

08/09

Texas A&M AgriLife
Administrative Services – Historically Underutilized
Business (HUB) Office



HUB Subcontracting Plan

Firm Name: _____

Address: _____

City/State/Zip Code: _____

Phone: _____ Fax: _____

-for-

Project Name: _____

Component Name: _____

City/State/Zip Code: _____

Project Number: _____

**AgriLife HUB Office
2147 TAMU
College Station, TX 77843-2147**

For questions concerning this form, please call 979-845-6471.

I. Texas AgriLife Extension Service/Texas AgriLife Research (from this point forward, referred to as Agency) statement on Utilization of Historically Underutilized Businesses (HUBs)

In accordance with the Texas Government Code, Sections 2161.181-182 and Texas Administrative Code (TAC) Section §20.11, state agencies shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services and commodities contracts. Comptroller of Public Accounts HUB Rules, TAC Sections §20.11-§20.28 encourages the use of HUBs by implementing these policies through race, ethnic and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with the goals specified in the State of Texas Disparity Study:

1. 11.9% for heavy construction other than building contracts;
2. 26.1% for all building construction, including general contractors and operative builders contracts;
3. 57.2% for all special trade construction contracts;
4. 20% for professional services contracts;
5. 33% for all other services contracts; and
6. 12.6% for commodities contracts.

A Historically Underutilized Business (HUB) is defined by statute as an entity with its principal place of business in this state that is: (a) a corporation formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons who are economically disadvantaged because of their identification as members of certain groups, including African Americans, Hispanic Americans, women, Asian Americans and Native Americans and have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; and have a proportionate interest and demonstrate active participation in the control operation and management of the corporation's affairs; (b) a sole proprietorship created for the purpose of making a profit that is 100% owned, operated, and controlled by a person described in subdivision (a) of the subsection; (c) a partnership formed for the purpose of making a profit in which 51% of the assets and interest in the partnership is owned by one or more persons and demonstrate active participation in the control, operation and management of the partnership's affairs; (d) a joint venture in which entity in the joint venture is a HUB under this subsection; or, (e) a supplier contract between a HUB under this subsection and a prime contractor under which the HUB is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies.

The Agency shall make a good faith effort to meet or exceed the State of Texas Disparity Study goals and to assist HUBs in receiving a portion of the total contract value of all contracts that expect to award in a fiscal year. It is the policy of the Agency to contract directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F and Comptroller of Public Accounts HUB Rules, TAC Section § 20.14.

The total expected value of this contract is \$100,000 or more and the Agency has determined that subcontracting opportunities are probable for this contract. Therefore, the Respondent is required to submit a HUB Subcontracting Plan (HSP) with their

proposal. The Respondent will use the procedures prescribed in Article II when developing the HSP.

All Respondents must give clear evidence that good faith effort was made to comply with the HUB requirements identified in TAC §20.14, and the HSP shall include the documents shown in Article II, Paragraphs 4.b.i, ii and iii.

The Respondents will review the information/documentation and use it as a basis to determine if a good faith effort was made by the Respondents to utilize HUB subcontractors/suppliers on this contract. If it is determined that a good faith effort was not made, the Respondents submittal/proposal will be determined to be non-responsive and the submittal/proposal shall be rejected and the reasons for rejection recorded in the project files. An accepted HUB Subcontracting Plan will become a part of any contract with the Respondents resulting from this solicitation and then can only be modified by contract change order.

If the Respondents can perform and intends to complete all subcontracting opportunities with its own employees and resources without using any subcontractors, the HSP submitted with the Respondents submittal/proposal shall only include the documents shown in Article II, Paragraphs 4.c.i, ii and iii.

II. HUB SUBCONTRACTING PLAN (HSP) PROCEDURES

The following procedures are specified pursuant to the Comptroller of Public Accounts HUB Rules, TAC, Sections §20.13-§20.14:

1. The Agency, when entering into a contract with an expected value of \$100,000 or more shall, before soliciting bids, proposals, offers, or other applicable expressions of interest, determine if it is probable for subcontracting opportunities under the contract.
2. If subcontracting opportunities are not probable, the Agency's bids, proposals, offers, or other applicable expression of interest shall include a statement attesting that it has determined that subcontracting opportunities are not probable under the contract.
3. If subcontracting opportunities are probable, the Agency shall state such probability in its announcements for bids, proposals, offers, or other applicable expression of interest and require the submission of a HUB Subcontracting Plan (HSP). The HSP will become a provision of a contract, if awarded by the Owner.
4. **The State of Texas HUB Subcontracting Plan forms can be accessed on the Texas Procurement and Support Services (TPASS) website and completed on-line at:**

<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

This will access the State of Texas HUB Forms Library and the HSP forms. PLEASE NOTE that page 2 of the HSP forms must be replicated for each of the categories to be subcontracted by the Respondents.

The State of Texas HSP website forms can be completed electronically and printed or downloaded and have the required information entered by hand or typewriter.

- a. An HSP is required as part of bids, proposals, offers, or other applicable expression of interest valued at \$100,000 or more. Responses that do not include the HSP or if the Agency determines that the HSP was not developed in good faith, shall be rejected as a material failure to comply with the advertised specifications.
- b. When the Agency has determined that subcontracting opportunities are probable, Respondents bids, proposals, offers, or other applicable expression of interest will include:
 - i. Cover sheet, Page 1
 - ii. Letter of transmittal attesting that the Respondents has read and understands the Policy on Historically Underutilized Businesses (see Attachment A of the HSP);
 - iii. State of Texas Historically Underutilized Business Subcontracting Plan explaining how the Respondents made a good faith effort in the development of the HSP and identify the HUBs and non-HUBs that will be utilized for subcontracting opportunities (See State of

Texas HSP Form) (See Attachment B1 of the HSP).

- c. When the Agency has determined that subcontracting opportunities are probable, but the Respondents can perform and intends to complete all the subcontracting opportunities with its employees and resources without any subcontractors, the HSP shall include:
 - i. Cover sheet, Page 1
 - ii. Letter of transmittal attesting that the Respondents has read and understands the Agency's Policy on HUBs; and
 - iii. Self Performance form which attests that the Respondents shall perform the subcontracting opportunities identified by the Agency, with its own employees and resources (See State of Texas HSP Form, page 3, Sections 9 and 10).

Note: If the contractor decides after the award to subcontract any part of the contract, the contractor must notify the Agency. The contractor must comply with the good faith effort requirements relating to developing and submitting a subcontracting plan before any modifications or performance of the awarded contract involving subcontracting can be authorized by the Agency.

5. The Agency shall require a Respondent to state whether it is a Texas certified HUB.
6. To meet the Agency's good faith effort requirements, the Respondents shall follow, but is not limited to, procedures listed below when developing an HSP:
 - a. Divide the contract work into reasonable portions to the extent consistent with prudent industry practice.
 - b. Provide written justification of the selection process if a non-HUB subcontractor is selected.
 - c. Provide notice to minority or women trade organizations or development centers that assist in identifying HUBs by disseminating subcontracting opportunities to their membership/participants. The notice shall, in all instances, include the scope of work, information regarding location to review plans and specifications, information about bonding and insurance requirements, and identify a contact person. Respondents must provide notice to organizations or development centers not less than five (5) working days prior to submission of the response (bid, proposal, offer, or other applicable expression of interest).
 - d. Notify HUBs of the subcontracting opportunities that the Respondent intends to subcontract. The preferable method of notification shall be in writing. The notice shall, in all instances, include the items contained in paragraph 6.c above. The notice shall be provided to potential HUB subcontractors prior to submission of the Respondents response.
 - e. The Respondents shall provide potential HUB subcontractors reasonable time to respond to the Respondents notice. "Reasonable time to respond" in this context is no less than five (5) working days from receipt of notice, unless circumstances require a different time period, which is determined by and documented in the contract file.

- f. The Respondents shall use the State of Texas Centralized Master Bidders List (CMBL), HUB Directory, internet resources, and/or other directories as identified by the TPASS or the Texas A&M AgriLife HUB Office when searching for HUB subcontractors. Respondents may rely on the services of minority, women, and community organizations, contractor groups, local, state, and federal business assistance offices, and other organizations that provide assistance in identifying qualified applicants for the HUB program who are able to provide all or select elements of the HUB subcontracting plan.

NOTE: A complete list of all State of Texas certified HUBs may be electronically accessed through the Internet at

<http://www2.cpa.state.tx.us/cmb/cmbhub.html>

- g. The Respondents shall provide the notice described in this section to **five (5) or more** HUBs for **each** subcontracting opportunity that provide the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the Respondents cannot complete with its own equipment, supplies, materials, and/or employees. **The Agency encourages Respondents to seek and find a “Diverse Group” of Historically Underutilized Businesses in each category in which a subcontract of services is solicited.**
 - h. Documentation showing correspondence between prime and potential HUB subcontractors includes but not limited to contact information, date of delivery confirmation, etc.
7. In making a determination whether a good faith effort has been made in the development of the required HUB subcontracting plan, the Agency shall require the Respondents to submit supporting documentation explaining the ways the Respondents has made a good faith effort according to each criterion listed above. The documentation shall include at least the following:
 - a. Whether the Respondents divided the contract work into reasonable portions in accordance with prudent industry practices.
 - b. Whether the Respondents sent notices containing adequate information about bonding, insurance, the plans, the specifications, scope of work, and other requirements of the contract to **three (3) or more** qualified HUBs for **each** subcontracting opportunity allowing reasonable time for HUBs to participate effectively.
 - c. Whether the Respondents negotiated in good faith with qualified HUBs, not rejecting qualified HUBs who were also the best value responsive bidder.
 - d. Whether the Respondents provided notice to minority or women trade organizations or development centers that assist in identifying HUBs by disseminating opportunities to their membership/participants.
 - e. A list of all vendors, including HUBs not listed in the HSP form who

responded.

8. The submission of a protégé as a subcontractor in the HSP, when the Respondents is a participant in a Mentor Protégé Program under the Texas Government Code §2161.065, will constitute a good faith effort for the particular work to be subcontracted with the protégé. The Respondents must submit a copy of the Mentor Protégé Agreement that has been entered into by the Respondents (mentor) and a certified HUB (protégé) as part of their HSP. The Mentor Protégé Agreement must be a fully executed agreement that has been registered with TPASS prior to submitting the HSP. The HSP must also identify the work that will be performed by the protégé.
9. Prior to contract award, the HSP and supporting documentation shall be reviewed and evaluated by The Texas A&M AgriLife HUB Office to determine if a good faith effort has been made in accordance with bid specifications and Comptroller of Public Accounts HUB rules. If accepted, the HSP shall become a provision of the Agency contract. Any change in a subcontractor or vendor, as requested by the Respondents, **should** not reduce the HUB participation level presented in the initial proposal offering **without proper justification**.
10. If the HUB Office determines that a submitted HSP was not developed in good faith, the HUB Office shall treat the lack of good faith as a material failure to comply with advertised specifications, and the subject bid or other response shall be rejected. The reason(s) for rejection shall be recorded in the procurement file.
11. If at any time during the term of the contract, it becomes necessary to make a change to the approved HSP, such proposed change must be received for review and approval by the HUB Office before the change will be effective under the contract. The contractor must comply with provisions of TAC §20.14 relating to development and evaluation of HSP, in order to substitute or subdivide the work and/or substitute or add subcontractors prior to any alteration of the HSP. The Agency shall document changes to the HSP by contract change order. The reasons for proposed change(s) shall be requested on a Form C-27b *Consultant/Subcontractor Substitution Form* (See Attachment C of the HSP) and recorded in the procurement file. In the event that a change is necessary, the requested changes **should** not reduce the level of HUB participation that was a part of the proposal at the time of construction contract award **without proper justification**.
12. If a Respondent has determined that it can perform all of the contract, the Respondents must sign an affidavit (State of Texas HUB Form, page 3, Sections 9 and 10) and provide a statement explaining how the Respondent intends to complete the contract with its own equipment, supplies, materials and/or employees submitted with the Respondents bid, proposal, offer, or other expression of interest.

If a Respondent has determined it will perform all work with its own equipment, supplies, materials, and/or employees, etc., the Respondents must agree to provide the following if requested by the Agency:

- a. evidence of existing staffing to meet contract objectives,
- b. monthly payroll records showing company staff fully engaged in the contract,
- c. onsite reviews of company headquarters or work site where services are

- to be performed, and
- d. documentation proving employment of qualified personnel holding the necessary licenses and certificates required to perform the work.

If the contractor selected decides to subcontract any part of the contract after the award, the contractor must comply with provisions of this document relating to developing and submitting a subcontracting plan prior to any modifications or performance involving subcontracting work can be authorized by the Agency. If the Contractor subcontracts any of the work without prior authorization and without complying with TAC Section §20.14, the contractor is deemed to have breached the contract and be subject to any remedial actions provided by Texas Government Code, Chapter 2161, and TAC §20.14. The Agency may report non-performance relative to its contracts to the Comptroller of Public Accounts in accordance with TAC Chapter §113, Subchapter F (relating to the Vendor Performance and Debarment Program).

13. The contractor will be required to submit a revised HSP for additional subcontracting opportunities that were not identified in the original HSP and created when the original scope of work expands through a change order, contract amendment or a contract renewal.
14. The Agency requires a Respondent to whom a contract has been awarded, to report to the Agency the identity and the amount paid to its subcontractors, HUBs and non-HUBs. If the contractor fails to fulfill the HSP specified in the contract, the Agency shall notify the contractor of any deficiencies. The Agency shall require the contractor to submit documentation and explain why the failure to fulfill the HUB Subcontracting Plan should not be attributed to a lack of good faith effort by the contractor.
15. If a determination is made that the contractor failed to implement the HSP in good faith, the Agency, in addition to any other remedies, may report nonperformance to the Comptroller of Public Accounts in accordance with TAC, Chapter 113, Subchapter F (relating to Vendor Performance and Debarment Program).
16. During the term of the contract, the Agency shall determine whether the value of the subcontracts to HUBs meets or exceeds the HSP provisions specified in the contract.

Reporting Requirements

Each contractor that enters into a contract shall report to the Agency all subcontracting/supplier payments. The report will include the volume of work performed under the contract, the portion of the work that was performed with its own employees/resources, HUB and Non-HUB subcontractors and suppliers (See HSP Prime Contractor Progress Assessment Report Form, Attachment B-2 of the HSP). The Agency may request payment documentation in accordance with the Comptroller of Public Accounts HUB Rules that confirms the performance of the contractor. During the course of the contract, The Agency shall discuss the performance of the contractor and document the contractor performance in the contract file.

Note: When the prime contractor/vendor is a HUB, it must perform at least 25% of the total value of the contract with its own or leased employees, as defined by the Internal Revenue Service, in order for the Owner to receive 100% HUB credit for the entire contract.

If a HUB prime contractor's HSP identifies that it is planning to perform less than 25% of the total value of contract with its own or leased employees, the HUB contractor must report to the Owner the value of the contract that was actually performed by the HUB prime contractor and the amount to be performed by its HUB subcontractors.

The HUB Office shall audit the contractor's compliance with the HSP. If the contractor is found deficient, the Agency shall give the contractor an opportunity to submit documentation and explain to the Agency why the failure to fulfill the HSP should not be attributed to a lack of good faith effort by the contractor.

David M. Kirk, C.P.M
HUB Coordinator – Office of HUB Programs
Texas A&M AgriLife
2147 TAMUS
College Station, TX 77843-2147

Subject: HUB Subcontracting Plan
Project Number:
Project Name:
Component Name:
City, Texas:

Dear Mr. HUB Contact:

I am pleased to forward this HUB Subcontracting Plan as an integral part of our written response submitted in connection with your Professional Services solicitation for Project Number:

I have read and understand Texas A&M AgriLife's policy on Utilization of Historically Underutilized Businesses (HUBs) and the goals for HUB participation.

Sincerely,

Attachment B.1 -----

**Preparing
a
HUB Subcontracting Plan
(HSP)**

<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

The TPASS website, shown above, contains a HUB Program Link. Once you are in the HUB Program area, you will find HUB Subcontracting Plan forms.

These State of Texas HUB forms have been setup for interactive on-screen preparation or downloaded and printed in blank format for completion by typewriter or ink pen.

Attachment B.2 -----

**Preparing a
Prime Contractor Progress Assessment Report
for a
HUB Subcontracting Plan
(HSP)**

<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

The TPASS website, shown above, contains a HUB Program Link. Once you are in the HUB Program area, you will find HUB Subcontracting Plan forms.

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Consultant/Subcontractor Substitution Form

1. Consultant/Subcontracting Category: _____

Original Consultant/Subcontractor: _____

Replacement
Consultant/Subcontractor: _____

2. Reasons for requesting a change in consultant/subcontractor? (Explain in detail)
THIS CHANGE IN CONSULTANTS/SUBCONTRACTORS SHALL NOT CAUSE A REDUCTION IN THE PRIMES' HUB PARTICIPATION PERCENTAGE. (IF PARTICIPATION WILL DECREASE, SPECIFIC AUTHORIZATIONS MUST BE RECEIVED FROM THE MANAGING DIRECTOR FOR FACILITIES PLANNING & CONSTRUCTION PRIOR TO INITIATING THIS SUBSTITUTION REQUEST.)

3. Follow the requirements for satisfying The Texas A&M AgriLife good faith effort as described in the HUB Subcontracting Plan (HSP) Procedures (Article II, Para. 4 and 6 on pages 3 & 4 for construction contracts); (Article II, Para. 4 and 6, pages 3 & 4 for professional services contracts).

4. Complete and attach the Professional Services/Construction Contracts HSP identifying the **five (5) or more HUBs** solicited for this work.

5. List and provide documentation of the advertisements in trade association, minority/women focused media and/or general circulation newspapers concerning this subcontracting opportunity.

6. Construction and Furnishings Contracts: A Change Order Request (COR) that creates a new category of work that will be performed by a subcontractor not previously listed on the HUB Subcontracting Plan (HSP) requires that the HSP be revised and the Contractor must show evidence of The Texas A&M AgriLife good faith effort in the solicitation of HUB Subcontractors.

The above information is being submitted in conformance with the HUB plan and I certify that it is true and correct.

Approval Recommendations:

Firm Name

HUB Coordinator

Authorized Representative's Signature Date

FP&C Planning/Construction Project Manager

Print Name

Approved: _____

Title

Facilities Planning & Construction