



THE STATE OF TEXAS
COUNTY OF TRAVIS

Contract ID No: 65-100870
Performer's TIN: 742270626
TXDPS Contract No: 405-17-P009823

INTERAGENCY COOPERATION CONTRACT

THIS CONTRACT AND SERVICE LEVEL AGREEMENT are entered into by and between the state agencies shown as "Contracting Parties", pursuant to the authority granted and in compliance with the provisions of "The Interagency Cooperation Act", Texas Government Code, Section 771.001

I. CONTRACTING PARTIES

The Receiving Agency: Texas Department of Public Safety (TXDPS)

The Performing Agency: Texas A&M Engineering and Extension Service (TEEX)

II. STATEMENT OF SERVICES TO BE PERFORMED

TEEX shall provide Hosting, Maintenance, and Technical Support (HMTS); and custom programming during this Contract's period of performance for the Preparingtexas.org website and the components supported within the website such as the Learning Management System (LMS).

III. STATEMENT OF PURPOSE

The purpose of this Contract is to memorialize past performance and to document agreed upon services to occur in the future.

Under the authority of the Governor, preparingtexas.org has been declared an essential function under the auspices of the State Administrative Agency (SAA) and is required to ensure that appropriate homeland security training is available to and completed by leaders and first responders with such responsibilities.

IV. RESPONSIBILITIES

A. TEEX RESPONSIBILITIES

Hosting, Maintenance and Technical Support (HMTS)

TEEX shall continue HMTS of the preparingtexas.org web portal and the Learning Management System for the duration of this Contract.

B. TXDPS RESPONSIBILITIES:

Identify personnel who will serve as the Point of Contact for HMTS matters; and custom programming.

V. BASIS FOR CALCULATING REIMBURSEABLE COSTS

TXDPS shall pay to TEEEX for services provided as described in Attachment B, Budget Summary and Detail.

HTMS shall be invoiced and paid in advance the amount of \$31,500.00 for the performance period of September 1, 2016 through August 31, 2017 and for each subsequent renewal period, if exercised.

Custom programming requests shall be billed at the Standard Request hourly rate of one hundred twenty five and 00/100 dollars (\$125.00), or at the Rush Request hourly rate of one hundred fifty and 00/100 dollars (\$150.00), as described in Attachment C, Service Level Agreement.

VI. CONTRACT AMOUNT

The total amount of this Contract shall not exceed sixty-six thousand, five hundred and 00/100 dollars (\$66,500.00).

VII. PAYMENT FOR SERVICES

- A. TXDPS shall pay for services received pursuant to this Contract from appropriation item(s) or account(s) of TXDPS from which like expenditures would normally be paid, based upon vouchers drawn by TXDPS payable to TEEEX.
- B. Except for payment of services related to HTMS, payment for all services performed by TEEEX shall be billed on monthly invoices.
- C. Payment for services related to the programming required to establish an electronic process or for annual programming maintenance shall be made to TEEEX upon completion of the programming, in accordance with the provisions of Texas Government Code, Title 10, Section 2251.
- D. For payment purposes, TEEEX shall submit to TXDPS an invoice with TEEEX Reoccurring Transaction Index (RTI) number (funds for transfer at the Treasury) or a Purchase Voucher (for deposit in the Treasury). TEEEX shall submit the invoice or voucher to:

Texas Department of Public Safety
Accounts Payable
P.O. Box 4087
Austin, Texas 78773-0130
Or via email at: apinvoices@dps.texas.gov

With copies of the invoice or voucher and supporting documentation to:

Texas Department of Public Safety
Division of Emergency Management
Office of Management and Budget
Attn: Section Administrator
P.O. Box 4087
Austin, TX 78773
Or via email at: TDEM.OMB@dps.texas.gov

- E. Upon receipt of a proper invoice, TXDPS shall pay TEEEX for services received with a voucher, direct deposit, interagency transfer, or other method as agreed upon by both Parties and allowed by the Uniform Statewide Accounting System (USAS). TXDPS shall enter the payment information into USAS or any subsequent state financial system.
- F. Payments received by TEEEX shall be credited to its current appropriation item(s) or account(s) from which the expenditures of that character were originally made.
- G. In the event that TXDPS fails to pay TEEEX within thirty (30) days of receipt of a reconciled and correct invoice, the provisions of Texas Government Code, Title 10, Section 2251.025 will apply to this Contract.

VIII. TERM OF CONTRACT

- A. This Contract shall be effective September 1, 2016 and shall terminate on August 31, 2017, unless terminated sooner in accordance with Section XI.
- B. This Contract term may be extended for three (3) one (1) year renewal options upon written agreement of both Parties.

IX. RELATIONSHIP OF PARTIES

- A. The Parties are associated only for the purposes and to the extent set forth herein, and with respect to the performance of services hereunder, the Parties are and shall be independent contractors and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to their duties hereunder. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for the Parties whatsoever with respect to the indebtedness, liabilities, and obligations of the other party to this Contract or any other party.
- B. Each party to this Contract shall have no liability whatsoever for the actions or omissions of an individual employed by another party, regardless of where the individual's actions or omissions occurred. Each party is solely responsible for the actions and/or omissions of its employees and officers; however, such responsibility is only to the extent required by Texas law. Where injury or property damage result from the joint or concurring negligence of the Parties, liability, if any, shall be shared by each party in accordance with the applicable laws of the State of Texas, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of the Parties hereto and not for the benefit of any person or entity not a party hereto; nor shall any provision hereof be deemed a waiver of any defenses available by law.
- C. This Contract does not create any rights in any person or entity other than the Parties listed herein.
- D. No party has authority for, or on behalf of, the other except as provided in this Contract. No other authority, power, partnership, or rights are granted or implied.

- E. TXDPS reserves the right to require TEEX to replace its personnel whom TXDPS judges to be incompetent, careless, unsuitable, or otherwise objectionable, or whose continued use is deemed contrary to the best interests of TXDPS or the State of Texas. This provision shall not be deemed to give TXDPS the right to require TEEX to terminate any TEEX employee's employment. Rather, this provision is intended to give TXDPS only the right to require that TEEX discontinue using an employee in the performance of this Contract.

X. DEFAULT AND TERMINATION

- A. In the event that either party fails to fulfill its contractual obligations as set forth herein, the other party shall provide written notification that possible breach of Contract has occurred. The Parties shall reach a mutually agreeable solution within twenty (20) calendar days of notification. If an agreeable solution cannot be reached within twenty (20) calendar days of notification, the Parties reserve the right to terminate this Contract upon ten (10) calendar days written notice to the other party.
- B. Either party may terminate this Contract, without cause, upon thirty (30) calendar days' prior written notice to the other party. Upon termination, TEEX shall be entitled to receive from TXDPS payment for all services satisfactorily furnished under this Contract up to and including the date of termination.
- C. This Contract may be terminated before the stated termination date by mutual agreement and consent, in writing of the Parties. Upon termination, TEEX shall be entitled to receive from TXDPS payment for all services satisfactorily furnished under this Contract up to and including the date of termination.
- D. This Contract is contingent upon the continued availability of funding. In the event of non-appropriation, TXDPS may restrict, reduce, or terminate funding under this Contract.
- E. Within twenty (20) calendar days after the effective date of termination, TXDPS shall submit its statement for services rendered prior to the date of termination, and TEEX shall be entitled to receive from TXDPS payment for all services satisfactorily furnished under this Contract up to and including the date of termination.

XI. DISPUTE RESOLUTION

- A. Any dispute arising under this Contract, which is not disposed of by mutual agreement between TXDPS and TEEX shall be resolved as follows:
 - 1. The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by the TXDPS and TEEX to attempt to resolve any claim for breach of Contract made by TEEX.
 - 2. TEEX's claim for breach of this Contract that the Parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Government Code.

3. To initiate the process, TEEEX shall submit written notice, as required by Subchapter B, to the Director of Procurement & Contract Services, 5808 North Lamar Blvd., Bldg A, Austin, TX 78752-4422.
 4. Said notice shall specifically state the provisions of Chapter 2260, Subchapter B are being invoked, and shall also be given to all other representatives of the TXDPS and TEEEX otherwise entitled to notice under the Parties' Contract.
 5. Compliance by TEEEX with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.
 6. The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is TEEEX's sole and exclusive process for seeking a remedy for an alleged breach of Contract by the TXDPS if the Parties are unable to resolve their disputes under subparagraph (A) of this paragraph.
 7. Compliance with the contested case process provided in Subchapter C is a condition precedent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code.
 8. Neither the execution of this Contract by the TXDPS nor any other conduct of any representative of TXDPS related to the Contract shall be considered a waiver of sovereign immunity to suit.
- B. In addition to complying with Chapter 2260 of the Government Code, the TXDPS and TEEEX shall comply with the rule published in the Texas Administrative Code, Title 19, Education, Part I, Texas Higher Education Coordination Board, Chapter 1, Agency Administration, Subchapter B, Dispute Resolution.
- C. At all times during the course of the dispute resolution process, TEEEX shall continue with providing services as directed, in a diligent manner and without delay, shall conform to the TXDPS's directive, decision or order, and shall be governed by all applicable provisions of this Contract.
- D. Records of the services performed shall be kept in sufficient detail to enable payment in accordance with applicable provisions of this Contract, if this should become necessary.
- E. This provision shall not be construed to prohibit TEEEX from seeking any other legal or equitable remedy to which it is entitled.

XII. NOTICES

All contractual matters and correspondence regarding this Contract shall be addressed to:

Performing Party: Texas A&M Engineering Extension Service
Knowledge Engineering
200 Technology Way
College Station, TX 77845-3424
Attn: Jonathan Dikes
Telephone Number: 979-458-6887

Facsimile Number: 979-458-6838
E-mail: jonathan.dikes@teex.tamu.edu

Receiving Party: Texas Department of Public Safety
Texas Division of Emergency Management
PO Box 4087
Austin, Texas 78773
Attn: Ben Patterson, Preparedness Section Administrator
Telephone Number: (512) 424-6190
Facsimile Number: (512) 424-2445
E-mail: Ben.Patterson@dps.texas.gov

With a copy to:
Texas Department of Public Safety
5805 North Lamar Blvd., Bldg A
Austin, Texas 78752-4422
Attn: Nancy Devon, CTCM, CTPM
Telephone Number: (512) 424-2067
Facsimile Number: (512) 424-5419
E-mail: Nancy.Devon@dps.texas.gov

All notices required or permitted under this Contract shall be in writing and shall be deemed received: (1) when delivered in hand and a receipt granted; (2) three (3) days after it is deposited in the United States mail by certified mail, return receipt request; or (3) when received if sent by confirmed facsimile or electronic mail. Either of the Parties may change its address or designated individual(s) to receive notices by giving the other party written notice as provided above, specifying the new address and/or individual and the date upon which it shall become effective.

XIII. MISCELLANEOUS

- A. This section is intentionally left blank.
- B. Choice of Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Texas. Except as otherwise provided by Texas Government Code, Chapter 2260, venue for any litigation shall be Travis County, Texas.
- C. Non-Incorporation. This Contract, together with the provisions incorporated herein by reference, contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations, modifications, or understandings outside the terms of this Contract shall be of no force or effect.
- D. Severability. This Contract is executed in multiple counterparts, each of which shall constitute an original. If any part of this Contract is determined to be void or unenforceable, all other parts remain in force and effect.

- E. Compliance with Laws. The Parties shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations and with the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Contract.
- F. Availability of TXDPS Resources. All of TXDPS obligations and requirements are subject to the availability of TXDPS resources and are subject to the practicability of TXDPS to perform such obligations and requirements. The determination regarding availability of TXDPS resources, the assignment of such resources and the practicability of TXDPS to perform such obligations and requirements is within the sole discretion of TXDPS management.
- G. This section is intentionally left blank.
- H. Survival. Any provisions of this Contract that impose continuing obligations on the Parties shall survive the expiration or termination of this Contract for any reason.
- I. Interpretation Against the Drafter. Regardless of which party drafted this Contract or the language at issue, any ambiguities in this Contract or the language at issue shall not be interpreted against the drafting party.
- J. Force Majeure. Neither party shall be liable to the other party for any delay in performance of, or failure to perform any obligation contained herein caused by force majeure, provided the party seeking to be excused has prudently and promptly acted to take any and all reasonable corrective measures that are within such party's control; and provided, further, that any action or inaction by a subcontractor of a party shall not be considered to be outside the control of such party except the Parties may expressly agree otherwise in this Contract. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been corrected. Force majeure is defined as those causes beyond the control of the party required to perform that are generally recognized under Texas law as a force majeure event, such as acts of God, acts or war, epidemic and court orders.
- K. This section is intentionally left blank.
- L. Certifications. The Parties do hereby certify that: (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of the State Government; (2) the proposed arrangements serve the interest of efficient and economical administration of the State Government; and (3) the services, supplies or materials contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.
- M. TEEX Legal Authority. TEEX further certifies that it has the authority to contract for the above services by the authority granted in Texas Education Code, Section 88.001.
- N. TXDPS Legal Authority. TXDPS further certifies that it has the authority to perform the services contracted for by authority granted in Texas Government Code, Chapters 411 and 418.

O. Signature Authority. The signatories for the Parties hereby represent and warrant that he/she is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the organization.

THE UNDERSIGNED CONTRACTING PARTIES do hereby certify that, (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the effected agencies of State Government, (2) the proposed arrangements serve the interest of efficient and economical administration of the State Government, and (3) the services, supplies or materials contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

RECEIVING AGENCY
TEXAS DEPARTMENT OF PUBLIC SAFETY



Authorized Signature

Robert J. Bodisch, Sr.

Printed or Typed Name

Title: Deputy Director, Homeland Security and Services

Date: 8/22/2016

PERFORMING AGENCY
TEXAS A&M ENGINEERING AND EXTENSION SERVICE



Authorized Signature

R. Charles Todd

Printed or Typed Name

Title: Associate Agency Director/CFO

Date: 8-17-16

