool and extend each one by the rate base to which it applies to arrive at the estimated indirect costs to be incurred during the actual performance of the work. If the indirect labor total from block 7 is not used as the rate base for any of the indirect cost pools, the rate base used must be explained on an attached sheet.

A brief narrative statement outlining the firm's policies and practices for accumulating indirect costs. Enter the indirect cost rate costs and the method used to compute the proposed rate or rates shall accompany the form. Include comment on the firm's policies regarding the pricing and costing of principals' time. The normal accounting treatment of principals' salaries, the annual amounts, and the hourly charge rate, if used, should be discussed.

Enter in the far right column the total estimated indirect costs.

Supporting records to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

a. Detailed cost data showing overhead accounts, allocation bases, and rate computations for the preceding fiscal period. If more than six months of the current fiscal period have elapsed,

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cost data for this period should be included as one of the three period(s).

b. Company budgets, budgetary cost data and overhead rates computations for future period(s).

Item 9 - Other Direct Costs

The following items are illustrative of costs normally included in this category of costs:

a. *Travel cost, including transportation, lodging, subsistence, and incidental expenses incurred by personnel or consultants while in travel status in connection with the performance of services required by the contract. The cost principles generally require the use of less than first class air accommodations and also limit the cost of private aircraft.*

b. *Equipment, Materials, and Supplies*

(1) *Long distance telephone calls, telegraph and cable expenses to be incurred in connection with the performance of services required in connection the subagreement.*

(2) *Reproduction costs, including blueprints, black and white prints, ozalid prints, photographs, photostats, negatives; and express charges.*

(3) *Commercial printing, binding, artwork, and models.*

(4) *Special equipment.*

c. *Subcontractors*

d. *Other Direct costs, if any, not included above.*

Enter in blocks 9a-d all other direct costs proposed. Travel costs entered must be supported by an attachment which identifies the number of staff trips proposed and the estimated cost per staff trip for both local and long distance transportation. The number of days and the rate per day must be provided to support the per diem shown. Each Subcontract and consultant agreement must be identified separately in block 9c.

Enter in the far right column on line 9e the total of all other direct costs (9a-d).

Supporting data to be maintained by the contractor and which must be submitted or made available to the recipient or EPA upon request include:

a. basis for other direct costs proposed.

b. factual sources of costs, rates, etc., used in computing proposed amount of each cost element.

Item 10 - Total Estimated Cost

Enter the total of all direct labor, indirect costs and other direct costs from items 7, 8, and 9.

Item 11 - Profit

A fair and reasonable provision for profit cannot be made by simply applying a certain predetermined percentage to the total estimated cost. Rather, profit will be estimated as a dollar amount

after considering:

b. nature of the work to be performed.

a. degree of risk.

c. extent of firm's investment.

d. Subcontracting of work, and

e. other criteria.

The Federal Acquisition Regulation cost principles applicable to subagreements with profit-making organizations (40 CFR 31.2 and 31.105) disallow certain types of costs which are sometimes incurred by firms in the normal conduct of their business. Examples of costs which are not allowable under these cost principles include, but are not limited to, entertainment, interest on borrowed capital, and bad debts. Because the Government considers "profit" to be the excess of price over allowable costs, such computation can indicate a higher profit estimate than the firm's experienced profit as it customarily computes it. The contractor may separately disclose to the recipient its customary computations.

Enter the dollar amount of profit in block 11.

Item 12 - Total Price

Enter the total of items 10 and 11.

Part III - PRICE SUMMARY

This portion of the form is for use by a recipient when price comparison, i.e., price analysis, is used for subagreement review. It may also be used by a contractor when price comparison is used as a basis for award of a Subcontract.

Item 13 - Competitor's Catalog Listings, In-House Estimates, Price Quotes

Enter sources of all competitive bids or quotes received, or catalogs used and their prices, or in-house estimates made, if appropriate, for comparison. Attach additional sheets if necessary, particularly for purchases of several different items.

Enter in the far right column the proposed price for the subagreement.

Part IV - CERTIFICATIONS

Item 14 - Contractor - FOR USE BY CONTRACTOR OR SUBCONTRACTOR ONLY.

Complete this block only if part II has been completed.

Enter the specific cost principles with which the costs summary of Part II conforms. Cost principles applicable to subagreements with various types or organizations are identified in 40 CFR Part 30.4010. Cost principles applicable to subagreements with profit-making organizations are those at 48 CFR 31.2 and, for architect-engineer or construction contracts, 48 CFR 31.105.

c. (1) Describe the Offer, quotation, request for price adjustment, or other submission involved, giving appropriate identifying number (e.g., RFP No. _____).

(2) Enter the date when the price negotiations were concluded and the contract price was agreed to. The responsibility of the subagreement is not limited by the personal knowledge of the contractor's negotiator if the time of agreement, showing that the negotiated price is not based on complete, current, and accurate data.

(3) Enter the date of signature. This date should be as close as practicable to the date when the price negotiations were concluded and the subagreement price was agreed to (not to exceed 30 days).

Item 15 - Recipient Reviewer - FOR USE BY RECIPIENT ONLY.

If required by applicable assistance regulations, the recipient must submit the signed form for EPA review prior to execution of the subagreement.

Item 16 - EPA Reviewer - FOR USE BY EPA ONLY.

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 EPA	COST OR PRICE SUMMARY (see accompanying instructions before completing this form)	Form approved OMB No. 2030-0011 Approval expires 10-31-86		
PART I - GENERAL				
1. RECIPIENT	2. ASSISTANCE IDENTIFICATION NO.			
3. NAME CONTRACTOR OR SUBCONTRACTOR	4. DATE OF PROPOSAL			
5. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP Code)	6. TYPE OF SERVICE TO BE FURNISHED			
TELEPHONE NUMBER(Include Area Code)				
PART II - COST SUMMARY				
7. DIRECT LABOR (specify labor categories)	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
		\$	\$	
DIRECT LABOR TOTAL:				\$
8. INDIRECT COSTS (Specify indirect cost pool)	RATE	x BASE =	ESTIMATED COST	
		\$	\$	
INDIRECT COSTS TOTAL:				\$
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION			\$	
(2) PER DIEM			\$	
TRAVEL SUBTOTAL:			\$	
b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)	QTY	COST	ESTIMATED COST	
		\$	\$	
EQUIPMENT SUBTOTAL:				
c. SUBCONTRACTS			ESTIMATED COST	
			\$	
SUBCONTRACTS SUBTOTAL:			\$	
d. OTHER (Specify categories)			ESTIMATED COST	
			\$	
OTHER SUBTOTAL:			\$	
e. OTHER DIRECT COSTS TOTAL:				\$
10. TOTAL ESTIMATED COST				\$
11. PROFIT				\$
12. TOTAL PRICE				\$

PART III - PRICE SUMMARY			
13. COMPETITOR'S CATALOG LISTINGS, IN-HOUSE ESTIMATES, PRIOR QUOTES (Indicate basis for price comparison)		MARKET PRICE(S)	PROPOSED PRICE
			\$
PART IV - CERTIFICATIONS			
14	CONTRACTOR OR		
14a.	HAS A FEDERAL AGENCY OR FEDERALLY CERTIFIED STATE OR LOCAL AGENCY PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER FEDERAL ASSISTANCE AGREEMENT OR CONTRACT WITHIN THE PAST 12 MONTHS?		
	☐ YES	☐ NO (If "Yes" give name, address, and telephone number of reviewing office)	
14b.	THIS SUMMARY CONFORMS WITH THE FOLLOWING COST PRINCIPLES		
14c.	This proposal is submitted for use in connection with and in response to:		
	(1)		
	This is to certify to the best of my knowledge and belief that the cost and pricing data summarized herein are complete, current, and accurate as of:		(2) DATE
	I further certify that a financial management capability exists to fully accurately account for the financial transactions under this project. I further certify that I understand that the subagreement price may be subject to downward renegotiation and/or recoupment where the above cost and pricing data have been determined, as a result of audit, not to have been complete, current, and accurate as of the date above.		
(3)	TITLE OF PROPOSER	SIGNATURE OF REVIEWER	DATE OF EXECUTION
15.	RECIPIENT REVIEWER		
	I certify that I have reviewed the cost/price summary set forth herein and the proposed cost/price appear acceptable for subagreement award.		
	TITLE OF PROPOSER	SIGNATURE OF REVIEWER	DATE OF EXECUTION
16.	EPA REVIEWER		
	TITLE OF PROPOSER	SIGNATURE OF REVIEWER	DATE OF EXECUTION

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TCEQ HUB Progress Assessment Report (PAR)

Part A. Identifying Information.

1. TCEQ Contract No.: _____

2. You're Invoice No. _____

3. Work Order No. (if applicable) _____

4. For work completed between _____ and _____

5. Prime Contractor ("You"): _____

6. Prime Contractor Vendor ID #: _____

7. Contact : _____

8. Phone: _____

9. Is the Prime Contractor a Texas certified HUB and performing at least 25% of the total value of the contract? ☐ Yes ☐ No

Part B. Current Invoice FOR HUB and/or Non-HUB Subcontracting Information.

10. Check box if no HUB and/or Non-HUB subcontractors have been used this period, otherwise fill out below listed table:				
Name and Address of HUB and/or Non-HUB Subcontractor	Vendor ID No.	Type of HUB	Provided*:	Value of this subcontractor's participation for this invoicing period
		☐ MBE ☐ WBE	☐ Services ☐ Commodities	\$
		☐ MBE ☐ WBE	☐ Services ☐ Commodities	\$
		☐ MBE ☐ WBE	☐ Services ☐ Commodities	\$
			Total	\$

* If subcontractor's services include both labor and materials, check "services" only.

Note: If you need room to list more subcontractors, enter this information on a plain sheet of paper and attach it to this form.

11. Total of current invoice: \$ _____

12. Total of current invoices from certified HUB subcontractors: \$ _____

13. Percent of HUB expenditures for this invoice: _____ %
(line 12 ÷ line 11) x 100

Part C. Total Contract/HUB Subcontracting Information

14. Total amount invoiced to date: \$ _____

15. Total invoiced from certified HUB Subcontractors to date: \$ _____

16. Percent of HUB invoices for total contract to date: _____ %
(line 15 ÷ line 14) x 100

17. HUB subcontracting goal for this contract: _____ %

Part D. Affirmation. The information provided on this form is complete and correct. You or our representative must sign here:

18.
Name : _____

Signature: _____

19.
Date: _____

Type of funding: ☐ State ☐ Federal ☐ Both			Date In: _____	PCA Code(s) _____
Check if prime contractor is one of the following:				
☐ River Authority	☐ Interlocal	Printed Name: _____		
Index: _____ COBJ: _____ Signature: _____				

General Information

The purpose of this form is to help the Texas Commission on Environmental Quality (TCEQ; “us”) to track the value of business we do with Texas-certified “historically underutilized businesses” (HUBs) and federally designated “minority- or woman-owned business enterprises” (MWBEs). In this form, the acronym “HUB” refers to both of these classes of businesses.

Do I Have to Complete This Form?

If we have awarded you a contract to provide us with professional services, other services, or commodities *and* your contract contains a subcontracting plan, then you must complete this form each time you submit an invoice or set of invoices to us—even if *no subcontracting occurred during the period covered by these invoices*.

If you are a HUB, you must perform at least 25 percent of the total value of the contract with your own or leased employees as defined by the Internal Revenue Service in order for the agency to receive 100 percent HUB credit for the entire contract. You may subcontract more than 75 percent of the contract with HUBs or non-HUB subcontractors, but you must report to us the value—both dollar amount and percentage—of your contract that was actually performed by you and your subcontractors during each invoicing period.

Where Do I Turn This Form In?

When you have completed this form, attach it to your invoices and submit it to our project manager for your contract.

Where Can I Get More Answers?

If you have any other questions, call the project manager named on your contract or our HUB Program Director: (512/239-1273).

Definitions

These brief definitions may help you complete this form. For terms where a full legal definition may be helpful, we have cited the rule or law that gives that definition..

Commodities—materials, supplies, or equipment. May include consumable articles (for example, office supplies) or durable items (for example, computers, furniture, or equipment).

Other services—all services other than construction and professional services, including consulting services (Texas Government Code, Chapter 2254, Subchapter B).

Prime contractor (or “prime”)—any business, agency, or individual who provides commodities or services to us under a purchase order or other contract.

Professional services—services of accountants, architects, engineers, land surveyors, optometrists, and physicians (Texas Government Code, Chapter 2254, Subchapter A).

Services—(1) functions performed for us by an outside source—for example, equipment repair, consulting, hazardous waste disposal, or work by short-term temporary employees.
(2) similar functions performed for the prime contractor by an outside source.

Subcontractor—any business, agency, or individual (other than an employee) who provides commodities or services to the prime contractor.

Total contract (Item 14)—on this form, total value of your contract with us, including all monetary amendments, if any.

Vendor ID No.—the 11-digit taxpayer identification number assigned to this subcontractor by Comptroller of Public Accounts. The subcontractor should be able to provide you with this number.

Instructions

1. **TCEQ Contract No.** - Enter the contract number we have assigned to this contract. This number appears on the first page of the contract
2. **Your Invoice No.** - Enter your invoice number for each invoice you are submitting with this form.
3. **Work Order No.** - If applicable, enter your work order number for the site, phase, or program.
4. **For work completed between** - Enter the period of time in which the work covered by these invoices was carried out.
5. **Prime Contractor** - Enter the name of the contractor to which we awarded this contract.
6. **Prime Contractor Vendor ID#** - Enter the 11-digit vendor identification number the Comptroller of Public Accounts has assigned the prime contractor.

7. **Contact** - Enter the name of the person authorized to complete this form for the prime contractor. We will contact this person if we have any questions about the information you have provided on this form.

8. **Phone** - Enter the phone number at which we can reach the contact person named in Item 7.

9. Indicate "Yes" or "No".

10. **HUB and/or Non-HUB Subcontractor Information** - *First column*—Enter the complete name and address of each subcontractor. Enter information about this subcontractor in the remaining columns of this row. Check box if no subcontractors were used during this invoicing period.

Second column—Enter the 13-digit vendor identification number the Comptroller of Public Accounts has assigned to this HUB subcontractor.

Third column—You have three options:

- If this subcontractor is a minority-owned business enterprise, check "MBE."
- If this subcontractor is a woman-owned business enterprise, check "WBE."
- If this subcontractor qualifies as *both* and MBE *and* a WBE, check both boxes

Fourth-column- Indicate, by checking the appropriate box, whether the subcontractor provided services or commodities. (If both, check "services" only.)

Fifth column - Enter the total of all invoices attached for the HUB subcontractor.

11. **Total of current invoice** - Enter the total of the Prime Contractor's current invoice.

12. **Total of current invoices from certified HUB subcontractors** - Enter the total amount of all attached invoices from HUBs.

13. **Percent of HUB expenditures for this invoice** - Use the instructions on the PAR form to calculate the percentage of this invoice that HUB subcontractors have completed.

14. **Total amount invoiced to date** - Enter the total of all invoices you have submitted to us to date for this contract, including the invoices attached to this PAR form.

15. **Total of HUB expenditures on the total contract to date** - Enter the total of all HUB subcontractor invoices for this contract to date.

16. **Percent of HUB invoices for the total contract to date** - Use the instructions on the PAR form to calculate the percentage of this contract that HUB subcontractors have completed to date.

17. **HUB Subcontracting goal for this contract** - The HUB goal is stated as a percentage in your contract. Enter the HUB goal here.

18. **Name and Signature** - The contractor or authorized representative of the contractor.

19. **Date** - Enter the date you completed this report.