

## **Standard Terms & Conditions**

1. If applicable, all delivery and freight charges are to be included, based on deliveries being FOB destination, inside delivery, unless otherwise specified elsewhere in proposal document.
2. If applicable, a packing list or other suitable documents shall accompany each shipment and shall show:
  - A. name and address of Respondent;
  - B. name and address of receiving department;
  - C. Ellis County, Texas purchase order number;
  - D. description of material shipped, including item numbers, quantity, number of containers, and package numbers (if any).
3. Alternate proposals will not be considered unless authorized by the proposal itself. If there is any question as to the specifications or any part thereof, Respondent may submit to the Ellis County, Texas Purchasing Agent, a request for clarification. Such requests must be received in writing no later than five (5) days prior to scheduled opening date.
4. If applicable, Ellis County, Texas reserves the right to require samples for testing. Any failure of a sample test shall be considered sufficient reason to reject a proposal.
5. Ellis County will not pay for unacceptable or unsatisfactory work.
6. Quantities indicated in the proposal are estimated based upon the best available information. Ellis County reserves the right to increase or decrease the quantities by any amount deemed necessary to meet its needs without any adjustments in the negotiated price.
7. Prices for all goods and/or services shall be firm for the duration of any contract awarded and shall be stated on the proposal sheet(s). Prices shall be all inclusive and guaranteed for the entire contract period. All prices must be written in ink or typewritten.
8. If a Respondent contemplates any additional or contingent costs of any kind, Respondent must clearly indicate on the proposal sheet(s) or forfeit the right to payment for the same.
9. Respondent shall make all inquiries necessary to be thoroughly informed as to the specifications and all other requirements proposed. Any apparent omission or silence of detail in the description concerning any point in the specifications shall be interpreted based on best commercial practices, and best commercial practices shall prevail.
10. The County reserves the right to award parts of bid, reject any or all bids and to waive technical irregularities in the bid. Contract award will be made based on the lowest qualified responsible Respondent or the Respondent who provided the goods and services at the best value for the County, considering the selection criteria below.

Best Value Selection Criteria:

- A. The County will evaluate all submissions by reviewing and rating each based on the following criteria, which are ranked in order of importance: (Unless Expanded Criteria is Included in the Request for Proposal)
1. The extent to which the Respondent's services meet the County's needs and specification, as stated in the bid.
  2. Experience, qualifications and quality of the Respondent's services
  3. Reputation of Respondent
  4. Any relevant criteria specifically listed in the bid
  5. Cost to the County
  6. Best value for the County. The County may use a "best value" selection process, which is based on a combination of cost and qualitative consideration. The qualitative consideration may include, but are not limited to: experience, qualifications and quality of the Respondent's services; reputation of Respondent; financial resources; and any relevant criteria specifically listed in the bid.
  7. Vendor's past performance record with Ellis County
  8. Vendor's safety record
  9. Ellis County's evaluation of the vendor's ability
- B. The Respondent may be required to make an oral presentation to the Commissioners Court to further present their qualification. These presentations shall provide the Respondent the opportunity to clarify their response and ensure a mutual understanding of the work to be performed.
- C. The County reserves the right, where it may serve the County's best interest, to request additional information or clarifications from Respondents. The County reserves the right to negotiate any and all elements of any Respondent's proposal.

The County reserves the right to award in lump sum or to multiple vendors or as primary, secondary and tertiary award winners.

11. Invoices shall be sent to the department or office requesting the product. Ellis County mailing address is 109 S. Jackson St., Waxahachie, TX 75165. Invoices must detail the materials/equipment/services delivered and must reference the Ellis County Purchase Order Number or Bid Number to include expiration date. Invoices are processed according to the Accounts Payable Cutoff Schedule found of the Ellis County website.
12. Items supplied under this contract shall be subject to approval by Ellis County. Item(s) found to be defective or not meeting specifications shall be picked up and replaced by the successful Respondent within one (1) week after notification, at no expense to Ellis County. Failure to pick up item(s) within one week will constitute a donation to Ellis County for disposition as deemed appropriate.

13. Only the Commissioners Court of Ellis County, Texas, acting as a voting body may enter into any type of agreement or contract on behalf of Ellis County over \$50,000.00. The Purchasing Agent shall enter into all agreements under \$50,000.00. Department heads, other elected or appointed officials, are not authorized to enter into any type of agreement or contract on behalf of Ellis County, or to agree to any type of supplemental agreements or contracts for goods or services. Contracts are subject to review by the County's attorney prior to signature by the authorized County official. Invoices by Respondent that are at variance with this paragraph are void to the extent of that variance.
14. Whenever an article or material is defined by describing a proprietary product or by using the name of the manufacturer, the term "OR EQUAL" if not inserted shall be implied unless otherwise indicated by "NO SUBSTITUTIONS". The specified article or material shall be understood as descriptive. In case the unit price of an item differs from the extended price for the quantity proposal, the unit price shall govern.
15. The Respondent shall be considered an independent Respondent and not an agent, servant, employee or representative of the County in the performance of the work. No term or provision, hereof, or act of the Respondent shall be construed as changing that status.
16. The Respondent shall defend, indemnify, save, and hold harmless the County and all its officers, agents, employees from and against all suits, actions, or claims of the character, name and description brought for or on account of any injuries or damages (including but not restricted to death) received or sustained by any person(s) or property on account of, arising out of, or in connection with the performance of the work of Respondent, or any negligent act or omission of the Respondent in performance of the work contemplated by this Contract.
17. The Respondent agrees, during the performance of the work, to comply with all applicable codes and ordinances of the appropriate City, Ellis County, or State of Texas as they may apply, as these laws may now read or as they may hereafter be changed or amended.
18. The Respondent shall obtain from the appropriate City, Ellis County, or State of Texas the necessary permit(s) required by the ordinances of the County, County, or State, for performance of the work.
19. The Respondent shall not sell, assign, transfer or convey the Contract in whole or in part, without the prior written consent of the County.
20. The Contract executed is enforceable in Ellis County, Texas, and if legal action is necessary, exclusive venue lies in district courts of Ellis County, Texas.
21. The contract shall be governed by, and construed in accordance with, the laws of the State of Texas and all applicable Federal laws.

22. Funding Clause - Payments required to be made by Ellis County under the terms of this Contract shall be contingent upon and subject to the initial and continuing appropriation of funding for the Contract by and through the Commissioners Court of Ellis County, Texas.
23. Ellis County is exempt from federal excise and sales taxes, ad valorem taxes and personal property taxes; therefore, tax must not be included in proposals tendered. Proposed prices offered must be complete and all inclusive. Ellis County will not pay additional taxes, surcharges or other fees not included in purposed prices.
24. Ellis County expressly reserves the right to accept or reject in part or in whole, any proposals submitted, and to waive any technicalities or formalities as to such waiver is determined to be in the best interest of Ellis County.
25. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Contract shall be considered as if such had never been contained herein.
26. Proposals may be withdrawn prior to the official opening. Alterations made before the time of official opening must be initialed by Respondent guaranteeing authenticity. Submissions may not be amended, altered or withdrawn after the official opening, except upon the explicit recommendation of the Purchasing Agent and the formal approval of the Commissioners Court.
27. The Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters herein, and cannot be modified without written agreement of the parties. The Contract will be executed after determination of the award.
28. Respondent must provide a certificate of insurance conforming to the above listed requirements or a statement of Respondent's insurance carrier certifying that the required coverage shall be obtained by Respondent within ten (10) days of formal award of the contract. In the case where a certification letter from an insurance carrier is attached to the proposal in lieu of an insurance certificate, any formal award of a contract shall be contingent upon required coverage being put into force prior to any performance required by subject contract. All insurance requirements including Workers Compensation as outlined in the Texas State Statutes shall be met prior to any delivery and shall remain in effect during the life of the contract.
29. Ellis County may terminate the contract at any time, without cause, upon thirty (30) days written notice to Respondent. It is further agreed by Respondent that Ellis County shall not be liable for loss or reduction in any anticipated profit.
30. If a Contract, resulting from an RFSQ/RFP/RFQ/CSP/RFB is for the execution of a public work, the following shall apply:

**30.1 In accordance with Texas Government Code 2253.021, a County that makes a public works Contract with a prime Contractor shall require the Contractor, before beginning work, shall execute to the County a Payment Bond if the Contract is in excess of \$25,000.00. Such bond shall be in the amount of the Contract payable to the County and must be executed by a corporate surety in accordance with Texas law.**

**30.2 In accordance with Texas Government Code 2253.021, a County that makes a public works Contract with a prime Contractor shall require the Contractor, before beginning work, to execute to the County a Performance Bond if the Contract is in excess of \$100,000. Such bond shall be in the amount of the Contract payable to the County and must be executed by a corporate surety in accordance with Texas law. Bonds may be required in accordance with state statutes as outlined in the specifications.**

**30.3 In accordance with Texas Local Government Code 262.032, If the contract is for the construction of public works or is under a contract exceeding \$100,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in this state.**

**(b) Within 30 days after the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid or proposal and prior to commencement of the actual work, the bidder or proposal offeror shall furnish a performance bond to the county, if required by the county, for the full amount of the contract if that contract exceeds \$50,000. This subsection does not apply to a performance bond required to be furnished by Chapter 2253, Government Code.**

31. Ellis County is wholly committed to developing, establishing, maintaining, and enhancing minority business involvement in the total procurement process. It is the policy of Ellis County to involve qualified minority/women-owned businesses to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects. The County, its Respondents, their suppliers and sub-Respondents, vendors of goods, equipment, services, and professional services, shall not discriminate based on race, color, religion, national origin, age, handicap, or sex in the award and/or performance of contracts. However, competition and quality of work remain the ultimate standards in Respondent, sub-Respondent, vendor service, professional service, and supplier utilization. All vendors, suppliers, professionals and Respondents doing business or anticipating doing business with Ellis County shall support, encourage and implement steps toward our common goal of establishing equal opportunity for all citizens of Ellis County.
32. Respondents must provide the following information as part of this submission:
  - A. Form of business. (If a corporation, limited partnership or limited liability company, indicate the state of creation).

- B. Name of contact person (single point of contact with the Respondent).
  - C. List of all criminal charges, lawsuits or dispute resolutions to which Respondent is a party in the past five (5) years and the nature of the issue. Indicate if and how it was resolved.
  - D. List all criminal charges, lawsuits, or alternative dispute resolutions to which Respondent becomes a party for the period beginning with the submission of the proposal until the rejection or award of the Contract.
  - E. Current Audit Report, Comprehensive Annual Financial Statement, or Current Balance Sheet and Income statement.
33. Ellis County reserves the right to reject any or all proposals, to award contracts to primary and secondary respondents, to reject materials/proposals not meeting specifications, and to increase or decrease quantities and to award separate contracts based on geographic locations. Proposals may be rejected, among other reasons, for any of the following specific reasons:
- A. Proposals received after the time limit set for receiving proposals.
  - B. Proposals containing irregularities.
  - C. Unbalanced value of items.
34. Respondents may be disqualified and their proposals not considered, among other reasons, for any of the following specific reasons:
- A. Reason for believing collusion exists among Respondents.
  - B. Reasonable grounds for believing that any Respondent is interested in more than one proposal for the work contemplated
  - C. The Respondent being interested in any litigation against the County.
  - D. The Respondent being in arrears on any existing contract or having defaulted on a previous contract.
  - E. Lack of competency as revealed by a financial statement, experience and equipment, questionnaires, etc.
  - F. Uncompleted work, which in the judgment of the County, will prevent or hinder the prompt completion of additional work, if awarded.
  - G. Respondents shall not owe delinquent property tax in Ellis County.
35. Due care and diligence has been used in preparation of this information, and it is believed to be substantially correct. However, the responsibility for determining the full extent of exposure and the verification of all information presented rests solely with the Respondent. Ellis County and its representatives will NOT be responsible for any errors or omissions in these specifications, nor for the failure of the part of the Proposer/Respondent to determine the full extent of the exposures.

36. Purchasing hours of operation shall be between 8:00 a.m. and 5:00 p.m., Monday through Friday, closed from 12:00 p.m. to 1:00p.m. for lunch. Delivery dates are important to Ellis County and may be required to be a part of each proposal. The delivery date indicates a guaranteed delivery to Ellis County, Texas. Failure of the respondent to meet guaranteed delivery dates or service performance could affect future County business.
37. Breach of contract or default authorizes the County to purchase elsewhere and charge the full increase in cost and handling to the defaulting Respondent.
38. The contract will be governed by the laws of the State of Texas. Should any portion of the contract be in conflict with the laws of the State of Texas, the State laws shall invalidate only that portion. The remaining portion of the contract shall remain in effect. The contract is performable in Ellis County, Texas.
39. All delivery and freight charges (FOB Inside delivery at the Entity's designated locations) are to be included as part of the proposal/quote/proposal price. All components required to render the item complete, installed and operational shall be included in the total proposal/quote/ proposal price. The Entity will pay no additional freight/delivery/installation/setup fees.
40. Certification of Eligibility: This provision applies if the anticipated contract exceeds \$100,000.00 and as it relates to the expenditure of federal grant funds. By submitting a proposal or proposal in response to this solicitation, the Respondent certifies that at the time of submission, he/she is not on the Federal Government's list of suspended, ineligible, or debarred Respondents. In the event of placement on the list between the time of proposal/proposal submission and time of award, the Respondent will notify the County Purchasing Agent. Failure to do so may result in terminating this contract for default.
41. Any catalog, brand name or manufacturer's reference used is considered to be descriptive not restrictive and is indicative of the type and quality the County desires to purchase. Proposals on similar items of like quality will be considered if the proposal is noted and fully descriptive brochures are enclosed. If notation of substitution is not made, it is assumed vendor is proposing item specified. Successful respondent will not be allowed to make unauthorized substitutions after award.
42. Respondent represents and warrants that: (1) it does not, and will not for the duration of the contract, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Respondent shall promptly notify the Ellis County Purchasing Department.
43. Respondent verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Respondent shall promptly notify the Ellis County Purchasing Department.

**If Federal Funds are being utilized, the following 2 CFR 200C clauses apply.**  
**(Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards)**

44. Equal Employment Opportunity (if Grant related): PERFORMING PARTY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. PERFORMING PARTY shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, gender identity, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
45. Davis-Bacon Act (if Grant related): PERFORMING PARTY agrees to comply with all applicable provisions of 40 USC § 3141 – 3148.
46. Contract Work Hours and Selection Standards (if Grant related): PERFORMING PARTY agrees to comply with all applicable provisions of 40 USC § 3701 – 3708 to the extent this agreement indicates any employment of mechanics or laborers.
47. Rights to Invention Made Under Contract or Agreement (if Grant related): PERFORMING PARTY agrees to comply with all applicable provisions of 37 CFR Part 401.
48. Clean Air Act, Federal Water Pollution Control Act, and Energy Policy Conservation Act (if Grant related): PERFORMING PARTY agrees to comply with all applicable provisions of the Clean Air Act under 42 USC § 7401 – 7671, the Energy Federal Water Pollution Control Act 33 USC § 1251 – 1387, and the Energy Policy Conservation Act under 42 USC § 6201.
49. Debarment/Suspension: PERFORMING PARTY is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. PERFORMING PARTY and its subcontractors shall comply with the special provision “Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions”.
50. Restrictions on Lobbying: PERFORMING PARTY of these funds is prohibited from using monies for lobbying purposes; PERFORMING PARTY shall comply with the special provision “Restrictions on Lobbying,” which is included as Attachment C of this Agreement. PERFORMING PARTY shall include a statement of compliance with the Lobbying Certification and Disclosure of Lobbying Activities in applicable procurement solicitations. Lobbying Certification and Disclosure of Lobbying Activities shall be completed by subcontractors and included in subcontractor contracts, as applicable.
51. Procurement of Recovered Materials (if Grant related): PERFORMING PARTY agrees to comply with all applicable provisions of 2 CFR §200.322.



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