

Administrative Services

2147-TAMU
College Station, TX 77843-2147
Tel. 979-845-4786| Fax. 979-458-1217|agrillifeas.tamu.edu



ATTACHMENT A INVITATION FOR BID #B060007

HUB Policy and HUB Subcontracting Plan Requirements and Preproposal Webinar

Per TAMU System Policy 25.06, The Texas A&M University System, Universities, and the Agencies are to encourage the use of Historically Underutilized Businesses (HUBs) both directly and indirectly in the members' prime contracts, subcontracts, and purchasing transactions. The goal of the HUB Program is to promote equal access and equal opportunity in Agency contracting and purchasing. Subcontracting opportunities are defined as opportunities to contract with a vendor to perform work, to supply commodities, or contribute toward completing work for a governmental entity.

For proposals totaling \$100,000 or more, a completed HUB Subcontracting Plan (HSP) must be submitted. For proposals totaling less than \$100,000 an HSP is not required. If required, failure to submit a comprehensive, acceptable HSP will be considered a material failure to comply with the requirements of the Invitation For Bid (IFB) and will result in rejection of the submittal. The HSP shall be submitted with the IFB response.

Documents attached are the Agency Specific Texas HUB Subcontracting Plan form, HSP checklist, and Prime Contractor Progress Assessment Report (PAR) form. The State of Texas HSP forms can also be found at the following site: <https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>

An HSP pre-proposal webinar conference is scheduled for: **Tuesday, November 26, 2019, at 10:00 a.m.**

Attend via web meeting address at:

<https://agrillife-tamu.webex.com/webappng/sites/agrillife-tamu/dashboard?siteurl=agrillife-tamu>

Meeting # 922 557 770

Conference materials regarding HSP compliance may be found at the following link:

<http://agrillifeas.tamu.edu/documents/conference-resource.pdf>

NIGP Commodity codes identified for possible HUB Subcontracting include, but are not limited to, the following:

- 988-15 Fence Installation
- 912-19 Clearing And Grubbing Services
- 330-65 Barbed Wire
- 330-58 Fencing Wire
- 330-00 Fencing
- 150-15 Concrete
- 570-44 Steel Posts
- 570-28 Metal Posts

TEACHING

Texas A&M University
College of Agriculture & Life Sciences

RESEARCH

Texas A&M AgriLife Research

EXTENSION

Texas A&M AgriLife Extension Service

SERVICE

Texas A&M Forest Service
Texas A&M Veterinary
Medical Diagnostic Laboratory

This list is neither mandatory nor exhaustive. Other areas of subcontracting may be more appropriate given the Bidders' business structure and internal resources. Please see the attached HUB Subcontracting Plan for further instructions that require Bidders to identify the specific areas intended for subcontracting.

Search for HUBs on CMBL for each class/item via the following website:

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

Contact the HUB Coordinator, Jaime Vykukal, for questions on completing the HSP.

HUB Coordinator

Jaime Vykukal

Jaime.vykukal@ag.tamu.edu

979-458-5988

2147 TAMUS

College Station, TX. 77843

Questions:

If discrepancies, ambiguities, or omissions are found in the bidding documents, or if further information or interpretation is desired, please contact the following in writing:

Chris Chamberlain

Fax, 979/458-1217

E-mail, cchamberlain@tamu.edu

All questions must be received on or before Tuesday, December 10, 2019, at 3:00 pm CST. When deemed appropriate by the Agency, questions will be answered by bid addendum. All provisions and requirements of such addenda will supersede or modify affected portion of the bidding documents. All addenda will be incorporated in and bound with the contract documents. No other explanations or interpretations will be considered binding.

Terms and Conditions

The Bidder agrees to comply with the Agency's terms and conditions. These supersede any other terms and conditions issued and/or referenced by the Bidder. Having the status of a state agency, Texas A&M AgriLife must abide by the laws of the State of Texas. Any contract resulting from this bid solicitation shall be construed and governed by the laws of the State of Texas.

Terms of Payment

Net 30, based on the requirements of the "Final Acceptance and Payment" section of the specifications.

Warranty

See the "Guarantee" section of the specifications.

Shipping

F.O.B. Destination

Literature

Please submit full descriptive literature with your bid response.

Discounts

Provide any and all applicable discounts on the items in this Invitation For Bid.

Manuals

All manuals shall be delivered with the equipment and shall be in English.

Insurance

The Bidder is required to carry insurance naming the Texas A&M University System Board of Regents for and on behalf of the Texas A&M University System, the Texas A&M University System, and Texas A&M AgriLife as additional insureds for the duration of the contract. Renewed, revised, or new certificates of insurance shall be sent to the Texas A&M AgriLife Purchasing Office via fax to 979-458-1217 or email to purchasing@ag.tamu.edu. Not carrying the required insurance could lead to cancellation of this agreement by the Agency.

Public Information

- a) Bidder acknowledges that the Agency is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- b) Upon the Agency's written request, Bidder will provide specified public information exchanged or created under this agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to the Agency in a non-proprietary format acceptable to the Agency. As used in this provision, "public information" has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which the Agency has a right of access.
- c) Bidder acknowledges that the Agency may be required to post a copy of the fully executed agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

Conflict of Interest

By executing any resulting agreement, the Bidder and each person signing on behalf of the Bidder certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of the Texas A&M System or the A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by the A&M System, has direct or indirect financial interest in the award of any resulting agreement, or in the services to which any resulting agreement relates, or in any of the profits, real or potential, thereof.

Prohibition on Contracts with Companies Boycotting Israel

To the extent that Texas Government Code, Chapter 2270 applies to this solicitation, Bidder certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of any resultant

Agreement. Bidder acknowledges any resultant Agreement may be terminated and payment withheld if this certification is inaccurate.

Certification Regarding Business with Certain Countries and Organizations

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Bidder certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. The Bidder acknowledges any resulting agreement may be terminated if this certification is inaccurate.

Best Value Criteria

Bidders please note: Texas A&M AgriLife reserves the right to accept or reject any or all bids, to waive informalities and technicalities, to accept the offer considered most advantageous and award the bid based on best value criteria. In determining what is the best value to the Agency, the Agency shall consider any or all of the following:

- 1) purchase price
- 2) the reputation of the vendor and the vendor's goods or services.
- 3) the quality of the vendor's goods or services.
- 4) the extent to which the goods or services meet the agency's needs.
- 5) the vendor's past relationship with the agency.
- 6) the total long-term cost to the agency in acquiring the vendor's good or services.
- 7) the length and coverage of the vendor's warranty.
- 8) the delivery time.
- 9) any other relevant factor that a private business entity might consider in selecting a vendor.

SPECIFICATIONS

Fence Replacement

Texas A&M AgriLife Research

Martin Ranch, Texas

Texas A&M System



PROJECT NO. 0229

November 2019

NOTICE OF PROJECT

Fence Replacement
Texas A&M AgriLife Research Station
Martin Ranch, Texas
Texas A&M University System
November 2019 Project No. 0229

SCOPE OF WORK

BASE BID:

Furnish all materials, labor, and equipment necessary for:

Removal and replacement of approximately **19,000 ft. of 48”h** mesh wire fence, with 3 – 16’ gates, 1 – 20’ double gate, and 3 – water gap crossings. (See drawing in Appendix for location of gates and fence)

Clear any trees, brush, etc. necessary for 10’ right of way and provide uniform grade for installation of new fence. All material removed shall be moved to marked area determined by Owner’s Representative.

INSTRUCTIONS TO BIDDERS

PROJECT SITE

The project is located at the Texas A&M AgriLife Research Station, FM 2291 approximately 8.5 miles south of Menard. **Owners Representative is Fermin Soldivar, phone 325-656-9935.**

No information noted in the specifications shall relieve the Contractor of the responsibility of visiting the site and making such investigations as he/she may require.

No information noted in the specifications shall relieve the Contractor of the responsibility of visiting the site and making such investigations as he/she may require.

DISCREPANCIES AND INTERPRETATIONS

Areas/distances noted are approximations only meant to give an idea of magnitude of the project and are **not intended to represent the actual areas/distances which are to be determined by the Contractor.**

BID BOND / PROPOSAL GUARANTY

Not Required.

QUALIFICATIONS OF BIDDER

The Owner may make such investigations as necessary to determine the ability of the Bidder to perform the Work, and if requested the Bidder shall furnish any requested information and data including an audited financial statement within 5 days of the Bid Opening. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of such Bidder fails to satisfy the Owner that this Bidder is properly qualified to complete the Work.

CONTRACT AWARD

The Owner agrees if the Contract is awarded, it will be awarded to the lowest responsible bidder and the award will be made within sixty (60) days of the bid opening date, unless otherwise stated in the Proposal.

Immediately following action by the awarding authority, the successful bidder will be notified of the award.

The Owner reserves the right to accept or reject any or all alternates or to accept any combination of alternates considered advantageous

PERFORMANCE and PAYMENT BONDS

Performance and Payment Bonds are not required on contracts of \$25,000 or less. Chapter 2253, Texas Government Code, T.C.S., requires that **if the Contract Sum exceeds \$25,000, the Contractor shall provide an executed Payment Bond and if the Contract Sum exceeds \$100,000, the Contractor shall also provide an executed Performance Bond.**

1. Each bond shall be executed and contain an embossed seal by a Surety(ies) on forms approved by the Attorney General of Texas. If any Surety upon any bond

furnished in connection with the Contract becomes insolvent, or otherwise not authorized to do business in the State, the Contractor shall promptly furnish equivalent security to protect the interests of the State and of persons supplying labor, materials and/or equipment in the performance of the Work.

2. Each bond shall have attached a valid Power-of-Attorney issued by the Surety, signed and sealed with the corporate embossed seal, authorizing the agent who signs the bond to commit the Surety to the terms of the bond, and stating the limit on the face of the Power-of-Attorney, if any, in the total amount for which the agent is empowered to issue a single bond.
3. The Owner may consider Performance and Payment Bonds only from a Surety authorized to do business in Texas.

The cost of any such bonding must be included in the Base Bid amount. No additional charges will be allowed for bonding. **Bonds must be executed on standard TAMUS forms.**

PURCHASE ORDER

Texas A&M AgriLife Research / Extension / Forest Service reserves the right to substitute the word "Purchase Order" for "Contract" in the documents whenever it feels that a signed Purchase Order will expedite the Project.

INSURANCE

The Contractor shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to Texas A&M AgriLife Research/Extension/Forest Service. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Contractor is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to Texas A&M AgriLife Research/Extension/Forest Service at least ten days before the effective date of the cancellation.

Coverage

Limit

A. Worker's Compensation

Statutory Benefits (Coverage A)
Employers Liability (Coverage B)

Statutory
\$1,000,000 Each Accident
\$1,000,000 Disease/Employee
\$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for Texas A&M AgriLife Research/Extension/Forest Service. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted.

B. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

Additional Endorsements

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and Texas A&M AgriLife Research/Extension/Forest Service as additional insured's.

C. Commercial General Liability

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures the Contractor's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement

D. The Contractor will deliver to Texas A&M AgriLife Research/Extension/Forest Service:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by the Contractor under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability shall be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and Texas A&M AgriLife Research/Extension/Forest Service as Additional Insureds up to the actual liability limits of the policies maintained by the Contractor. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies shall be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and Texas A&M AgriLife Research/Extension/Forest Service. No policy may be canceled without unconditional written notice to Texas A&M AgriLife

Research/Extension/Forest Service at least ten days before the effective date of the cancellation. All insurance policies shall be endorsed to require the insurance carrier providing coverage to send notice to Texas A&M AgriLife Research/Extension/Forest Service ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section 11.

Any deductible or self-insured retention must be declared to and approved by Texas A&M AgriLife Research/Extension/Forest Service prior to the performance of any services by the Contractor under this Agreement. The Contractor is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement shall be mailed or emailed to the following Texas A&M AgriLife Research/Extension/Forest Service contact:

Jimmy Dunn
AgriLife Admin Services – Engineering
TAMU 2147
College Station, Texas 77843-2147
jd-dunn@tamu.edu

The insurance coverage required by this Agreement shall be kept in force until all services have been fully performed and accepted by Texas A&M AgriLife Research/Extension/Forest Service in writing, except as may be noted.

The furnishing of the above listed insurance coverage, as may be modified herein, must be tendered prior to performance of the Contract. Failure to provide the insurance in a timely fashion may result in loss of the Contractor's bid surety and/or cancellation of the Contract.

The Owner shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits set out in these specifications.

FINAL ACCEPTANCE AND PAYMENT

Progress Payments: Invoices may be submitted at monthly intervals for progress payment of labor and material on site to date. Retainage of 5% may be withheld till final.

Notification: When the work is completed, the Contractor shall notify the engineer that the work will be ready for Pre-final Inspection on a definite date. Upon verification by the engineer that the deficiencies found during pre-final inspection have been corrected and the Work is ready for final inspection and acceptance, the engineer will within 10 days make a final inspection, and when the work is found acceptable under the Contract documents, without exceptions, and the contract is fully preformed, the Owner will make final payment to the Contractor. (Re. 1.04. E.)

Final Payment Documentation: neither the final payment nor the remaining retained percentages shall become due until the Contractor submits to the Engineer (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the owner or its property might in any way be responsible, have been paid or will be paid or otherwise satisfied within thirty days after receipt of final payment from the Owner, or within the period of time required by Article 601f, T.C.S., (2) consent of surety, if any, to final payment and (3) if required by the Owner, other data establishing payment or satisfaction of all such

obligations, such as receipts, release and waivers of claims arising out of the Contract, to the extent and in such form as may be designated by the Owner.

Final Payment: The making of final payment shall constitute a waiver of all claims by the Owner except those arising from: (1) faulty or defective work appearing after Beneficial Occupancy; (2) failure of the work to comply with the requirement of the contract documents; (3) terms of any special warranties required by the contract documents. Acceptance of Final Payment shall constitute a waiver of all claims by the contractor except those specifically enumerated at the time of final payment.

GENERAL REQUIREMENTS

WORK AREA AND ACCESS

All work, materials storage, staging, deliveries, and parking shall be confined within the area(s) designated by the Owner's Representative.

Access to the parking lots/roads shall be coordinated directly with the Owner's Representative. No construction traffic will be allowed over field/pasture roads or other non-designated areas.

USE OF FACILITIES

The Contractor shall insure that Owner's personnel and equipment will not be endangered during construction and will be allowed continued normal operation within the buildings and grounds.

TOOLS, EQUIPMENT AND VEHICLES

The Contractor shall furnish all tools (hand, power, pneumatic, etc.), equipment, and vehicles for the construction of this project. **All facilities, tractors, welders, forklifts, etc. belonging to or otherwise under control of the Owner are off limits.**

SANITARY FACILITIES

The Contractor shall be responsible for providing adequate portable facilities for his and subcontractor's employees.

CONSTRUCTION UTILITIES

Electrical Power: Electrical power will be available at the headquarters for construction work. The Contractor shall be responsible to verify that adequate power is available for work operations. Tie-in and use shall be coordinated with Owner's Representative. The Contractor must furnish necessary labor, extension cords, temporary panels, lighting, equipment, etc. for his/her own use.

Water Service: Water will be available at the headquarters. Point of connection and use shall be coordinated with Owner's Representative. The Contractor must furnish all pipes, hoses, fittings, devices and accessories required for his/her operations.

DELIVERIES

The Contractor shall have personnel at the site necessary to accept delivery and accomplish unloading/handling of materials and equipment. The Owner will not be responsible for accepting and/or unloading of materials and equipment associated with this job.

STORAGE AND PROTECTION

The Contractor shall properly store materials and equipment at the jobsite within an area designated by the Owner's Representative.

The Contractor will be responsible for keeping the assigned area free from fire hazards relating to improper storage procedures.

The Owner accepts no responsibility for the security of the stored materials.

Properly protect equipment, insulation, and other materials during construction.

Handle materials, equipment and devices carefully to prevent damage. Material or equipment improperly handled or damaged from rough usage or improper storage shall be removed and replaced with new units when so directed by the Engineer.

CLARIFICATION

In case of doubt, do not proceed with work without first obtaining from the Engineer additional information or detail drawings as may be necessary for proper execution of work. Report discrepancies found in drawings and specifications without delay.

SUBSTITUTION OF MATERIALS

Where *any* article or thing is specified by proprietary name, trade name, name of manufacturer or catalog number with or without the addition of such expressions as "or equal" or "approved equal", it is to be understood that the article named or the equal thereof is intended, subject to the approval of the Engineer as to the equality thereof, and it is distinctly understood (1) that the Engineer shall use his judgment in determining whether or not any article or thing proposed to be substituted is the equal of any article or thing as specified; (2) that the decision of the Engineer on such questions of equality shall be final; and (3) that in the event of any adverse decision by the Engineer, no claim of any sort shall be made or allowed against the Owner.

CUTTING AND PATCHING

Required cutting and patching shall be done by the Contractor and/or responsible Subcontractor as necessary to accomplish the work described. Insure that all related penetrations, both old and new, are accomplished in a workmanlike manner and sealed as necessary for weather tight conditions upon completion of work.

DAMAGES

Care shall be exercised to prevent damages to existing facilities, trees, lawns, site improvements, site utilities, equipment, etc. Any such damages occurring shall be promptly corrected as directed by the Engineer. No claims for corrected work due to damages resulting from the Contractor or his Subcontractor shall be considered for payment.

WASTE DISPOSAL AND CLEANING

All material removed/replaced shall become property of the Contractor unless otherwise agreed with the Owner's Representative.

Debris shall be contained in a container, truck, or restricted refuse area as coordinated with the Engineer and Owner's Representative.

The Contractor shall be responsible for keeping the jobsite picked up clean and uncluttered during the course of construction. This includes timely removal and proper legal disposal off-

site of all waste and debris associated with his/her job.

The Contractor shall provide safe and reliable transportation of debris, so that no material is allowed to fall onto public property or any other property other than the destination to which the removed materials are being transported.

Prior to final inspection and acceptance, perform final cleaning and removal of all waste, debris, and/or surplus materials resulting from this work.

SUBMITTALS

The submittals shall include copies of manufacturer's catalog descriptions, performance characteristics, data sheets and/or other information relative to a description of the items.

GUARANTEE

The Contractor shall guarantee that the work performed under this contract is free from faulty materials and workmanship and will remain so **for a period of one year** from the date of substantial completion or acceptance by the Owner. Final payment on the contract by the Owner shall not relieve the Contractor of this responsibility.

Upon completion and prior to final payment, the Contractor shall furnish two complete copies of the following:

Written certification, signed by the Contractor, attesting to the fact that the completed facility complies with the requirements of the drawings and specifications and is warranted for a period of one year as outlined above.

Copies of manufacturer's instructions, warranties, etc.

SECTION 283
PERIMETER FENCE

WORK INCLUDED

Furnish all materials, labor, and equipment necessary for:

Removal and replacement of approximately **19,000 ft. of 48”h** mesh wire fence, with 3 – 16’ gates, 1 – 20’ double gate, and 3 – water gap crossings. (See drawing in Appendix for location of gates and fence)

Clear any trees, brush, etc. necessary for 10’ right of way and provide uniform grade for installation of new fence. All material removed shall be moved to marked area determined by Owner’s Representative.

QUALIFICATIONS

Installer shall be experienced in installation of this type and furnish references upon request.

MATERIALS

Posts:

H-brace, pull post and corner post shall be schedule 40 steel pipe 2 7/8” pipe for vertical post (4’ in ground) and stubs (3’ in ground), and 2 3/8” pipe for horizontal, and diagonals.

Line posts and bracing shall be schedule 40 steel pipe 2 3/8" O.D.

Pipe post shall be concrete filled to top of post.

T-posts: 6½' HD steel, 1.33lb, studded, painted T-posts w/plate.

Fence:

Wire mesh - 48" high tensile fence, 12 gauge wire top and bottom, 12.5 gauge line and stay wire, product no. ST 1348-12-660' as manufactured by Stay-Tuff Fence Mfg Inc. or approved equal.

Barbed wire - 14 gauge 4-Point high tensile barbed wire with 5 inch spacing between barbs manufactured by Stay-Tuff Fence Mfg Inc. or approved equal.

Gates:

3 – 16’ swing gates by Powder river or approved equal. (see drawing for locations) Gates shall be 4' tall x 16' in length, constructed of 2” x 2” 16 gauge square tube, with 2 inside vertical stiffeners and a minimum of 2 horizontal stiffeners, evenly spaced. Spot weld 4" x 4" galvanized welded mesh panels to frame. Swing gates shall be complete with required hinges, latches, keepers, stops, etc.

1 – double swing gate 20’ (2 @ 10’) by Powder river or approved equal. (see drawing for locations) Gates shall be 4' tall x 10' in length, constructed of 2” x 2” 16 gauge square tube, with 1 inside vertical stiffeners and a minimum of 2 horizontal stiffeners, evenly spaced. Spot weld 4" x 4" galvanized welded mesh panels to frame. Swing gates shall be complete with required hinges, latches, keepers, stops, etc.

Provide offset hinges for hanging all swing gates to permit swinging the gate through a 180 degree arc.

Heavy chain welded to one leaf for locking gates together.

Coatings:

-Metal treatment shall be phosphate based rust/metal treatment. OSPHO or approved equal.

-Primer shall be Industrial red oxide primer manufactured by Sherwin Williams or approved equal.

Concrete:

Concrete shall consist of portland cement complying with ASTM C 150, aggregate complying with ASTM C 33, and potable water. Mix materials to obtain concrete with a minimum 28-day compressive strength of 2500 psi using at least 4 sacks of cement per cu.yd., 1" maximum size aggregate, maximum 3" slump. Prepare to conform to ASTM C 94.

All accessories and fasteners shall be galvanized to comply with ASTM-A153.

DEMOLITION

Contractor shall remove and roll up as much existing fence as possible before clearing with equipment. Remove trees, brush, existing fence posts, etc. with equipment to provide uniform grade for the installation of the new fence. Contractor shall properly dispose of old fencing and push brush piles away from fence line. Coordinate with Owner's Representative.

INSTALLATION

Install wire mesh fence with a single strand of barbed wire at top and bottom of mesh wire.

Install a 2 3/8" O.D. steel pipe line post at 100' intervals with T-posts in between spaced at 20' intervals. Line/pull braces shall be installed at 1260' intervals.

Install fence and gate complete, including all erection accessories, fittings, fasteners, etc. including any items not specifically noted, but necessary for a complete, turnkey job.

Install fence in accordance with best practices of trade to prevent entry hogs. Hold mesh fence as close to ground as possible.

Corners, gate H-braces, pull posts, and terminal post shall be set in concrete. Drill holes for post in firm undisturbed or compacted soil. Holes shall be 3' deep and have a diameter equal to 3 times the diameter of the post (unless noted otherwise). Set concrete at grade level to prevent water puddling at post base.

Corner post shall consist of a minimum of 5 post for adequate bracing.

Line posts shall be cemented 24" in the ground, straight, plumb, and true

T-posts shall be pushed 2' deep in the ground, straight and true.

Chip and brush all welds, before treatment and prime painting.

Apply red oxide primer to line posts, pull braces, corners, H-braces, gates, etc. before setting.

Allow 3 days for cement to cure before pulling on brace.

Changes in fence direction greater than 15 degrees shall be considered corners.

Changes in fence elevation shall require an H-brace.

Attach wire mesh fencing to T-posts with 5 wire clips.

Fasten wire mesh fence to line posts with galvanized #14 gauge double wire at 15" on center.

Fasten barbed wire to line posts with galvanized #14 gauge double wire and T-posts with wire clips.

Barbed wire shall be at top and bottom of mesh fence.

Rolls of wire mesh shall be joined by using crimp sleeves to form a continuous mesh.

Rolls of wire mesh shall be stretched from 2 ways and connected in the center using compression crimps to form a continuous mesh in accordance with manufacturer=s recommendations.

Wire mesh shall be stretched taut and true and securely anchored.

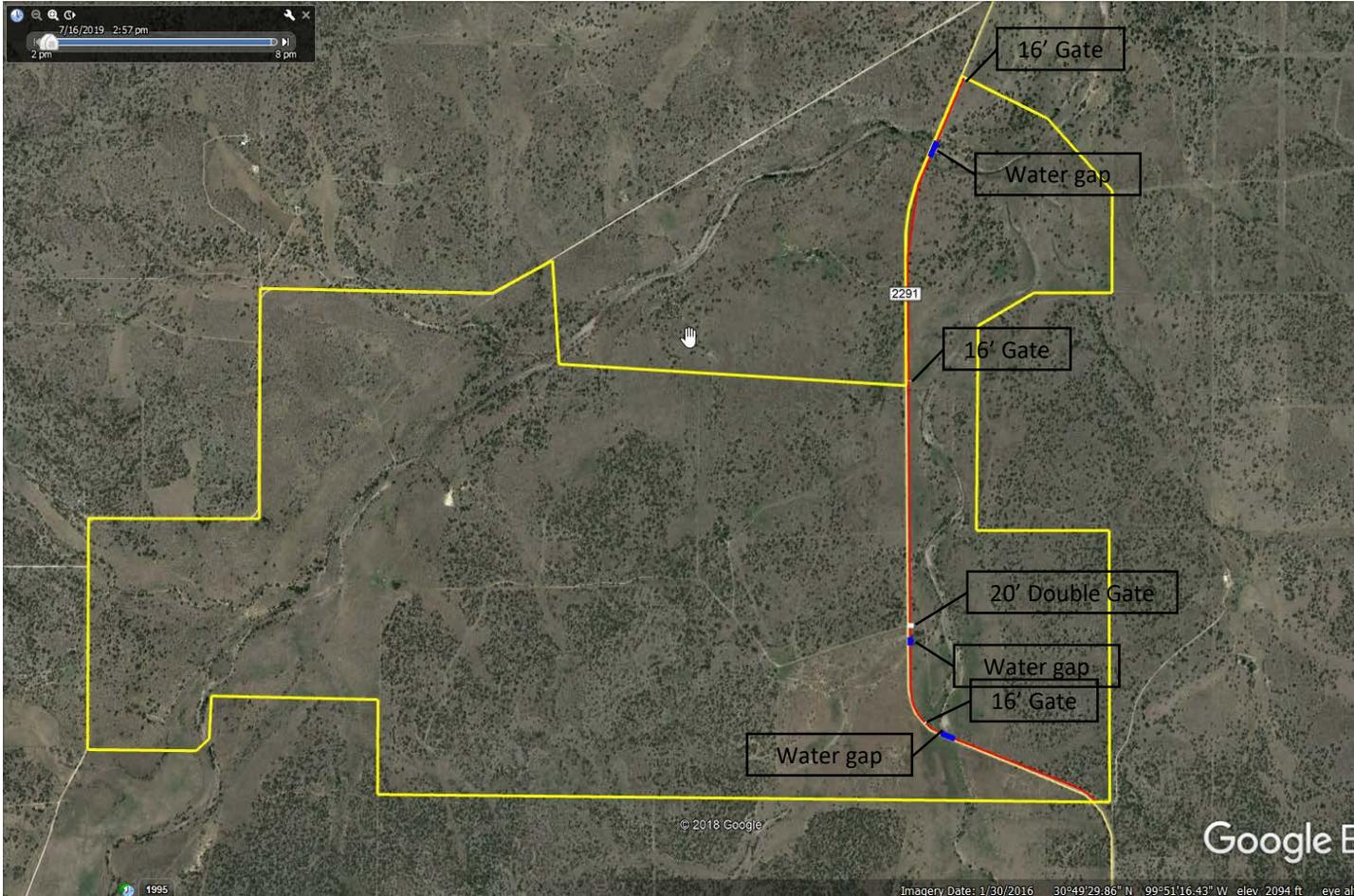
Barbed wire shall be stretched taut and securely anchored.

Water gaps – shall be swing gate type, with vertical supports spaced at 5' off center, 6"x6" wire mesh, and bracing on both ends, as seen in Appendix.

Gates shall be installed at location specified by Owner's Representative and shall provide free and easy operation with an H-brace at both ends for support and fastening. Gates shall be plumb, square, and in plane with the fence and installed approximately 3 to 4 inches up from ground level. Turn top hinge down to prevent lifting gate off hinges.

Gates shall have wire mesh panels attached on the outside face, welded in place.

APPENDIX





PERFORMANCE BOND

STATE OF TEXAS

COUNTY OF _____ KNOW ALL MEN BY THESE PRESENTS

That we, _____, as Principal, and _____, as Surety, are hereby held and firmly bound unto the State of Texas in the penal sum of: _____ Dollars (\$ _____) for the payment whereof, the said Principal and Surety bind themselves, their heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The conditions of this obligation are such that, whereas the Principal entered into a certain contract (the "Contract"), which Contract is incorporated into this Performance Bond by this reference, with the State of Texas acting by and through the Board of Regents of The Texas A&M University System, as Obligee, dated _____ for the _____, Project No. _____,

NOW, THEREFORE, if the Principal shall faithfully perform the Contract in accordance with the Contract Documents, including any warranties, and shall fully indemnify, and save harmless the State of Texas from all costs and damage that the State of Texas may suffer by reason of the Principal's default or failure to perform and shall fully reimburse and repay the State of Texas all outlay and expense that the State of Texas may incur in making good any such default or failure to perform, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

In the event the Principal is declared in default under the Contract, Surety will, within fifteen (15) days of the determination of such default, take over and assume responsibility for completion of such Contract and become entitled to the payment of the balance of the Contract Price, or the Surety shall make other arrangements satisfactory to the Obligee for the completion of the defaulted Work. Conditioned upon the Surety's faithful performance of its obligations, the Surety's liability shall not exceed the penalty of this Bond.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed under the Contract or to the Specifications accompanying the same shall in any manner affect its obligation on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

The Surety agrees to pay to the State of Texas upon demand all loss and expenses, including attorney's fees and court costs, incurred by the State of Texas by reason of or on account of any breach of this obligation by the Surety.

This Bond is issued pursuant to the requirements of Section 2253.021, Texas Government Code, as amended.

IN WITNESS WHEREOF, the Principal and Surety have executed and sealed this instrument this _____ day of _____, 20____.

_____, Principal (PRINCIPAL'S SEAL if a corporation)

By: Name: _____

Title: _____

_____, Surety (SURETY'S SEAL)

By: _____

Name: _____
Attorney-in-Fact

** Performance Bond not required on projects of \$100,000 or less; only required on projects totaling > \$100,000.

PAYMENT BOND

STATE OF TEXAS

COUNTY OF _____ KNOW ALL MEN BY THESE PRESENTS

That we, _____, as Principal, and _____, as Surety, are hereby held and firmly bound unto the State of Texas in the penal sum of: _____ Dollars (_____) for the payment whereof, the said Principal and Surety bind themselves, their heirs, executors, administrators and successors, jointly and severally firmly by these presents.

The conditions of this obligation are such that, whereas the Principal entered into a certain contract (the "Contract"), which Contract is incorporated into this Payment Bond by this reference, with the State of Texas acting by and through the Board of Regents of The Texas A&M University System, as Obligee, dated _____ for the _____ Project No. _____

NOW, THEREFORE, if the Principal shall promptly make payments to all claimants, as defined in Chapter 2253, Texas Government Code, supplying labor and materials in the prosecution of the work provided for in said Contract, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

This Bond is made and entered into solely for the protection of all claimants supplying labor and material in the prosecution of the Work provided for in said Contract, and all such claimants shall have a direct right of action under the Bond as provided in Chapter 2253, Texas Government Code.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed under the Contract shall in any wise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed under the Contract.

The Surety agrees to pay the State of Texas upon demand all loss and expense, including attorney's fees and court costs, incurred by the State of Texas by reason of or on account of any breach of this obligation by the Surety.

IN WITNESS WHEREOF, the Principal and Surety have duly signed and sealed this instrument this _____ day of _____, 20____.

_____, Principal

(PRINCIPAL'S SEAL)
if a corporation)

By: _____

Name: _____

Title: _____

_____, Surety

(SURETY'S SEAL)

By: _____

Name: _____

Attorney-in-Fact

ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS OF BID
ANY EXCEPTIONS THERETO MUST BE IN WRITING

The following are the terms and conditions for Texas A&M AgriLife Research, Texas A&M AgriLife Extension Service, and Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL), hereafter referred to as the Agency.

1. BIDDING REQUIREMENTS

- 1.1 Bidders must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.
- 1.2 Pricing must be quoted on a "per unit" basis, extended as indicated. Any trade discounts included must be itemized and deducted from extended prices. Unit prices shall govern in the event of extension errors. Bidder guarantees product or service offered will meet or exceed specifications included as part of this Invitation for Bid (IFB). If a price quotation is submitted as part of the bid, the quotation must be referenced on the bid document and signed by the bidder to establish formal linkage to the bid.
- 1.3 Bids should be submitted on this form. Each bid that is mailed should be placed in a separate envelope completely and properly identified. Bidder should show opening date and bid invitation number on the fax coversheet, subject line of email, or the lower left hand corner of the sealed envelope. Please show return address of company. Bids must be received by the Agency on or before the hour and date specified for the bid opening.
- 1.4 When sending bids via the U.S. Postal Service, use the address on the front of this IFB. When using a delivery service or hand delivering, which requires a street address, address is Administrative Services Building, 578 John Kimbrough Blvd., Room #419, Texas A&M University, College Station, TX 77843-2147.
- 1.5 Late or unsigned bids will not be considered under any circumstances.
- 1.6 Bids should be quoted "F.O.B. destination, freight prepaid and allowed". If quoting freight otherwise, show exact delivery cost and who bears cost if not included in unit price.
- 1.7 Bid prices are requested to be firm for the Agency's acceptance within 30 days of the bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discount will not be considered in determining an award. All cash discounts will be taken if earned.
- 1.8 Bids should give Vendor ID Number, full name and address of bidder. Failure to sign bid will disqualify it. Person signing bid should show title or authority to bind his or her firm in a contract. Firm name should appear on each page of a bid, in the block provided in the upper right hand corner. The Vendor ID Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. Enter this number in the spaces provided on the front side (upper left) of the IFB. If this number is not known, complete the following: 1. Enter your Federal Employer Identification Number. 2. Sole owner should also enter Social Security Number.
- 1.9 Bid cannot be altered or amended after opening time. Any alterations made before opening time should be initialed by bidder or authorized agent of bidder. No bid can be withdrawn after opening time without approval by the Agency based on a written acceptable reason.
- 1.10 Purchases made for the Agency's use are exempt from the State Sales Tax and Federal Excise Tax. Do not include tax in bid. Excise Tax Exemption Certificate will be furnished by the Agency upon request.
- 1.11 The Agency reserves the right to make an award on the basis of low line item bid, low total of line items, or in any other combination that will serve the best interest of the Agency and to reject any and all bid items at the sole discretion of the Agency. The Agency also reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of the Agency. Any contract may also be extended up to three months at the sole discretion of the Agency.
- 1.12 Consistent and continued tie bidding could cause rejection of bids by the Agency and/or investigation for antitrust violations.
- 1.13 Check below if preference is claimed under Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter C, Section §20.38:
 - Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Agricultural products grown in Texas
 - Agricultural products offered by a Texas bidder
 - Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
 - Texas Vegetation Native to the Region
 - USA produced supplies, materials or equipment
 - Products of persons with mental or physical disabilities
 - Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - Energy Efficient Products
 - Rubberized asphalt paving material
 - Recycled motor oil and lubricants
 - Products produced at facilities located on formerly contaminated property
 - Products and services from economically depressed or blighted areas
 - Vendors that meet or exceed air quality standards
 - Recycled or Reused Computer Equipment of Other Manufacturers
 - Foods of Higher Nutritional Value

1.14 The telephone number for fax submission of bids is 979-458-1217. This is the only number that will be used for the receipt of bids. The Agency shall not be responsible for failure of electronic equipment or operator error. Late, illegible, incomplete, or otherwise non-responsive bids will not be considered.

1.15 Inquiries pertaining to IFBs must include the IFB number and opening date.

2. SPECIFICATIONS

2.1 Any catalog, brand name, or manufacturer's reference used in the IFB is descriptive only (not restrictive), and is used to indicate type and quality desired. Bids on brands of like nature and quality will be considered unless otherwise specified. If bidding other than specified, bid should show manufacturer, brand or trade name, and other description of the product offered. If brand(s) other than specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. If bidder takes an exception to specifications or reference data in his or her bid, bidder will be required to furnish brand names, numbers, etc., as specified in the IFB.

2.2 All items shall be new and unused, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated in IFB. Oral agreements to the contrary will not be recognized.

2.3 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.

2.4 Samples, when requested, must be furnished free of expense to the Agency. If not destroyed in examination, they will be returned to the bidder, upon request, at bidder's expense. Each sample should be marked with bidder's name and address, and the Agency bid number. Do not enclose in or attach bid to sample.

2.5 The Agency will not be bound by any oral statement or representation contrary to the written specifications of this IFB.

2.6 Manufacturer's standard warranty shall apply unless otherwise stated in the IFB.

3. TIE BIDS

In case of tie bids, the award will be made in accordance with Rule §20.36 (b) (3) in Title 34 of the Texas Administrative Code.

4. DELIVERY

4.1 Bid should show number of days required to place material in receiving Agency's designated location under normal conditions. Failure to state delivery time obligates supplier to complete delivery in 14 calendar days. Unrealistically short or long delivery promises may cause bid to be disregarded.

4.2 If delay is foreseen, supplier shall give written notice to the Agency. Bidder must keep the Agency advised at all times of the status of the order. The Agency has the right to extend delivery date if reasons appear valid. If the vendor fails to deliver these supplies by the promised delivery date or a reasonable time thereafter, without giving acceptable reasons for delay, or if supplies are rejected for failure to meet specifications, the Agency reserves the right to purchase specified supplies elsewhere, and charge the full increase in price, cost of handling, and rebidding, if any, to the vendor.

4.3 No substitutions or cancellation permitted without written approval of the Agency.

4.4 Delivery shall be made during normal working hours only, unless prior approval for late delivery has been obtained from the Agency.

5. INSPECTIONS AND TESTS

All goods will be subject to inspection and test by the Agency to the extent practicable at all times and places. Authorized Agency personnel shall have access to any supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used and the cost of the testing shall be borne by the bidder. Goods which have been delivered and rejected in whole or in part may, at the Agency's option, be returned to the bidder or held for disposition at bidder's risk and expense. Latent defects may result in revocation of acceptance.

6. AWARD OF CONTRACT

A response to an IFB is an offer to contract with the Agency based upon the terms, conditions, and specifications contained in the IFB. Bids do not become contracts until they are accepted and an authorized purchase order is issued. The contract shall be governed, construed, and interpreted under the laws of the State of Texas. The factors listed in Texas Education Code, Title 3, Chapter 51, Section 51.9335, shall also be considered in making an award when specified. Any legal actions must be filed in Brazos County, TX.

7. PAYMENT

Vendor shall submit one copy of an itemized invoice showing order number and Agency purchase order number. Please note: If the invoice is not addressed as instructed, payment will be delayed. The Agency will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. All payments will be made in accordance with the Texas Prompt Payment Act, Texas Government Code, Chapter 2251.

8. PATENTS OR COPYRIGHTS

The bidder agrees to protect the Agency from claims involving infringement of patents or copyrights.

9. BIDDER ASSIGNMENTS

Bidder hereby assigns to the Agency any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and which arise under the antitrust laws of the State of Texas, Texas Business and Commerce Code Ann. Sec. 15.01, et seq. (1967).

10. BIDDER AFFIRMATION

Signing this IFB with a false statement is a material breach of contract and shall void the submitted bid and any resulting contracts, and the bidder shall be removed from all bid lists. By signature hereon affixed, the bidder hereby certifies that:

- 10.1 The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted IFB.
- 10.2 The bidder is not currently delinquent in the payment of any franchise tax owed to the State of Texas.
- 10.3 Under §2155.004, Texas Government Code, the bidder certifies that the individual or business entity named in this bid or any contract resulting from this IFB is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate. §2155.004 prohibits a person or entity from receiving a state contract if they received compensation for participating in preparing the solicitation or specifications for the contract.
- 10.4 Pursuant to 15 U.S.C. §1, et seq. and Texas Business and Commerce Code §15.01, et seq. neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such a firm, corporation, or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
- 10.5 The bidder shall defend, indemnify, and hold harmless the Agency, all of its officers, agents, contractors, and employees from and against all claims, actions, suits, demands, proceedings costs, damages, and liabilities, from any acts or omissions of vendor or any agent, employee, subcontractor, or supplier of vendor in the execution or performance of any contract with vendor resulting from this IFB. Bidder shall coordinate its defense with Texas Attorney General as requested by the Texas A&M University System, Office of the General Counsel. This section is not intended to and shall not be construed to require bidder to indemnify or hold harmless the State or Agency for any claims or liabilities resulting from the negligent acts or omissions of the Agency or its employees.
- 10.6 Bidder agrees that any payments due under this contract will be applied towards any debt, including but not limited to, delinquent taxes and child support that is owed to the State of Texas.
- 10.7 In accordance with §2155.4441, Texas Government Code, bidder agrees that during the performance of a contract for services, it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
- 10.8 Pursuant to Section 2262.003 of the Texas Government Code, the State Auditor may conduct an audit or investigation of the vendor or any other entity or person receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the vendor or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative Audit Committee, the vendor or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract it awards.
- 10.9 Bidder certifies that they are in compliance with Section 669.003 of the Texas Government Code, relating to contracting with an executive head of a state agency. If Section 669.003 applies, bidder will complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with Bidder: _____
Date of Employment with Bidder: _____

- 10.10 Bidder certifies that the bidding 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 government entity. Bidder certifies that the bidding entity is in compliance with the State of Texas statutes and rules relating to procurement, and that bidder is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov>
- 10.11 Bidder represents and warrants that payment to the bidder and the bidder's receipt of appropriated or other funds under any contract resulting from this IFB are not prohibited by §556.005 or §556.008, Texas Government Code, relating to the prohibition of using state funds for lobbying activities.
- 10.12 Sections 2155.006 and 2261.053, Texas Government Code, prohibit state agencies from awarding contracts to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Texas Government Code, occurring after September 24, 2005. Under §2155.006, Texas Government Code, bidder certifies that the individual or business entity named in its bid is not ineligible to receive a contract and acknowledges that any contract resulting from this IFB may be terminated and payment withheld if this certification is inaccurate.

10.13 Bidder represents and warrants (“EIR Accessibility Warranty”) that the electronic and information resources and all associated information, documentation, and support that it offers to provide to the Agency under this bid (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent vendor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then vendor represents and warrants that it will, at no cost to the Agency, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that vendor is unable to do so, then the Agency may terminate this Agreement and vendor will refund to the Agency all amounts the Agency has paid under this purchase order within thirty (30) days after the termination date.

11. NOTE TO BIDDERS

If bidder takes any exceptions to any provisions of the IFB, these exceptions must be specifically and clearly identified by section in the bid and bidder’s proposed alternative must also be provided in the bid. Bidders cannot take a ‘blanket exception’ to the entire IFB. If any bidder takes a ‘blanket exception’ to the entire IFB or does not provide proposed alternative language, the bid may be disqualified from further consideration.

12. TEXAS PUBLIC INFORMATION ACT

- 12.1 The bidder acknowledges that the Agency is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to any resulting Agreement, as well as any other disclosure of information required by applicable Texas law.
- 12.2 Upon the Agency’s written request, the bidder will provide specified public information exchanged or created under any resulting Agreement that is not otherwise excepted from disclosure under Chapter 552, Texas Government Code, to the Agency in a non-proprietary format acceptable to the Agency. As used in this provision, "public information" has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which the Agency has a right of access.
- 12.3 The bidder acknowledges that the Agency is required to post a copy of any fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

13. TEXAS FAMILY CODE SECTION 231.006

Pursuant to §231.006(d), Texas Family Code, regarding child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any bidder subject to §231.006, Texas Government Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award. Enter the Name & Social Security Numbers for each person below:

Name:	Social Security Number:
Name:	Social Security Number:
Name:	Social Security Number:

14. PROTEST PROCEDURES

Any actual or prospective bidder who is aggrieved in connection with this IFB, evaluation, or award of any contract resulting from this IFB may formally protest as provided in the Agency’s rules at <http://agrifileas.tamu.edu/library/pdf/purchasing/vendor-protests.pdf>.

15. NON-APPROPRIATION OF FUNDS

Any contract resulting from this IFB is subject to termination or cancellation, without penalty to the Agency, either in whole or in part, subject to the availability of federal or state funds. The Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If the Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render the Agency’s or bidder’s delivery or performance under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. Additionally, any federally funded purchases may also be terminated for the same reasons. In the event of a termination or cancellation under this Section, the Agency will not be liable to bidder for any damages, which are caused or associated with such termination, or cancellation, and the Agency will not be required to give prior notice.

16. FORCE MAJEURE

Neither bidder nor Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in any contract resulting from this IFB caused by Force Majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force Majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and, that by exercise of due foresight, such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such Force Majeure, or otherwise waive this right as a defense.

17. CONFLICT OF INTEREST

An Agency employee may not have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by an agency of the State; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Entities who are interested in seeking business opportunities with the Agency must be mindful of these restrictions when interacting with public purchasers of the Agency.

18. INDEPENDENT CONTRACTOR

Bidder or bidder's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing the services under any contract resulting from this IFB. Bidder and bidder's employees, representatives, agents and any subcontractors shall not be employees of the Agency. Should bidder subcontract any of the services required in this IFB, bidder expressly understands and acknowledges that in entering into such subcontract(s), the Agency is in no manner liable to any subcontractor(s) of bidder. In no event shall this provision relieve bidder of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this IFB.

19. DISPUTE RESOLUTION

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used as further described herein, by the Agency, and the bidder to attempt to resolve any claim for breach of contract made by vendor:

19.1 Bidder's claim for breach of this contract, that the parties cannot resolve in the ordinary course of business, shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Texas Government Code. To initiate the process, bidder shall submit written notice, as required by Subchapter B, to:

Dr. David Lunt, Texas A&M AgriLife Research
Dr. Robert Whitson, Texas A&M AgriLife Extension Service
Dr. Amy Swinford, Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL)

Said notice shall also be given to all other representatives of the Agency and bidder otherwise entitled to notice under the parties' contract. Compliance by bidder with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Texas Government Code.

19.2 The contested case process provided in Chapter 2260, Subchapter C, of the Texas Government Code is the bidder's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the Agency if the parties are unable to resolve their disputes under subparagraph (a.) of this paragraph.

19.3 Compliance with the contested case process provided in Subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by the Agency, nor any conduct of any representative of the Agency thereafter, shall be considered a waiver of sovereign immunity to suit.

- (1) The submission, processing, and resolution of bidder's claim is governed by the published rules as adopted by the Office of the Attorney General of the State of Texas pursuant to Chapter 2260 as currently effective, hereafter enacted or subsequently amended.
- (2) Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of the performance by the bidder, in whole or in part.
- (3) The designated individual responsible on behalf of the Agency for examining any claim or counterclaim and conducting any negotiations related thereto, as required under Section 2260.052 of the Texas Government Code shall be Dr. David Lunt (Research) / Dr. Robert Whitson (Extension) / Dr. Amy Swinford (TVMDL).

20. EXPORT CONTROL

Bidder agrees to comply with all applicable US Export Control laws and regulations to include the Export Administration Regulations (EAR), the International Traffic in Arms (ITAR) and any other applicable US export laws and regulations. As a research member of the Texas A&M University System, the Agency typically does not take receipt of export controlled goods, technical data, services or technology ("materials") except as may be specifically agreed to by the Agency. Bidder agrees that it will not provide or make accessible to the Agency any export controlled materials without first informing the Agency of the export controlled nature of the materials and obtaining from the Agency, its written consent to accept such materials as well as any specific instructions for delivering controlled materials to the Agency. Bidder agrees to obtain government approval or export license if required from the appropriate US government agency and to share that information with the Agency prior to delivery of such materials.

Bidder shall provide the Agency with applicable export control classification number (ECCN) or category (EAR or ITAR) for item(s), and/or indicate whether the item(s) to be purchased are export controlled.

ECCN or ITAR Category: _____