

Appendix B



Historically Underutilized Business (HUB) Subcontracting Plan

Information

In accordance with Texas Government Code (TGC) §2161.252 and Texas Administrative Code (TAC) Title 1, Part 5, Chapter 111, Subchapter B, Rule §111.14, each state agency (including institutions of higher education) as defined by TGC §2151.002 that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract.

If subcontracting opportunities are probable, each state agency's invitation for bids or other purchase solicitation documents for construction, professional services, other services, and commodities with an expected value of \$100,000 or more shall state that probability and require a HUB Subcontracting Plan (HSP).

In accordance with Texas Government Code, §2161.181 and §2161.182, each state agency shall make a good faith effort to increase the contract awards for the purchase of goods or services to HUBs based on rules adopted by the Commission to implement the disparity study described by TGC §2161.002(c).

The purpose of the HUB Program is to promote equal business opportunities for economically disadvantaged persons (as defined by TGC §2161) to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals per TAC §111.13 are: **11.9% for heavy construction other than building contracts; 26.1% for all building construction, including general contractors and operative builders contracts; 57.2% for all special trade construction contracts; 20% for professional services contracts; 33% for all other services contracts; and 12.6% for commodities contracts.**

**IF YOUR RESPONSE TO THIS SOLICITATION DOES NOT CONTAIN A
HUB SUBCONTRACTING PLAN, YOUR RESPONSE SHALL BE
REJECTED AS A MATERIAL FAILURE TO
COMPLY WITH THE ADVERTISED SPECIFICATIONS.**

INSTRUCTIONS

1. **HUB Subcontracting Plan (HSP) Development and Good Faith Effort Requirements** – All respondents (HUBs and non-HUBs) submitting bids, proposals, offers, or other applicable expressions of interest must follow, but are not limited to, the following procedures when developing a HUB Subcontracting Plan (HSP):

- a. The respondent shall divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices.
- b. The respondent shall use the Texas Building and Procurement Commission's (TBPC) Centralized Master Bidders List (CMBL), the HUB Directory, and may use other Internet resources and directories as identified by the contracting agency to identify HUBs that perform the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees.

Note: The contracting agency does not endorse any company or individual identified on any listings/directories included or referenced herein. A complete list of all State of Texas certified HUBs may be accessed via the Internet at <http://www.tbpc.state.tx.us/cmb/cmbhub.html> or <http://www.tbpc.state.tx.us/cmb/hubonly.html>.

- c. The respondent shall provide notice to **three (3) or more HUBs** that perform the type of work required for **each** subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees. In addition, the respondent shall provide notice of subcontracting opportunities to minority or women trade organizations or development centers to assist in identifying potential HUBs.

The preferable method of notification to HUBs and minority or women trade organizations or development centers shall be in writing and, as applicable, include: the scope of the work; information regarding the location to review plans and specifications; information about bonding and insurance requirements; information about required qualifications and specifications; and identify a contact person.

- d. Unless circumstances require a different time period that shall be specified by the contracting agency and documented in the agency's contract file, the respondent's subcontracting opportunity notice(s) must be provided to the potential HUB subcontractors, and minority or women trade organizations or development centers no less than five (5) working days prior to the submission of the respondent's bid, proposal, offer, or other applicable expression of interest to the contracting agency.
- e. On forms provided by the contracting agency and prescribed by TBPC, the respondent shall document the HUBs they contacted regarding their subcontracting opportunities. The respondent should negotiate in good faith with qualified HUBs, not rejecting qualified HUBs who were the best value responsive bidder to their subcontracting opportunities.
- f. The respondent shall provide written justification of the selection process if a HUB subcontractor is **not** selected.
- g. Prior to contract award, the respondent shall provide the contracting agency with supporting documentation (phone logs, fax transmittals, electronic mail, etc.) to document their good faith effort in the development and submission of their HSP.

2. **Alternatives to Good Faith Effort Requirements**
(Applicable to Mentor Protégé Agreements and Professional Services Contracts Only)

- a. A respondent's participation as a Mentor in a State of Texas Mentor Protégé Agreement and a commitment to use their Protégé (All Protégés must be State of Texas HUB certified) as a subcontractor to perform the subcontracting opportunity(ies) listed in its HSP (Texas Government Code, Chapter

2161.065) may constitute good faith effort without performing the procedures listed in **Item 1**. *For additional information, please contact the HUB Coordinator for the contracting agency.*

- b. A respondent who submits an HSP for a professional services contract that meets or exceeds Annual Procurement Utilization goals for Historically Underutilized Businesses (HUBs) as defined in Texas Administrative Code, § 111.13, will be determined to have met the good faith effort requirement. *(Applicable to Professional Services Contracts as defined by Texas Government Code 2254.)*

- 3. **HUB Subcontracting Plan Reporting and Contract Compliance** – The contracting agency will receive HUB credit for the total amount of expenditures made directly to prime contractors who are State of Texas HUB certified. In addition, if the prime contractor is not a HUB, agencies will receive HUB credit for the total amount of expenditures the prime contractor makes to HUB subcontractors, if applicable.

All prime contractors (HUBs and non-HUBs) are required to comply with the following reporting and contract compliance procedures:

- a. Prime contractors shall report to the contracting agency their use of HUB subcontractors to fulfill the subcontracting opportunities identified in their HSP (See Prime Contractor Progress Assessment Report at <http://www.tbpc.state.tx.us/hubbid/forms/index.html>).
- b. Prime contractors shall notify the contracting agency and obtain prior approval before any changes can be made to its HSP. The proposed changes must comply with the good faith effort requirements related to developing and submitting a HSP as described in Item 1, or if applicable, Item 2 above.
- c. The contracting agency will determine if the value of subcontracts to HUBs meet or exceed the HUB subcontracting provisions specified in the prime contractor's HSP. If the contracting agency determines that the prime contractor's subcontracting activity does not demonstrate a good faith effort, the prime contractor may be subjected to provisions in the Vendor Performance and Debarment Program (1 TAC, Part 5, Chapter 113, Subchapter F).

- 4. **Special Instructions/Additional Requirements**, as applicable when specified by the contracting agency:
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HUB SUBCONTRACTING PLAN

The contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs), are required to complete and submit this HUB Subcontracting Plan (HSP) with their response (bid, proposal, offer or other applicable expression of interest).

IF YOUR RESPONSE DOES NOT CONTAIN AN HSP, IT SHALL BE REJECTED AS A MATERIAL FAILURE TO COMPLY WITH THE ADVERTISED SPECIFICATIONS.

1. Respondent and Solicitation Information

- a. State Agency/University Name: Department of Information Resources
- b. Company Name: 3Com Corporation
- c. Is your company a State of Texas certified HUB? - Yes - No If Yes, provide VID/Certificate #: _____
- d. Solicitation Number: DIR-SDD-TMP-064

By signature on solicitation response, respondent certifies that its HSP and supporting documentation are true and correct and understands that if awarded any portion of the solicitation referenced above, any modifications to the HSP must be submitted to the contracting agency for prior approval. In addition, respondent understands that if the HSP is modified without the contracting agency's prior approval, respondent will be in breach of contract and subject to any remedial actions provided by Texas Government Code, Chapter 2161. Respondent also understands that if awarded this solicitation, respondent will be required to submit monthly compliance report(s) to the contracting agency, specifying the use, including expenditures to HUB subcontractor(s), if applicable. (See Prime Contractor Progress Assessment Report at <http://www.tbpc.state.tx.us/hubbid/forms/index.html>.)

2. Development of an HSP and Subcontracting Intentions

In developing the HSP, which includes dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must determine what portion(s) (including goods or services) they intend to subcontract. If the respondent determines that they are able to fulfill all of the potential subcontracting opportunities identified with its own equipment, supplies, materials and/or employees, the respondent must complete the Self Performance HSP (enclosed) and provide a statement explaining how they intend to fulfill the entire contract scope of work.

Space is provided to list up to six (2a-2f) subcontracting opportunities on this form. *The respondent must complete Item 3 of the HSP for each subcontracting opportunity.* If there are more than six subcontracting opportunities, Item 3 may be photocopied and completed for each subcontracting opportunity.

I intend to subcontract the following portion(s)/scope of work:

- | | |
|------------------------------|-----------|
| (a) <u>Order Fulfillment</u> | (d) _____ |
| (b) _____ | (e) _____ |
| (c) _____ | (f) _____ |

NOTE: In accordance with Texas Government Code, Chapter 2251.001, a "Subcontractor" means a person who contracts with a vendor to work or contribute toward completing work for a governmental entity. In addition, a "Vendor" means a person who supplies goods or a service to a governmental entity or another person directed by the entity.

3. **Good Faith Effort Information and Supporting Documentation**

(Note: Use this attachment for the Subcontracting Opportunity you identified in Item 2a.)

a. **Mentor Protégé Program**

A respondent's participation as a Mentor in a State of Texas Mentor Protégé Agreement under Texas Government Code, Chapter 2161.065 and the use of their Protégé as a subcontractor to perform the scope of work they listed in **Item 2a** of this HSP, constitutes a good faith effort. **If applicable, do you intend to subcontract the portion of work you listed in Item 2a to your Protégé?**

- Yes (If Yes, skip to Item 3e and omit Item 3b, 3c and 3d.) - No - Not Applicable

b. **Professional Services Contracts Only** *(This item is only applicable for professional services subcontracting opportunities.)*

My proposed HUB Subcontracting Plan for this professional services contract (as defined by Texas Government Code 2254) meets or exceeds Annual Procurement Utilization goals for HUBs.

- Yes (If Yes, skip to Item 3e and omit Item 3c and 3d.) - No - Not Applicable

c. Check the appropriate box to identify the good faith effort you made to solicit and notify State of Texas certified HUBs to perform the scope of work you listed in **Item 2a**. If applicable, all items below must be performed to demonstrate good faith effort. The contracting agency shall request additional documentation to substantiate your responses prior to contract award.

- I utilized the Centralized Master Bidders List, the HUB Directory, the Internet, and other directories identified by the contracting agency to solicit my subcontracting opportunity to HUBs that may be available to perform the contract work.
- I provided notice to three (3) or more HUBs per each subcontracting opportunity that provide the type of work required for each subcontracting opportunity.*
- I provided notice to minority or women trade organizations or development centers to assist in identifying HUBs by disseminating subcontracting opportunities to their membership/participants.*

d. In the spaces provided below, list a minimum of three (3) State of Texas certified HUBs who you provided notice regarding the subcontracting opportunity you listed in **Item 2a**. Include the date(s) you provided notice and indicate if you received a response(s).

Company Name	Notice Date	Was Response Received?	
<u>Management Applications, Inc.</u>	<u>8 / 16 / 05</u>	<input checked="" type="checkbox"/> - Yes	<input type="checkbox"/> - No
<u>Computer Tech</u>	<u>8 / 16 / 05</u>	<input checked="" type="checkbox"/> - Yes	<input type="checkbox"/> - No
<u>Advancetech Systems 2</u>	<u>7 / 30 / 03</u>	<input checked="" type="checkbox"/> - Yes	<input type="checkbox"/> - No

e. In the space provided below, identify the subcontractor(s) you selected to perform the scope of work you listed in **Item 2a**. Also, list the expected percentage of work to be subcontracted; the approximate dollar value of the work to be subcontracted, and indicate if the company is a State of Texas certified HUB.

Company Name	VID #	Expected % of Contract	Approximate Dollar Amount	Texas Certified HUB?
<u>Computer Tech</u>	<u>1760119142600</u>	<u>10%</u>	<u>\$100,000</u>	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No
Company Name	VID #	Expected % of Contract	Approximate Dollar Amount	Texas Certified HUB?
<u>Advancetech Systems 2</u>	<u>1760366630000</u>	<u>5%</u>	<u>\$50,000</u>	<input checked="" type="checkbox"/> - Yes <input type="checkbox"/> - No

Provide/Select justification if subcontractor(s) is not a Texas certified HUB:

- Lowest Price - Best Qualified - Best Value

*Notice must be provided with reasonable time to respond, which is no less than five (5) working days, unless circumstances require a different time period, which is determined by the contracting agency and documented in the contract file.

