

“EDGAR” VENDOR CERTIFICATION

(2 CFR Part 200 and Appendix II)

When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (also known as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting Proposals must complete this EDGAR Certification Form regarding the Offeror's willingness and ability to comply with certain requirements which *may* be applicable to specific TexBuy member purchases using federal grant funds. This completed form will be made available to TexBuy members for their use while considering their purchasing options when using federal grant funds. Members may also require Vendors to enter into ancillary agreements, in addition to the TexBuy's general terms and conditions, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

For each of the items below, the Offeror should certify the Vendor's agreement and ability to comply, where applicable, by having the Authorized Company Official check and initial the applicable boxes and sign the acknowledgement at the end of the "EDGAR Vendor Certification" section. If you fail to complete any portion of the following section, TexBuy will consider the Vendor's response as "NO", the Vendor is unable or unwilling to comply. A "NO" response to any of the items may, if applicable, impact the ability of a TexBuy member to purchase from the Vendor using federal funds.

➤ **ITEM 1 - VENDOR VIOLATION OR BREACH OF CONTRACT TERMS:**

Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Provisions regarding Vendor default are included in the TexBuy "Terms of Contract". Any Contract award will be subject to such TexBuy "Terms of Contract", as well as any additional terms and conditions in any Purchase Order or Cooperative member ancillary contract agreed upon by Vendor and the member, which must be consistent with and protect the member at least to the same extent as the TexBuy "Terms of Contract".

The remedies under the Contract are in addition to any other remedies that may be available under law or in equity.

By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

Vendor Certification – Item 1

YES, I agree to the above. (Initial: SC)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 2 – TERMINATION FOR CAUSE OR CONVENIENCE:**

For any TexBuy member purchase or contract in excess of \$10,000 made using federal funds, you agree that the following term and condition shall apply:

The TexBuy member may terminate or cancel any purchase order under this contract at any time, with or without cause, by providing seven (7) business days advance written notice to the Vendor. If this Agreement is terminated in accordance with this paragraph, the member shall only be required to pay the vendor for goods or services delivered to the TexBuy member prior to the termination and not otherwise returned in accordance with the Vendor's return policy. If the TexBuy member has paid the Vendor for goods and services not yet provided as of the date of termination the vendor shall immediately refund such payment(s).

If an alternate provision for termination of a TexBuy member purchase for cause and convenience, including the manner by which it will be effected and the basis for settlement, is included in the member's purchase order or ancillary agreement agreed to by the Vendor, the TexBuy member's provision shall control.

Vendor Certification – Item 2

YES, I agree to the above. (Initial: Jc)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 3 – CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:**

Where applicable, for all Cooperative member contracts or purchases in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Vendor Certification – Item 3

YES, I agree to the above. (Initial: Jc)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 4 – RIGHT TO INVENTIONS MADE UNDER A CONTRACT OF AGREEMENT:**

If the TexBuy member's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.

Vendor Certification – Item 4

YES, I agree to the above. (Initial: SC)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 5 – CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

Vendor Certification – Item 5

YES, I agree to the above. (Initial: SC)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 6 – DEBARMENT AND SUSPENSION:**

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor certifies that Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory

authority other than Executive Order 12549. Vendor further agrees to immediately notify TexBuy and all TexBuy members with pending purchases or seeking to purchase from Vendor if the Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor Certification – Item 6

YES, I agree to the above. (Initial: JC)

NO, I do NOT agree to the above. (Initial: _____)

➤ ITEM 7 – BYRD ANTI-LOBBYING AMENDMENT:

Byrd Anti-Lobbying Amendment (31 USC 1352) -- Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

As applicable, Vendor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

Vendor Certification – Item 7

YES, I agree to the above. (Initial: JC)

NO, I do NOT agree to the above. (Initial: _____)

➤ ITEM 8 – PROCUREMENT OF RECOVERED MATERIALS:

For TexBuy member purchases utilizing Federal funds, the Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a TexBuy member may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Vendor Certification – Item 8

YES, I agree to the above. (Initial: JC)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 9 – PROFIT AS A SEPARATE ELEMENT OF PRICE**

For purchases using federal funds in excess of \$150,000, a TexBuy member may be required to negotiate profit as a separate element of the price. See 2 CFR 200.323(b). When required by a TexBuy member, the Vendor agrees to provide information and negotiate with the TexBuy member regarding profit as a separate element of the price for a particular purchase. However, the Vendor agrees that the total price, including profit, charged by Vendor to the TexBuy member shall not exceed the awarded pricing, including any applicable discount, under the Vendor's Contract with TexBuy Purchasing Cooperative.

Vendor Certification – Item 9

YES, I agree to the above. (Initial: JC)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 10 – GENERAL COMPLIANCE AND COOPERATION WITH COOPERATIVE MEMBERS**

In addition to the foregoing specific requirements, the Vendor agrees, in accepting any Purchase Order from a TexBuy member, it shall make a good faith effort to work with the TexBuy member to provide such information and to satisfy such requirements as may apply to a particular TexBuy member purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

Vendor Certification – Item 10

YES, I agree to the above. (Initial: JC)

NO, I do NOT agree to the above. (Initial: _____)

➤ **ITEM 11 – NON-COLLUSION STATEMENT**

The Vendor certifies under penalty of perjury that your response is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Vendor Certification – Item 11

YES, I agree to the above. (Initial: JC)

NO, I do NOT agree to the above. (Initial: _____)

By signing below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Aquila Environmental, LLC

Company Name

[Signature]

Signature of Authorized Company Official

James W. Coster

Printed Name

➤ **ANTITRUST CERTIFICATION STATEMENT – Texas Government Code 2155.005**

I affirm under penalty of perjury of the laws of the State of Texas that:

1. I am duly authorized to execute this contract on my own behalf or on the behalf of the company, corporation, firm, partnership, or individual (Company) listed below;
2. In connection with this bid, neither I nor any representatives of the Company have violated any provision of the Texas Antitrust laws referenced in Texas Business & Commerce Code Chapter 15;
3. In connection with this bid, neither I nor any representative of the Company have violated any federal antitrust law; and
4. Neither I nor any representatives of the Company have directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership, or individual engaged in the same line of business as the Company.

Company Name: Aquila Environmental, LLC

Address: 509 Pecan Street, Suite 200

City, State, Zip: Fort Worth, Texas 76102

Bidder Signature:  Date: 9/29/20

Printed Name: James W. Costen Title: Exec. VP

Signature of Authorized Company Official: 

Printed Name: James W. Costen Date: 9/29/20

Company Official's Title: Exec. VP

➤ **SB 9 CONTRACTOR CERTIFICATION: CONTRACTOR EMPLOYEES (AS APPLICABLE)**

Texas Education Code Chapter 22 requires entities that contract with school districts to obtain criminal history records on covered employees. Covered employees with disqualifying criminal histories are prohibited from serving at a school district. Contractors must certify to TexBuy/Region 16 ESC that they have complied and must obtain similar certifications from their subcontractors. The law requires each contractor to obtain the criminal histories of its covered employees. For more information or to set up an account, a contractor should contact the Texas Department of Public Safety's Crime Records Service at 512.424.2474.

Definitions:

Covered employees: Employees of a contractor who have or will have continuing duties related to the service to be performed at a school district and have or will have direct contact with students. TexBuy will be the final arbiter of what constitutes continuing duties and direct contact with students.

Disqualifying criminal history: (1) a conviction or other criminal history information designated by TexBuy; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a), that is: if at the time of the offense, the victim was under 18 or was enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense on conviction for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an offense under federal law or the laws of another state that is equivalent to (a) or (b).

On behalf of Aquila Environmental, LLC ("Contractor"), I, the undersigned authorized signatory for Contractor, certify to Texbuy Purchasing Cooperative that: (check one)

None of Contractor's employees are *covered employees*, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that its employees will not become *covered employees*. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

Or

Some or all of Contractor's employees are *covered employees*. If this box is checked, I further certify that:

1. Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.
2. If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify TexBuy in writing within 3 business days.
3. Upon request, Contractor will provide TexBuy with the name and any other requested information of covered employees so that TexBuy may obtain criminal history record information on the covered employees.

If TexBuy/Region 16 ESC objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at TexBuy/Region 16 ESC/TexBuy members.

I also certify to TexBuy/Region 16 ESC on behalf of Contractor that Contractor has obtained certifications from its subcontractors of compliance with Texas Education Code, Chapter 22. Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.



Signature of Authorized Company Official

Exec. VP

Title

9/15/20

Date

➤ **SB 252 CERTIFICATION**

The 2017 Texas Legislature enacted Senate Bill 252 (codified in chapter 2252 of the Texas Government Code) relating to prohibiting governmental contracts with a company doing business with Iran, Sudan, or a foreign terrorist organization.

Definitions:

“Foreign Terrorist Organization” means an organization designated as a foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.

“Governmental Contract” means a contract awarded by a governmental entity for general construction, an improvement, a service, or public works project or for purchase of supplies, materials or equipment. This term includes a contract to obtain a professional or consulting service subject to Chapter 2254 of the Texas Government Code.

STATEMENT: I hereby certify that Aquila Environmental, LLC (Company/business name) is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify TexBuy Purchasing Cooperative.

Company Name: Aquila Environmental, LLC

Signature of Company’s Authorized Official: 

Print Name: James W. Costen