



Procurement Operations

Request for Proposals (RFP)

For

Load Management Services

Project No. 12-45

REQUEST FOR PROPOSALS

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HOUSTON COMMUNITY COLLEGE

REQUEST FOR PROPOSALS - SUMMARY

Date: July 30, 2012
Project Title: Load Management Services
Project No.: 12-45

ISSUED BY:
Houston Community College
Procurement Operations Department
3100 Main Street (11th Floor)
Houston, Texas 77002

SUBMIT INQUIRES TO:
Name: Georgia Coats, CPPB
Title: Senior Buyer
Telephone: (713) 718-5004
Fax: (713) 718-2113
Email: Georgia.Coats@HCCS.edu

1. Project Overview:

Houston Community College ("HCC") is seeking proposals from qualified firms to provide Load Management Services as described in Attachment No. 2, and in accordance with the terms, conditions and requirements set forth in the Request for Proposal (RFP).

PROPOSERS ARE CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

2. Award / Contract Approval:

This Procurement, any award under this procurement, and the resulting contract, if any, is subject to approval by HCC Board of Trustees. Subsequent to Board approval, the only person authorized to commit HCC contractually is the Chancellor or designee. This solicitation is a request for proposals and neither this solicitation nor the response or proposal from any prospective proposer shall create a contractual relationship that would bind HCC until such time as both HCC and the selected proposer sign a legally binding contract, which includes, without limitation, the terms required by HCC as set forth in Attachment No. 1.

3. Pre-Proposal Meeting: Mandatory Not mandatory Not Applicable

A pre-proposal meeting will be held in the Procurement Operations department, 3100 Main Street (11th Floor, Room #11A07) Houston, Texas 77002 on August 8, 2012 at 11:00 AM (local time). Proposers are reminded that all questions must be submitted in writing by the deadline noted below and that answers may not be available during the pre-proposal meeting; no response is binding until provided to proposers as part of a solicitation amendment following the closing of the question submittal deadline.

4. Proposal Due Date/Time:

HCC will accept sealed proposals in original form to provide the required Load Management Services until 3:00 PM (local time) on August 27, 2012. Proposals will be received in the Procurement Operations Department, 3100 Main Street (11th Floor, Room 11A06), Houston, Texas 77002. **Late proposals properly identified will be returned to Proposer unopened. Late proposals will not be considered under any circumstances.**

5. Contract Term:

It is anticipated that the contract term for contract(s) awarded resulting from this solicitation, if any, will be up to five (5) years. Further, HCC reserves the right to extend the contract term on a month to month basis, not to exceed three (3) months upon the expirations of the initial term and any successive renewal term.

6. HCC Contact:

Any questions or concerns regarding this Request for Proposal shall be directed to the above named HCC individual

HCC specifically requests that Proposers restrict all contact and questions regarding this RFP to the above named individual. The above named individual must receive all questions or concerns no later than 12:00 pm (local time) on August 13, 2012. It is HCC's intent to respond to all appropriate questions and concerns; however, HCC reserves the right to decline to respond to any questions.

7. Inquiries and Interpretations:

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum (amendment) and all parties recorded by HCC as having received a copy of the RFP will be notified of the addendum; and all addenda will be posted on the HCC Website. www.hccs.edu. All such addenda issued by HCC prior to the time that proposals are received shall be considered part of the RFP, and the Proposer shall be required to consider and acknowledge receipt of such in their proposal. Firms receiving this proposal other than directly from HCC are responsible for notifying HCC that they are in receipt of a proposal package and are to provide a name and address to utilize in the event an amendment is issued.

Only those HCC replies to inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect. Proposer must acknowledge receipt of all addenda in Attachment No. 3 of this RFP (Proposal/Contract Award Form).

8. Commitment:

Unless HCC specifically agrees in writing to the contrary, Proposer understands and agrees that this RFP and any resulting Agreement is issued predicated on anticipated requirements for Load Management Services and that HCC has made no representation, guarantee or commitment with respect to any specific quantity of or dollar value (\$) of Load Management Services to be furnished under any resulting Agreement. Further Proposer recognizes and understands that any cost borne by the Proposer which arises from Proposer's performance under any resulting agreement shall be at the sole risk and responsibility of Proposer.

9. Acquisition from Other Sources:

HCC reserves the right and may, from time to time as required by HCC's operational needs, acquire Load Management Services of equal type and kind from other sources during the term of the agreement without invalidating in whole or in part the agreement or any rights or remedies HCC may have hereunder.

10. Vendor Registration:

The Houston Community College Procurement Operations department has developed an online vendor application. This is designed to allow firms or individuals that are interested in doing business with HCC to register online and become part of our vendor database. Once registered, you will receive a password and personal login information that will allow you to modify your vendor information anytime a change occurs with your company. You will have the flexibility to add or delete commodity lines, update phone numbers and contact information, etc. This database will allow HCC to notify, via email, all companies that match the desired commodity criteria for procurement opportunities within Houston Community College. What a great way to never miss out on an HCC bid or proposal opportunity again.

Please take a moment to go to the Houston Community College Procurement Operations Department website and register as a vendor. The website address to access the vendor registration form is <https://hccs.sbcompliance.com/FrontEnd/VendorsIntroduction.asp>

If you do not have internet access you are welcome to use a computer at any HCC library to access the website and register.

A PROPERLY COMPLETED VENDOR APPLICATION IS REQUIRED AND IS A CONDITION OF CONTRACT AWARD.

11. Obligation and Waivers:

THIS RFP IS A SOLICITATION FOR PROPOSAL AND IS NOT A CONTRACT OR AN OFFER TO CONTRACT.

THIS REQUEST FOR PROPOSAL DOES NOT OBLIGATE HCC TO AWARD A CONTRACT OR PAY ANY COSTS INCURRED BY THE PROPOSER IN THE PREPARATION AND SUBMITTAL OF A PROPOSAL.

HCC, IN ITS SOLE DISCRETION, RESERVES THE RIGHT TO ACCEPT ANY PROPOSAL AND/OR REJECT ANY AND ALL PROPOSALS OR A PART OF A PROPOSAL, WITHOUT REASON OR CAUSE, SUBMITTED IN RESPONSE TO THIS SOLICITATION.

HCC RESERVES THE RIGHT TO REJECT ANY NON-RESPONSIVE OR CONDITIONAL PROPOSAL. HCC RESERVES THE RIGHT TO WAIVE ANY INFORMALITIES, IRREGULARITIES AND/OR TECHNICALITIES IN THIS SOLICITATION, THE PROPOSAL DOCUMENTS AND /OR PROPOSALS RECEIVED OR SUBMITTED.

BY SUBMITTING A PROPOSAL, PROPOSER AGREES TO WAIVE ANY CLAIM IT HAS, OR MAY HAVE, AGAINST HOUSTON COMMUNITY COLLEGE SYSTEM AND ITS TRUSTEES OR AGENTS ARISING OUT OF OR IN CONNECTION WITH (1) THE ADMINISTRATION, EVALUATION OR RECOMMENDATIONS 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 A CONTRACT, IF ANY.

HCC RESERVES THE RIGHT TO WITHDRAW THIS SOLICITATION AT ANY TIME FOR ANY REASON; REMOVE ANY SCOPE COMPONENT FOR ANY REASON AND TO ISSUE SUCH CLARIFICATIONS, MODIFICATIONS AND/OR AMENDMENTS AS DEEMED APPROPRIATE.

HCC IS AN EQUAL OPPORTUNITY/EDUCATIONAL INSTITUTION, WHICH DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, GENDER, AGE, DISABILITY, SEXUAL ORIENTATION OR VETERAN STATUS.

12. Inter-local/Cooperative Purchase:

The bidder/proposer agrees that any agreement inclusive of pricing, except for market sensitive components of pricing, resulting from this solicitation is extended to other public entities (e.g., state agency, local government, State of Texas educational institutions) authorized by State law to participate under cooperative procurement contracts or Inter-local Agreements with the following understandings:

- Unless specifically stated otherwise, any volume of products or services stated in this RFP document reflects only products or services to be purchased by HCC and does not include potential purchases by other entities;

- Pricing herein is a baseline and subject to negotiation of increased discounts based on increased member participation and volumes;
- The awarded bidder shall establish a direct relationship with each entity concerning the placement of orders, issuance of the purchase order, contractual disputes, invoicing, payment and all other matters relating or referring to such entity's access to the agreement.
- Each entity is a financially separate entity and shall be solely responsible for the financial commitments of that entity;
- HCC shall not be held liable for any costs, damages or other obligations incurred by any participating entity.
- It is the entity's decision whether or not to enter into an agreement with the awarded bidder/proposer.
- Any purchases made by an entity shall be in accordance with each entity's purchasing policy and procedures.

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INSTRUCTIONS TO PROPOSERS

1. General Instructions:

- a. Proposers should carefully read the information contained herein and submit a complete response to all requirements and questions as directed.
- b. Proposals and any other information submitted by Proposers in response to this Request for Proposal shall become the property of HCC.
- c. HCC will not provide compensation to Proposers for any expenses incurred by the Proposer(s) for proposal preparation or for any demonstrations that may be made, unless otherwise expressly stated. Proposers submit proposals at their own risk and expense.
- d. Proposals which are qualified with conditional clauses, or alterations, or items not called for in the RFP documents, or irregularities of any kind are subject to disqualification by HCC, at its option.
- e. Each proposal should be prepared simply and economically, providing a straightforward, concise description of your firm's ability to meet the requirements of this RFP. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of HCC's needs.
- f. HCC makes no guarantee that an award will be made as a result of this RFP, and reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP or resulting Agreement when deemed to be in HCC's best interest. Representations made within the proposal will be binding on responding firms. HCC will not be bound to act by any previous communication or proposal submitted by the firms other than this RFP.
- g. Firms wishing to submit a "No-Response" are requested to return the first page of the Proposal/Contact Award Form (ref. Attachment No. 3). The returned form should indicate your company's name and include the words "No-Response" in the right-hand column.
- h. Failure to comply with the requirements contained in this Request for Proposal may result in the rejection of your proposal.

2. Preparation and Submittal Instructions:

Respondents must complete, sign and return the following documents, as required:

- Proposal /Contract Award Form (Attachment No. 3)
- Proposer Questionnaire (Attachment No. 4)
- Determination of Good Faith Effort Form (Attachment No.5)
- Small Business Unavailability Certificate (Attachment No. 6)
- Contractor & Subcontractor Participation Form (Attachment No. 7)
- Small Business Development Questionnaire (Attachment No. 8)
- Proposer's Certifications (Attachment No. 9)
- Conflict of Interest Questionnaire (Attachment No. 10)
- Financial Interests and Potential Conflicts of Interests (Attachment No. 11)
- Pricing Template (Attachment No. 12)

- a. Proposal must be signed by Proposer's company official(s) authorized to commit such proposals. Failure to sign and return these forms will subject your proposal to disqualification.

b. Responses to this RFP must include a response to the proposal requirements set forth in the below Section 4 Preparation of Proposal.

c. Page Size, Binders, Dividers and Electronic Copy

Proposals must be typed on letter-size (8-1/2" x 11") paper. HCC requests that proposals be submitted in a binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections should be divided by tabs for ease of reference. An electronic Copy of the proposal must be provided in an Adobe Acrobat (.pdf) format.

d. Table of Contents

Include with the proposal a Table of Contents that includes page number references. The Table of Contents should be in sufficient detail to facilitate easy reference of the sections of the proposal as well as separate attachments (which should be included in the main Table of Contents). Supplemental information and attachments included by your firm (i.e., not required) should be clearly identified in the Table of Contents and provided as a separate section.

e. Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.) Attachments should be numbered or referenced separately.

f. Number of Copies

Submit one (1) original and seven (7) copies of your Proposal including all required HCC Forms and documents. An original (manual) signature must appear on one (1) complete set of your Proposal documents. Additionally, your submittal shall include one (1) electronic version (compact disc or flash drive) in a non-editable Adobe Acrobat (.pdf) format.

g. Submission

One (1) original and all required copies of the Proposal must be submitted and received in the HCC Procurement Operations Department on or before the time and date specified in The Request For Proposal-Summary, Section 5 and delivered to:

Houston Community College
Procurement Operations Department
3100 Main Street (11th Floor)
Houston, Texas 77002
Ref: Project No. 12-45
Attn: Georgia Coats, CPPB

g.1 The envelope containing a proposal shall be addressed as follows:

Name, Address and Telephone Number of Proposer;
Project Description/Title;
Project Number; and
Proposal Due Date/Time.

g.2 Late proposals properly identified will be returned to Proposer unopened. Late proposals will not be considered under any circumstances.

g.3 Telephone proposals are not acceptable when in response to the Request for Proposal.

g.4 Facsimile ("FAX") or electronic (email) proposals are not acceptable when in response to this Request for Proposal.

3. Eligibility for Award:

- a. In order for a proposer to be eligible to be awarded the contract, the proposal must be responsive to the solicitation and HCC must be able to determine that the proposer is responsible and has the resources and capacity to perform the resulting contract satisfactorily.
- b. Responsive proposals are those that comply with all material aspects of the solicitation, conform to the solicitation documents and meet the requirements set forth in this solicitation. Proposals, which do not comply with all the terms and conditions of this solicitation, will be rejected as non-responsive.
- c. Responsible proposers, at a minimum, must meet the following requirements:
 - Have adequate financial resources, or the ability to obtain such resources as required during the performance of any resulting contract;
 - Be able to comply with the required performance schedule, taking into consideration all existing business commitments;
 - Have a satisfactory record of past performance;
 - Have necessary personnel and management capability to perform any resulting contract;
 - Be qualified as an established firm regularly engaged in the type of business necessary to fulfill the contract requirements;
 - Certify that the firm is not delinquent in any tax owed the State of Texas under Chapter 171, Tax Code; and is not delinquent in taxes owed to the Houston Community College System; signing and submitting the proposal is so certifying to such non-delinquency;
 - Be otherwise qualified and eligible to receive an award under applicable laws and regulations.
- d. Proposer(s) may be requested to submit additional written evidence verifying that the firm meets the minimum requirements described in the above Section 3 (c), Eligibility for Award and as necessary to perform the requirements of the solicitation and be determined a responsible proposer. Failure to provide any requested additional information may result in the proposer being declared non-responsive and the proposal being rejected.
- e. A person is not eligible to be considered for award of this solicitation or any resulting contract or to be a subcontractor of the proposer or prime contractor if the person assisted in the development of this solicitation or any part of this solicitation or if the person participated in a project related to this solicitation when such participation would give the person special knowledge that would give that person or a prime contractor an unfair advantage over other bidders.
- f. A person or proposer shall not be eligible to be considered for this solicitation if the person or proposer engaged in or attempted to engage in prohibited communications as described in the below Section 12, Prohibited Communications.
- g. Only individual firms or lawfully formed business organizations may apply (This does not preclude a respondent from using subcontractors or consultants.) HCC will contract only with the individual firm or formal organization that submits a response to this RFP.

4. Preparation of Proposal:

- a. Technical Proposal: Proposer shall submit Technical Proposal responding to all Questions set forth in the Proposer Questionnaire, Section 3.0 attached hereto as Attachment No. 4.
- b. Price Proposal: Proposer shall submit a Price Proposal respondent to all requirements set forth in the Proposer Questionnaire, Section 4.0 attached hereto as Attachment No. 4 and 12.

5. Evaluation Criteria:

An Evaluation Committee (“Committee”) will review all proposals to determine which proposers have qualified for consideration according to the criteria stated herein. The Committee’s evaluations will be based on all available information, including qualification statements, subsequent interviews, if necessary, reports, discussions, reference checks, and other appropriate checks. The highest rated proposer(s) evaluated by the Committee **may** be invited to make an oral presentation of their written proposal to the Committee and/or the HCC Board of Trustees. Proposals will be evaluated using the following criteria:

<u>Evaluation Criteria</u>	<u>Available Points</u>
• Qualifications and experience of firm and personnel:	20
• Implementation Plan:	15
• Proposer’s exceptions to terms and conditions:	10
• Customer care approach & performance:	10
• Capabilities and Capacity:	10
• Price proposal:	35
• Financial condition of proposer:	acceptable/unacceptable
• Small Business Commitment:	acceptable/unacceptable
<hr/>	
	Total Points: 100
• Bonus for synergy with Electrical Power Services (RFP 12-24) offer:	5
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	Total Points: 105*

NOTE:

*In addition, a firm providing a proposal under this RFP 12-45 which also responded under RFP 12-24 Electrical Power Services and offers a synergy to HCC, may be eligible for up to an additional five (5) points as a bonus for proposing under both services solution. HCC reserves the sole and exclusive right to determine if an award based on the potential synergy offered in both solutions versus stand-alone separate solutions is in HCC’s own best interest based on a best value decision.

6. Contract Award:

Award of a contract, if awarded, will be made to the proposer(s) who (a) submits a responsive proposal; (b) is a responsible proposer; and (c) offers the best value to HCC, price and other factors considered. A responsive proposal and a responsible proposer are those that meet the

requirements of and are as described in Section 3 above (Eligibility For Award). HCC may award a contract, based on initial proposals received, without discussion of such proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and technical standpoint, which the proposer can submit to HCC. Except as otherwise may be set forth in this solicitation, HCC reserves the right to waive any informalities, non-material errors, technicalities, or irregularities in the proposal documents submitted and consider the proposal for award.

7. Postponement of Proposals Due Date/Time:

Notwithstanding the date/time for receipt of proposals established in this solicitation, the date and time established herein for receiving proposals may be postponed solely at HCC's discretion.

8. Oral Presentations:

During the process of selecting a company to provide the required services, oral presentations may or may not be held. Each proposer should be prepared to make a presentation to HCC. The presentations must show that the proposer clearly understands the requirements of the solicitation, and has a strategic plan and approach to complete the work.

9. Small Business Development Program (SBDP):

- a. HCC has adopted a Small Business Development Program for small businesses attempting to provide goods and/or services as prime contractors or as subcontractors to other prime contractors to HCC. The program is designed to prevent discrimination by ensuring that small, underutilized and disadvantaged businesses are informed and prepared to compete for HCC procurements. HCC will neither discriminate nor select vendors on the basis of race, color, national origin, religion, gender, age, disability, sexual orientation or veteran status in its procurement selection process.
- b. Small businesses whose gross annual income averaged over the past three (3) years does not exceed the Small Business Administration's size standard as specified in 13 CFR Part 121 are eligible to apply for participation in the program.
- c. For this solicitation, HCC has established a Best Effort of the total amount of the proposal as its goal for Small Business participation.
- d. Good Faith Efforts: HCC will make a good faith effort to utilize small businesses in all contracts. The annual program goals may be met by contracting directly with small businesses or indirectly through subcontracting opportunities. Therefore, any business that contracts with HCC will be required to make a good faith effort to award subcontracts to small businesses. The subcontracting goal applies to all vendors regardless of their status. By implementing the following procedures, a contractor shall be presumed to have made a good faith effort:
 - To the extent consistent with industry practices, divide the contract work into reasonable lots.
 - Give notice to SBDP eligible firms of subcontract opportunities or post notices of such opportunities in newspapers and other circulars.
 - Document reasons for rejecting a firm that bids on subcontracting opportunities.

10. Prime Contractor/Contracts for Services:

The prime contractor must perform a minimum of 30% of any contract for services with its labor force and or demonstrate management of the contract for services to the satisfaction of HCC.

11. Internship Program:

- a. HCC is expanding its student internship program. All vendors are encouraged to make a commitment to utilize certain HCC student(s) in an internship capacity with the company under any resulting contract for services required under this solicitation. The selected contractor will be expected to pay the student(s) at least the minimum wage required by law. HCC will provide the selected contractor with the name of student(s) eligible to participate in the internship program.
- b. For additional information regarding the internship program, please contact Dr. Freddie Wade, Director of Workforce Program Initiatives at (713) 718-7596.

12. Prohibited Communications:

Except as provided in exceptions below, the following communications regarding this solicitation or any other invitation for bids, requests for proposal, requests for qualifications, or other solicitation are prohibited:

- [1] Between a potential vendor, subcontractor to vendor, service provider, proposer, offer maker, lobbyist or consultant and any Trustee;
- [2] Between any Trustee and any member of a selection or evaluation committee; and
- [3] Between any Trustee and administrator or employee.

The communications prohibition shall be imposed from the day the solicitation is first advertised through the day the contract documents are signed by all parties. During this period, no HCC Trustee and no Vendor Shall communicate in any way concerning any pending Solicitation involving that Vendor, subject to the penalties stated herein.

In the event the Board refers the recommendation back to staff for reconsideration, the communication prohibition shall be re-imposed.

The communications prohibition shall not apply to the following:

- [1] Duly noted pre-bid or pre-proposal conferences.
- [2] Communications with the HCC General Counsel.
- [3] Emergency contracts.
- [4] Presentations made to the Board during any duly-noticed public meeting.
- [5] Unless otherwise prohibited in the solicitation documents, any written communications between any parties, provided that the originator shall immediately file a copy of any written communication with the Board Services Office. The Board Services Office shall make copies available to any person upon request.
- [6] Nothing contained herein shall prohibit any person or entity from publicly addressing the Board during any duly-noticed public meeting, in accordance with applicable Board policies, regarding action on the contract.

Any potential vendor, subcontractor vendor, service provider, bidder, offeror, lobbyist or consultant who engages or attempts to engage in prohibited communications shall not be eligible for the award of any resulting contract under this solicitation. Any other direct or indirect actions taken to unduly influence competitive purposes, to circumvent equal consideration for competitive bidders, or to disregard ethical and legal trade practices will disqualify bidders, vendors, service providers, lobbyist, consultants, and contractors from both this current and any future consideration for participation in HCC orders and contracts.

13. Drug Policy:

HCC is a drug-free workforce and workplace. The manufacture, sale, distribution, dispensation, possession or use of illegal drugs (except legally prescribed medications under physician's prescription and in the original container) or alcohol by vendors or contractors while on HCC's premises is strictly prohibited.

14. Taxes:

HCC is tax exempt as a governmental subdivision of the State of Texas under Section 501C (3) of the Internal Revenue Code. Limited Sales Tax Number: 1-74-1709152-1. No proposal shall include any costs for taxes to be assessed against HCC.

15. Texas Public Information Act:

HCC considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature, and therefore, shall be subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.) ("the Act") after a contract if any, is awarded. If the proposer considers any information submitted in response to this request for proposal to be confidential under law or constitute trade secrets or other protected information, the proposer must identify such materials in the proposal response. Notwithstanding the foregoing, the identification of such materials would not be construed or require HCC to act in contravention of its obligation to comply with the Act and the proposer releases HCC from any liability or responsibility for maintaining the confidentiality of such documents.

16. Appropriated Funds:

The purchase of service or product, which arises from this solicitation, is contingent upon the availability of appropriated funds. HCC shall have the right to terminate the resulting contract at the end of the current or each succeeding fiscal year if funds are not appropriated by the HCC Board of Trustees for the next fiscal year that would permit continuation of the resulting contract. If funds are withdrawn or do not become available, HCC reserves the right to terminate the resulting contract by giving the selected contractor a thirty (30) day written notice of its intention terminate without penalty or any further obligations on the part of HCC or the contractor. Upon termination of the contract HCC shall not be responsible for any payment of any service or product received that occurs after the end of the current contract period or the effective date of termination, whichever is the earlier to occur. HCC's fiscal year begins on September 1 and ends on August 31st.

17. Conflict of Interest:

If a firm, proposer, contractor or other person responding to this solicitation knows of any material personal interest, direct or indirect, that any member, official or employee of HCC would have in any contract resulting from this solicitation, the firm must disclose this information to HCC. Persons submitting a proposal or response to this solicitation must comply with all applicable laws, ordinances, and regulations of the State of Texas Government Code, including, without limitation, Chapter 171 and 176 of the Local Government Code. The person /proposer submitting a response to this solicitation must complete (as applicable), sign and submit **Attachment No. 10, Conflict of Interest Questionnaire Form, and Attachment No. 11, Financial Interest and Potential Conflict of Interests** with the proposal package. HCC expects the selected contractor to comply with Chapter 176 of the Local Government Code and that failure to comply will be grounds for termination of the contract.

Note: Attachment No. 10 and Attachment No. 11 shall be completed, signed and returned to HCC. Enter N/A in those areas on the Attachments that are not applicable to your company. Failure to complete, sign and notarize (if applicable) these Attachments shall render your proposal non-responsive.

18. Ethics Conduct:

Any direct or indirect actions taken to unduly influence competitive purposes, to circumvent equal consideration for competitive bidders, or to disregard ethical and legal trade practices will disqualify vendors and contractors from current and future consideration for participation in HCC orders and contracts.

19. No Third Party Rights:

This Contract is made for the sole benefit of the HCC and the Contractor and their respective successors and permitted assigns. Nothing in this Contract shall create or be deemed to create a relationship between the Parties to this Contract and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

20. Withdrawal or Modification:

No proposal may be changed, amended, modified by telegram or otherwise, after the same has been submitted or filed in response to this solicitation, except for obvious errors in extension. However, a proposal may be withdrawn and resubmitted any time prior to the time set for receipt of proposals. No proposal may be withdrawn after the submittal deadline without approval by HCC which shall be based on Respondent's submittal, in writing, of a reason acceptable to HCC.

21. Validity Period:

Proposals are to be valid for HCC's acceptance for a minimum of 180 days from the submittal deadline date to allow time for evaluation, selection, and any unforeseen delays. Proposals, if accepted, shall remain valid for the life of the Agreement.

22. Terms and Conditions:

The General Terms and Conditions of Contracts (ref. Attachment No. 1) shall govern any Purchase Order/Contract issued as a result of this solicitation (RFP).

Proposers may offer for HCC's consideration alternate provisions to the Terms and Conditions. Alternates proposed must refer to the specific article(s) or section(s) concerned. General exceptions such as "company standard sales terms apply" or "will negotiate" are not acceptable. Proposer's silence as to the terms and conditions shall be construed as an indication of complete acceptance of these conditions as written.

Proposers are required to complete Attachment No. 13 General Terms & Conditions of Contracts Article – Crosswalk as part of your response in incorporating acceptance of the noted HCC terms and conditions or noting the proposer's specific alternative article number and reason for the proposed rejection.

Balance of page intentionally left blank.

ATTACHMENT NO. 1

GENERAL TERMS AND CONDITIONS OF CONTRACTS (v. 10-20-2102)

1.0 Entire Agreement

The Contract and its accompanying attachments, exhibits, and any other documents incorporated by reference therein, and these General Terms and Conditions (individually and collectively referred to as the "Contract Documents") contain the entire understanding of the parties regarding the services or materials and subject matter contained in the Contract and supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter. The Contract shall not be amended or modified, except by mutual written agreement between and signed by the parties to the Contract.

2.0 Contract Term

The Contract term and any renewals or extensions thereof shall be as set forth in the Contract Documents. All contract renewal and extensions may be subject to approval by the Board of Trustees. Renewal may be exercised upon the same terms and conditions at the sole discretion of HCC and shall be evidenced in writing as a modification to the Contract executed and signed by HCC. In addition to any Renewal Period(s) set forth in the solicitation documents, HCC reserves the right to exercise the following option to extend any non-expired contract. The Chief Procurement Officer may extend a non-expired contract for a maximum period of ninety (90) calendar days for one time only.

3.0 Interpretation, Jurisdiction and Venue

The Contract shall be construed and interpreted solely in accordance with the laws of the State of Texas, without regard to its choice of law provisions. Venue of any suit, right or cause of action arising under or in connection with the contract shall be exclusively in a court of competent jurisdiction located in Harris County, Texas.

4.0 Compliance with Laws

The Contractor shall give all notices and comply with all Federal, State of Texas and local laws rules, regulations and ordinances. Upon request, the Contractor shall furnish to HCC certificates of compliance with all such laws, rules, regulations and ordinances.

5.0 Taxes

HCC is tax exempt as a governmental subdivision of the State of Texas under Section 501C (3) of the Internal Revenue Code. Limited Sales Tax Number: 1-74-1709152-1. HCC shall not be required to pay under this Contract sales or other taxes from which it is exempt under applicable law.

6.0 Termination for Convenience

HCC may, at its option and discretion, terminate the resulting contract for convenience and, at its option and discretion, may reduce the statement of work or other requirements of the contract at any time, without any default on the part of HCC or the contractor, by giving thirty (30) calendar days written notice thereof to the contractor. Such right of termination is in addition to, and not in lieu of, rights of HCC set forth in Paragraph 7, below. In the event of such termination, HCC's sole obligation to Contractor is to pay for only those products and/or services authorized by any Purchase Order or contract issued by HCC and received and accepted by HCC prior to the date of Termination.

7.0 Termination for Default

HCC may terminate the Contract immediately for default, by giving written notice thereof to the Contractor, if the Contractor fails to execute the work properly; performs in a manner that is unsatisfactory to HCC, breaches any terms, conditions, covenants, or provisions of the contract or otherwise fails to meet its obligations under the contract. In the event of termination for default, HCC shall have against the Contractor, all remedies provided by law and equity. HCC, in its discretion, may include a provision granting the Contractor a reasonable opportunity to cure Contractor's default depending on the nature of the breach or default.

8.0 Third Party Rights

Nothing in this Contract, whether express or implied, will be construed to give any person or entity (other than the parties hereto and their permitted successors and assigns) any legal or equitable right, remedy, or claim under or in respect of any terms or provisions contained in this Contract or any standing or authority to enforce the terms and provisions of this Contract. Nothing contained herein shall be construed to or operate to create any rights in any person, party, or entity who is not a party to this Contract including, but not limited to, any rights in the nature of a third-party beneficiary.

9.0 Ethics Conduct

Any breach of any HCC ethics policies, rules or regulations; any violation of any ethics laws or prohibitions; and any direct or indirect actions taken to unduly influence competitive processes, to circumvent equal consideration for competitive proposers, or to disregard ethical and legal trade practices will disqualify and/or debar vendors and contractors from current and future consideration for participation in HCC solicitations, proposal awards, orders and contracts.

10.0 Conflict of Interest

Contractor shall comply with all state and local laws relating to conflicts interests, including but not limited to Chapter 176 of the Texas Local Government Code, and that failure to comply is grounds for termination of the Contract.

11.0 Small Business Development Program (SBDP) and Small Business Compliance

Contractor agrees to attain the small business participation goal to the extent required by and set forth in the contract documents. When required by the Contract, the Contractor further agrees to enter into agreements with subcontractors for the Work identified in the document, entitled "Contractor and Subcontractor/Supplier Participation." HCC requires all contractors with small business participation goals, to monthly report all subcontractor payments using the HCC Contract Compliance and Small Business Program online contract management system, located at www.hccs.sbcompliance.com You may use your current vendor registration username and password to access the system and report payments to your subcontractors. The subcontracting goal applies to all vendors regardless of their status. The Contractor's failure to comply with the aforementioned small business participation provisions may result in:

- Withholding of payment until such compliance is achieved or a waiver of the provisions is provided by HCC
- Revocation of any benefits and incentives provided under the program or suspension or termination of the contract in whole or in part.

12.0 Prime Contractor/Contract for Services

If this Contract is for services, Contractor shall perform a minimum of 30% of the work with its labor force or demonstrate management of the work to the satisfaction of HCC.

13.0 Changes; Modifications

HCC shall have the right, at any time, to make changes within the scope of the Contract. If such change causes a material increase in the Contractor's cost and/or the time for performance, the contractor shall so notify HCC in writing within ten (10) calendar days from the date of the Contractor's receipt of the notice of change, and an equitable adjustment in the price and/or the time of performance shall be mutually agreed upon between the parties. No course of prior dealings, no usage of the trade and no course of performance shall be used to modify, supplement or explain any terms used in the solicitation or contract. No such change shall be effective in the absence of express written acceptance and direction of HCC. HCC will not be bound by any oral statement, verbal agreement, or other representation contrary to the written specifications, terms, and conditions of the solicitation or contract. Notwithstanding the foregoing, any increase in the cost or price under the contract of \$100,000 or more, or any increase in cost or price that causes the total Purchase Order to exceed \$100,000 shall require approval by the HCC Board of Trustees before effective.

14.0 Insurance Requirements

The Contractor agrees to comply with the insurance requirements set forth below:

The following insurance coverage and limits listed herein are the minimum that the Contractor is required to carry during performance of the contract.

1. Commercial General Liability for Bodily Injury / Property Damage Limits:

- A. Occurrence/Personal Injury/Advertising
- B. Products / Completed Operations \$1,000,000.00 CSL
- C. Annual Aggregate \$2,000,000.00 CSL
- D. Products Aggregate \$2,000,000.00 CSL
- E. Fire, Lightning or Explosion \$1,000,000.00 CSL
- F. Medical Expense \$5,000.00 Per person

2. Automobile Liability:

Bodily Injury/Property Damage \$1,000,000.00 CSL

3. Workers' Compensation

- Part A - Statutory
- Part B - \$1,000,000.00 Each Accident
- \$1,000,000.00 Policy Limits
- \$1,000,000.00 Each Employee

Note: CSL denotes "Combined Single Limit"

4. Endorsements

The following endorsements and other stated information is required on the original certificate of insurance:

- A. 90-Day Notice of Cancellation;
- B. Houston Community College (HCC) to be named as Additional Insured on all policies except Workers' Compensation;
- C. Waiver of Subrogation on all policies;
- D. The assigned project number and/or purchase order number.

5. Submission of Certificate of Insurance:

The original certificate of insurance, indicating the coverage, limits and endorsements stated herein, shall be furnished to HCC within fourteen (14) calendar days of the HCC Board of Trustees approval of the contract award. The Contract will not be awarded until after receipt of the proper certificate of insurance.

Mail the original certificate of insurance to:

Houston Community College
ATTN:
Procurement Operations
PO Box 667517 (MC 1118)
Houston, TX 77266-7517

15.0 Indemnification

(a) The Contractor shall indemnify, defend and hold HCC, its agents, employees, trustees and other officers harmless from any and all losses, damages, harm of any type or character (including attorney's fees and costs of suit) regardless of the nature or theory of the claim, whether negligence, contractual, extra-contractual, or otherwise arising from or by reason of any act or omission of the contractor, its agents, servants, officers, directors and employees in the performance of the Contract.

(b) In addition, and to the extent applicable, Contractor shall and does hereby agree to indemnify, protect, defend and hold HCC, its agents, employees, trustees and other officers (collectively "Indemnitees") harmless from and against all claims arising from infringement or alleged infringement of any patent, copyright, trademark or other proprietary interest arising by or out of the performance of services or the provision of goods by Contractor pursuant to the Contract, or the use by Contractor, or by Indemnitees at the direction of Contractor, of any article or material; provided, that, upon becoming aware of a suit or threat of suit for such infringement, HCC shall promptly notify Contractor and Contractor shall be given full opportunity to negotiate a settlement. In the event of litigation, HCC agrees

to cooperate reasonably with Contractor and all parties shall be entitled, in connection with any such litigation, to be represented by counsel at their own expense. Additionally, if HCC cannot use the any product as a result of infringement or misappropriation, Contractor, at its sole expense will either:

- (i) Obtain a license for HCC to use the infringing item;
 - (ii) Provide a non-infringing work-around or an original replacement of product, free of any alleged misappropriation; or
 - (iii) Refund to HCC all fees paid
- (c) The indemnities contained herein shall survive the termination of the contract for any reason whatsoever.

16.0 Independent Contractor

It is agreed and understood that the Contractor shall be deemed to be an independent contractor in all its operations and activities hereunder; that the employees furnished by the contractor to perform the services required by the contract shall be deemed to be Contractor's employees or independent subcontractors; that Contractor's employees shall be paid by the Contractor; that Contractor and its employees shall be responsible for all obligations and reports covering social security, unemployment insurance, income tax, and other reports and deductions required by State and Federal law. The Contractor shall indemnify, defend, and hold HCC, its trustees, officers, employees, agents, and representatives harmless from any claims relating to the payment of salary, compensation, benefits, worker's compensation, or taxes to Contractor's employees or agents.

17.0 Assignment

The Contractor may not assign or transfer any of its rights, duties or obligations under this Contract, in whole or in part, without the prior written consent of HCC. This Contract shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.

18.0 Notices

All notices by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid addressed as follows:

Houston Community College:
Procurement Operations (11th Floor)
3100 Main Street
Houston, Texas 77002
ATTN: Executive Director, Procurement Operations

Contractor:

ATTN: _____

19.0 Acceptance of Products and Services

All products furnished and all services performed hereunder shall be to the satisfaction of HCC and in accordance with the specifications, terms, and conditions of the contract documents. HCC reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services. Further, HCC may, at Contractor's expense, reject and return non-conforming goods or require re-performance of services which are not in compliance with the requirements of the contract. Defects shall not be deemed waived by HCC's failure to notify Contractor upon receipt of goods or completion of services, or by payment of invoice.

20.0 Invoicing and Payment

The contractor shall submit an original invoice to the address shown below for the goods or services which have been inspected and accepted by HCC:

Houston Community College
Accounts Payable
P.O. Box 667460
Houston, Texas 77266-7460

Invoices shall, at a minimum contain the following:

- HCC's Purchase Order Number
- Contractor's Name and Mailing Address
- A description of goods and services, in sufficient detail to identify the order which relates to the invoice
- Invoices must agree in all respects with the Purchase Order, (i.e., quantity, price, catalog number, etc.)
- Each invoice must have a unique invoice number

Generally, payment will be made within thirty (30) calendar days after receipt of a properly prepared invoice or acceptance of the goods or services, whichever is later. Payment shall be considered made when HCC deposits the contractor's payment in the mail or the date on which an electronic transfer of funds occurs. Notwithstanding anything contained herein, no payment of amounts owed hereunder shall be considered past due or not paid when due except in accordance with Section 2251.021 of the Texas Government Code.

Any and all payments due Contractor hereunder may, at the discretion of HCC, be offset or charged against any outstanding obligations of Contractor to HCC under this Contract or any other purchase order, contract, or agreement.

21.0 Appropriated Funds

The purchase of any service or product under the Contract beyond the initial Contract term is contingent upon the availability of appropriated funds. HCC shall have the right to terminate the contract at the end of the current or each succeeding fiscal year if funds are not appropriated by the HCC Board of Trustees for the next fiscal year that would permit continuation of the Contract. If funds are withdrawn or do not become available, HCC reserves the right to terminate the Contract by giving the Contractor a thirty (30) day written notice of its intention to terminate without penalty or any further obligations on the part of HCC or the Contractor. Upon termination of the Contract, HCC shall not be responsible for any payment of any service or product received that occurs after the end of the current contract period – or the effective date of termination, whichever comes first. HCC's fiscal year begins on September 1 and ends on August 31st.

22.0 Force Majeure

Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("force majeure occurrence"). If a Force Majeure event occurs that will delay Contractor in the performance of its obligations under this Contract, Contractor shall promptly notify HCC in writing of such condition and cause thereof no later than ten (10) days after the event of Force Majeure. Provided, however, in the event of a Force Majeure occurrence, Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that HCC may continue to provide education programs during the occurrence. In the event of such delay or failure to perform, the period specified for performance hereunder may be extended by HCC for a period equal to the time lost by reasons of the delay, or the total Contract may be reduced by HCC by the performance (or portions thereof) omitted during such delay. The provisions of this paragraph shall be effective notwithstanding that such circumstances shall have been operative at the date of this Contract.

23.0 HCC'S Premises Rules

Contractor shall comply with all applicable rules of HCC's premises, including without limitation those relative to environmental quality, safety, security, fire prevention, no smoking, traffic and parking.

24.0 Open Records

Contractor is hereby notified that HCC strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

HCC shall consider all information, documentation, and other materials requested to be submitted, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.). Contractor shall indicate if any information submitted to HCC is confidential, as described in Section 34.0 below, or propriety in nature. Contractor may be advised of a request for public information that implicates their materials and may have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113,

and 552.131, Texas Government Code.

25.0 HCC'S Right to Audit

At any time during the term of this Contract and for a period of four (4) years thereafter HCC or a duly authorized audit representative of HCC, at its expense and at reasonable times, reserves the Right to Audit Contractor's records and books relevant to all services provided under this Contract. In the event such an audit by HCC reveals any errors/overpayments by HCC, Contractor shall refund HCC the full amount of such overpayments within thirty (30) days of such audit findings, or HCC, at its option, reserves the right to deduct such overpayments from any amounts HCC is required to pay Contractor under this Contract or any Purchase Order.

26.0 Non Waiver of Defaults

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

27.0 Severability

In the event that any provision of the Contract, or the application thereof to any person or circumstance, is determined by a competent Court of Law to be invalid, unlawful, or unenforceable to any extent, the remainder of

the Contract, and the application of such provision to persons or circumstances other than those to which it is determined to be unlawful, invalid, or unenforceable to any extent, shall continue to be valid and may be enforced to the fullest extent permitted by law.

28.0 Publicity

Contractor agrees that it shall not publicize this contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of HCC's employees or students or use HCC's name in connection with any sales promotion or publicity event without the prior express written approval of HCC.

29.0 Warranties, Affirmations and Certifications

In addition to all warranties established by law, Contractor hereby represents, warrants and covenants to HCC that:

(a) All goods and services covered by the Contract shall conform to the specifications, drawings, samples or other descriptions set forth herein or otherwise furnished or adopted by HCC, and shall be merchantable, fit for the purpose intended, of best quality and workmanship, and free from all defects and that the Contractor will perform reasonably and in good faith. The Contractor expressly warrants that all the material covered by an order, which is either the product of the Contractor or provided by the Contractor, is in accordance with its specifications and will be fit and sufficient for the purposes intended by HCC.

(b) All goods delivered pursuant to the contract shall conform to standards established for such goods in accordance with any applicable Federal, State or local laws and regulations, unless otherwise indicated herein

(c) It has all necessary intellectual property rights and other use rights necessary to perform its obligations hereunder and that the drawings or specifications produced for HCC, do not infringe on any patent, trademark, service mark, copyright, or other third party intellectual property right

Affirmations and Certifications

By acceptance of this Contract and/or furnishing any of the products or services specified herein, Contractor affirms the following (A false certification shall be deemed a material breach of contract and, at the HCC's option, may result in cancellation of this Contract):

- a. It is in compliance with and will comply with all material laws with respect to its rights, duties, and obligations under this Contract;
- b. It shall comply with all material terms of the contract documents

- c. It has good, marketable, and clear title to the goods, and that the goods are subject to no liens, charges or encumbrances whatsoever
- d. It is a business entity duly organized and authorized to do business in the state of Texas;
- e. It has the power and authority to enter into this Contract and to fully perform its obligations hereunder;
- f. It has obtained, and shall maintain in full force during the term hereof, such international, federal, state and local authorizations as are material and necessary to operate the business it is conducting in connection with its rights and obligations under this Contract;
- g. Its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Work described herein, in a competent and professional manner.
- h. Its Work does not and shall not: (i) violate any applicable law, regulation, judgment, injunction, order, decree or third party right, or (ii) violate the organizational documents of Contractor; or (iii) require any notice or consent or other action by any person under, constitute a default under, or give rise to any right of termination, cancellation or acceleration of any right or obligation of Contractor, or to a loss of any benefit to which Contractor is entitled under, any contract or other instrument binding upon Contractor or any license, franchise, permit or other similar authorization held by Contractor; and
- i. It has no (and it covenants that it shall not enter into directly or indirectly, allow or otherwise permit any) contracts, whether written or oral, granting to licensees and/or any other third party, person or entity any form or type of exclusive or non-exclusive license, rights to use or other rights that would limit or restrict in any way HCC's and/or its affiliates', successors' and assigns' rights to use the Work in accordance with the terms of this Contract.
- j. That it has not given or offered to give, nor does Contractor intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an HCC employee or HCC trustee in connection with this Contract
- k. By entering into this contract, Contractor certifies as follows: "Under Section 231.006, Texas Family Code, that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
- l. By entering into this Contract, Contractor certifies as follows: "Under Section 2155.004, Texas Government Code, the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."
- m. Contractor hereby certifies that neither Contractor nor any firm, corporation, partnership or institution represented by Contractor, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- n. Contractor certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Contractor that is a sole proprietorship, the officers or directors of any Contractor that is a corporation, the partners of any Contractor that is a partnership, the joint venturers of any Contractor that is a joint venture or the members or managers of any Contractor that is a limited liability company, on one hand, and an employee of any component of The Houston Community College System, on the other hand, other than the relationships which have been previously disclosed to HCC in writing and (ii) Contractor has not been an employee of any component institution of The Houston Community College System within the immediate twelve (12) months prior to the Submittal Deadline.
- o. That in accordance with Section 2155.004, Government Code, no compensation has been received for its participation in the preparation of the requirements or specifications for this Contract. In addition, Contractor certifies that an award of a contract to Contractor will not violate Section 2155.006, Government Code, prohibiting HCC from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, Government Code, Contractor certifies that Contractor is not ineligible to receive

the award of or payments under the Contract and acknowledges that the Contract may be terminated and payment withheld if these certifications are inaccurate.

p. That neither Contractor nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from State of Texas or United States ("U.S.") federal government procurement or non-procurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs (<http://www.epls.gov/>) issued by the U.S. General Services Administration. "Principals" means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Contractor will provide immediate written notification to HCC if, at any time prior to award, Contractor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when HCC issues this Contract. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to the other remedies available to HCC, HCC may terminate this Contract for default by Contractor.

30.0 Survival of Representations and Warranties

All representations and warranties contained herein or made by Contractor in connection herewith shall survive termination of this Contract.

31.0 Breach of Contract Claims

a. To the extent that Chapter 2260 of the Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by HCC and Contractor to attempt to resolve any claim for breach of contract made by Contractor:

(1) Contractor's claims for breach of this Contract that the parties cannot resolve pursuant to other provisions of this Contract or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by subchapter B of Chapter 2260, to HCC in accordance with the notice provisions in this Contract. Contractor's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that HCC allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with subchapter B of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under subchapter C of Chapter 2260. The Office of General Counsel, or such other officer of HCC as may be designated from time to time by HCC by written notice thereof to Contractor, shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims.

(2) If the parties are unable to resolve their disputes under subparagraph (1) of this section, the contested case process provided in subchapter C of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Contract by HCC.

(3) Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Contract by HCC nor any other conduct, action or inaction of any representative of HCC relating to this Contract constitutes or is intended to constitute a waiver of HCC's or the state's sovereign immunity to suit and (ii) HCC has not waived its right to seek redress in the courts.

b. The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

32.0 Subcontracting

Any and all subcontractors to be utilized by the Contractor in the completion of work for this contract shall be identified to and approved by HCC. The Contractor shall not change or substitute subcontractors or suppliers from those listed in the Contractor's Response. Such approval shall not be unreasonably withheld.

If the Contractor will cause any part of this Contract to be performed by a Subcontractor, the provisions

of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

33.0 Confidentiality

As used herein, Confidential Information shall mean all information that is disclosed by either Party ("disclosing Party") to the other Party ("receiving Party"), including without limitation, trade secrets; know how; business and product plans; student information; marketing information and other confidential or proprietary business information, including without limitation all such information relating to either Party's governing board, and their respective clients, customers, and employees. Confidential Information shall not include information which: (a) is information already known by or in the possession of the receiving Party and which was acquired in a lawful manner other than subject to any ongoing obligation of confidentiality already in the recipient Party's possession at the time of disclosure thereof; (b) is information which is now or hereafter becomes a part of the public domain through no wrongful act or omission of the receiving Party or those acting in concert with the receiving Party or later becomes part of the public domain through no fault of the recipient Party; (c) is information lawfully received, without ongoing obligation of confidentiality, from a third party who is free to disclose it received from a third party having no obligations of confidentiality to the disclosing Party; (d) is information which the receiving Party can show predates disclosure thereof by the disclosing Party or had been independently developed entirely without reference to confidential information received from the disclosing Party and was independently developed by the recipient Party; or (e) is disclosed pursuant to any judicial or governmental order, required by law or regulation to be disclosed, including, but not limited to, the PIA, provided that, to the extent permitted by law, the receiving Party gives the disclosing Party sufficient prior notice to contest such order.

Each Party will use reasonable efforts to prevent the disclosure of any of the other Party's Confidential Information to third parties, but in no event shall those efforts be less than those employed by that Party to protect its own confidential information of like kind. Except as may be required by law, the recipient Party's obligation shall be for a period of three (3) years from receipt of the Confidential Information.

Termination of this Contract shall not eliminate the Contractor's obligation to continue to maintain confidentiality under this section.

34.0 Proprietary Rights

The Contractor hereby acknowledges and agrees that HCC retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by HCC to the Contractor hereunder or furnished by the Contractor to HCC and/or created by the Contractor for delivery to HCC ("Developed Works"), even if unfinished or in process, as a result of the work the Contractor performs in connection with this Contract, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Work under this Contract. The Contractor shall not, without the prior written consent of HCC, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Work under this Contract shall not be construed as publication in derogation of HCC's copyrights or other proprietary rights. Except as otherwise stated herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in this Contract.

Accordingly, the Contractor, its employees, agents, subcontractors, or its suppliers shall not have any proprietary interest in such Developed Works.

35.0 Drafting Party

This Contract shall not be construed against the party preparing it. It shall be construed as if all parties hereto jointly prepared the contract.

36.0 Rights, Remedies and Obligations

The rights, remedies and obligations contained in this Contract shall pertain solely to the parties executing the Contract. This Contract shall not be construed or deemed to create any rights or remedies for any third parties or any other person who is not a party thereto.

37.0 Section Headings

The section headings hereof are for the convenience of the parties only and shall not be given any legal effect or otherwise affect the interpretation of this Contract.

38.0 Business Application and Forms

The Contractor shall be a registered vendor with HCC – Procurement Operations Department, for the duration of this Contract. It is the responsibility of the Contractor to file the appropriate Vendor Application and to update the Application file for any changes for the duration of this Contract, including any option years.

39.0 Delivery and Shipping

All packages and packing lists must reference HCC's Purchase Order Number. Failure to do so may result in the shipment being rejected and/or delay in payment. Time is of the essence and if delivery of conforming goods or performance of services is not completed by the time(s) promised, HCC reserves the right, in addition to its other rights and remedies, to cancel this Contract or any Purchase Order or work authorization issued thereunder, to reject non-conforming goods or services in whole or in part on reasonable notice to Contractor, and/or purchase substitute goods or services elsewhere and charge Contractor with any loss incurred. If delay in promised delivery is foreseen, Contractor shall give written notice to HCC, and the delivery date may be extended by HCC for valid reasons. No substitutions or cancellations will be permitted without the prior written approval of HCC Procurement Operations Department. Delivery shall be made only on weekdays from 8:00 a.m. to 5:00 p.m., unless prior approval for other delivery times has been obtained. Any provisions herein for delivery of goods or performance of services by installments shall not be construed as making the obligation of Contractor severable. All freight, transportation and handling charges must be prepaid by Contractor. Third party freight bills will not be accepted. C.O.D. shipments will not be accepted.

40.0 Title Risk and Loss

The title and risk of loss of the goods shall not pass to HCC until HCC actually receives and takes possession of the goods at the point or points of delivery.

41.0 Suspension

HCC may at any time and for any reason direct Contractor to suspend its performance under the Contract, in whole or in part, by giving written notice to Contractor specifying the portion of the work to be suspended. If HCC suspends Contractor's performance hereunder, the scheduled dates for Contractor's performance set forth in the Contract shall be adjusted to reflect the impact of any delays resulting from the suspension. Adjustments to the scheduled dates for performance shall constitute the Contractor's sole and exclusive remedy for any suspension directed by HCC.

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ATTACHMENT NO. 2

SCOPE OF SERVICES

HCC Project No.: 12-45

1. Introduction and Background

Houston Community College (HCC) is a leading educational institution providing quality learning services across Houston and the surrounding areas. Key objectives of this RFP are to maximize the opportunity for a Load Management Services solution and take advantage of monetary incentives that are available for which HCC may be eligible for. The selected vendor will also maintain a close working relationship with HCC's Energy Consultant in order to maximize the value received for our energy expenditures.

HCC is seeking a firm that is best suited to provide Load Management Services as described in this RFP while building a strong relationship with HCC over the contract term. HCC is looking for a firm who will proactively work with the System in deploying and managing a Load Management solution that will enable HCC to conserve and curtail its energy consumption while resulting in cost savings and rebate earning program as managed thru the Electric Reliability Council of Texas (ERCOT).

The Proposing Firm acknowledges and understands that this document provides a general description of the work to be performed and is not intended to be all inclusive. In performing the work the Proposing Firm represents that it is familiar with the locations and general conditions that it will be required to operate under and agrees to perform all necessary and required work to deliver Load Management Services required by HCC consistent with industry best practices and in accordance with all licensing, regulations, and professional standards.

2. Load Management Services

HCC seeks to team with a firm that can provide the necessary equipment, installation, programming, application, maintenance and support to participate in appropriate load curtailment programs, including Emergency Response Service ("ERS"), Load Response ("LR") and other programs that are offered from time to time by the Electric Reliability Council of Texas (ERCOT).

Also as appropriate, HCC wishes to participate in demand cost reduction programs, such as 4CP, and in programs that return at least a portion of high real-time or day-ahead prices to HCC ("Price Response Programs"). The goals of HCC teaming with an expert in this field are to leverage our opportunity towards contributing to the State of Texas power curtailment programs while maximizing program benefits in utility savings and revenue opportunities.

The anticipated date for execution of a contract for Load Management Services will be in October 2012, and the Start Date for service shall be as defined in Agreement Term below.

3. Special Conditions

HCC desires the right to add or delete one or more Delivery Point(s) during the Term of this Agreement, provided that any deleted Delivery Point(s) will still apply to any previously committed load management program(s) until such program(s) term's completion. Please explain how costs will be calculated in the event that the addition or deletion of any delivery point would cause HCC to exceed the limitations provided herein.

If requested by HCC, Seller or its Guarantor shall make available within a reasonable period of time copies of its entire SEC Form 10-K and/or Form 10-Q reports or, if such reports are unavailable, copies of Seller most recent audited financial statements. Such reports shall be prepared in accordance with GAAP; provided, however, that should any such reports not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an event of default so long as Seller or its Guarantor diligently pursues the preparation, certification and delivery of the specified reports. If HCC has reasonable grounds to believe that Seller's creditworthiness or performance under this Agreement has become unsatisfactory, then HCC shall provide Seller with written notice requesting Performance Assurance in an amount determined by HCC in a commercially reasonable manner. Upon receipt of such notice, Seller shall have three (3) business days to remedy the situation by providing such Performance Assurance to HCC. In the event that Seller fails to provide such Performance Assurance within three (3) Business Days of receipt of such notice, then an event of default shall be deemed to have occurred and HCC shall be entitled to any remedies set forth in this Agreement.

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Table A

Houston Community College Facilities as of January, 2012

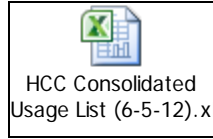
Central College	Address	Sq. Ft.
1 J Don Boney Bldg	1215 Holman St A, 77004	35,000
2 Business Center (BSCC)	1215 Holman St B, 77004	36,680
3 Curriculum Intervention Center	1215 Holman St C, 77004	2,000
4 Fine Arts Center	3517 Austin St, 77004	75,000
5 Fine Arts Parking Structure	3517 Austin St, 77004	-
6 Heinen Theater	3517 Austin St, 77004	18,000
7 J. B. Whitely Bldg.	1301 Alabama St, 77004	102,000
8 J. B. Whitely Bldg.	Lot 9	
9 J. B. Whitely Bldg.	Lot 8	
10 Fine Arts Center	Lot 3,4 & 5	
11 Fine Arts Center	Lot 7	
12 San Jacinto Memorial	1300 Holman St, 77004	172,000
13 Learning HUB and Science Building	1301 Holman St, 77004	120,000
14 Staff Instructional Services	3821 Caroline St, 77004	21,800
15 Annex (Trailer)	3902 Caroline St, 77004	1,000
16 Theater One	3816 Caroline St, 77004	21,900
17 Crawford Annex	1121 Crawford St, 77004	1,200
18 Willie Gale Hall	1990 W. Airport Blvd, 77004	39,000
19 Central Cooling Water Plant	1318 Alabama St, 77004	5,600
20 Educational Development Center	3214 Austin St, 77004	40,845
21 Bank (46,875 sq. ft.)	3501 Fannin (Parking Lot)	-
22 Parking Lot	3505 Fannin (Parking Lot)	
23 Plan Parenthood	3601 Fannin	25,000
24 Parking Lot (12,500 sq.ft.)	3610 Fannin (Parking Lot)	
Total		717,025
Northeast College	Address	Sq. Ft.
25 Automotive Tech. Training Ctr. A	4638 Airline Dr, 77022	53,658
26 Automotive Tech. Training Ctr. B	4638 Airline Dr, 77022	18,401
27 Codwell Hall	555 Community College Dr, 77013	76,000
28 Northline Academic Center	8001 Fulton	115,225
29 Old Store	8101 Fulton	
30 Learning HUB	555 Community College Dr, 77013	90,000
31 Science Engineering & Technology	555 Community College Dr, 77013	50,400
32 Pinemont Center	1265 Pinemont Dr, 77018	51,368
33 Central Chiller Plant	555 Community College Dr, 77013	10,000
34 Public Safety Shooting Range	555 Community College Dr, 77013	21,122
35 Public Safety Training Tower	555 Community College Dr, 77013	6,950
36 Public Safety Burn Building	555 Community College Dr, 77013	3,898
37 Roland Smith Truck Driving Ctr.	555 Community College Dr, 77013	13,000
Total		510,022
Northwest College	Address	Sq. Ft.
38 Spring Branch	1010 West Sam Houston Pkwy, 77043	86,869
39 Science Building	1080 West Sam Houston Pkwy, 77043	19,417
40 Performing Arts Ctr.	1060 West Sam Houston Pkwy, 77043	26,570
41 Katy Campus	1550 Fox Lake Dr, 77084,	108,503
42 Katy Mills	25403 Kingsland Blvd., 77494	11,003
Total		252,362

Southeast College	Address	Sq. Ft.
43 Angela Morales Bldg.	6816 Rustic St, 77087	65,000
44 Central Plant	6815 Rustic St, 77087	1,000
45 Felix Morales Bldg.	6815 Rustic St, 77087	54,345
46 Assett Plus	7015 Gulf Fwy., 77087	8,246
47 Learning HUB	6815 Rustic St, 77087	90,000
48 Technology Building	Workforce Building	64,422
49 Felix Fraga Building (Drennan)	301 N. Drennan Street	35,000
- Old House	3802 Bering	3,076
Total		321,089
Southwest College	Address	Sq. Ft.
50 Alief	13803 Bissonet St, 77072	43,000
51 Applied Technology Ctr. (1 bldgs.)	4014 Bluebonnet Dr, 77477	9,044
52 Greenbriar Annex	13645 Murphy Rd, 77477	17,100
53 Gulfton Center	5407 Gulfton Dr, 77081	35,500
54 Hayes Road	2811 Hayes Rd, 77082	385,000
55 Hayes Building B (Parking Gar. 257,001 sq.ft.)	2811 Hayes Rd, 77082	26,048
56 Missouri City Campus	5855 Sienna Spring Way, 77459	45,000
57 Scarcella Science & Technology Ctr.	10141 Cash Rd, 77477	75,000
58 Stafford Learning HUB	10041 Cash Rd, 77477	121,700
59 West Loop Center	5601 West Loop South, 77081	269,451
Total		1,026,843
Coleman College	Address	Sq. Ft.
60 Coleman Health Science Center	1900 Galen Dr, 77030	140,000
61 McGovern Building	2450 Holcombe Blvd Suite #3 77021-2040	10,000
Total		150,000
System	Address	Sq. Ft.
62 System Building	3100 Main St, 77002	531,000
63 Parking Structure (488,660 sq ft)	3220 Main (Included leased & HCC spaces)	27,450
64 Warehouse	9425 Fannin Building B & D	124,245
65 Warehouse	9424 Fannin Building(4.295 Acres Parcel A)	
66 Warehouse	1102 Delano	40,000
67 Rosalie Parking (50,000 sq.ft)	901 & NW/Corner of Rosalie	
Total		722,695

Central College	16	717,025
Northeast College	12	510,022
Northwest College	5	252,362
Southeast College	8	321,089
Southwest College	10	1,026,843
Coleman College	2	150,000
System	4	722,695
Total Buildings	57	3,700,036
Indicates rented Space	Total Rented Area	95,758
Indicates spaces to be demolished/rennovated	Total Owned Area	3,604,278
	Total	3,076

Table B
HCC Electrical Usage History

The following information is being provided as an indication of historical usage for purposes of illustrating potential opportunity in any future Load Management Services agreement that may result from this solicitation. HCC make no guarantees on the actual usage that it may have during any future period of performance.



ATTACHMENT NO. 3

HOUSTON COMMUNITY COLLEGE
REQUEST FOR PROPOSALS
PROPOSAL/CONTRACT AWARD FORM

PROJECT TITLE: Load Management Services
PROJECT NO.: 12-45

Name of Proposer/Contractor: _____

Federal Employer Identification Number _____
(Note: please refer to RFP- Summary, Section 10: Vendor Registration)

Address: _____

Telephone: _____

Fax: _____

E-mail: _____

In compliance with the requirements of this Request for Proposals for providing Load Management Services the undersigned hereby proposes to furnish all necessary resources required to perform the services in accordance with our Technical Proposal and Price Proposal dated _____ and as mutually agreed upon by subsequent negotiations, if any.

The undersigned certifies that he/she has read, understands and agrees to be bound by the requirements and terms and conditions set forth in this Solicitation and any and all amendments issued and made a part hereof. The undersigned further certifies that he/she is legally authorized to make the statements and representations in the Solicitation and that said statements and representations are true and accurate to the best of his/her knowledge. The undersigned understands and agrees that when evaluating proposals and making an award decision, HCC relies on the truth and accuracy of the statements and representations presented in the proposal response. Accordingly, HCC has the right to suspend or debar the undersigned from its procurement process and/or terminate any contract award that may have resulted from this solicitation if HCC determines that any statements or representations made were not true and accurate.

Signed By: _____ Name: _____
(Type or Print)

Title: _____
(Type or Print)

State of _____

Sworn to and subscribed before me at _____, _____,
(City) (State)

this the _____ day of _____, 2012.

Notary Public for the State of: _____

ACCEPTANCE AND CONTRACT AWARD FORM

(Note: This page will be completed by HCC.)

Purchase Order No. _____ (for payment purposes only)

Project No. 12-45

Effective Date: _____

Contractor to perform the work required herein in accordance with Purchase Order(s) issued by HCC and the Terms and Conditions incorporated herein by reference, and the prices, scope of services and general terms and conditions attached hereto and made a part hereof.

HOUSTON COMMUNITY COLLEGE

Executed for and on behalf of the Houston Community College pursuant to approval by the Board of Trustees on _____, 2012.

Signed By: _____

Title: _____

ATTACHMENT NO. 4

Proposer Questionnaire

HCC Project No. : 12-45

1.0 Company Profile:

1.1 Provide details as to the following:

- Firm or Entity Name
- Years in Business
- Form of Business under which Proposer operates (i.e., corporation, partnership, sole proprietor)
- Key Contacts: List the names(s), telephone number, email addresses of the representative(s) who are to be contacted regarding your proposal
- Ownership: List the names of all officers and persons of organizations have a ten percent (10%) or greater ownership interest in the company. Indicate which persons are in day-to-day management of the company. Also, indicate if the business is a subsidiary of another entity or conglomerate.
- Sales Volume: Provide net sales data for the past three (3) years
- Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- Provide any details of all past or pending litigation or claims filed against your company that would affect your company's performance under an Agreement with HCC.
- Identification of any and all information on disciplinary or enforcement actions in all states in which Contractor operates
- Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If yes, specify date(s), details, circumstances, and prospects for resolution.

2.0 Firm's Financial Status: Provide evidence of the firm's financial stability; the firm's audited financial statement for the last two (2) years is preferred. If unavailable please indicate the reason why and provide any one or more of the following: a statement from at least one financial institution with validation of at least six (6) months working capital; recent annual reports or equivalent information and your short and long-term credit rating; a letter from the company's CPA attesting to the company's financial stability.

3.0 Technical Proposal: Your Technical Proposal should clearly define (i) your Company's total capabilities (including a narrative describing your company's specific knowledge, experience and expertise in load management services) (ii) your qualifications to perform the work (expand on this both for ability to provide transparency into block locking, for converting to load-following product, and for how extensive your load management operation is)., (iii) your ability to perform the services outlined in Attachment No. 2, (iv) your understanding of HCC, and (v) what differentiates you from your competitors. At a minimum, your Technical Proposal shall include the following:

3.1 Cover letter: The cover letter shall not to exceed 2 pages in length, summarizing key points in the proposal.

3.2 Qualifications and Experience of Firm:

- (a) Provide a description of the firm, including firm's history, size and staff composition.
- (b) Provide statement of the firm's expertise and experience that clearly demonstrates

your ability to provide Load Management Services to HCC.

- (c) Provide list of at least three (3) large commercial, industrial, government or educational customer references for which you have provided Load Management Services of the type and kind required by this RFP. Your customer reference list shall include the company name; contact person including telephone #; scope of services, annual sales volume (\$), and the period of time for which work was performed.
- (d) Provide a reference list of all customers for whom you have performed work during the past three (3) years. The List to include company name, contact person, telephone #, and email address (if known).
- (e) Include a description of the transaction process for executing load management services such that entity is capable of receiving credit and revenue for power curtailments or similar program as provided under the services contract. Proposers must also provide demonstrated evidence of performance history with these services over the past three years, and at least three customer references of equivalent size and complexity to HCC, and who have used these services and related products.

3.3 Qualifications and Experience of Firm's Personnel:

- (f) Provide a project-staffing plan including resumes for all proposed "key" staff members who will be assigned to this account and defining their role in supporting the HCC account;
- (g) Provide your criteria for hiring including screening, criminal background checks, or any other means of verification of employee information, or explain other means for ensuring the integrity and suitability of the Proposer's employees.
- (h) Describe your training and development program for your personnel as it relates to industry trends and programs; customer service; policies and procedures; quality control; and general business operations.

3.4 Customer Care Approach and Performance:

This section shall include an explanation of the firm's approach and demonstrable performance in the area of customer care, business process, and commitment to the customer.

- (i) Provide details of the level of customer care that will be provided and the assessment methods that will be used to measure your actual performance against nominated performance objectives.
- (j) Provide details of your account management program and information on the resources supporting your key customer contact personnel.
- (k) Provide details on communication mediums that will be made available for HCC to communicate with your company, i.e., call center, rebate/billing personnel, outages and emergencies, account managers, senior management.
- (l) Provide details of any communication initiatives that will assist HCC to be kept informed about relevant energy issues and provide information about cost saving opportunities.
- (m) Provide details of the level of authority that your customer contact personnel have to resolve customer issues.

- (n) Provide details about your complaint management process and associated performance targets; e.g., time to respond to a complaint; and how problems are tracked, escalated (if required) both internally and with the customer.
- (o) How will your company make rebate statements and related data available online or electronically? Provide sample reports of this information and any incremental fees associated with this service.
- (p) Describe the process and frequency for disbursement of payments due under any qualifying event in which HCC would be entitled to payment under the Load Management Program services.

3.5 Implementation Plan:

- (q) Provide a detailed Start-up Implementation Schedule identifying key tasks and milestone (e.g., installation of devices; registering for participation in ERCOT programs, etc.) commencing date of contract award through the first twelve (12) months of the contract term. Your response should clearly define both your and HCC's responsibilities and resources required during the implementation phase, and the key outcomes and benefits to be attained at each milestone.
- (r) Provide details of all equipment and/or devices you propose to install at HCC facilities to enable participation in the Programs. Your response shall identify the equipment/device type and initial cost and any ongoing cost to support and maintain.

3.6 Capabilities and Capacity:

- (s) Proposer shall clearly define its in-house capability and capacity to perform the work identified in Attachment No. 2. Your response must describe the various technologies, tools, methods, and technical expertise that you will provide to HCC and/or that will be used in the delivery of the services and how that will be of benefit in the delivery of services to HCC.
- (t) Load Management Service: Proposers are instructed to describe their offering with respects to such Demand Response program offering in detailed format including but not limited to the following:
 - (i) Description of proposed solution to monitor and to enable HCC's participating facilities to shed load automatically (hardware, installation, programming, ongoing maintenance and support);
 - (ii) Description of control process for power curtailing, including your philosophy on remote curtailment and the description of HCC's direct ability to agree to or release a given facility from curtailing power;
 - (iii) Description of the minimum requirements necessary for HCC's participation in ERCOT program;
 - (iv) Description of other load management products and services that you may feel beneficial to HCC and that may differentiate you from other curtailment service providers.

3.7 Student Intern Participation: This section shall include a clear statement of the firm's commitment and plan to utilize HCC student in an internship capacity.

3.8 Small Business Participation: This section shall include a clear statement of the firm's commitment and plan to meet the small business goal specified in this solicitation, if any.

3.9 Please describe your interest relating to a potential training program or opportunity for synergy with HCC's Energy Institute and/or related Energy programs that are currently in place. Indicate any prior experience or relationships you have with such relationships or training programs at educational institutions.

3.10 Miscellaneous:

(u) Please identify any challenges and/or difficulties you anticipate in providing services to HCC and how you plan to manage them; what assistance will you require from HCC.

(v) Please describe any special benefits or advantages in selecting your company

3.11 Cross Program Benefits:

(w) Please describe in sufficient detail any synergy that your proposal may have with a response from your company under a separate response to RFP 12-24 Electrical Power Services. Describe the benefits to HCC in considering an award to your firm under both RFP 12-45 Load Management Services and RFP 12-24 Electrical Power Services. Describe the qualifications of your firm in providing a combined solution to other clients

4.0 Price Proposal:

4.1 Base Bid: Proposer shall complete and submit all pricing items required in this RFP, an image of which appears as Attachment No. 12 Sample Pricing Template to this RFP document.

4.2 Proposer shall identify any exceptions or clarifications to the items identified in Attachment No. 12 Sample Pricing Template.

4.3 In preparing your response to the four (4) core cost reduction/cost saving items listed in Attachment No. 12 Sample Pricing Template, your response shall be predicated on "No out of pocket cost to HCC". Your Price Proposal shall be all inclusive for any and all cost in your firm providing the services including, but not limited to, all equipment, devices, and professional services.

Please ensure to respond to the following as described in Attachment No. 12 Sample Pricing Template:

- a. Share of proceeds from ERCOT for each load participating in 30 minute ERS, with list of candidate loads by ESI ID and service address. Pricing may apply to any program period and term throughout the year, or may be tied to specific periods and terms.
- b. Share of proceeds from ERCOT for each load participating in 10 minute ERS, with list of candidate loads by ESI ID and service address. Share of proceeds from ERCOT for each load participating in 10 minute ERS, with list of candidate loads by ESI ID and service address.
- c. Share of proceeds from ERCOT for each load participating in LR, with list of candidate loads by ESI ID and service address.
- d. Share of proceeds from CenterPoint for each load participating in CenterPoint's Energy Share Load Management Program, with list of candidate loads by ESI ID and service address.
- e. Costs to enable load management program on a per-site and on an aggregate basis.
- f. Costs to maintain site participation on a monthly or less frequent basis, on a per-

site and on an aggregate basis.

4.4 When preparing your response to Attachment No. 12, quote on the noted contract term scenarios (1 year, 2, year, 3 year, etc.) as noted on the form.

4.5 Proposer may submit, for HCC's consideration, any other products and services it offers.

Balance of page intentionally left blank.

ATTACHMENT NO. 5

DETERMINATION OF GOOD FAITH EFFORT

HCC Project No.: 12-45

Proposer _____

Address _____

Phone _____

Fax Number _____

In making a determination that a good faith effort has been made, HCC requires the Proposer to complete this form as directed below:

Section 1.

After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the Proposer must determine what portion(s) of work, including goods or services, will be subcontracted. Check the appropriate box that identifies your subcontracting intentions:

_____ Yes, I will be subcontracting portion(s) of the contract.
(If Yes, please complete Section 2, below and Attachments No. 6 and No. 7)

_____ No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources.
(If No, complete Section 3, below.)

Section 2.

In making a determination that a good faith effort has been made, HCC requires the Proposer to complete this form Section and submit supporting documentation explaining in what ways the Proposer has made a good faith effort to attain the goal. The Proposer will respond by answering "yes" or "no" to the following and provide supporting documentation.

_____ (1) Whether the Proposer provided written notices and/or advertising to at least five (5) certified small businesses or advertised in general circulation, trade association and/or small businesses focus media concerning subcontracting opportunities.

_____ (2) Whether the Proposer divided the work into the reasonable portions in accordance with standard industry practices.

_____ (3) Whether the Proposer documented reasons for rejection or met with the rejected small business to discuss the rejection.

_____ (4) Whether the Proposer negotiated in good faith with small businesses, not rejecting qualified subcontractors who were also the lowest responsive bidder.

NOTE: If the Proposer is subcontracting a portion of the work and is unable to meet the solicitation goal or if any of the above items (1-4) are answered "no", the Proposer must submit a letter of justification.

Section 3.

SELF PERFORMANCE JUSTIFICATION

If you responded "No" in SECTION 1, please explain how your company will perform the entire contract with its own equipment, supplies, materials, and/or employees.

Signature of Proposer

Title

Date

**ATTACHMENT NO. 6
SMALL BUSINESS UNAVAILABILITY CERTIFICATE**

No.: 12-45

I, _____, _____, of
 (Name) (Title)

 (Name of proposer's company)

certify that on the date(s) shown, the small businesses listed herein were contacted to solicit Proposals for Materials or Services to be used on Project # 08-45.

DATE CONTACTED	SMALL BUSINESS Name	TELEPHONE NO.	CONTACT PERSON	MATERIALS OR SERVICES	RESULTS
1.					
2.					
3.					
4.					
5.					
6.					

To the best of my knowledge and belief, said small business was unavailable for this solicitation, unable to prepare a proposal or prepared a proposal that was rejected for the reason(s) stated in the RESULTS column above.

The above statement is a true and accurate account of why I am unable to commit to awarding subcontract(s) or supply order(s) to the small business listed above.

NOTE: This form to be submitted with all Proposal documents for waiver of small business participation. (See Instructions to Proposers)

Signature: _____

ATTACHMENT NO. 7 CONTRACTOR AND SUBCONTRACTOR PARTICIPATION FORM

Proposer/offeror presents the following participants in this solicitation and any resulting Contract. All proposers / offerors, including small businesses submitting proposals as prime contractors, are required to demonstrate good faith efforts to include eligible small businesses in their proposal submissions.

CONTRACTOR	Specify in Detail Type of Work to be Performed	Indicate below, the following: Small Business (SB) and Certification Status, if any (i.e. SB – COH, METRO, etc.)	Percentage of Contract Effort	Price
Business Name:				
Business Address:				
Telephone No. :				
Contact Person Name/E-mail:				
SMALL BUSINESS SUBCONTRACTOR(S) (Attach separate sheet if more space is needed.)				
Business Name:				
Business Address:				
Telephone No. :				
Contact Person:				
NON-SMALL BUSINESS SUBCONTRACTOR(S) (Attach separate sheet if more space is needed.)				
Business Name:				
Business Address:				
Telephone No. :				
Contact Person:				
NON-SMALL BUSINESS SUBCONTRACTOR(S) (Attach separate sheet if more space is needed.)				
Business Name:				
Business Address:				
Telephone No. :				
Contact Person:				
NON-SMALL BUSINESS SUBCONTRACTOR(S) (Attach separate sheet if more space is needed.)				

Business Name: _____ Submitted By (Name): _____

Address: _____

Telephone/Fax: _____ Date: _____

Contractor 's Price/Total: \$ _____
 Small Business
 Subcontractor (s) Price/Total: \$ _____
 Non-Small Business
 Subcontractors Price/Total: \$ _____
 Grand Total: \$ _____

Page intentionally left blank.

**ATTACHMENT NO. 8
SMALL BUSINESS DEVELOPMENT QUESTIONNAIRE**

HCC Project No.: 12-45

Note: Proposers are to complete this form along with a **copy** of the Contractor and Subcontractor/Supplier Participation Form and return it in a separate envelope marked: "*Small Business Development Questionnaire*"

FIRM NAME: _____

FIRM ADDRESS: _____

TELEPHONE: _____

FAX NUMBER: _____

EMAIL ADDRESS: _____

CONTACT PERSON'S NAME AND PHONE NO. _____

SIGNATURE OF FIRM'S AUTHORIZED OFFICIAL: _____

NAME AND TITLE (Type or Print): _____

COMPANY MAJORITY OWNERSHIP (Check one in each column)

<u>ETHNICITY</u>	<u>GENDER</u>	<u>LOCATION</u>
___ African American (AA)	___ Male	___ Houston (H)
___ Asian Pacific American (APA)	___ Female	___ Texas (T)
___ Caucasian (C)		___ Out of State (O)
___ Hispanic American (HA)		Specify State ___
___ Native American (NA)		___ Public Owned (PO)
___ Other (O) Specify _____		

BUSINESS CLASSIFICATION

___ DBE Disadvantaged Business Enterprise	___ SB Small Business
___ WBE Women Owned Business Enterprise	___ MBE Minority Business Enterprise
___ HUB Historically Underutilized Business	___ Other: _____

Please provide information regarding certifying agency (if any)

Name of Agency	Certificate Number	Expiration Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

ATTACHMENT NO. 9
PROPOSERS CERTIFICATIONS

HCC Project No.: 12-45

1. NON-DISCRIMINATION STATEMENT:

The undersigned certifies that he/she will not discriminate against any employee or applicant for employment or in the selection of subcontractors because of race, color, age, religion, gender, national origin or disability. The undersigned shall also take action to ensure that applicants are employed, and treated during employment, without regard to their race, color, religion, gender, age, national origin or disability. Such action shall include, but shall not be limited to, the following: non-discriminatory employment practices: employment, upgrading or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other compensation and selection for training, including apprenticeship.

2. ASSURANCE OF SBDP GOAL:

The undersigned certifies that he/she has read, understands and agrees to be bound by the small business provisions set forth in this Solicitation. The undersigned further certifies that he/she is legally authorized to make the statements and representations in the Solicitation and that said statements and representations are true and accurate to the best of his/her knowledge. The undersigned will enter into formal agreement(s) for work identified on the CONTRACTOR AND SUBCONTRACTOR PARTICIPATION form conditioned upon execution of a contract with HCC. The undersigned agrees to attain the small business utilization percentages of the total offer amount as set forth below:

Small Business Participation Goal = _____

The undersigned certifies that the firm shown below has not discriminated against any small business or other potential subcontractor because of race, color, religion, gender, age, veteran's status, disability or national origin, but has provided full and equal opportunity to all potential subcontractors irrespective of race, color, religion, gender, age, disability, national origin or veteran status.

The undersigned understands that if any of the statements and representations are made knowing them to be false or there is a failure to implement any of the stated commitments set forth herein without prior approval of HCC's Chancellor or the duly authorized representative, the Proposer may be subject to the loss of the contract or the termination thereof

3. BLACKOUT PERIOD COMPLIANCE:

The undersigned certifies that he/she has read, understands and agrees to be bound by the Prohibited Communications provision set forth in the RFP. The undersigned further understands that the Proposer shall not communicate with a HCC Trustee, employee, or any member of the selection/evaluation committee in any way concerning this Solicitation from the day it is first advertised through the day the contract documents are signed by all parties.

This period is known as the "Blackout Period," as further defined in Section 1.7.10 and 3.3 of the Procurement Operations Manual. Violation of the Blackout Period is considered unethical conduct and will be handled as such with regard to a Trustee and all applicable federal and state laws and regulations, local ordinances, board policies and procurement procedures with respect to their conduct as public officials involved in the procurement process.

With regard to a Proposer, violation of the Blackout Period may result in the cancellation of the referenced transaction, disbarment, disqualification from future procurement solicitations and prosecution in accordance with the Laws of the State of Texas.

4. CERTIFICATION AND DISCLOSURE STATEMENT:

A person or business entity entering into a contract with HCC is required by Texas Law to disclose, in advance of the contract award, if the person or an owner or operator of the business entity has been convicted of a felony. The disclosure should include a general description of the conduct resulting in the conviction of a felony as provided in section 44.034 of the Texas Education Code. The requested information is being collected in accordance with applicable law. This requirement does not apply to a publicly held corporation.

If an individual:

Have you been convicted of a felony? YES or NO

If a business entity:

YES or NO

Has any owner of your business entity been convicted of a felony? _____

Has any operator of your business entity been convicted of a felony? _____

If you answered yes to any of the above questions, please provide a general description of the conduct resulting in the conviction of the felony, including the Case Number, the applicable dates, the State and County where the conviction occurred, and the sentence.

I attest that I have answered the questions truthfully and to the best of my knowledge.

Signed: _____

Name of Company: _____

Address of Company: _____

State of _____

Sworn to and subscribed before me at _____ (City) _____ (State),

this the _____ day of _____, 2012.

Notary Public for the State of: _____

ATTACHMENT NO. 10

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor or other person doing business with local governmental entity		
<p>This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.</p> <p>A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.</p>	OFFICE USE ONLY	
<p>1 Name of person who has a business relationship with local governmental entity.</p> 	<p>Date Received</p> 	
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)</p>		
<p>3 Name of local government officer with whom filer has employment or business relationship.</p> <p align="center">_____</p> <p align="center">Name of Officer</p> <p>This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?</p> <p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?</p> <p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?</p> <p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>D. Describe each employment or business relationship with the local government officer named in this section.</p> 		
<p>4</p> <p align="center">_____</p> <p align="center">Signature of person doing business with the governmental entity</p> <p align="center">_____</p> <p align="center">Date</p>		

Adopted 06/29/2007

Note: When completing this Questionnaire, please be certain to answer each and every question; indicate "Not Applicable", if appropriate

**ATTACHMENT NO. 11
FINANCIAL INTERESTS AND POTENTIAL CONFLICTS OF INTERESTS**

HCC Project No.: 12-45

Texas Local Government Code Chapter 176 requires that vendors desiring to enter into certain contracts with a local governmental entity must disclose the financial and potential conflict of interest information as specified below.

Vendor shall disclose the financial interest and potential conflict of interest information identified in Sections 1 through 3 below as a condition of receiving an award or contract. **This form must be completed and received by HCC as part of your proposal response. Completed forms must be NOTARIZED.**

This requirement applies to contracts with a value exceeding \$50,000.

Section 1 - Disclosure of Financial Interest in the Vendor

a. If any officers or employees of HCC ("individuals") have one of the following financial interests in the vendor (or its principal) or its subcontractor(s), please show their name and address and check all that apply and (include additional documents if needed):

Name: _____
 Address: _____

b. For each individual named above, show the type of ownership/distributable income share:

- Ownership interest exceeding 10% (_____)
- Ownership interest exceeding \$15,000 or more of the fair market value of vendor (_____)
- Distributive Income Share from Vendor exceeding 10% of individual's gross income (_____)
- Real property interest with fair market value of at least \$2,500 (_____)
- Person related to or married to individual has ownership or real property interest in Vendor (_____)
- No individuals have any of the above financial interests (If none go to Section 4) (_____)

sole proprietorship stock partnership

other (explain): _____

c. For each individual named above, show the **dollar value or proportionate share** of the ownership interest in the vendor (or its principal) or its subcontractor (s) as follows:

If the proportionate share of the named individual(s) in the ownership of the vendor (or its principal) or subcontractor of vendor is 10% or less, and if the value of the ownership interest of the named individual(s) is \$15,000 or less of the fair market value of vendor, check here (____).

If the proportionate share of ownership exceeds 10%, or the value of the ownership interest exceeds \$15,000 of the fair market value of vendor, show either:

the percent of ownership _____ %, or
the value of ownership interest \$ _____ .

Section 2 - Disclosure of Potential Conflicts of Interest

For each of the individuals having the level of financial interest identified in Section 1 above, and for any other HCC individual not identified in Section 1 above check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes," please describe (use space under applicable section-attach additional pages as necessary).

a. Employment, currently or in the previous 3 years, including but not limited to contractual employment for services for vendor.

Yes _____ No _____

b. Employment of individual's spouse, father, mother, son, or daughter, including but not limited to contractual employment for services for vendor in the previous 2 years.

Yes _____ No _____

Section 3- Disclosure of Gifts

For each of the individuals having the level of financial interest identified in Section 1 above, and for any other HCC individual not identified in Section 1 above check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes," please describe (use space under applicable section-attach additional pages as necessary).

a. Received a gift from vendor (or principal), or subcontractor of vendor, of \$250 or more within the preceding 12 months.

Yes _____ No _____

b. Individual's spouse, father, mother, son, or daughter has received a gift from vendor (or principal), or subcontractor of vendor, of \$250 of more within the preceding 12 months.

Yes _____ No _____

Section 4- Other Contract and Procurement Related Information

Vendor shall disclose the information identified below as a condition of receiving an award or contract.

This requirement is applicable to only those contracts with a value exceeding \$50,000. You must submit this information along with your bid, proposal, or offer.

a. Vendor shall identify whether vendor (or its principal), or its subcontractor(s), has current contracts (including leases) with other government agencies of the State of Texas by checking:

Yes _____ No _____

b. If "yes" is checked, identify each contract by showing agency name and other descriptive information such as purchase order or contract reference number (attach additional pages as necessary).

c. Vendor shall identify whether vendor (or its principal) or its subcontractor(s) has pending contracts (including leases), bids, proposal, or other ongoing procurement relationships with other government agencies of the State of Texas by checking:

Yes _____ No _____

d. If "yes" is checked, identify each such relationship by showing agency name and other descriptive information such as bid or project number (attach additional pages as necessary).

This disclosure is submitted on behalf of:

(Name of Vendor)

Certification. I hereby certify that to the best of my knowledge and belief the information provided by me in this disclosure statement is true and correct. I understand that failure to disclose the information requested may result in my bid, proposal, or offer, being rejected, and/or may result in prosecution for knowingly violating the requirements of **Texas Local Government Code Chapter 176**. I understand that it is my responsibility to comply with the requirements set forth by HCC as it relates to this disclosure. I also understand that I must submit an updated disclosure form within seven (7) days of discovering changes in the significant financial interests of the individuals I identified in Section 1 of this disclosure or if individuals that were not identified, later receive a financial interest in my company or is a subcontractor of my company.

Official authorized to sign on behalf of vendor:

Name (Printed or Typed) _____ Title _____

Signature _____ Date _____

"NOTE: PROPOSER MUST COMPLETE THE ABOVE "FINANCIAL INTERESTS AND POTENTIAL CONFLICTS OF INTERESTS" FORM. FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR OFFER WILL RESULT IN YOUR OFFER BEING CONSIDERED AS "NON-RESPONSIVE" TO THIS SOLICITATION."

For assistance with completing this form, please contact the **Office of Systemwide Compliance** at (713)718-2099

I attest that I have answered the questions truthfully and to the best of my knowledge.

Signed: _____

Name of Company: _____

Address of Company: _____

State of _____

Sworn to and subscribed before me at _____, _____,
(City) (State)

this the _____ day of _____, 2012.

Notary Public for the State of: _____

Attachment No. 12 – Sample Pricing Template



Attachment No. 12 -
HCC Pricing Template

Attachment No. 13
General Terms & Conditions of Contracts
Article – Crosswalk

Proposers are required to complete Attachment No. 13 General Terms & Conditions of Contracts Article – Crosswalk as part of your response in incorporating acceptance of the noted HCC terms and conditions or noting the proposer's specific alternative article number and reason for the proposed rejection.

Please open the file noted below and complete in accordance with the RFP instructions (see Instructions to Proposers, Article 22. Terms and Conditions).



T&C Crosswalk.xlsx