

## Addendum #1

### NOTICE:

**This is a two-part solicitation.**

Due to changes in the procurement statutes in recent years and various interpretations of its requirements for installation of fixtures in public buildings or some projects being considered construction public works, 791COOP has determined that going to a two-part process will best meet the legal needs of all of our members.

**791COOP Members sometimes consider the installation services of the goods supplied under this contract as a public work/construction, since they may be considered fixtures or construction.**

**Proposing vendor may respond to part one or part 2 or to both parts. If you provide installation services, you should respond to Part 2 for the contract to be effective and usable by 791COOP members. Failure to respond to part 2 WILL NOT affect your award chances on the Part 1.**

**It is acceptable to propose on only Part 1, but it may limit your sales opportunities for sales of goods and delivery/installation services. It is highly recommended that you respond to both parts to take advantage of all opportunities. If you need help with proposing the RS Means pricing model, you may contact us for assistance.**

If you need help or explanation of the **RS Means** unit price book, 791COOP has staff that can provide some guidance, but understanding of the unit price book method is the responsibility of the proposer. The Center for JOC Excellence can be found at: <https://jocexcellence.org/>

- **Part 1** of the two-part solicitation is the goods and non-construction services section that must be procured according to *Texas Education Code §44.031* and the solicitation description is a Request for Proposals. Only services that are considered non-construction are permitted under Part 1. Example: depending on the judgment of the 791COOP Member entity, this may include installation of the Sports Facility Lighting.
- **Part 2** of the two-part solicitation is the installation section for projects that the work required for installation is considered a public work construction project and the solicitation description is a Request for Competitive Sealed Proposals as permitted under *Texas Government Code §2269*; Job Order Contracts. How the installation is classified is dependent on the judgment of the 791COOP member and the work involved in the specific scope of the project.

**Example:** if the member is purchasing a modular building and there must be engineered footings, sidewalks, awnings and walk way covers, plumbing or electrical service installed at the site for the building, they may be required by statute to engage an independent engineer and the project may be considered a construction or public works project that requires procurement according to Texas Government Code 2269.

**ALL OF THESE TYPES OF WORK PROJECTS ARE INCLUDED IN THE RS MEANS UNIT PRICE BOOK.**

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### **PART 2 – RCSP #791-2020-03-003**

### **Maintenance Services for Elevators/Escalators & Moving Walkways-JOC**

Part 2 - Installation and Construction on Site Considered a Public Work - Job Order Contract (JOC)

Part 2 is a Request for Competitive Sealed Proposals as permitted by Texas Government Code §2269

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## **PROCUREMENT SOLICITATION DOCUMENT**

### **791 Purchasing Cooperative**

**A Cooperative Purchasing Program available for membership by Government and Other Entities in all fifty states.**

**And**

**Lead Agency:**

**Region 15 Education Service Center**

**Issued: March 20, 2020**

**Submission Deadline: April 20, 2020 by 2 p.m.**

**Region 15 Education Service Center**

**ATTN: 791COOP**

**C/O: Ms. Charity Vasquez**

**612 South Irene Street**

**San Angelo, TX 76903**

**Questions: [Admin@791Coop.org](mailto:Admin@791Coop.org)**

**The solicitation documents may be found at <https://791COOP.ionwave.net>**

If a problem is encountered accessing the solicitation, please contact 791 COOPERATIVE at the address or phone listed above for help.

**NOTICE TO PROPOSER(S): ANY FURTHER INFORMATION OR AMENDMENTS TO THIS SOLICITATION SHALL BE POSTED ON THE 791COOP WEBSITE AT <http://www.791Coop.org>. AMENDMENTS SHALL NOT BE FAXED, EMAILED OR MAILED. IT IS THE PROPOSER(S)'S RESPONSIBILITY TO CHECK THE WEBSITE FOR ANY SOLICITATION CHANGES DURING THE RFP RESPONSE TIME.**

**Part 2** of the two-part solicitation is the installation section for projects that the work required for installation is considered a public work construction project and the solicitation description is a Request for Competitive Sealed Proposals as permitted under *Texas Government Code §2269*; Job Order Contracts. How the installation is classified is dependent on the judgment of the 791COOP Member entity and the work involved in the specific scope of the project.

This Solicitation is a Request for Proposals as permitted in the *Texas Education Code Section 44.031*

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NOTICE: The use of the terms Solicitation, Bid, Request for Proposals, RFP, Request for Competitive Sealed Proposals, RCSP, or other specific terms may not be accurate in legal terminology and should be construed to mean the method of competitive procurement listed above with the legal citation of the source of the procurement method. Example: "This Solicitation is a Request for Proposals as permitted in the *Texas Education Code Section 44.031*."

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### Summary of RFP Instructions

**THIS SOLICITATION IS FOR AN INDEFINITE DELIVERY INDEFINITE QUANTITY (IDIQ) AGREEMENT**  
THIS IDIQ SOLICITATION IS INTENDED FOR THE USE OF ESC REGION 15, 791COOP AND 791COOP MEMBER ENTITIES OR FUTURE MEMBERS TO PIGGYBACK UPON AND UTILIZE AS THEIR OWN SOLICITATION FOR LEGAL PROCUREMENT. BECAUSE MEMBER ENTITIES PIGGYBACKING UPON AN AGREEMENT RESULTING FROM THIS SOLICITATION MAY DO SO AT THEIR DISCRETION AND TIMING, ANY SCOPE REQUIREMENTS OF THE SOLICITATION MAY CHANGE DURING THE LIFE OF THE RESULTING IDIQ AGREEMENTS AND NO SPECIFIC VOLUME OF PURCHASES IS GUARANTEED BY 791COOP.

Below is summary of the important RFP deadlines and submittal instructions. More detailed information is provided in the following pages of this RFP:

1. Responses are due Friday April 20, 2020 by 2:00 pm central time.
2. Questions regarding this RFP will be accepted until 5:00 pm central time on April 13, 2020.
3. Responses are requested to be uploaded into ION Wave, an online system used by 791 Cooperative to collect and organize proposals. Paper proposals may still be submitted to:

Region 15 Education Service Center  
ATTN: 791COOP  
C/O: Ms. Charity Vasquez  
612 South Irene Street  
San Angelo, TX 76903

4. All Proposers must download and review the Vendor Agreement from ION Wave.
  - a. If Proposer accepts the terms and conditions as defined in the Vendor Agreement, you must submit a statement with your response stating you have no deviations or suggested changes to the Vendor Agreement.
  - b. If Proposer would like to suggest language changes to the Vendor Agreement, Proposer must upload a redlined version of the Vendor Agreement with their proposal into ION Wave. If no redlined version of the Vendor Agreement is submitted to 791COOP, 791COOP will assume Proposer has accepted all terms and conditions of the Vendor Agreement and 791COOP will not entertain suggested language changes at a later date.
5. Proposer must answer all questions contained in the PROPOSAL SCORING, EVALUATION AND RESPONDENT QUESTIONS Section of this RFP and upload to ION Wave e-bid system
6. Proposer must complete all forms and certifications that are provided as a part of this RFP. All certification forms must be downloaded from ION Wave.
7. Proposer must complete all forms contained in ION Wave.

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### **Definition:**

The proposer responding to this RFP may be referred to as, proposer, responder, respondent, vendor, company, firm or other similar moniker.

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## The General Information

### FINANCING OF 791COOP and Lead Agency Region 15 Education Service Center

#### 791COOP Vendor Paid Fee

The total cost of the 791 PURCHASING COOPERATIVE program, is funded through an administration **fee of 1.75%** paid to 791COOP by the awarded contractors. The fee is based on actual vendor project sales. Vendor will pay the fee on the actual invoiced and paid sales to 791COOP members. Fees are not assessed to vendors for shipping cost, required bond cost, or any taxes that may be applicable.

791COOP establishes a fee for each solicitation for proposals that is in the best interest of 791COOP and its members.

#### Term of Agreement and Renewals

The Job Order Contract (JOC) agreements have a different statutory requirement for Contract term of years. The initial term of the JOC agreement is restricted to two (2) years. Awarded agreements may be extended for two (2) additional consecutive one (1)-year terms. The first one (1) year extension is automatic unless either party exercises its right to termination as provided in the Part 2 JOC Vendor Agreement. The second one-year term extension may be executed with the agreement of both parties.

THIS CLAUSE CONTROLS OVER ANY OTHER TERM IN ANY OTHER PART OF THIS SOLICITATION. 791 COOPERATIVE reserved the right to solicit proposals at any time it is in the best interest of 791 COOPERATIVE and/or its members.

#### Termination for Cause

791 COOPERATIVE or the awarded vendor may terminate an award under this solicitation for cause. Either Party must provide the other Party with 30 days written notice to respond to the notice at the address provided in the response or as otherwise provided. Bankruptcy is cause for terminating this agreement. The Awarded vendor shall provide 791 COOPERATIVE with 90 days written notice in order to protect the interests of the 791 COOPERATIVE members that may be in negotiation.

#### Vendor Questions

Questions about the specific SOLICITATION shall be submitted to [bids@791COOP.org](mailto:bids@791COOP.org) with the following in the subject line: "RFP # 791-2020-03-001 Maintenance Services for Elevators/Escalators & Moving Walkways contractor question". Questions of a ministerial nature will be answered without an addendum, but questions of a substantive nature that are not addressed in the SOLICITATION or deemed relevant to the process by 791 COOPERATIVE will be addressed by properly posted addendum.

**QUESTIONS WILL BE RECEIVED UNTIL April 13, 2020 AT 5:00 PM Local Time.**

**NO Pre-Bid Meeting Scheduled**

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A Pre-Bid Meeting may be requested by any proposer, if you wish to request a Pre-Bid Meeting, please email [admin@791COOP.org](mailto:admin@791COOP.org) by 10 a.m., March 27, 2020. If a Pre-Bid meeting is scheduled, an addendum posted and a notification will be sent by the electronic bidding system to all known interested parties. If requested, 791 COOPERATIVE reserves the right to determine if a Pre-Bid Meeting is held.

### ANTICIPATED SCHEDULE OF AWARD OR RELATED EVENT:

The anticipated schedule is as follows:

<b>RFP Issued</b>	<b>March 20, 2020</b>
<b>Pre-Proposal Conference</b>	<b>None</b>
<b>Inquiry Period Ends</b>	<b>April 13, 2020 at 5:00 pm (CDT)</b>
<b>Proposal Due Date</b>	<b>April 20, 2020 by 2:00pm (CDT)</b>
<b>Anticipated Award</b>	<b>April 27, 2020*</b>

**\*This date may be later or earlier, depending upon the number of proposals received.**

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791 COOPERATIVE agreements are available for use by all schools, colleges, universities, cities, counties and other government entities in all fifty states if permitted by the jurisdictions of the governmental entities.

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### Evaluation for Part 2

A qualified evaluation committee will evaluate and score all proposals. Recommendations for award will be made to the Region 8 Education Service Center Board of Directors. Awards will be granted or denied at the monthly stated meeting of the Region 8 ESC Board of Directors. TIPS will base a recommendation for award on factors permitted by the Texas Government Code section 2269. The factors which will be considered and weighted points in each area as follows (100 total points):

TIPS shall use a final overall scoring system to include consideration for competitive pricing, best value price and cost evaluation. TIPS reserves the right to assign any number of point awards or penalties it considers warranted if a offeror stipulates exceptions, exclusions, or limitations of liabilities. Strong consideration will be given to the best value price as it relates to the products and services. However, price is ultimately only one of the factors taken into consideration in the evaluation and award. TIPS shall reserve the right to reject any or all proposals or any part of any proposal. The following evaluation criteria are permitted for consideration by Texas Government Code section 2269.055.

1. Price: 28 points maximum weight. Prices quoted as related to the information within the solicitation as a coefficient of the R. S. Means price book, and, if requested or proposed, any other line item pricing. Any Regular Hours Multiplier Coefficient proposed on the pricing exhibit greater than 1.5 will receive no points. A proposal with a coefficient less than 1, will receive maximum points.
2. Offerer's experience: 27 points maximum weight. Scoring may be based on references, information provided in the response or TIPS staff knowledge or any other information available to TIPS evaluators.
3. Offerer's reputation: 27 points maximum weight. Scoring may be based on references, information provided in the response or TIPS staff knowledge or any other information available to TIPS evaluators.
4. Offerers financial capability: 18 points maximum weight. Scoring may be based on bonding capacity as provided by proposer in the form of letters from the proposer's bonding surety(ies). Bonding capacity greater than \$2 million will receive maximum points. Bonding capacity less than \$25,000 will receive no points. Bonding capacity between \$25,000 and \$2 million will receive a point total between 0 and 18.

**PROPOSERS FALLING BELOW A 70-POINT THRESHOLD ON PART 2 EVALUATION SECTION WILL NOT BE CONSIDERED FOR AN AWARD.**

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### **SPECIFICATIONS and PRICING FORMAT**

Depending on the scope and circumstances, the pricing of may be required by Texas Government Code §2269 to be procured by a method enumerated in the statute. The method permitted by a purchasing cooperative such as 791COOP is the Job Order Contract (JOC) method. The statute requires the use of a unit pricing model and the unit price book 791COOP specifies is the RS Means price book. The statute also requires the pricing to be submitted as a coefficient of the Unit Price Book's line item prices. The part 2 pricing sheet provides for your proposal of the coefficient and a markup for non-listed items.

#### **Pricing**

It is the intention of 791COOP to establish an agreement for delivery of installation and ancillary services that are considered by the 791COOP member as a public work construction project for Sports Facility Lighting of this solicitation, or the entire project may be performed under Part 2.

Due to the varied scope and nature of these types of projects, 791COOP members in various jurisdictions have different interpretations of what is and what is not a public work construction project requiring the Job Order Contracting (JOC) procurement process under Texas Statutes. Therefore, 791COOP is providing the option for members that require the JOC process to procure those services relating to this solicitation using this contract.

**FAILURE TO PROVIDE THE JOC PRICING SHEET WITH YOUR PROPOSAL WILL DISQUALIFY YOUR AWARD UNDER THIS SOLICITATION PART 2.**

Proposers must provide pricing based on a multiplier coefficient of the R.S. Means price book sections for the categories solicited.

#### **Wage Rates**

791COOP members usually, depending on the jurisdiction, have to designate or follow specific wage rates for their construction projects. Many times, this is Davis-Bacon Act and sometimes it may be another local wage rate determination. Regardless, the contractor must comply with the designated wage rates and the RS Means Unit Price Book has taken into account the local wage rates for the geographic area.

#### **Maximum Aggregate Contract Price**

Texas Government Code §2269.403 (b) requires that the governmental entity shall establish the maximum aggregate contract price when it advertises the proposal. Because this solicitation is available for piggyback by multiple entities, there is no accurate method to project the maximum aggregate price. Therefore, an arbitrary maximum aggregate contract price for sales by all awarded contractors under this solicitation is set at \$10,000,000,000,. This arbitrary figure is not a guarantee of any sales under the award and it should not be construed as an estimate of total sales during the contract period. If and when the \$10,000,000,000 figure is reached, the awarded contracts will expire immediately and a new solicitation may be issued if in the best interest of

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791COOP and its members.

### **Job Order Contracting (JOC)**

It is the intention of 791COOP to establish a contract to furnish and/or deliver construction services using the Job Order Contracting construction delivery method. The work includes minor construction, repair, rehabilitation and alteration services for a wide variety of colleges and universities, schools, cities, counties, healthcare and other government and non-profit agencies.

**Unit Price Book (UPB)** will be the current edition of RS Means Facilities Construction Cost Data at the time of the project acceptance – the published quarterly updates will be allowed.

**Estimating Requirements:** Awarded contractor must use RS Means Online. 791COOP will consider: Cost Works; JOC Works; 4 Clicks; or other approved estimating software. These other estimating software programs must be approved by 791COOP prior to awarded vendors utilizing them in this contract.

The Contractor shall furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management and shall perform all operations necessary and required for construction work. All work shall be performed in accordance with the requirements set forth in the resulting contract and each mutually agreed upon work request or purchase order issued by 791COOP participating members.

A contract will be established with standard specifications and pricing based upon a coefficient that is applied to a Unit Price Book (UPB) from RS Means. When a specific project or job order is issued, 791COOP member and the contractor will agree on the scope of work and the cost is determined by applying the coefficient to the appropriate units in the UPB. Pricing will be evaluated based upon completion of Pricing Exhibit.

Pricing Exhibit document must be downloaded from the “Attachments” section, completed and uploaded to the “Response Attachments” PRICING section.

### **Bonding**

**Proposer must provide a letter from their Surety company(ies) that specify the bonding capacity of the proposer. Bonding surety must be authorized to do business in the State of Texas and be listed on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570) Bonding capabilities documentation must be scanned and uploaded to the “Response Attachments” BONDING section.**

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### **DESCRIPTION, SPECIFICATIONS AND PRICING**

**The Part 2 INSTALLATION SERVICES** section of this awarded contract will use a job order contract (JOC) for a fixed term or maximum dollar value, whichever occurs first, in which a contractor is selected based on a competitive proposals to perform various separate job orders in the future, during the life of the contract. Contract award is based on the bid coefficient factor which the contractor will multiply against “pre-priced” R.S. Means unit price book. The bid coefficient factor represents all of the contractor’s costs (indirect and direct), overhead and profit. The other adjustment factor is updated annually based on the City Cost Index published for the closest location.

**The Part 2 scope is exclusive to the contractor.** The most important decision in administering the Part 2 contract is therefore the drafting of the scope. Because the contractor has been selected and the unit price is fixed (by the unit price book and the contractor’s coefficient factor), the Part 2 contract allows contractor input prior to design, which can expedite the work.

The Contractor shall furnish all necessary labor, materials, tools, supplies, equipment, transportation, supervision, management and shall perform all operations necessary and required for construction work. All work shall be performed in accordance with the requirements set forth in the resulting contract and each mutually agreed upon work request or purchase order issued by TIPS participating members.

A contract will be established with standard specifications and pricing based upon a coefficient that is applied to an R.S. Means Unit Price Book (UPB). When a specific project or job order is issued, TIPS member and the contractor will agree on the scope of work and the cost is determined by applying the coefficient to the appropriate units in the UPB. Based on the scope of work, the contractor may apply a coefficient less than the TIPS contractor coefficient, if agreed upon by the contractor and the TIPS member. Pricing will be evaluated based upon completion of Pricing Exhibit.

**The Part 2 contract** will include, but not limited to, the following RS Means Divisions:

- RS Means (Division 1 – General Conditions)
- RS Means (Division 2 – Existing Conditions)
- RS Means (Division 3 – Concrete)
- RS Means (Division 5 – Metals)
- RS Means (Division 6 – Woods and Plastics)
- RS Means (Division 9 – Finishes)
- RS Means (Division 11 – Equipment)
- RS Means (Division 12 – Furnishings)
- RS Means (Division 13 - Special Construction)
- RS Means (Division 26 - Electrical)
- RS Means (Division 31 - Earthwork)
- RS Means (Division 32 - Exterior Improvements) RS Means (All Other Divisions)

**Enter a multiplier coefficient in the “All Divisions” field on the Pricing Exhibit.**

Pricing Exhibit must be downloaded from the “Attachments” section, completed and uploaded to the “Response Attachments” PRICING section.

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### Job Order Contracting Definitions

**CITY COST INDEX**, Defined pricing indices published by R.S. Means (see R.S. Means) as local modifiers to the national cost data.

**COEFFICIENT** is the contractors' coefficient multiplier that is applied to the local city cost index and the total sum of line item estimates for each individual Job Order. It will include all overhead items such as office, safety equipment, vehicles and fuel, computers, communication devices, printers, programs, insurance maintenance, two percent TIPS management fee, final site cleanup and all contingencies.

**JOB ORDER** is a line item estimate taken from a job order proposal using the coefficient and R.S. Means which upon agreement to by the TIPS member becomes a lump sum fixed price contract and a notice to proceed for the stated scope attached to the purchase order.

**JOB ORDER CONTRACTING (JOC)** is a variable term indefinite delivery, indefinite quantity contract for construction services on an on-call basis through negotiated line item delivery orders (job orders) to include under State of Texas minor construction, repair, renovation, alterations, maintenance projects and limited design for architectural and engineering services. It is based upon the contracts priced coefficient applied to the city cost index and the line items in the unit price book (RS Means). When the line items are agreed to it becomes a lump sum firm fixed price contract for that negotiated scope of services.

**JOB ORDER PROPOSAL** is the response from the contractor to the TIPS Member from the clients request for a specific project. It will contain the line item estimate for the project as defined in the UPB and include a written scope of work for services to be performed

**NON PRE-PRICED ITEMS** are those items that cannot be found or reasonably compared to listed line items in the UPB.

**PURCHASE ORDER** is the TIPS member's approval providing the authority to proceed with the negotiated delivery order under the contract. Special terms and conditions as agreed to between the contractor and TIPS member will be added as addendums to the PO. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some of the addendums possible.

**PREMIUM HOURS** are defined as those hours not included in regular hours or recognized holidays. Premium hours are to be approved by the TIPS member for each delivery order and noted in the delivery order proposal as a line item during negotiations.

**REGULAR HOURS** are defined as those hours between the hours of 6 AM and 6 PM, local time to the location of the project, Monday thru Friday and not occurring on a listed holiday below in section entitled "Proposal Instructions" #3. These hours include any lunch or other meal period for workers. All time, whether regular or premium hours, are subject to all labor regulations, including overtime as required by law.

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## End of Definitions section

### **SITE REQUIREMENTS (WHEN APPLICABLE TO SERVICE OR JOB)**

**Cleanup:** Awarded contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Awarded contractor shall not begin a project for which TIPS Member has not prepared the site, unless awarded contractor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order.

**Site preparation** includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered sex offender restrictions:** For work to be performed at schools, awarded contractor agrees that no employee of a sub-contractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or reasonably expected to be present. Awarded contractor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS **Member's discretion**.

**Awarded contractor** must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

**Safety measures:** Awarded contractor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded contractor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

### **Right to Work**

Pursuant to any award under this RCSP, 791COOP, per Texas Gov't Code §2269.054:

- (1) may not consider whether a person is a member of or has another relationship with any organization; and
- (2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

### **Smoking**

Persons working under contract shall adhere to local smoking policies of the 791COOP member. Smoking will only be permitted in posted areas or off premises.

### **Services**

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When applicable, and depending on the laws of the 791COOP member's jurisdiction, performance and payment bonds will be required on construction or labor required jobs and awarded contractor will meet the 791COOP member's local and state purchasing requirements. In Texas, Performance Bonds are required when the project is valued at greater than \$100,000 and Payment Bonds on jobs over \$25,000. Awarded contractors may need to provide additional capacity as jobs increase. Bonds will not require that a fee be paid to 791COOP. The actual cost of the bond will be a pass through to the 791COOP member and added to the purchase order/contract.

### **ENGINEERING AND ARCHITECTURAL SERVICES**

IT IS NOT PERMITTED IN TEXAS AND SOME OTHER JURISDICTIONS FOR ENGINEERING AND ARCHITECTURAL SERVICES (A&E) TO BE PROCURED OR PROVIDED THROUGH AN INTERLOCAL COOPERATIVE CONTRACT SUCH AS THIS ONE. THE 791COOP MEMBER, IF REQUIRED BY LAW, MUST ENGAGE INDEPENDENT A&E PROVIDERS ACCORDING TO THE STATUTORY REQUIREMENTS OF THEIR JURISDICTION TO PROVIDE, BUT NOT LIMITED TO, ANY ONE OR MORE OF THE FOLLOWING: PLANS, DRAWINGS, SPECIFICATION, APPROVAL, REVIEW, SUPERVISION, ETC.

#### **Scope of Services**

The specific scope of work for each job shall be determined in advance and in writing between 791COOP Member and Awarded contractor. It is okay if the 791COOP member provides a general scope, but the awarded contractor should provide a written scope of work to the 791COOP member as part of the proposal. Once the scope of the job is agreed to, the 791COOP member will issue a PO with the estimate referenced as an attachment along with bond and any other special provisions agreed to for the 791COOP member. If special terms and conditions other than those covered within this solicitation and awarded contracts are required, they will be attached to the PO and shall take precedence over those in the base 791COOP contract.

#### **Project Delivery Order Procedures**

The 791COOP member having approved and signed an interlocal agreement, or other 791COOP membership document, may make a request of the awarded contractor under this contract when the 791COOP member has services that need to be undertaken. Notification may occur via phone, the web, email, fax, or in person. Upon notification of a pending request, the awarded contractor shall make contact with the 791COOP member as soon as possible, but must make contact with the 791COOP member within two working days.

#### **Scheduling of Projects**

Scheduling of projects (if applicable) will be accomplished when the 791COOP member issues a purchase order that will serve as "the notice to proceed". The period for the delivery order will include the mobilization, materials purchase, installation and delivery, design, weather, and site cleanup and inspection. No additional claims may be made for delays as a result of these items. When the tasks have been completed the awarded contractor shall notify the client and have the 791COOP member inspect the work for acceptance under the scope and terms in the PO. The

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791COOP member will issue in writing any corrective actions that are required. Upon completion of these items, the 791COOP member will issue a completion notice and final payment will be issued.

### **Support Requirements**

If there is a dispute between the awarded contractor and 791COOP member, 791COOP or its representatives will assist in conflict resolution or third party (mandatory mediation), if requested by either party. 791COOP, or its representatives, reserves the right to inspect any project and audit the awarded contractors 791COOP project files, documentation and correspondence.

### **Costs Pass Through**

Bonding cost, taxes and permit fees paid by the contractor for a Job Order Contract for a 791COOP member shall pass through the cost at no markup to the 791COOP member. Other pass through costs, if desired, may be determined with the member at the time of contract negotiation.

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### **About 791 COOPERATIVE**

It is the purpose of this SOLICITATION to establish awarded vendor agreements to satisfy the procurement needs of participating member entities in this particular commodity category. These awarded agreements will enable member entities to purchase on an “as needed” basis from competitively awarded agreements with high performance vendors. Proposers are requested to submit a proposal for offering their line of available products that are commonly purchased by government agencies, cities, counties and educational entities.

- Awards will be made to the successful proposer(s) for the products and/or services. (Unless proposer has submitted inappropriate items for the commodity category. Those items will not be awarded. Example: a software company may not propose to perform construction work)
- 791 COOPERATIVE reserves the right to award multiple vendors for each solicitation.
- This proposal is requested for the benefit of the current list of members and other new members as they execute 791 COOPERATIVE membership Agreements in the future.
- 791 COOPERATIVE reserves the right to extend the proposal deadline for any reason.
- 791 COOPERATIVE reserves the right to make changes to this Solicitation by way of one or more posted addenda.

### **Benefits of 791 COOPERATIVE**

- Provide government entities opportunities for greater efficiency and economy in acquiring goods and services through competitively procured vendor agreements.
- Provide comprehensive purchasing practices according the Laws of the State of Texas and Federal Regulation 2 CFR part 200, when appropriate, and is designed to result in competitive agreements that meet a wide variety of needs.
- Provide competitively priced purchasing options for multiple government entities that yields economic benefits usually unobtainable by the individual entity.
- Provide quick and efficient delivery of goods and services by entering into pricing agreements with “high performance” vendors.
- Equalized purchasing power for smaller entities.
- Maintain credibility and confidence in business procedures by maintaining free, full and open competition for purchases and by complying with purchasing laws and ethical business practices.
- Provide document retention for competitive procurement process for all 791 COOPERATIVE Awarded Agreements.

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### Customer Service

- 791 COOPERATIVE staff is available to members for assistance in viewing/contacting awarded vendors for categories to make purchases and agreement decisions.
- 791 COOPERATIVE provides a way for government entities to avoid the time and expense of seeking competition for purchases on an agency-by-agency basis.
- 791 COOPERATIVE enables vendors to become more efficient and competitive by reducing the number of proposals that require responses to be made to individual entities.

### Purchasing Procedures

- Agreements are established through free, full and open competition as described by the laws of the State of Texas and are available for piggy-back by other government entities anywhere in the United States, subject to each entity's jurisdictional law and regulation. Purchase orders or equivalent are issued by participating governmental entities directly to the Vendor or vendor assigned dealer. Purchase orders or equivalent are usually sent to the 791 COOPERATIVE offices where they are reviewed by the 791 COOPERATIVE staff and forwarded to the Vendor within one working day. In some instances, the entity may send the purchase orders or equivalent directly to the vendor and report the purchase to 791 COOPERATIVE.
- **NOTE: It is always the vendor's responsibility under the 791 COOPERATIVE agreements to report all sales under the agreement to 791 COOPERATIVE.**
- Vendors deliver goods/services directly to the participating member agency and then invoice the participating member agency. The Vendor receives payment directly from the participating member agency.

### Notice of Confidentiality of Proposed Information

The proposal submitted and all information therein is available to 791 COOPERATIVE members. Also, according to the Texas Public Information Act, any documents or information held by 791 COOPERATIVE "may" be public information. In the documents for the proposer to complete is a declaration form entitled "CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 15 AND 791 COOPERATIVE IS GOVERNED BY **TEXAS GOVERNMENT CODE, CHAPTER 552**" that must be completed by the proposer that designates specified pages as confidential or waives confidentiality of the entire proposal.

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### Proposal Instructions

1. Electronically sealed proposals are the preferred and most accurate method and is highly encouraged through our online procurement software, ION Wave.
2. Proposals may be amended by the proposer on the electronic site at any time prior to the due date and time. ION wave permits you to withdraw and resubmit your proposal.
3. If an addendum is posted, you are required to login to the ION Wave bidding software and address the addendum. No addendum will be issued within five calendar days of the opening unless it is to extend the opening or address a non-substantive issue. Legal holidays not counted as calendar days are New Year's Day, Martin Luther King Day, Easter, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving, Christmas.
4. Proposals may be submitted on any or all sections, related to the category, unless stated otherwise. 791 COOPERATIVE reserves the right to reject any or all proposals and to accept any proposal(s) deemed advantageous to the 791 COOPERATIVE members and to waive any informality in the proposal process.
5. Deviations to any Terms, Conditions and/or Specifications shall be clearly noted in writing by the contractor and shall be included with the proposal. You must complete the forms and note any deviations in this solicitation.
6. Withdrawal of proposals will not be allowed for a period of 90 days following the opening unless approved by 791 COOPERATIVE.
7. Addenda, if required, will be issued by 791 COOPERATIVE by email to the proposer's designated contact to all those vendors known to have reviewed the SOLICITATION documents through our electronic bidding software, ION Wave.

#### **PROPOSAL FORMAT - PROPOSERS PAY CLOSE ATTENTION TO DETAILS LISTED.**

791 COOPERATIVE reserves the right to waive any informality and/or reject any or all proposals.

All responses should be direct, concise, complete, and unambiguous. With regard to those items that cannot be answered in the affirmative, clearly explain the precise portion to which you disagree and why you disagree. Proposers must propose pricing that is calculable based on the prices presented or discounts proposed as they relate to a published price of the goods or services. Published prices are prices that are provided by a catalog, website, shelf, price list accessible to 791 COOPERATIVE and its members at any time during the term of an awarded agreement with the vendor or specifically proposed. Other methods of publishing prices will be considered if proposed but must be calculable.

**Felony Conviction Notice (Required in Texas) -Notification of Criminal History** "A person or business entity that enters into an agreement with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of

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a felony. A school district may terminate an agreement with a person or business entity if the district determines that the person or business entity failed to give notice as required or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the agreement.” This notice is not required of a publicly held corporation. Texas Education Code § 44.034. See FELONY CONVICTION NOTICE document on the “Attachments” tab. Felony conviction notice document must be uploaded to the “Response Attachments” FELONY CONVICTION NOTICE section.

### **References**

The proposal response should contain a minimum of Three (3) references of customers you have served that would be considered eligible for membership in 791 COOPERATIVE (i.e. K-12 School Districts, College/Universities, and/or City/County Government Entities, Water or Fire Districts, etc.). In addition to the name of the entity, a contact name, email and phone number shall be included. The references document must be downloaded from the “Attachments” section, completed and uploaded to the “Response Attachments” REFERENCES section.

### **Resellers/Dealers**

Vendors with Resellers/Dealers must provide the Resellers/Dealers document from the “Attachments” section, complete and uploaded to the “Response Attachments” RESELLERS/DEALERS section.

### **Vendor Certifications**

Vendor certifications should include applicable D/M/WBE, HUB and manufacturer certifications for sales and service (if applicable). Certificates must be scanned and uploaded to the “Response Attachments” D/M/WBE, HUB and/or ALL OTHER CERTIFICATES section. Whether or not you are a D/M/WBE, HUB or similar business will have no bearing on the evaluation score, but provides our members the information if it is part of their entities’ policies.

There is a form that relates to all vendors that is required by Federal Regulation when federal funds are expended by a member. Vendors should complete all requested forms agreeing to comply with regulations.

### **Vendor Agreement**

Vendor Agreement must be downloaded from the “Attachments” section, completed and uploaded to the “Response Attachments” VENDOR AGREEMENT section. If proposer has deviations to the agreement language to negotiate with 791 COOPERATIVE, the proposer must note the deviations in the vendor response submittal.

### **Agreement Signature Form**

Agreement Signature Form must be downloaded from the “Attachments” section, completed, signed, scanned and uploaded to the “Response Attachments” AGREEMENT SIGNATURE FORM section. If proposer has deviations to the agreement language to negotiate with 791 COOPERATIVE, the agreement signature page may be submitted unsigned until all terms and conditions are agreed.

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### **Warranty (If applicable)**

Warranty documentation should be scanned and uploaded to the “Response Attachments” WARRANTY section.

### **Protest Procedure**

If a contractor/proposer (contractor) desires to protest a process or decision by 791 COOPERATIVE, the contractor must follow the process used by Region 15 ESC.

### **Supplementary Catalogs and Information (If applicable)**

Supplementary Catalogs and Information documentation should be scanned and uploaded to the “Response Attachments” SUPPLEMENTARY section. You may provide a link to catalogs or pricing that is published for all customers to see when shopping for your goods or services.

Links to catalog pricing must be kept current during the term of the awarded agreement. It is the intent of 791 COOPERATIVE to award a manufacturer’s complete line of products, when possible.

### **LIMITATIONS OF THE SOLICITATION AND THE USE OF AWARDED AGREEMENTS BY MEMBERS**

**Depending on different entities’ and jurisdictions’ laws and regulations, members may be prohibited from participating in one or more of the 791 COOPERATIVE agreements. 791 COOPERATIVE has no control over those legal restrictions and does not warrant that a member entity will be able to utilize a 791 COOPERATIVE awarded agreement.**

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### Terms and Conditions

1. **Exclusivity-** Any award under this solicitation is not exclusive and 791 COOPERATIVE reserves the right to multi award or not award. 791 COOPERATIVE reserves the right to solicit same or similar categories again for additional awards during the life of an existing agreement with one or more awarded vendors of another solicitation, if 791 COOPERATIVE decides it is in the best interest of our members.
2. **Confidentiality of Proposal** - If you believe part of your proposal is confidential and not subject to sunshine laws such as the Public Information Act, there is a form to complete to make such a declaration. Read it carefully.
3. **Best and Final Offer** – There will be NO best and final offer; your proposal will be your final offer for solicitation competition purposes. Vendor may lower prices at any time during agreement period. See pricing section.
4. **Non-Responsive Proposals:** All proposals will be reviewed for responsiveness to the material requirements of the solicitation. A proposal that is not materially responsive shall not be eligible for further consideration for award of the agreement. There may be required specifications for this proposal and desired and other specifications. IF YOUR PROPOSAL FAILS TO MEET ANY OF THE DESIGNATED **REQUIRED** SPECIFICATIONS, YOUR PROPOSAL SHALL BE DEEMED NON-RESPONSIVE AND WILL NOT BE EVALUATED FURTHER OR CONSIDERED FOR AWARD.
5. **Deviations and Exceptions:** Deviations or exceptions stipulated as non-negotiable in the response by the proposer may result in disqualification if they are not acceptable to 791 COOPERATIVE.
6. **Equal Pricing** – Pricing proposed shall be provided to any 791 COOPERATIVE member and regardless of the quantity of product or service purchased from the awarded vendor. Pricing may always be lowered by the vendor if circumstances permit to provide better value to 791 COOPERATIVE members and for the vendor to be more competitive in that particular circumstance of sales opportunity. If prices are lowered in a specific circumstance, the same lowered pricing must be offered to all 791 COOPERATIVE members if the quantities, timing and all other circumstances are identical.
7. **Estimated Quantities:** Because 791 COOPERATIVE cannot accurately anticipate which members will utilize the awarded agreements due to the thousands of members and the different government entity types, 791 COOPERATIVE makes no guarantee or commitment of any kind concerning quantities or usage of agreements resulting from this solicitation. This information, if provided, is provided solely as an aid to vendors in preparing proposals only. The successful Vendor(s) discount and pricing schedule shall apply regardless of the total cumulative volume of business under the agreement.
8. **Conditions of Agreement** - The terms and conditions of this solicitation shall control in the order that best serves the 791 COOPERATIVE member needs and deciding the

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controlling order is at the sole discretion of 791 COOPERATIVE. The terms and conditions of this solicitation shall be incorporated by reference in a resulting agreement unless expressly agreed otherwise by the parties in writing.

9. **Name brands** – If name brands are required to be priced but other products of equal or similar type and quality may also be represented in the pricing and will be considered. 791 COOPERATIVE want pricing either in a fixed price or a discount off published or available to 791 COOPERATIVE Member catalog price or both if applicable to your proposal. A “catalog” is defined above and includes pricing of goods and /or services.
10. **Evaluation** – 791 COOPERATIVE will evaluate the best value by rating the proposals submitted by the vendors. The point score received will be the weighted score which will be used to determine awarded vendors. See Evaluation criteria sheet with applicable point weights in this document. If applicable, extensions of unit prices shown will be subject to verification by the district. In case of variation between the unit price and the extension, the unit price will be considered to be the proposal.
11. **LIMITATION OF LIABILITY – Waiver:** BY SUBMITTING A PROPOSAL, OFFERER EXPRESSLY AGREES TO WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST BOTH 791 PURCHASING COOPERATIVE REGION 15 EDUCATION SERVICE CENTER, ITS DIRECTORS, OFFICERS, ITS TRUSTEES, OR AGENTS ARISING OUT OF OR IN CONNECTION WITH (1) THE ADMINISTRATION, EVALUATION, RECOMMENDATION OF ANY PROPOSAL; (2) ANY REQUIREMENTS UNDER THE SOLICITATION, PROPOSAL PACKAGE, OR RELATED DOCUMENTS; (3) THE REJECTION OF ANY PROPOSAL OR ANY PART OF ANY PROPOSAL; AND/OR (4) THE AWARD OF AN AGREEMENT, IF ANY. NEITHER REGION 15 ESC NOR 791 COOPERATIVE SHALL BE RESPONSIBLE OR LIABLE FOR ANY COSTS INCURRED BY PROPOSERS OR THE SELECTED CONTRACTOR IN CONNECTION WITH RESPONDING TO THE SOLICITATION, PREPARING FOR ORAL PRESENTATIONS, PREPARING AND SUBMITTING A PROPOSAL, ENTERING OR NEGOTIATING THE TERMS OF AN AGREEMENT, OR ANY OTHER EXPENSES INCURRED BY A PROPOSER. THE PROPOSER OR SELECTED CONTRACTOR IS WHOLLY RESPONSIBLE FOR ANY SUCH COSTS AND EXPENSES AND SHALL NOT BE REIMBURSED IN ANY MANNER BY REGION 15 ESC OR 791 COOPERATIVE.
12. **RESERVATION OF RIGHTS** - 791 COOPERATIVE expressly reserves the right to:
  - a) Reject or cancel any or all proposals;
  - b) Waive any defect, irregularity or informality in any proposal or SOLICITATION procedure provided the waiver is equally applied to all Offerors and an Offeror is not prejudiced by the waiver as compared to other Offerors;
  - c) Waive as an informality, minor deviations from specifications for goods or services at a lower price than other proposals meeting all aspects of the specifications if it is determined that total cost is lower and the overall function is not impaired;

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- d) Reissue a SOLICITATION;
  - e) Consider and accept an alternate proposal as provided herein when most advantageous to 791 COOPERATIVE and its members;
  - f) 791 COOPERATIVE has the right to terminate the agreement for cause or no cause for convenience with a thirty-day written notice, unless otherwise agreed in writing in an executed agreement between the parties;
  - g) This is not an exclusive award and no guaranteed volumes of purchases are guaranteed. 791 COOPERATIVE and its members reserve the right to procure any items or services by other means at the sole discretion of 791 COOPERATIVE or its members.
- 13) Supplemental agreements** - The 791 PURCHASING COOPERATIVE Member entity participating in the 791 PURCHASING COOPERATIVE Agreement and awarded vendor may enter into a separate supplemental agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement or contract developed as a result of this Agreement is exclusively between the participating entity and awarded vendor. 791 PURCHASING COOPERATIVE, its agents, 791 PURCHASING COOPERATIVE Members and employees shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a vendor submitting a Proposal requires 791 PURCHASING COOPERATIVE and/or 791 PURCHASING COOPERATIVE Member to sign an additional agreement, those agreements shall comply with the award made by 791 PURCHASING COOPERATIVE to the Vendor. Supplemental Vendor's Agreement documents may not become part of 791 PURCHASING COOPERATIVE's Agreement with vendor unless and until an authorized representative of 791 PURCHASING COOPERATIVE reviews and approves it. 791 PURCHASING COOPERATIVE permits 791 PURCHASING COOPERATIVE Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's 791 PURCHASING COOPERATIVE Agreement.
- 14) Survival Clause** - All applicable agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and 791 PURCHASING COOPERATIVE or the 791 PURCHASING COOPERATIVE Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by 791 PURCHASING COOPERATIVE or a 791 PURCHASING COOPERATIVE Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.
- 15) Smoking** - Persons working under Agreement shall adhere to the 791 PURCHASING COOPERATIVE Member's or local smoking statutes, codes or policies.

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- 16) Novation** -If awarded vendor sells or transfers all assets or the entire portion of the assets used to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor.
- 17) Licenses** - Awarded vendor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded vendor. Awarded vendor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. 791 PURCHASING COOPERATIVE and TIS Members reserves the right to stop work and/or cancel Agreement of any awarded vendor whose license(s) expire, lapse, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.
- 18) 791 PURCHASING COOPERATIVE Member Purchasing Procedures** - Purchase orders or their equal are issued by participating 791 PURCHASING COOPERATIVE Member to the awarded vendor and should indicate on the order that the purchase is per the applicable 791 PURCHASING COOPERATIVE Agreement number. Orders are typically emailed to 791 PURCHASING COOPERATIVE at [admin@791COOP.org](mailto:admin@791COOP.org)
- Awarded vendor delivers goods/services directly to the participating member.
  - Awarded vendor invoices the participating 791 PURCHASING COOPERATIVE Member directly.
  - Awarded vendor receives payment directly from the participating member.
  - Awarded vendor reports sales monthly to 791 PURCHASING COOPERATIVE (unless prior arrangements have been made with 791 PURCHASING COOPERATIVE for an alternative submission schedule).
- 19) Incorporation of Solicitation** - The 791 Purchasing Cooperative Solicitation, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, that resulted in the execution of this agreement are hereby incorporated by reference into this agreement as if copied verbatim.