

**REQUEST FOR PROPOSAL**

**RFP 555-18-02**

**Texas A&M AgriLife Extension Service  
Livestock DNA Storing and Testing Services**

**PROPOSAL MUST BE RECEIVED BEFORE: Monday, February 26, 2018, by 3:00 p.m. CST**

**MAIL PROPOSAL TO:**

Texas A&M AgriLife  
Purchasing Department  
2147 TAMUS  
College Station, TX 77843-2147

**HAND DELIVER AND/OR EXPRESS MAIL TO:**

Texas A&M AgriLife  
Purchasing Department  
578 John Kimbrough Blvd, Room 416  
College Station, TX 77843-2147

Show RFP Number, Opening Date and Time on Return Envelope

**NOTE:** PROPOSAL must be time stamped at the Texas A&M AgriLife Purchasing Department before the hour and date specified for receipt of proposal.

Sealed proposals will be received until the date and time established for receipt.

**REFER INQUIRIES TO:**

**Chris Chamberlain**  
Assistant Director, Purchasing Department  
Texas A&M AgriLife  
979-845-4786  
Email: cchamberlain@tamu.edu

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## SECTION 1 INTRODUCTION

### 1.1 Introduction and Overview

The Texas A&M AgriLife Purchasing Department, on behalf of the Texas A&M AgriLife Extension Service (Agency), is issuing this RFP for Livestock DNA storing and testing services.

The Texas Major Livestock Shows are participating in a program supported by Texas A&M AgriLife Extension Service and the Texas Education Agency, Department of Agricultural Education, whereby all 4-H and FFA steers, heifers, sheep, and goats exhibited at their shows will be required to be validated through the Texas 4-H and FFA Market and Breeding Validation Programs. The validation programs seek to support fairness in competition in youth livestock projects. Validation confirms the identity of the animal, through DNA comparison, participating in a state sponsored county validation is identical to the animal participating at a major livestock show.

### 1.2 History

#### 1.2.1 Origin

In 1915, the Texas Legislature established the state agency known today as the Texas A&M AgriLife Extension Service. Impetus arose from the federal Smith Lever Act, enacted May 8, 1914, which instituted extension education as a formal function of the nation's land-grant universities. An American innovation, extension education serves the people and the public good by extending scientific advancements and practical knowledge beyond the laboratory and classroom. Today, each state's land-grant university system administers an extension education component, collectively referred to as the national Cooperative Extension Service.

#### 1.2.2 Background

The Agency is a member of the Texas A&M University System, which is governed by the Texas A&M University System Board of Regents. The Agency is a unique outreach education agency with a statewide network of professional educators, trained volunteers, and county offices. It reaches into all 254 Texas counties to address local priority needs. The Agency delivers research-based educational programs and solutions for all Texas.

The Agency provides programs, tools, and resources – local and statewide – that teach people how to improve agriculture and food production, advance health practices, protect the environment, strengthen our communities, and enrich youth. The Agency demonstrates the latest technology and best practices to improve the state's food and fiber system, which serves all Texas consumers and contributes nine percent (9%) of the gross domestic product. Texas 4-H, our primary youth program, engages some 600,000 youth every year in learning projects, leadership development, and community service.

Collaborative programs enable extension educators and their partners to extend resources and prevent duplication of services. In total, extension personnel and extension-trained volunteers achieved nearly 23 million direct teaching contacts, including distance education via the Web, in fiscal year 2015.

#### 1.2.3 Mission

Through the application of science-based knowledge, we create high-quality, relevant continuing education that encourages lasting and effective change.

#### 1.2.4 Vision

To help Texans better their lives. The Agency helps people learn and benefit from proven research and sound, unbiased information. The Agency provides targeted educational and technology transfer programs, based on grassroots requests, to help Texans prevent or mitigate problems and address high-priority community issues. Extending Knowledge. Providing Solutions. Changing Lives. These are the hallmarks of the extension education mission. Generally, the Agency organizes its educational programs under the four broad areas of agriculture and natural resources, family and community health, 4-H youth development, and community resource development. To understand more about the Agency's program areas, visit the Agency website: <https://agrilifeextension.tamu.edu/>

### 1.3 Respondent Responsibility

By submitting responses, each Respondent certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the work to be performed, the detailed requirements of the services to be provided, and the conditions under which the services are to be performed. Each Respondent also certifies that it understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the Respondent.

Submittals are to be in accordance with the outline and specifications contained herein, are to remain in effect a minimum of 180 days from the submittal deadline date and may be subject to further extensions as negotiated. A statement to this effect should be contained in the Respondent 's cover letter.

This RFP contains specific requests for information. Respondents are encouraged to examine all sections of this RFP carefully, in that the degree of interrelationship between sections is critical. In responding to this RFP, Respondents are encouraged to provide any additional information they believe relevant.

Clause headings appearing in this RFP have been inserted for convenience and ready reference. They do not purport to define, limit or extend the scope of intent of the respective clauses. Whenever the terms “must”, “shall”, “will”, “is required”, or “are required” are used in the RFP, the subject being referred to is to be a required feature of this RFP and critical to the resulting submittal.

In those cases where mandatory requirements are stated, material failure to meet those requirements could result in disqualification of the Respondent's response. Any deviation or exception from RFP specifications must be clearly identified by the Respondent in its submittal.

Each proposal shall be prepared simply and economically, providing a straightforward and concise description of Respondent's ability to meet the requirements of this RFP. Emphasis shall be on completeness, clarity of content, and responsiveness to the offer requirements. Expenses for developing and presenting submittals shall be the entire responsibility of the Respondent and shall not be chargeable to the Agency. All supporting documentation and manuals submitted with this submittal will become the property of the Agency unless otherwise requested by the Respondent, in writing, at the time of submission, and agreed to, in writing, by the Agency.

### 1.4 Calendar of Events

Respondent must submit its Proposal to the Agency in time for verification and confirmation that each Proposal is received and documented in accordance with the due date and time indicated in the schedule below.

<b>Event</b>	<b>Date</b>
Issue RFP	01/31/18
HUB Subcontracting Plan (HSP) Pre-Proposal Webinar	02/06/18 at 2:00 pm central time
Deadline for Submitting Questions	02/12/18 at 5:00 pm central time
Official Response to Questions	02/14/18 or as soon thereafter as practical
<b>PROPOSAL/RESPONSE DUE DATE/TIME</b>	<b>02/26/18 at 3:00 pm central time</b>
Oral Presentations /Demos (if required)	Upon Request
Formal Execution of Agreement	03/05/18 or as soon thereafter as practical

The Agency reserves the right to revise this schedule or any portion of this RFP by published Addendum on the Electronic State Business Daily (ESBD). <http://www.txsmartbuy.com/sp>

## SECTION 2 SPECIFICATIONS AND REQUIREMENTS

The overall goal of this project is to work with a DNA testing service to store and compare DNA samples of validated livestock. The Agency wishes to engage the services of a DNA testing service for DNA testing for identification purposes, for the following: Texas 4-H and FFA youth agricultural programs including major livestock shows. **The following Scope of Work and Timeline describes the current method/process for achieving this overall goal, however, other methods/processes will be considered. Respondent's proposals shall clearly detail their methods/processes.**

### 2.1 Scope of Work

The goal of this RFP is to contract with a DNA testing service (Vendor) to store and compare DNA samples of validated livestock. The Vendor shall be responsible for DNA extraction and analysis of the samples. In order for any 4-H/FFA member to make entry into any major livestock show in Texas, their livestock projects must have been validated within the Texas 4-H/FFA Market and Breeding Validation Program. The validation of 4-H/FFA livestock projects occurs annually to establish a permanent identity of the animal and verify ownership by the exhibitor. The validation process occurs on a predetermined date established by the State Validation Committee. Currently, a hair sample is collected from each animal at the time of validation and then given to the Vendor to store. Respondent's proposal shall elaborate on the type of sample collected and their method of collection, including what items the Respondent shall provide to the Agency to collect the samples.

The Vendor shall securely store all samples in a way that preserves the integrity of the sample. The Vendor shall maintain records clearly showing the sequence of custody and control for all collected samples. The Respondent's proposal shall detail this process. The Vendor shall compare samples to show winner samples provided by the Agency at a later date. Other show samples shall be compared as requested by the Agency. The Vendor shall provide a written report of the testing results within twelve (12) working days after receiving the show samples from the Agency. All testing shall be performed by a laboratory accredited to perform livestock DNA testing.

The Vendor shall be required, at a minimum, to retain samples collected at the time of validation as follows:

- Steers, Sheep, and Goats: Untested samples shall be retained for two (2) months after the completion of the show season and tested samples for one (1) year after the completion of the show season.
- Heifers: Since heifers can compete for two (2) years, untested samples shall be retained for two (2) months after the completion of each show season and tested samples for one (1) year after the completion of each show season.

Following are the number of samples collected at the time of validation for the 2017 show season:

- Steers: 7,686
- Heifers: 5,043
- Sheep and Goats: 17,828

There were 686 show samples compared/tested during the 2017 show season.

The Vendor shall arrange for securing the collected DNA show samples at partnership livestock shows listed below:

- Sandhills Stock Show and Rodeo – Odessa
- Fort Worth Stock Show and Rodeo – Fort Worth
- San Antonio Stock Show and Rodeo – San Antonio
- Rodeo Austin – Austin
- San Angelo Stock Show and Rodeo – San Angelo
- Hill County District Junior Livestock Show – Kerrville
- Heart O' Texas Fair and Rodeo – Waco
- State Fair of Texas – Dallas
- Houston Livestock Show and Rodeo – Houston

Respondent's proposal shall detail how the show samples will be secured.

As stated in Section 1.3 of this RFP, Respondent's proposal shall provide a straightforward and concise description of the Respondent's ability to meet the requirements of this RFP.

## 2.2 Timeline

It is anticipated that the Vendor shall provide to the Agency some type of sample collection kit for the Agency to use when collecting samples at the time of validation. A complete timeline (ex. When the Agency would order the sample collection kits, when the kits have to be received by the Agency, etc.) is noted below.

- a. Steer, Heifer Spring Validation and Sheep and Goat State Fair Validation
  - i. March
    1. Steer, Lamb, and Goat tag order request forms emailed to County Extension Agents and Agriculture Science Teachers
    2. Unique Identification Number (UIN) order requests emailed to County Extension Agents and Agriculture Science Teachers
  - ii. Mid-April
    1. Steer tag orders due at Texas 4-H Office, Lamb and Goat orders due at Research and Extension Center in San Angelo
    2. Heifer UIN orders due
    3. Order sample collection kits from Vendor
  - iii. May
    1. Main Steer and Heifer validation packets to county offices (including sample collection kits)
    2. Email Steer validation spreadsheets to County Extension Agents
  - iv. June 1-30
    1. Steer and Heifer and State Fair Sheep and Goat Physical Validation
  - v. July
    1. Steer, Heifer, Lamb, and Goat validation packets are due (including sample collection kits) five (5) business days after July 1<sup>st</sup>
  - vi. August
    1. Vendor arrives at 4-H Office to receive Cattle sample collection kits
    2. Vendor arrives at Research and Extension Center in San Angelo to receive Sheep and Goat sample collection kits
- b. Fall Heifers, Breeding Sheep and Does, Market Lambs, and Market Goats
  - i. August
    1. Lamb, Goat, Breeding Sheep and Goat orders due at Research and Extension Center in San Angelo
  - ii. September
    1. Order sample collection kits from Vendor
    2. Mail validation packets to county offices (including sample collection kits)
  - iii. October
    1. October 1-November 1 – Heifer Spring Physical Validation
    2. October 1-31 – Breeding Sheep and Does Physical Validation
    3. October 1-31 – Market Lamb and Goat Physical Validation
  - iv. November
    1. Sheep and Goat validation packets (including sample collection kits) due at Texas 4-H Office and Research and Extension Center in San Angelo five (5) business days after October 31<sup>st</sup>
    2. Heifer validation packets (including sample collection kits) due five (5) business days after November 1<sup>st</sup>
  - v. December
    1. Vendor arrives at 4-H Office to receive Heifer sample collection kits
    2. Vendor arrives at Research and Extension Center in San Angelo to receive Sheep and Goat sample collection kits

## 2.3 Term of Contract

The contract commences upon the issuance of a purchase order. The term (“Initial Term”) is for twenty-four (24) months with options to renew for three (3) additional twelve (12) month periods. The contract shall start from the date of mutual contract execution.

## **SECTION 3 REQUIREMENTS**

### **3.1 Statement of Qualifications**

Respondent proposals shall contain the following information in the same order set forth below. Respondents must present all information, in adequate detail, necessary to demonstrate how they best satisfy the evaluation criteria for establishing the most qualified firm to provide the requested services. Include tabs for easy identification of sections.

#### **3.1.1 Executive Summary**

Proposal shall include an executive summary that provides a general overview of the organization and summarizes the duties of all key personnel. Proposal shall include the identification of any subcontractors and affiliated individuals or firms that will assist the Respondent in performing the work. Proposal shall include a statement to indicate interest and availability to provide the required services. Any credentials required to perform requested services shall be included. Each Respondent must complete a Respondent Information Form (Attachment B).

#### **3.1.2 Experience**

Describe services your organization has provided in the past five (5) years that demonstrates your organization's capability to carry out the proposed services. Include the nature of the services provided, scope of activities, and the organization for which the service was provided. Also, provide any experience in providing similar services to public entities or state agencies.

#### **3.1.3 Key Personnel**

Provide a list, by name and title, of all key personnel, roles, resumes, and responsibilities to be involved in the contract performance. Include a biography that includes his/her educational background, technical capabilities, credentials, certifications, length of time with your company, and job related experience with a list of specific efforts he/she has supported.

#### **3.1.4 References**

Provide a list of customer/client references from customers who can document the Respondent's capability to supply the services as outlined in this RFP. Include a minimum of three (3) references. Include company name, project description, contract value, contract term, contact names, position, telephone number and email address for each reference listed (Attachment C – References).

#### **3.1.5 Technical Response and Project Approach**

Respondent proposals shall clearly detail the Respondent's ability to successfully provide the requested services. The proposal shall include an in-depth discussion of the Respondent's approach and process to achieving the RFP's goals, objectives, and/or deliverables.

#### **3.1.6 Financial Responsibility**

The Agency reserves the right to require any information necessary to assess the financial integrity and responsibility of a Respondent and to reject a response on the grounds of the Respondent's financial soundness.

## SECTION 4 EVALUATION CRITERIA

Submission of a proposal indicates Respondent's acceptance of the evaluation technique and Respondent's recognition that some subjective judgments must be made by the Agency during the assigning of points.

### 4.1 Selection Criteria

The Agency will select a Vendor by using the competitive sealed proposal process described in this section. Any proposals that are not submitted by the Submittal Deadline or deemed non-responsive due to material failure to comply requirements of this RFP will not be considered further. Upon completion of the initial review and evaluation of proposals, the Agency may invite one or more selected Respondents to participate in an oral presentation.

Each proposal shall be evaluated on the ability to meet the Agency's requirements and to provide the best value to the Agency. Proposals shall be evaluated by assigning points to each of the items below.

The Agency will collectively develop a composite preliminary rating which indicates the group's collective ranking of the highest rated proposals in a descending order based on technical evaluations. The Agency may at its option, then conduct interviews/demonstrations with only the top ranked Respondents, usually the top two (2) or three (3) depending upon the number and quality of the proposals received.

The Agency may make the selection of Vendor based on the proposals initially submitted, without discussion, clarification or modification. In the alternative, the Agency may make the selection of Vendor on the basis of negotiation with any of the Respondents. In conducting negotiations, the Agency may discuss and negotiate all elements of proposals submitted by Respondents within a specified competitive range. For purposes of negotiation, the Agency may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposals. In that event, the Agency may defer further action on proposals not included within the competitive range pending the selection of Vendor; provided, however, the Agency reserves the right to include additional proposals in the competitive range if deemed to be in the best interest of the Agency.

After the Submittal Deadline but before final selection of Vendor, the Agency may request Respondent to revise its proposal in order to obtain the Respondent's best and final offer. In that event, representations made by Respondent in its revised proposal, including price and fee quotes, will be binding on Respondent. The Agency is not obligated to select the Respondent offering the most attractive economic terms if that Respondent is not the most advantageous to the Agency overall, as determined by the Agency.

The Agency reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Respondents, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, and to make multiple awards if deemed to be in the best interest of the Agency.

The successful Vendor will be selected based on the following criteria and points:

Criteria	Possible Points
Respondent's compliance with the terms, conditions, and specifications of the RFP. Respondent's ability to meet and/or exceed the specifications.	50
Respondent's experience and references, which demonstrate to the Agency's satisfaction the expertise and past performance of the vendor.	25
Pricing as detailed on Exhibit D - Costs Sheet	25
<b>TOTAL</b>	<b>100</b>

#### **4.2 Consideration of Additional Information**

Consideration may also be given to any additional written information and comments that may serve to clarify the proposal information to the Agency.

The Agency may conduct reference checks with other entities regarding past performance. The Agency may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the federal government. Further, the Agency may initiate such examination of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of the Agency, and any negative findings, as determined by the Agency, may result in non-award to the Respondent.

#### **4.3 Best Value and Award**

Under Section 51.9335 of the Texas Education Code in determining what is the best value to an institution of higher education, the Agency shall consider the purchase price, the reputation of the Respondent and of the Respondent's goods or services, the quality of the Respondent's goods or services, the extent to which the goods or services meet the Agency's needs, the Respondent's past relationship with the Agency, the impact on the ability of the Agency to comply with laws and rules relating to historically underutilized businesses (HUBs) and to the procurement of goods and services from persons with disabilities, the total long-term cost to the Agency of acquiring the Respondent's goods or services, and any other relevant factor that a private business entity would consider in selecting a vendor. However, there is no guarantee that an award or any contract will result from this solicitation.

The Agency intends to make an award to one (1) Respondent, based on pricing for all items, that provides the best value to the Agency. The Agency will utilize an evaluation team for the evaluation of this RFP. The Agency will evaluate and make the award on the proposal that is determined to be the best value to the Agency based on, but not limited to the criteria listed above.

All proposals must be complete and convey all of the information requested to be considered responsive.

Should the Agency be unable to agree on final agreement terms and conditions with the highest ranked Respondent, an Agency representative(s) will then negotiate with the second-ranked Respondent or reissue the same or modified version of this RFP.

#### **Provide the contact person within your company for the purposes of this RFP.**

- **Name:**
- **Address:**
- **Telephone #:**
- **E-mail:**

**The Agency reserves the right to reject any and all proposals.**

## **SECTION 5 PRICING**

### **5.1 Pricing**

Respondent proposals shall include a completed “Exhibit D – Costs Sheet”.

The Agency’s preference is for the Costs Sheet to show a breakdown as follows:

- Cost per sample collected
- Cost per each comparison

Other pricing structures will be considered. Respondent pricing shall be itemized on the Costs Sheet and included all fees necessary to provide the services required in this RFP.

## SECTION 6 GENERAL INFORMATION

### 6.1 Submittal Deadline and Location

All responses must be received by Texas A&M AgriLife no later than **Monday, February 26, 2018, at 3:00 p.m. CST**  
Responses are to be submitted to:

#### U. S. POSTAL SERVICE:

Texas A&M AgriLife  
Purchasing Department  
2147 TAMUS  
College Station, TX 77843-2147

#### HAND DELIVER AND/OR EXPRESS MAIL/FED EX/UPS TO:

Texas A&M AgriLife  
Purchasing Department  
578 John Kimbrough Blvd., Room 416  
College Station, TX 77843-2147

Late responses properly identified will be returned to Respondent unopened. **LATE RESPONSES WILL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.**

### 6.2 Deadline for Questions

The deadline for questions is Monday, February 12, 2018, by 5:00 p.m. CST. The Agency's responses to questions will be posted via an addendum to the ESBD on February 14, 2018, or as soon thereafter as practical. All questions concerning this RFP are to be directed in writing to the Agency Point-of-Contact identified in Section 6.4. Respondent may not contact other individuals at the Agency to discuss any aspect of this RFP, unless expressly authorized by the Purchasing Department to do so. Respondents must reference the appropriate RFP page and section number in its questions and must submit them by the deadline.

The Agency will also post any amendment to this solicitation as an addendum on the ESBD. Interested parties are responsible for periodically checking the ESBD for updates to the RFP prior to submitting a proposal. Respondent's failure to check the ESBD will in no way release the selected Vendor(s) from the requirements of any addenda or additional information, nor will any resulting additional costs to meet the requirements be allowed after award(s). Attachment F - Acknowledgement of Addenda shall be completed by the Respondent and submitted with their RFP response.

Respondents must notify the Agency of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error in the RFP in the manner required and by the deadline for submitting questions. If a Respondent fails to notify the Agency of such issues, Respondent submits its proposal at its own risk, and if awarded a contract: (1) waives any claim of error or ambiguity in the RFP or resulting contract, (2) will not contest the Agency's interpretation of such provision(s), and (3) is not entitled to additional compensation, relief, or time by reason of ambiguity, error, or later correction.

In its sole discretion, the Agency may respond to questions received after the deadline. Additionally, the Agency reserves the right to amend answers prior to the proposal submission deadline.

Only those inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect.

### 6.3 Organization and Proposal Components

The Agency may disqualify responses received without the required documentation identified below:

<b>SUBMITTAL CHECKLIST</b>	
	Executive Summary
	Experience
	Key Personnel
	Technical Response and Project Approach per Section 3.1.5
	Attachment A – Insurance Requirements
	Attachment B – Respondent Information
	Attachment C – References
	Attachment F – Acknowledgement of Addenda
	Exhibit A – HUB Subcontracting Plan
	Exhibit B – Execution of Offer
	Exhibit C – Non-Collusion Affidavit
	Exhibit D – Costs Sheet

**Respondent shall provide one (1) original, one (1) copy and two (2) virus free flash drives of the complete RFP response as specified above.**

All flash drives must either be in Microsoft Office Software or Adobe Portable Document Format (PDF). All image files must be in one of the following formats: .jpg, .gif, .bmp, or .tif. The Agency prefers image files to already be inserted as part of a document such as a PDF. Individual image files on the flash drive must be clearly named and referenced in your proposal response.

**NOTE:** The original signature on one (1) hard copy will serve as the official signature of record for all flash drive copies.

Please create a text file in your root directory titled “table of contents.txt” that contains a brief explanation of the files and their layout found on the disc.

Response package (box/carton) must indicate on the lower left-hand corner the Respondent’s company name, the proposal opening date, and RFP number.

Telephone and/or facsimile (Fax) responses to this RFP are not acceptable.

### 6.4 Texas A&M AgriLife Contacts

The Agency specifically requests that Respondents restrict all contact and questions regarding this RFP to the below named individual.

Failure to comply with these requirements and communications with anyone other than the Point-of-Contact without express prior approval may result in disqualification of a response.

**Respondents may not use this e-mail address for submission of a response.**

#### **Point-of- Contact**

Chris Chamberlain, CTPM  
 Assistant Director, Texas A&M AgriLife Purchasing Department  
 2147 TAMUS  
 College Station, TX 77843-2147  
[cchamberlain@tamu.edu](mailto:cchamberlain@tamu.edu)  
 979-845-4771 phone  
 979-458-1217 fax

After award of any contract resulting from this RFP, all requests for contract changes and all communications relating to the contract will be processed through the Purchasing Office.

## 6.5 Definitions

Whenever the following terms are used in these General Terms and Conditions or in other documents the intent and meaning shall be interpreted as follows:

RFP shall mean Request for Proposal.

Proposal shall mean Respondent's offer.

Agency shall mean Texas A&M AgriLife Extension Service.

AgriLife shall mean Texas A&M AgriLife Extension Service and other system parts.

Respondent shall mean the individual, partnership, corporation, or other entity responding to this RFP.

Vendor shall mean the individual, partnership, corporation, or other entity awarded for the scope of work under this RFP in accordance with the terms, conditions, and requirements herein.

HUB shall mean Historically Underutilized Business.

Agreement shall mean an agreement/contract, documented by written instrument, between the Agency and the successful Respondent to provide the scope of work to the Agency.

## 6.6 Electronic State Business Daily (ESBD)

It is the responsibility of interested vendors to regularly check the ESBD website for any possible addenda to this project:

<http://www.txsmartbuy.com/sp>

The RFP is inclusive of all addenda issued.

## 6.7 Terms and Conditions

The Terms and Conditions shall govern any contract issued as a result of this RFP.

Additional or attached terms and conditions which are determined to be unacceptable to the Agency may result in the disqualification of your proposal. Examples include, but are not limited to, liability for payment of taxes, subjugation to the laws of another State, and limitations on remedies.

## SECTION 7 GENERAL TERMS AND CONDITIONS

### 7.1 General

These General Terms and Conditions shall be made a part of and govern any contract/purchase order resulting from this Request for Proposal.

**The Agency reserves the right to accept or reject any or all offers, to waive informalities and technicalities, to accept the offer considered most advantageous and award based on the evaluation criteria. Additionally, all Respondents are hereby notified that the Agency shall consider all factors it believes to be relevant. The Agency's decision is final.**

Responses are to be valid for a minimum of 180 days from the submittal deadline date to allow time for evaluation, selection, and any unforeseen delays.

Failure to comply with the requirements contained in this Request for Proposal may result in the rejection of the proposal.

The Vendor agrees to protect the State from claims involving infringement of patents or copyrights.

The Vendor hereby assigns to the Agency, any and all claims for overcharges associated with any contract resulting from this RFP 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 Commercial Code Ann. Sec. 15.01, et seq. (1967).

Questions should be directed to the Texas A&M AgriLife Purchasing Department official identified in Section 6.4 of this Request for Proposal.

Proposals and any other information submitted by Respondent in response to this Request for Proposal shall become the property of the Agency.

The Agency will not provide compensation to Respondents for any expenses incurred by the Respondent(s) for proposal preparation, product evaluations or demonstrations that may be made, unless otherwise expressly indicated.

Proposals which are qualified with conditional clauses, alterations, items not called for in the RFP documents, or irregularities of any kind are subject to disqualification by the Agency at its option.

This procurement will be conducted in accordance with Texas A&M University System Policy 25.07.03, and 51.335 of the Texas Education Code. Any contract resulting from this RFP shall consist of one (1) document. This document will contain all of the rights and duties of the parties extracted from the relevant terms and conditions of the RFP (including its attachments, exhibits, supplements, and addenda), the successful Vendor's proposal, any Agency request for a Best and Final Offer, and any successful Vendor's Best and Final Offer.

Any purchase order resulting from this solicitation is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature. The purchase order for this procurement shall be governed, construed and interpreted under the laws of the State of Texas.

The purchase order is void if sold or assigned to another company without written approval of the Agency. Written notification of changes to company name, address, telephone number, etc., shall be provided to the Agency as soon as possible, but not later than thirty (30) days from the date of change.

Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

### 7.2 Default

In the event that the Vendor fails to carry out or comply with any of the terms and conditions of the agreement with the Agency, the Agency may notify the Vendor of such failure or default in writing and demand that the failure or default be remedied within ten (10) days; and in the event that the Vendor fails to remedy such failure or default within the ten (10) day period, the Agency shall have the right to cancel the agreement upon thirty (30) days written notice.

The cancellation of the contract, under any circumstances whatsoever, shall not affect or relieve the Vendor from any obligation or liability that may have been incurred or will be incurred pursuant to the agreement and such cancellation by the Agency shall not limit any other right or remedy available to the Agency at law or in equity.

**7.3 Termination**

The contract may be terminated (for convenience), without penalty, by the Agency without cause by giving ninety (90) days written notice of such termination to the Vendor.

Upon award, the contract is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated.

In no event shall such termination by the Agency as provided for under this section give rise to any liability on the part of the Agency including, but not limited to, claims of Vendor for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. The Agency's sole obligation hereunder is to pay the Vendor for products and/or services ordered and received prior to the date of termination.

**7.4 Contract Amendments**

No modification or amendment to the contract shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the contract must be forwarded to the Texas A&M AgriLife Purchasing Department for prior review and approval. Only the contract administrator within the Purchasing Department, or his/her designee, will be authorized to sign changes or amendments.

In the event the Respondent requires a contract or order form to be signed, the contract or order form must be returned with this proposal for review prior to any subsequent award. The Agency reserves the right to refuse consideration of a contract and may hold Respondent to any agreement entered into as a result of a purchase order being issued based on this proposal.

**7.5 Independent Vendor Status**

Vendor agrees that Vendor and Vendor's employees and agents have no employer-employee relationship with the Agency. The Agency shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation Insurance payments, or any other insurance payments, nor will the Agency furnish any medical or retirement benefits or any paid vacation or sick leave.

**7.6 Right to Audit**

At any time during the term of any resulting contract and for a period of two (2) years thereafter, the Agency or duly authorized audit representative of the Agency, or the Texas A&M University System, at its expense and at reasonable times, reserves the right to incrementally audit Vendor's records and manufacturer's pricing relevant to all pricing provided under any resulting contract. In the event such an audit by the Agency reveals any errors/overpayments by the Agency, the Vendor shall refund the Agency the full amount of such overpayments within thirty (30) days of such audit findings, or the Agency, at its option, reserves the right to deduct such amounts owing the Agency from any payments due to the Vendor.

**7.7 Sales and Use Tax**

Texas A&M AgriLife Extension Service, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The Vendor may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

**7.8 Observance of Agency Rules and Regulations**

Vendor agrees that at all times its employees will observe and comply with all regulations of the Agency, including but not limited to parking and security regulations.

**7.9 Non-Disclosure**

The Vendor and the Agency acknowledge that they or their employees may, in the performance of any resulting contract come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organizations, whether or not directly or indirectly affiliated with the Vendor or the Agency unless required by law.

**7.10 Publicity**

The Vendor agrees that it shall not publicize any resulting agreement or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of the Agency's name in connection with any sales promotion or publicity event without the prior express written approval of the Agency.

**7.11 Severability**

If one or more provisions of any resulting contract, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of the contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

**7.12 Non-Waiver of Defaults**

Any failure of the Agency at any time, to enforce or require the strict keeping and performance of any of the terms and conditions of any resulting contract shall not constitute a waiver of such terms, conditions, or rights, and shall not affect or impair same, or the right of the Agency at any time to avail itself of same.

**7.13 Governing Law**

Any resulting contract shall be construed and governed by the laws of the State of Texas.

**7.14 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 Vendor to attempt to resolve any claim for breach of any resulting contract made by the Vendor:

- a. Vendor's claim for breach of any resulting 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, Vendor shall submit written notice, as required by Subchapter B, to:

**Dr. Susan Ballabina, Texas A&M AgriLife Extension Service**

Said notice shall also be given to all other representatives of the Agency and Vendor otherwise entitled to notice under the parties' contract. Compliance by the Vendor 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.

- b. The contested case process provided in Chapter 2260, Subchapter C, of the Texas Government Code is the Vendor's sole and exclusive process for seeking a remedy for any and all alleged breaches of any resulting contract by the Agency if the parties are unable to resolve their disputes under subparagraph (a.) of this paragraph.
- c. 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 any resulting contract by the Agency, nor any conduct of any representative of the Agency thereafter, shall be considered a waiver of sovereign immunity to suit.
  - i. The submission, processing, and resolution of Vendor'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.
  - ii. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of the performance by the Vendor, in whole or in part.
  - iii. 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. Susan Ballabina.
- d. The process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the owner and the Vendor to attempt to resolve any claim for breach of any resulting contract made by the Vendor that cannot be resolved in the ordinary course of business. The Vendor shall submit written notice of a claim of breach of any resulting contract under this Chapter to the designated Agency individual, who shall examine the Vendor's claim and any counterclaim and negotiate with the Vendor in an effort to resolve the claim.

**7.15 Indemnification**

The Vendor agrees to indemnify and hold the State of Texas, the Board of Regents of the Texas A&M University System, Texas A&M University, the Agency, their officers, employees, and agents (the Indemnified Parties) harmless from and indemnify each against any and all liabilities, actions, damages, suits, proceedings, judgments, and costs (excluding attorney's fees) for claims resulting from the acts or omissions of the Vendor or the acts or omissions of others under the Vendor's supervision and control.

**7.16 Other Benefits**

It is understood and agreed that no benefits, payments or considerations received by the Vendor for the performance of services associated with and pertinent to any resulting contract shall accrue, directly or indirectly, to any employees, elected or appointed officers or representatives, or any other person identified as agents of, or who are by definition an employee of the state.

### **7.17 Texas Public Information Act and Confidentiality**

The Agency is a governmental body subject to the Texas Public Information Act (PIA), Texas Government Code Chapter 552. All information, documentation, and other material submitted by the Respondent under this proposal is subject to public disclosure under the PIA. The proposal and other submitted information is presumed subject to disclosure unless a specific exception to disclosure under the PIA applies. If any material in the proposal is considered by the Respondent to be confidential or proprietary information, Respondent **must** clearly mark the applicable pages of the Respondent's submission to indicate each claim of confidentiality. Additionally, the Respondent must include a statement on company letterhead identifying all proposal section(s) and page(s) that have been marked as confidential. Merely making a blanket claim that the entire proposal is protected from disclosure because it contains some proprietary information is not acceptable and will make the entire proposal subject to release under the PIA. In order to trigger the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described above. Any information which is not clearly identified by the Respondent as proprietary or confidential will be deemed subject to disclosure pursuant to the PIA. Respondent will irrevocably be deemed to have waived, and Respondent agrees to fully indemnify the State of Texas and the Agency from any claim of infringement by the Agency regarding the intellectual property rights of the Respondent or any third party for any materials appearing in the proposal.

By submitting a proposal, each Respondent agrees to reproduction by the State of Texas, the Agency, and other State agencies, without cost or liability, of any copyrighted portions of the Respondent's proposal or other information submitted by the Respondent to comply with any Legislative Budget Board (LBB) reporting requirements or other reporting requirements mandated by law.

The Respondent is hereby notified that the Agency strictly adheres to this statute and the interpretations thereof rendered by the Courts and Texas Attorney General. The Respondent shall be deemed to have knowledge of this law and how to protect the legitimate interests of the Respondent.

By submitting a proposal or offer:

- a. Respondent 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 contract, as well as any other disclosure of information required by applicable Texas law.
- b. Upon the Agency's written request, the Respondent will provide specified public information exchanged or created under any resulting contract 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. The Respondent acknowledges that the Agency may be required to post a copy of any resulting fully executed contract on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

### **7.18 Intellectual Property**

Pursuant to any resulting contract, the Agency will license specified uses of certain of its intellectual property and assets during the term of the contract, as contemplated herein. However, the Agency shall, in all cases, retain exclusive ownership of any and all such intellectual property and assets, including any and all derivative property and assets developed during the term of the contract. The Vendor shall acknowledge the Agency's ownership of its intellectual property in any resulting contract and shall agree to assign any and all such intellectual property to the Agency at the expiration or termination of the contract, if requested by the Agency.

### **7.19 Conflict of Interest**

By executing any resulting agreement, the Respondent and each person signing on behalf of the Respondent, 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 A&M System or the A&M Board of Regents, not 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.

### **7.20 Prohibition on Contracts with Companies Boycotting Israel**

By executing any resulting agreement, the Respondent certifies it does not and will not, during the performance of any resulting contract, boycott Israel. The Respondent acknowledges any resulting agreement may be terminated if this certification is inaccurate.

**7.21 Certification Regarding Business with Certain Countries and Organizations**

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

## SECTION 8 CONTRACTUAL REQUIREMENTS

### 8.1 HUB Policy and HUB Subcontracting Plan Requirements

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 member's prime contracts, subcontracts, and purchasing transactions. The goal of the HUB Program is to promote equal access and equal opportunity in the Agency's contracting and purchasing. Subcontracting opportunities are defined as those opportunities contracted with a vendor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

The Agency has determined that Historically Underutilized Business (HUB) Subcontracting opportunities are probable for this Request for Proposal and therefore a **HUB Subcontracting Plan (HSP) is required**. Failure to submit a comprehensive, acceptable HSP will be considered a material failure to comply with the requirements of the Request for Proposal and will result in rejection of the submittal. Prepare the HUB Subcontracting Plan with the HUB Subcontracting Plan requirements. The HUB Subcontracting Plan shall be submitted within the RFP response and appropriately tabbed for easy reference.

Documents attached are the State of Texas HUB Subcontracting Plan form (Exhibit A), 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>

Contact Dee Ann Schneider at [da-schneider@tamu.edu](mailto:da-schneider@tamu.edu) or 979-845-4771 for questions on completing the HSP. **Please note that a pre-proposal conference will be held to review the HSP submittal requirements.**

The pre-proposal webinar conference is scheduled for :  
Tuesday, February 6, 2018, at 2:00 p.m. CST. Attend via web meeting address at:  
<https://agrilife-tamu.webex.com>

The meeting number is: 926048821

Conference materials regarding HSP compliance may be found at the following link:  
<http://agrilifeas.tamu.edu/documents/conference-resource.pdf>

For questions regarding the HSP, contact Dee Ann Schneider at:  
Da-schneider@tamu.edu  
979-845-4771

### 8.2 Insurance Requirements

The successful Respondent will be required per the indicated requirements (Attachment A) to provide proof of insurance prior to beginning any work for the Agency.

Respondent shall not commence work until all the insurance specified hereunder has been obtained and certificates of such insurance have been filed with and accepted by the Agency. Insurance coverage shall provide for a thirty (30) day notice of cancellation or material change to the policy coverage and/or limits and the certificate of insurance enforce must include a notice that the policy or policies do contain these provisions. Acceptance of insurance certificates by the Agency shall not relieve or decrease the liability of the Respondent. Unless otherwise specified, the Respondent shall provide and maintain, until the work included in this Request for Proposal is completed and accepted by the Agency.

Certificates of Insurance and Additional Insured Endorsements as required by this agreement will be mailed, faxed, or emailed to the following Agency contact:

*Chris Chamberlain, CTPM*  
*Assistant Director*  
*Texas A&M AgriLife Purchasing Department*  
*2147 TAMUS*  
*College Station, TX 77843-2147*  
*979-845-4786 phone*  
*979-458-1217 fax*

**8.3 Bonds**

No Bonds will be required for this project.

**8.4 Payment**

Payment shall be made within thirty (30) days after acceptance of goods and/or services and receipt of invoice, whichever is later, and according to the agreed upon schedule. The Agency will incur no penalty for late payment if payment is made in thirty (30) or fewer days from receipt of goods or services and an uncontested invoice.

**8.4.1 Billing Address**

Invoices and/or payment for services performed under any resulting agreement shall be submitted to:

Steers and Heifers:

Texas A&M AgriLife Extension Service  
4-H Program  
Attn: Sue Ferguson  
2473 TAMU  
College Station, TX 77843-2473  
Phone: 979-845-1211  
Sue.ferguson@ag.tamu.edu

Sheep and Goats:

Sheep and Goat Validation of Texas  
Attn: Marty Gibbs  
7887 US Highway 87 N  
San Angelo, TX 76901-9714  
Phone: 325-653-4576  
txlambgoatval@ag.tamu.edu

**8.4.2 Withheld Payments**

The Agency may withhold any moneys claimed to be due by the Vendor until the terms of the agreement have been fulfilled and the work of the Vendor has been accepted.

**8.4.3 Billing Resolutions**

In the case of a problem on a disputed invoice or charge, the Vendor will provide necessary information, i.e. duplicate invoice, shipping information and proof of delivery at no extra charge to the Agency within five (5) business days of request.

All credit memos will reflect the purchase order number and the original invoice number in which charge was initiated.

**8.4.4 Invoicing**

Each invoice to reference purchase order number and shall include the level agreed upon in the payment schedule.

Steers and heifers will be invoiced separately from sheep and goats.