

REQUEST FOR COMPETITIVE SEALED PROPOSALS  
FOR  
SPECIALTY GASES FOR WELDING TECHNOLOGY PROGRAM



**RFP # 789-06072016-MP**

**Submittal Due Date: June 7, 2016 2:00pm Central Time / USA**

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**REQUEST FOR PROPOSALS FOR LIT Specialty Gases for Welding Technology Program –  
RFP # 789-06072016-MP****SECTION 1 – GENERAL INFORMATION AND REQUIREMENTS**

- 1.1 Lamar Institute of Technology “LIT” is soliciting Competitive Sealed Proposals "Proposal" for selection of one or more responsive and responsible specialty gas providers, at the sole discretion of LIT and as determined to be in the best interest of LIT, to provide the described specialty gas "Work" on LIT's campus in Beaumont, Texas. This Solicitation sets forth the terms, conditions, and requirements for prospective respondents to be considered for this Project. Prospective entities submitting proposals in response to this Solicitation are called "Respondent".
  - 1.1.1 Texas law authorizes Institutions of Higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335 *Education Code*). Institutions of Higher Education may enter into a Contract with the successful Respondent(s) for the purchase of the services described herein based on the terms, conditions, and prices, offered by the successful Respondent for the duration of any Agreement or Contractual arrangement resulting from this Solicitation. These State Agencies and Institutions of Higher Education will issue their own purchase orders, directly receive goods or services at their place of business, and be directly billed by the successful Respondent.
  - 1.1.1 LIT desires to enter into a non-exclusive Contract with one or more qualified, capable and experienced firm(s) to provide the described Work. The services are more specifically described in Section 7 (Scope of Work) of this Solicitation.
  - 1.1.2 The length of such Contract shall be one (1) year(s) from Contract execution or date set forth in the Contract, whichever is later, with options to renew in one-year increments for three additional years if both parties agree in writing. If LIT and the "best value" successful Respondent(s) are unable to sign, negotiate and execute a Contract, LIT reserves the right to seek alternative Respondent(s) to make an award.
  - 1.1.3 Each proposal must state that it will remain valid for LIT's acceptance for a minimum of ninety (90) days after the Submittal Deadline, to allow time for evaluation, selection, any required approvals, Contract formation, and any unforeseen delays.
- 1.2 PUBLIC INFORMATION: LIT strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act, Chapter 552, Texas Government Code. Sponsor is required to make any information created or exchanged with the state pursuant to this contract that is not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. The following format(s) shall be deemed to be in compliance with this provision: electronic files in Word, PDF, or similar generally accessible format.
  - 1.2.1 LIT strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of Proposal information.
  - 1.2.2 Due to the nature of the competitive solicitation process used, LIT may withhold certain information until after the execution of the Contract.

- 1.2.3 Successful Respondent(s) is required to make any information created or exchanged with the state pursuant to any Agreement or Contractual arrangement resulting from this Solicitation, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.
- 1.3 **NONDISCRIMINATION:** In their execution of any Agreement or Contractual arrangement resulting from this Solicitation, all contractors, subcontractors, their respective employees, and others acting by or through them shall comply with all federal and state policies and laws prohibiting discrimination, harassment, and sexual misconduct. Any breach of this covenant may result in termination of this agreement.
- 1.4 **TYPE OF CONTRACT:** Any Agreement or Contractual arrangement resulting from this Solicitation will be in the form of a Purchase Order “PO”. **NO EXCEPTIONS TO ANY TERMS AND CONDITIONS WILL BE CONSIDERED AFTER THE SUBMITTAL DUE DATE AND TIME.**
- 1.5 **PARKING PERMIT REQUIREMENTS:** The successful Respondent(s) will be required to pick up a vendor parking pass at Lamar Institute of Technology’s Cashier Office in the Beeson Building, first floor, 106.
- 1.6 **CLARIFICATIONS AND INTERPRETATIONS:** Any clarifications or interpretations of this Solicitation that materially affect or change its requirements will be issued formally by LIT as a written addendum. It is the responsibility of all Respondents to check the status of formal addenda at least five calendar days before the published submission deadline and to obtain this information timely. All such addenda issued by LIT before the Proposals are due shall be clearly acknowledged by Respondents and incorporated into the response to the Solicitation.
- 1.6.1 Respondents shall be required to consider only those clarifications and interpretations that LIT issues by formal written addenda prior to the submittal deadline. Interpretations or clarifications obtained in any other form, including oral statements, will not be binding on LIT and should not be relied on in preparing Proposals.
- 1.6.2 This Solicitation and any formal written addenda, if required, will be issued by LIT via the Electronic State Business Daily (ESBD) website located at: <http://esbd.cpa.state.tx.us/>. Please reference the Solicitation number provided in this Solicitation. It is the responsibility of each respondent to check this website frequently for any posted addenda. Failure to acknowledge any and all addenda may result in the disqualification of your proposal.
- 1.7 **SUBMISSION OF STATEMENTS OF QUALIFICATIONS AND PRICING AND DELIVERY PROPOSALS:**
- 1.7.1 **DEADLINE AND LOCATION:**
- Statements of Qualifications and Pricing and Delivery Proposals will be accepted until the time and at the place specified below.

**2:00pm Central Time / USA**

Attn: Stacy Carter-Elizondo, Director of Purchasing  
Lamar University  
Office of Finance, Purchasing Department  
Plummer Building Room 120  
4400 Martin Luther King, Jr. Parkway  
Beaumont, Texas 77710

*Our building is the round building on the corner of MLK and E Virginia Street. The office door faces LU's Visitor's Information Booth.*

***All questions regarding this Solicitation shall be in writing to the Point of Contact listed in the section 1.8 no later than May 31, 2016 at 5:00 p.m. Central Time.***

It is the Respondent's sole responsibility for preparing, submitting and delivering a response with all required materials to the designated location on or before the published submittal deadline. Lamar University has decentralized mail and package delivery. Courier mail or delivery services may not deliver directly to the specified submittal location. It is strongly recommended that the response be hand carried to insure receipt at the proper location:

- 1.7.1.1 If submitting by mail or courier service, the Respondent is cautioned to allow sufficient time for delivery prior to the published deadline to the location specified above.
- 1.7.1.2 Failure to deliver by the submittal deadline may not be grounds for disputing the procurement solicitation process or any resulting Contract award.
- 1.7.2 Proposals received after the stated official published submittal deadline will be returned to the Respondent unopened if properly identified. The Point-of-Contact identified in Section 1.8 will identify the official time clock at the Proposal submittal location identified above.
- 1.7.3 Lamar University will not acknowledge or receive Proposals that are delivered by telephone, facsimile (fax), electronic mail (e-mail) or other electronic means.
- 1.7.4 Respondent materials are to be enclosed in a sealed envelope, box or container, addressed to the Point of Contact person and include the Pricing and Delivery Proposal, the Statement of Qualifications materials. The package is to clearly identify the submittal deadline, the Solicitation number, and the name, return address, and email address (for RFP notification) of the Respondent. The Pricing and Delivery Proposal, the Statement of Qualifications materials are to be packaged in separate, sealed envelopes within the sealed envelope, box or container.
- 1.7.5 Due to the nature of the Solicitation and evaluation process used for this Solicitation, only the names of the submitting Respondent(s) will be read aloud immediately following the date and time stated in 1.5.1. Upon award, if any, a written request in accordance with paragraph 1.2 may be submitted by any interested party.

- 1.7.6 **REQUIRED DOCUMENTS:** Following is a list of documents that are to be returned as part of the Proposal submittal. Failure to return the required documents will result in the Proposal being determined as non-responsive and the Proposal will be rejected.
- 1.7.6.1 Statement of Qualifications – see Section 3
- 1.7.6.2 Signed Execution of Offer – see Section 3.12
- 1.7.6.3 Completed and signed Pricing and Delivery Proposal – see Section 4 and 8
- 1.8 **POINT-OF-CONTACT:** The following person is the Lamar University authorized "Point-of-Contact" for this Solicitation. Respondents shall restrict all contact with, and direct all questions regarding this Solicitation including questions regarding terms and conditions in writing, to:
- Stacy Carter-Elizondo, CTPM  
Director of Purchasing  
scarterelizo@lamar.edu  
(409) 880-8743 office  
(409) 880-8247 fax
- 1.9 **EVALUATION OF PROPOSALS:** Evaluation of the Proposals, after acceptance of a Proposal submitted in response to this Solicitation, shall be based on the requirements described in this Solicitation. All properly submitted Proposals will be reviewed, evaluated, and ranked by LIT. The top highest ranked (most advantageous) Respondent(s) may be selected by LIT, at its sole discretion, to participate in an interview process. LIT anticipates selecting three to five of the highest ranked Proposals for this step; however, LIT reserves the right to Contract or expand this evaluation pool if it is determined to be in the best interests of LIT.
- 1.9.1 Statement of Qualifications packages shall not include any information regarding Respondent's fees, pricing, or other compensation. Such information should be kept separate from the Statement of Qualifications and should be submitted as a separate package according to this Solicitation.
- 1.10 **LIT's RESERVATION OF RIGHTS:** LIT reserves the right to reject or accept any and all responses and/or temporarily or permanently abandon the Project, make no award or waive minor process irregularities. LIT makes no representations, written or oral, that it will enter into any form of Agreement or Contract for any Project with any Respondent to this Solicitation and no such representation is intended or should be construed by the issuance of this Solicitation.
- 1.11 **ACCEPTANCE OF EVALUATION METHODOLOGY:** By submitting its Proposal in response to this Solicitation, Respondent accepts the evaluation criteria and methodology, process and acknowledges and accepts that determination of the "most qualified" firm(s) will require some subjective judgments by LIT. **The results of this most qualified determination will be combined with the Proposal evaluation results to determine the "Best Value" Proposal for LIT.**
- 1.12 **NO REIMBURSEMENT FOR COSTS:** Respondent acknowledges and accepts that any costs incurred from the Respondent's participation in this Solicitation process shall be at the sole risk and responsibility of the Respondent. Respondents submit Proposals at their own risk and expense.
- 1.13 **PRE-PROPOSAL CONFERENCE:** *There will be no pre-proposal conference for this solicitation.*

- 1.14 ELIGIBLE RESPONDENTS: Only individual firms or lawfully formed business organizations may respond. LIT will enter into a Purchase Order only with an individual firm(s) or formal organization(s) that submits a Proposal.
- 1.15 HISTORICALLY UNDERUTILIZED BUSINESSES SUBMITTAL REQUIREMENTS: All agencies of the State of Texas are required to make a "good faith effort" to assist Historically Underutilized Businesses (each a "**HUB**") in receiving their fair share of Contract or Subcontract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. If under the terms of any Agreement or Contractual arrangement resulting from this Solicitation, Respondent subcontracts any of the Services then, Respondent must make a good faith effort attempt to utilize HUBs certified by the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts (TPASS).

Proposals that fail to comply with the subcontracting requirements contained in this Solicitation will constitute a **material failure to comply with advertised Specifications** and will be rejected by LIT as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any Agreement or Contractual arrangement resulting from this Solicitation. Respondent acknowledges that, if selected by LIT, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all Agreements or Contractual arrangements resulting from this Solicitation. Furthermore, any subcontracting of the Services by the successful Respondent(s) is subject to review by LIT to ensure compliance with the HUB program requirements.

If LIT determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan (HSP) is a required element of the response to this Solicitation. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Proposal as noted above.

- 1.15.1 STATEMENT OF PROBABILITY: LIT has determined that subcontracting opportunities are NOT probable in connection with this Procurement Solicitation. Therefore, a HUB Subcontracting Plan (HSP) is NOT required as a part of the Respondent's Proposal.
- 1.15.2 The Statewide HUB goals per TAC 20.13 are: 11.2 % for heavy construction other than building contracts; 21.1% for all building construction, including general contractors and operative builders contracts; 32.9 % for all special trade construction contracts; 23.7 % for professional services; 26 % for all other services contracts; and 21.1 % for commodities contracts.
- 1.15.3 For information regarding the proper preparation of the HSP or any aspect of LIT's HUB Program, contact:
- Sheryll Plaia, LIT HUB Coordinator  
(409) 839-2021 office  
[purchasing@lit.edu](mailto:purchasing@lit.edu)
- 1.16 CERTAIN PROPOSALS AND CONTRACTS PROHIBITED: Under Section 2155.004, Texas Government Code, a State Agency may not accept a Proposal or award a Contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the Specifications or Request for Proposals on which the Proposal or Contract is based. All Respondents must certify their eligibility by acknowledging the following



statement, "Under Section 2155.004, Government Code, the Respondent certifies that the individual or business entity named in this bid or 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." If a State Agency determines that an individual or business entity holding a state Contract was ineligible to have the Contract accepted or awarded as described above, the State Agency may immediately terminate any Agreement or Contractual arrangement resulting from this Solicitation without further obligation to the successful Respondent(s). This section does not create a cause of action to contest a Proposal or award of a state contract.

1.17 SALES AND USE TAXES: LIT is exempt from sales tax and will provide an exemption form upon request.

1.18 CERTIFICATION OF FRANCHISE TAX STATUS: Respondents are advised that the successful Respondent(s) will be required to submit certification of franchise tax status as required by State Law (H.B. 175, Acts 70th Leg. R.S., 1987, Ch. 283, p. 3242). The Respondent agrees that each Subcontractor and Supplier under Contract will also provide a certification of franchise tax status.

1.19 REQUIRED NOTICES INSURANCE COVERAGE:

The CONTRACTOR shall provide and maintain the accepted Owner insurance coverage shown below until the work covered in the contract is completed. LIT shall be named as an additional insured. All policies of insurance must contain a provision that the company writing the policy will give LIT a thirty (30) day notice of cancellation or material change to the amounts of insurance.

1.19.1 Commercial General Liability

Occurrence General Aggregate	\$1,000,000
Owner's & Contractor's Products Comp./Oper. Aggregate	\$1,000,000
Protective Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Products/Comp. Oper. Fire Damage (Any One Fire)	\$ 50,000
Medical Expense (Any One Person)	\$ 5,000

1.19.2 Automobile Liability

Any Auto Combined Single Limit	\$1,000,000
All Owned Autos Bodily Injury (Per Person)	\$1,000,000
Scheduled Autos Bodily Injury (Per Accident)	\$1,000,000
Hired Autos Property Damage	\$1,000,000
Non-Owned Autos	\$1,000,000
Garage Liability	\$1,000,000

1.19.3 Excess Liability Each Occurrence \$1,000,000  
Each Aggregate \$1,000,000

1.19.4 Workmen's Compensation Statutory Limits

1.19.5 Employer's Liability Each Accident \$ 100,000  
Disease (Policy Limit) \$ 500,000  
Disease (Each Employee) \$ 100,000

Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance in the form, with companies admitted to do business in the State of Texas and having an A.M. Best Rating of A-:VII or better, and in amounts (unless otherwise specified), as LIT may require:

1.19.6 Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than:

Employers Liability - Each Accident	\$1,000,000
Employers Liability - Each Employee	\$1,000,000
Employers Liability - Policy Limit	\$1,000,000

Policies must include (a) Other States Endorsement to include TEXAS if business is domiciled outside the State of Texas, and (b) a waiver of all rights of subrogation and other rights in favor of LIT.

1.19.7 Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$1,000,000
Damage to Rented Premises	\$ 100,000
Medical Expenses (any one person)	\$ 10,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000

Policy will include independent contractor's liability, covering, but not limited to, the liability assumed under the indemnification provision of this contract, fully insuring Contractor's (or Subcontractor's) liability for bodily injury (including death) and property damage.

1.19.8 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage.

1.19.9 Errors and Omissions Insurance with limits of not less than \$5,000,000 per claim.

Contractor will deliver to University:

1.19.10 Evidence satisfactory to the University in its sole discretion, evidencing the existence of all insurance after the execution and delivery of this Contract and prior to the performance or continued performance of any services to be performed by Contractor under this Contract.

1.19.11 Additional evidence, satisfactory to the University in its sole discretion, of the continued existence of all insurance not less than thirty (30) days prior to the expiration of any insurance. Insurance policies, with the exception of Workers' Compensation and Employer's Liability, shall be endorsed and name LIT as an Additional Insured. All policies will be endorsed to provide a waiver of subrogation in favor of the University. All policies with the exception of Workers' Compensation and Employer's Liability will be endorsed to provide primary and non-contributory coverage. No policy shall be canceled until after thirty (30) days' unconditional written notice to the University. All policies shall be endorsed requiring the insurance carrier providing coverage to send

notice to the University 30 days prior to any cancellation, material change, or non-renewal (60 days for non-renewal) relating to any insurance policy required herein.

1.19.12 The insurance policies required in this Agreement will be kept in force for the periods specified below:

- 1.19.12.1 Commercial General Liability Insurance, Business Automobile Liability Insurance; will be kept in force until receipt of Final Payment by the University to Contractor; and
- 1.19.12.2 Workers' Compensation Insurance and Employer's Liability Insurance will be kept in force until the Work has been fully performed and accepted by the University in writing;
- 1.19.12.3 Errors and Omissions Insurance will be kept in force an additional two years after the Work has been fully performed and accepted by the University in writing.

Subcontractors are included as additional insureds and that the successful Respondent(s) agrees to provide Workers' Compensation for the Subcontractors and their Employees. The successful Respondent(s) shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. The successful Respondent(s) must retain the certificates of insurance for the duration of any Agreement or Contractual arrangement resulting from this Solicitation plus five years and shall have the responsibility of enforcing these insurance requirements among its Subcontractors. LIT shall be entitled, upon request and without expense, to receive copies of these certificates.

1.20 DELINQUENCY IN PAYING CHILD SUPPORT: Under Section 231.006, Family Code, the Respondent certifies 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.

1.21 PAYMENT TERMS: LIT will pay for Work performed under this Contract "net 30 days in accordance with Texas Government Code, section 2251.021". Alternate payment terms may be proposed by a Respondent, but LIT reserves the right to reject the terms if determined not to be in its best interests.

1.21.1 The amount due to the successful Respondent(s) will be paid upon receipt of an undisputed invoice. Submit all invoices to:

Lamar Institute of Technology  
Attn: Accounts Payable  
P. O. Box 10043  
Beaumont, Texas 77710

## 1.22 DEFAULT AND TERMINATION

1.22.1 If a party substantially fails to perform, the other party may terminate any Agreement or Contractual arrangement resulting from the Solicitation upon fifteen days written notice of termination setting forth the nature of the failure. The termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period.

1.22.2 Either Party may terminate any Agreement or Contractual arrangement resulting from this Solicitation, without cause, at any time upon giving ninety days advance notice unless agreed in writing otherwise by the parties. Upon termination pursuant to this paragraph, the successful Respondent(s) shall receive payment for the services satisfactorily performed from the time of the last payment date to the termination date, provided the successful Respondent(s) shall have delivered to LIT a final report describing the work completed to the date of termination. LIT shall not reimburse the successful Respondent(s) for any services performed or expenses incurred after the date of termination notice.

## 1.23. ALTERNATIVE DISPUTE RESOLUTION: *The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by LIT and the successful Respondent(s) to attempt to resolve any claim for breach of Contract made by the successful Respondent:*

1.23.1 The successful Respondent's claim for breach of any Agreement or Contractual arrangement resulting from this Solicitation 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 Texas Government Code. To initiate the process:

1.23.1.1 The successful Respondent(s) shall submit written notice, as required by subchapter B, to LIT's Representative.

1.23.1.2 This notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked.

1.23.1.3 A copy of the notice shall also be given to all other representatives of LIT and the successful Respondent(s) otherwise entitled to notice under the parties' contract.

1.23.1.4 Compliance by the successful Respondent(s) with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

1.23.2 The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the successful Respondent's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by LIT if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.

1.23.3 Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of any Agreement or Contractual arrangement resulting from this Solicitation by LIT nor any other conduct of any representative of LIT relating to any Agreement or Contractual arrangement resulting from

this Solicitation shall be considered a waiver of sovereign immunity to suit.

- 1.23.4 The submission, processing and resolution of the successful Respondent's claim is governed by the published rules adopted by the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
- 1.23.5 The occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the successful Respondent(s), in neither whole or in part.
- 1.23.6 The designated individual responsible on behalf of LIT for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 of the Texas Government Code shall be LIT's Representative named in section 1.8.
- 1.24 LOSS OF FUNDING: Performance by LIT under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "**Legislature**"), allocation of funds by the Board of Regents of The Texas State University System (the "**Board**") or funding availability through a Sponsored Program Funding Agency. If the Legislature fails to appropriate or allot the necessary funds, the Board fails to allocate the necessary funds, or funding is not available through a Sponsored Program Funding Agency, then LIT will issue written notice to Contractor and LIT may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of LIT.
- 1.25 LIMITATIONS: The Parties are aware that there are constitutional and statutory limitations on the authority of LIT (a State agency) to enter into certain terms and conditions of any Agreement or Contractual arrangement resulting from this Solicitation, including, but not limited to:
  - 1.25.1 those terms and conditions relating to liens on LIT's property;
  - 1.25.2 disclaimers and limitations of warranties;
  - 1.25.3 disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes;
  - 1.25.4 limitations of periods to bring legal action; granting control of litigation or settlement to another party;
  - 1.25.5 liability for acts or omissions of third parties;
  - 1.25.6 payment of attorneys' fees; dispute resolution; indemnities; and,
  - 1.25.7 confidentiality (collectively, the "Limitations").

Terms and conditions related to the Limitations will not be binding on LIT except to the extent authorized by the laws and Constitution of the State of Texas.

- 1.26. CONTRACT CONTROLLING: These Terms and Conditions shall take precedence over any Terms and Conditions contained in any Proposal, like document or any document referenced or attached. Any Agreement or Contractual arrangement resulting from this Solicitation shall be

construed under the laws of the State of Texas, and venue for any action brought hereunder shall be Jefferson County, Texas.

- 1.27. UNDOCUMENTED WORKERS – The *Immigration and Nationality Act (8 United States Code 1324a)* ("Immigration Act") makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form 1-9 Employment Eligibility Verification Form ("1-9 Form") as the document to be used for employment eligibility verification (8 *Code of Federal Regulations* 274a). Among other things, the successful Respondent(s) is required to: (1) have all employees complete and sign the 1-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the 1-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the 1-9 Form, and complete the certification portion of the 1-9 Form; and (4) retain the 1-9 Form as required by Applicable Laws. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If the successful Respondent(s) employs unauthorized workers, during the performance of any Agreement or Contractual arrangement resulting from this Solicitation, in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by Applicable Laws, LIT may terminate any Agreement or Contractual arrangement resulting from this Solicitation. Successful Respondent(s) represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.
- 1.28. EQUAL OPPORTUNITY – Pursuant to Applicable Laws, the successful Respondent(s) represents and warrants that it is an equal opportunity employer and does not discriminate on the basis of race, color, religion, national origin, age, mental or physical disability, or sex.
- 1.29. MISCELLANEOUS TERMS AND CONDITIONS:
  - 1.29.1 The successful Respondent(s) agrees to indemnify and hold harmless LIT from any claim, damage, liability, expense, or loss arising out of the successful Respondent's performance under any Agreement or Contractual arrangement resulting from this Solicitation.
  - 1.29.2 The successful Respondent(s) shall neither assign its rights nor delegate its duties under any Agreement or Contractual arrangement resulting from this Solicitation without the prior written consent of LIT.
  - 1.29.3 The successful Respondent(s) shall be an Independent Contractor, and neither the successful Respondent(s) nor any Employee of the successful Respondent(s) shall be deemed to be an Agent or Employee of LIT. As an Independent Contractor, the successful Respondent(s) will be solely responsible for determining the means and methods for performing the services described. The successful Respondent(s) shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of LIT relative to conduct on its premises.
  - 1.29.4 Any Agreement or Contractual arrangement resulting from this Solicitation (including all Exhibits, Attachments, etc.) constitutes the sole Contract of the parties and supersedes any other oral or written understanding or Contract. Any Agreement or Contractual arrangement resulting from this Solicitation and each of its provisions will be binding

upon the parties and may not be waived, modified, amended or altered except in writing signed by LIT and the successful Respondent(s).

- 1.29.5 The successful Respondent(s) certifies that, upon the effective date of any Agreement or Contractual arrangement resulting from this Solicitation, the successful Respondent(s) is not delinquent in payment of State of Texas corporate franchise taxes. The successful Respondent(s) agrees that any false statement with respect to franchise tax status shall be a material breach hereof and LIT shall be entitled to terminate any Agreement or Contractual arrangement resulting from this Solicitation upon written notice to the successful Respondent(s).
- 1.29.6 Any written notice required by any Agreement or Contractual arrangement resulting from this Solicitation shall be mailed to the attention of LIT's Designated Authorized Representative as noted in contract.
- 1.29.7 Except as otherwise provided, neither the successful Respondent(s) nor LIT, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in any Agreement or Contractual arrangement resulting from this Solicitation caused by Force Majeure as defined in the Solicitation. 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 removed, provided the non-performing party exercises all reasonable due diligence to perform.
- 1.29.8 "Force Majeure" is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such Force Majeure or otherwise waive this right as a defense.
- 1.29.9 Representations and Warranties by the successful Respondent(s). If the successful Respondent(s) is a corporation or a limited liability company, the successful Respondent(s) warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver any Agreement or Contractual arrangement resulting from this Solicitation, and the individual executing any Agreement or Contractual arrangement resulting from this Solicitation on behalf of the successful Respondent(s) has been duly authorized to act for and bind the successful Respondent(s).
- 1.29.10 Products and Materials Produced in Texas. If the successful Respondent(s) will provide services under any Agreement or Contractual arrangement resulting from this Solicitation, the successful Respondent(s) covenants and agrees that in accordance with Section 2155.4441, *Texas Government Code*, in performing its duties and obligations, the successful Respondent(s) will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

1.29.11 Access by Individuals with Disabilities.

1.29.11.1 The successful Respondent(s) shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

1.29.11.2 The successful Respondent(s) represents and warrants that the electronic and information resources and all associated information, documentation, and support (collectively, the "EIRs") that it provides to LIT under any Agreement or Contractual arrangement resulting from this Solicitation comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rules §206.50 and §206.70 of the Texas Administrative Code authorized by Chapter 2054, Subchapter M of the Texas Government Code, United States Rehabilitation Act of 1973 and its amendments, Section 508; and World Wide Web Consortium (W3C), Web Accessibility Initiative (WAI), Web Content Accessibility Guidelines (WCAG) 1.0 and 2.0AA. All submissions must include all Voluntary Product Accessibility Templates (VPAT), Information Technology Industry Council (ITIC) and General Services Administration (GSA) that describes compliance with Section 508. In the event that the successful Respondent(s) fails or is unable to do so, then LIT may terminate any Agreement or Contractual arrangement resulting from this Solicitation and the successful Respondent(s) will refund to LIT all amounts-LIT has paid under any Agreement or Contractual arrangement resulting from this Solicitation within thirty-days after the termination date.

1.29.12 Patent, Trademark, Copyright and Other Infringement Claims. The successful Respondent(s) shall indemnify, save and hold harmless LIT from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from LIT's or the successful Respondent's use of or acquisition of any services or other items provided to LIT by the successful Respondent(s) or otherwise to which LIT has access as a result of the successful Respondent's performance under any Agreement or Contractual arrangement resulting from this Solicitation, provided that LIT shall notify the successful Respondent(s) of any such claim within a reasonable time of LIT's receipt of notice of any such claim. If the successful Respondent(s) is notified of any claim subject to this section, the successful Respondent(s) shall notify LIT of such Claim within five business days of such notice. No settlement of any such claim shall be made by the successful Respondent(s) without LIT's prior written approval. The successful Respondent(s) shall reimburse LIT for any Claims, damages, losses, costs, expenses, judgments, or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. The successful Respondent(s) shall pay all reasonable costs of LIT's legal counsel and shall also pay costs of multiple counsels, if required, to avoid conflicts of interest. The successful Respondent(s) represents that it has determined what licenses, patents and permits are required under any Agreement or Contractual arrangement resulting from this Solicitation and has acquired all such licenses, patents and permits.



- 1.29.13 The successful Respondent(s) further covenants and agrees to:

FULLY INDEMNIFY and HOLD HARMLESS, The Texas State University System (TSUS), TSUS Regents, LIT and the elected officials, employees, officers, directors, volunteers, and representatives of LIT, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon LIT directly or indirectly arising out of, resulting from or related to the successful Respondent's activities under any Agreement or Contractual arrangement resulting from this Solicitation, including any acts or omissions of the successful Respondent(s), any Agent, Officer, Director, Representative, Employee, Consultant or the Subcontractor of the successful Respondent(s), and their respective Officers, Agents, Employees, Directors and Representatives while in the exercise of performance of the rights or duties under any Agreement or Contractual arrangement resulting from this Solicitation. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of LIT, Officers or Employees, separate Contractors or assigned Contractors, in instances where such negligence causes personal injury, death or property damage. IN THE EVENT THE SUCCESSFUL RESPONDENT(S) AND LIT ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 1.29.14 The provisions of this Indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 1.29.15 The indemnities contained herein shall survive any termination of any Agreement or Contractual arrangement resulting from this Solicitation.
- 1.29.16 Supporting Documents, Retention; Right to Audit; Independent Audits. The successful Respondent(s) shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under any Agreement or Contractual arrangement resulting from this Solicitation were expended in accordance with the laws and regulations of the State of Texas, including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. The successful Respondent(s) shall maintain all such documents and other records relating to any Agreement or Contractual arrangement resulting from this Solicitation and the State's property for a period of four years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. The successful Respondent(s) shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Work of any Agreement or Contractual arrangement resulting from this Solicitation. The successful Respondent(s) and its Subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. The successful Respondent(s) must retain all work and other supporting documents pertaining to any Agreement or Contractual arrangement resulting from this Solicitation, for purposes of inspecting,

monitoring, auditing, or evaluating by LIT and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor. The successful Respondent(s) shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of the State's work as requested. The successful Respondent's failure to comply with this requirement shall constitute a material breach of any Agreement or Contractual arrangement resulting from this Solicitation and shall authorize LIT and the State of Texas to assess immediately appropriate damages for such failure. The acceptance of funds by the successful Respondent(s) or any other entity or person directly under any Agreement or Contractual arrangement resulting from this Solicitation, or indirectly through a subcontract under any Agreement or Contractual arrangement resulting from this Solicitation, shall constitute acceptance of the authority of the State Auditor to conduct an audit or investigation in connection with those funds. The successful Respondent(s) acknowledges and understands that the acceptance of funds under any Agreement or Contractual arrangement resulting from this Solicitation shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. The successful Respondent(s) shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by Subcontractors through the successful Respondent(s) and the requirement to cooperate is included in any subcontract it awards. Furthermore, under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

1.29.17 Ownership of Work Products including Intellectual Property,

The parties shall deem all work products produced as a result of this agreement as "works for hire." Upon delivery, all work products, including writings, drawings, plans, reports, specifications, calculations, documents, presentations, and other materials developed under this agreement shall be LAMAR INSTITUTE OF TECHNOLOGY'S exclusive property, to use as LIT deems appropriate.

SUCCESSFUL RESPONDENT(S) relinquishes all claims to copyright and other intellectual property rights in favor of LIT.

Neither SUCCESSFUL RESPONDENT(S) nor its Subcontractors, if any, shall make any such materials available to any individual or organization, without the prior written approval of the UNIVERSITY'S AUTHORIZED REPRESENTATIVE, or designee. SUCCESSFUL RESPONDENT(S) makes no representation of the suitability of the work product for use in, or application to, circumstances not contemplated by the scope of work.

1.29.18 The President of LIT or an Authorized Designee, may require the successful Respondent(s) to remove any person from the campus that, in his or her judgment, poses a danger to health or safety

#### 1.29.19 COMPLIANCE WITH UNIVERSITY POLICIES

RESPONDENT IS NOTIFIED THAT IN THE EVENT OF AN AWARD THE FOLLOWING LIT POLICIES, AT A MINIMUM, SHALL APPLY TO A CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS WHILE ON THE TEXAS STATE CAMPUS:

- a. On-campus driving and parking;
- b. Prohibition on smoking or tobacco use;
- c. Fire safety; Hazardous Materials;
- d. Drug-free workplace; and,
- e. Prohibition of sexual harassment, or harassment or discrimination based on race, color, national origin, age, sex, religion, disability, or sexual orientation.

The LIT website may be viewed at <http://www.lit.edu/>

1.29.20 In accordance with Texas Education Code, Chp. 51, Section 51.9335, Subsection (h), any contract for the acquisition of goods and services to which an institution of higher education is a party, a provision required by applicable law to be included in the contract is considered to be a part of the executed contract without regard to:

- a. Whether the provision appears on the face of the contract; or
- b. Whether the contract includes any provision to the contrary.

## SECTION 2 – EXECUTIVE SUMMARY

2.1 HISTORICAL BACKGROUND: Lamar Institute of Technology traces its roots back to March 8, 1923, when the South Park School District in Beaumont authorized its superintendent to proceed with plans to open a “junior college of the first class.” On Sept. 17, 1923, South Park Junior College opened with 125 students and a faculty of 14. In 1932, separate facilities were provided, and the name of the institution was changed to Lamar College, to honor Mirabeau B. Lamar, second president of the Republic of Texas and the “Father of Education” in Texas.

On September 1, 1995, the Institute of Technology was established as an educational center of Lamar University and a member of The Texas State University System. The Texas Legislature changed the name of the institution to Lamar Institute of Technology in 1999.

Lamar Institute of Technology is a great center of learning for everyone in Texas. We focus on teaching excellence, student success and community engagement. We are an open-door postsecondary institution ready to serve all students. LIT provides a curriculum consisting of more than 50 degree and certificate programs covering a wide range of career and technical educational opportunities. We are a member of The Texas State University System and accredited by the Southern Association of Colleges and Schools. The LIT campus in Beaumont is about 90 miles east of Houston and about 25 miles west of Louisiana.

2.2 MISSION STATEMENT: Lamar Institute of Technology provides quality education and training that enable a diverse student population to achieve its educational goals. Programs are enhanced by

developing and maintaining partnerships with business, industry, and the community. Faculty are dedicated to teaching, advising, and scholarship. Both faculty and staff work to serve the Institute and the community.

### SECTION 3 – REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS PACKAGE

**Respondents shall carefully read the information contained in the following criteria and submit a complete Statement of Qualifications** with responses to all questions in Section 3 and formatted as directed in Section 5. Incomplete Statements of Qualifications will be considered non-responsive and will be subject to rejection.

LIT may conduct interviews with the most qualified Respondent(s) whose Proposals are deemed "Most Advantageous" in order to finalize the best value rankings; however, LIT also reserves the right to select the best value Respondent without interviews or additional discussions.

Submit one original and 4 (four) identical copies of the Statement of Qualifications and the Pricing and Delivery Proposals, and one readable electronic copy marked as RFP # 789-06072016-MP and **annotate with the words "Statement of Qualifications and Execution of Offer Enclosed"**. **An original signature of an authorized representative of the Respondent who has the authority to bind the Respondent in the event of an award must be included on the "Execution of Offer" document** submitted with each copy and on the Pricing and Delivery Proposal. (The Pricing and Delivery Proposal must be packaged in a separate, sealed package different from the Statement of Qualifications package and from the HUB subcontracting plan).

- 3.1 **GENERAL SELECTION CRITERIA:** The Respondent(s) selected for award of any Agreement or Contractual arrangement resulting from this Solicitation will be the Respondent(s) whose Proposal is judged most advantageous and the **Best Value** to LIT. LIT is not bound to accept the lowest priced Proposal if that Proposal is not in the best interest of LIT, as determined solely by LIT.

Criteria upon which Proposals will be evaluated are the following:

#### Qualifications and References

Respondents Ability to Provide Services  
Respondent's Past Performance on Representative Projects and Business References  
Respondent's Methodology Including Technical Approach and Understanding of the Scope of Work  
Project Specific Information

#### Pricing and Delivery Proposal

- 3.2 **AUTHORIZED SIGNATURE:** The Proposal must be completed and signed in the firm's name or corporate name of the Respondent, and **must be properly and fully executed and signed by an authorized representative of the Respondent who has the authority to obligate the Firm in the event of an award.**
- 3.3 **CONTRACT AWARD PROCESS:** LIT will evaluate and rank each Proposal with respect to the **Best Value** selection criteria contained in this Solicitation. After opening and ranking, award(s) may be made based on the Proposals initially submitted, without discussion, clarification or modification, or, LIT may discuss with the selected Respondent, offers for cost reduction and other elements of the Proposal. If LIT determines that it is unable to reach an agreement satisfactory to LIT with the selected Respondent(s), then LIT will terminate discussions with the selected

Respondent(s) and proceed to the next Respondent in order of selection ranking until an agreement is reached or LIT has rejected all Proposals.

- 3.4 STATEMENT OF QUALIFICATIONS EVALUATION CRITERIA: LIT will evaluate Proposals. The "**Best Value**" criteria for evaluation and selection of the successful Respondent(s) for this award will be as defined in Section 3.1 and will be based upon the following criteria:

3.4.1 Initial Evaluation

3.4.1.2 Administrative Review

LIT will review timely received responses to determine if mandatory requirements are met and to verify that the Proposals meet administrative and formatting requirements. Compliant responses will be approved for subsequent evaluation steps.

3.4.1.3 Initial Ranking

LIT will review and rank compliant responses, without consideration of cost, from best to least qualified. The Evaluation Committee will use detailed evaluation and weighting guidelines to carefully review and assign a score to each section of each response. Upon completion of the evaluation and scoring, the next step of this evaluation will be performed.

3.4.1.4 Pricing and Delivery Proposal Evaluation

Pricing and Delivery Proposals will be opened and reviewed by Evaluation Committee members. Scores for cost will be based on pre-determined guidelines and weightings. These scores will be added to those assigned in the Initial Ranking process.

3.4.1.5 Reference Checks, Clarification, and Product Demonstration and Presentation

LIT will perform reference checks and seek further information, as needed, from all Respondents whose responses LIT, at its discretion, considers viable, based on the Initial Evaluation and scoring. Respondents may be asked to discuss their responses or provide written clarification. LIT reserves the right to conduct independent investigations and reference checks in its effort to select the Respondent(s), which is best qualified, responsible and responsive to this Solicitation's requirements.

All Respondents selected for further consideration may be asked to present their responses. The conduct, content and extent of such discussions and demonstrations are a matter of LIT judgment, based on the particulars of the selected Respondents.

In the course of seeking additional information, LIT will:

- Control all discussions;

- Attempt to resolve any uncertainties concerning a Respondent's response;
- Attempt to resolve any suspected mistakes by calling them to a Respondent's attention as specifically as possible without disclosing information concerning other Respondent's responses or confidential aspects of the evaluation process;
- Provide the Respondents a reasonable opportunity to submit any technical, cost or other revisions to its response that may result from discussions.

#### 3.4.1.6 Best and Final Offers (BAFO)

LIT may choose to issue a written "Request for Best and Final Offer" to one or more Respondents determined, in the sole opinion of LIT, as a potential "best value". The request will include a specified date and time for receipt of BAFO (Best and Final Offer) responses, as indicated in Section 6 "Schedule of Proposal Process". The request will also include general instructions to, and questions for, all BAFO participants, as well as a list of issues, concerns and/or requests for additional clarification including, but not limited to functional capabilities, cost, contractual gaps, and other Respondent-specific issues unique to each BAFO participant.

The objectives of the Request for BAFO include obtaining:

- The best price for requested Work;
- Changes to Proposals to better align them with LIT requirements for the Work;
- Clarifications where initial Proposals were deemed ambiguous or confusing by the Evaluation Committee;
- Changes to the proposed approach or timing to the extent deemed necessary by LIT; and
- Changes to or more information about proposed project personnel.

#### 3.4.1.7 Final Evaluation

LIT intends to make the contract award to the Respondent(s) whose response best meets the evaluation criteria and reflects the "best value" to LIT

In determining "best value", the Evaluation Committee will be instructed to consider all information contained in the initial responses; the initial evaluation; BAFO responses (if necessary); and information obtained from references, site visits, Respondent presentations and or demonstrations, and any other information obtained during this procurement solicitation process.

### 3.5 RESPONDENT'S STATEMENT OF QUALIFICATIONS AND AVAILABILITY TO UNDERTAKE THE PROJECT: (Maximum of two (2) printed pages for 3.5.1 only)

- 3.5.1 Provide a statement of interest for the Project including a narrative describing the Respondent's unique Qualifications as they pertain to this particular Project.

3.6 CRITERION ONE: RESPONDENT'S ABILITY TO PROVIDE THE SERVICES:

- 3.6.1 Provide the following information on your firm for the past **five** (5) fiscal years:
- 3.6.2 Identify if your firm is currently for sale or involved in any transaction to expand or to become acquired by another business entity. If so, please explain the impact in both organization and company direction.
- 3.6.3 Provide details of any past or pending litigation, or claims filed, against your firm that may affect your performance under a Contract with LIT.
- 3.6.4 Identify if your firm is currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If so, specify date(s), details, circumstances, and prospects for resolution.
- 3.6.5 Does any relationship exist by relative, business associate, capital funding agreement, or any other such kinship between your firm and any LIT employee, officer or Regent? If so, please explain.

3.7 CRITERION TWO: RESPONDENT'S PAST PERFORMANCE ON REPRESENTATIVE PROJECTS and BUSINESS REFERENCES

3.7.1 References:

- 3.7.1.1 The Owner's name and representative who served as the day-to-day liaison during projects, including telephone number and/or email address
- 3.7.1.2 Length of business relationship with the Owner.

*References shall be considered relevant based on specific project participation and experience with the Respondent. LIT may contact references during any part of this process. LIT reserves the right to contact any other references at any time during the Solicitation process.*

3.8 CRITERION THREE: RESPONDENT'S METHODOLOGY INCLUDING TECHNICAL APPROACH AND UNDERSTANDING OF THE SCOPE OF WORK:

- 3.8.1 Provide a brief statement of the service approach for each of the required services identified in Section 7 and any unique benefits (scholarships, rebates, other ideas and recommendations) that LIT will gain from contracting with successful Respondents' firm.
- 3.8.2 Describe how your company will address any noted deficiencies in the service performance and your problem escalation policy.

3.9 CRITERION FOUR: PROJECT SPECIFIC INFORMATION:

Describe how your company will address the following:

- 3.9.1 **Delivery time desired is a maximum of two business days from the date of order. All orders must be delivered Monday through Friday from 8:00am to 1:00pm.**

- 3.9.2 **The term of agreement is one year with option to renew up to three additional years.**
- 3.9.3 Condition for price increase: any price increase must be submitted in writing by vendor and accepted by Lamar Institute of Technology in writing, before increase or the contract will be considered breached.



3.10 RESPONDENTS EXECUTION OF OFFER:

NOTE TO RESPONDENTS: **SUBMIT THIS ENTIRE SECTION WITH RESPONSE.** THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH THE RESPONDENT'S STATEMENT OF QUALIFICATIONS PACKAGE. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE STATEMENT OF QUALIFICATIONS PACKAGE MAY RESULT IN REJECTION OF THE PROPOSAL. **SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED PROPOSAL OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S PROPOSAL, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT LIT'S OPTION, MAY RESULT IN TERMINATION OF ANY AGREEMENT OR OTHER CONTRACTUAL ARRANGEMENT.**

- 3.10.1 By signature hereon, Respondent acknowledges and agrees that (1) this Solicitation is a solicitation for Statements of Qualifications and Pricing and Delivery Proposals and is not a contract or an offer to contract; (2) the submission of Statements of Qualifications/Pricing and Delivery Proposals by Respondent in response to this Solicitation will not create a contract between LIT and Respondent; (3) LIT has made no representation or warranty, written or oral, that one or more contracts with LIT will be awarded under this Solicitation; and (4) Respondent shall bear, as its sole risk and responsibility, any cost which arises from Respondent's preparation of a response to this Solicitation.
- 3.10.2 By signature hereon, Respondent offers and agrees to furnish to LIT products and/or services more particularly described in the Statement of Work and to comply with all terms and conditions and requirements set forth in the Solicitation documents and contained herein.
- 3.10.3 By signature hereon, Respondent affirms that he neither has given, nor intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted Statement of Qualifications/Pricing and Delivery Proposal.
- 3.10.4 By signature hereon, a corporate Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.
- 3.10.5 By signature hereon, the Respondent hereby certifies that neither the Respondent nor anyone acting on behalf of Respondent has violated the antitrust laws of this state, codified in Section 15.01, ET. seq., Texas Business and Commerce Code, or the Federal antitrust laws. Respondent further certifies that it has not communicated directly or indirectly the Statement of Qualifications submitted to any competitor or any other person engaged in a similar line of business.

3.10.6 By signature hereon, Respondent represents and warrants that:

3.10.6.1 Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of this Solicitation;

3.10.6.2 Respondent has the necessary experience, knowledge, abilities, skills, and resources to perform satisfactorily the terms, conditions and requirements of this Solicitation;

3.10.6.3 Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;

3.10.6.4 Respondent understands the requirements and specifications set forth in this Solicitation and the terms and conditions set forth in this Solicitation under which Respondent will be required to operate;

3.10.6.5 Respondent, if selected by LIT, will maintain insurance as required by any Agreement or Contractual arrangement resulting from this Solicitation;

3.10.6.5.1 All statements, information and representations prepared and submitted in response to this Solicitation are current, complete, true, and accurate. Respondent acknowledges that LIT will rely on such statements, information and representations in selecting the successful Respondent(s). If selected by LIT as the successful Respondent(s), Respondent will notify LIT immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.

3.10.7 By signature hereon, Respondent certifies that the individual signing this document and the documents made part of this Solicitation is authorized to sign such documents on behalf of the company and to bind the company under any Agreement or Contractual arrangement resulting from this Solicitation.

3.10.8 By signature hereon, Respondent certifies that if a Texas address is shown as the address of the Respondent, Respondent qualifies as a Texas Resident Respondent as defined in 34 TAC 20.32 (68).

3.10.9 By signature hereon, Respondent certifies as follows:

3.10.9.1 “Under Section 231.006, Texas Family Code, the Respondent certifies that the individual or business entity named in this Proposal or any Agreement or Contractual arrangement resulting from this Solicitation is not ineligible to receive the specified grant, loan, or payment and acknowledges that any Agreement or Contractual arrangement resulting from this Solicitation may be terminated and payment may be withheld if this certification is inaccurate.”

3.10.9.2 “Under Section 2155.004, *Texas Government Code*, the Respondent certifies that the individual or business entity named in this Proposal or any Agreement or Contractual arrangement resulting from this Solicitation is not ineligible to

receive the specified Contract and acknowledges that any Agreement or Contractual arrangement resulting from this Solicitation may be terminated and payment withheld if this certification is inaccurate.”

- 3.10.10 By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of any Texas State University System component, or Respondent has not been an employee of any Texas State University System component within the immediate twelve (12) months prior to your Solicitation response. All such disclosures will be subject to administrative review and approval prior to LIT entering into any Agreement or Contractual arrangement resulting from this Solicitation.
- 3.10.11 By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this Solicitation. (ref. Section 2155.004 Texas Government Code).
- 3.10.12 By signature hereon, Respondent represents and warrants that all articles and services quoted in response to this Solicitation meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.
- 3.10.13 By signature hereon, Respondent signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 3.10.14 By signature hereon, Respondent agrees to defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any Agreement or Contractual arrangement resulting from this Solicitation.
- 3.10.15 By signature hereon, Respondent agrees that any payments that may become due under any Agreement or Contractual arrangement resulting from this Solicitation will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
- 3.10.16 By signature hereon, Respondent certifies that no member of the Board of Regents of The Texas State University System, or the Executive Officers of The Texas State University System or its component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of any Agreement or Contractual arrangement resulting from this Solicitation.
- 3.10.17 By signature hereon, Respondent agrees to Lamar University’s general terms and conditions which can be found at the following link:

[http://www.lamar.edu/\\_files/documents/faculty\\_staff/financial-matters/Purchasing/General%20Terms%20and%20Conditions%2002.09.15.pdf](http://www.lamar.edu/_files/documents/faculty_staff/financial-matters/Purchasing/General%20Terms%20and%20Conditions%2002.09.15.pdf)

The Respondent must complete, sign and return this Execution of Offer as part of their Proposal submittal response. The Respondent’s company official(s) who are authorized to commit to such a submittal must sign submittals. Failure to sign and return this Execution of Offer will disqualify the submittal.

**EXECUTION OF OFFER: RFP #**

Respondent's Company Name: \_\_\_\_\_

Respondent's State of Texas Tax Account No.: \_\_\_\_\_  
(This 11-digit number is mandatory)

If a Corporation:

Respondent's State of Incorporation: \_\_\_\_\_

Respondent's Charter No: \_\_\_\_\_

Identify each person who owns at least 25% of the Respondent's business entity by name:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

**ADDENDA:** Receipt is hereby acknowledged of the following addenda to this Solicitation (initial if applicable).

No. 1 \_\_\_\_\_

No. 5 \_\_\_\_\_

No. 2 \_\_\_\_\_

No. 6 \_\_\_\_\_

No. 3 \_\_\_\_\_

No. 7 \_\_\_\_\_

No. 4 \_\_\_\_\_

No. 8 \_\_\_\_\_

**AWARD AND COMMENCEMENT OF SERVICES:** The undersigned agrees to commence services after notification that the Respondent has been identified by LIT as the successful Respondent with the "best value" Proposal, on or before the commencement date stated by LIT in a Notice to Proceed. LIT reserves the right to accept or reject any or all Statements of Qualifications, waive any informalities or minor technical inconsistencies, or delete any item/requirements from this Solicitation when deemed to be in LIT's best interest. Proposals shall be valid and not withdrawn for a period of 90 (ninety) days from the date of opening.

**Having carefully examined all the requirements of this Solicitation, the proposed form of Contract, and any attachments to them, the undersigned proposes to furnish services as required for this Project.**

Submitted and Certified By:

---

*(Type Respondent's Name)*

---

*(Type Title)*

---

*(Type Street Address)*

---

*(Type Telephone Number)*

---

*(Type City, State, Zip Code)*

---

*(Type Fax Number)*

---

*(Authorized Signature)*

---

*(Type Date)*

---

*(Type Email address for Solicitation Notification)*

**END OF STATEMENT OF QUALIFICATIONS PACKAGE**

**SUBMIT THE EXECUTION OF OFFER TOGETHER WITH THE STATEMENT OF  
QUALIFICATIONS IN A SEALED PACKAGE SEPARATE FROM THE PRICING AND  
DELIVERY PROPOSAL**

## SECTION 4 – REQUIREMENTS FOR THE PRICING AND DELIVERY PROPOSAL

### 4.1 GENERAL INFORMATION:

- 4.1.1 Submit 4 (four) identical hard copies of the Pricing and Delivery Proposal (Section 7) and one readable electronic copy marked as RFP # 789-06072016-MP **and annotate with the words “Pricing and Delivery Proposal Enclosed”**.
- 4.1.2 Properly submitted Pricing and Delivery Proposals will not be returned to respondents.
- 4.1.3 Pricing and Delivery Proposal materials must be enclosed in a sealed envelope (box or container) addressed to the Point-of-Contact person; the package must clearly identify that it is the Pricing and Delivery Proposal, the submittal deadline, the RFP number, and the name and return address of the respondent. Please include the name and email address of the person to be contacted for Solicitation notification on all envelopes.

### 4.2 RESPONDENT’S PRICING AND DELIVERY PROPOSAL

Complete the attached “Pricing and Delivery Proposal” form (Section 8).

## **SECTION 5 – FORMAT FOR STATEMENTS OF QUALIFICATIONS AND PRICING AND DELIVERY PROPOSALS**

### **5.1 GENERAL INSTRUCTIONS:**

- 5.1.1 Statements of Qualifications and Pricing and Delivery Proposals shall be prepared **SIMPLY AND ECONOMICALLY**, providing a straightforward, **CONCISE** description of the Respondent's ability to meet the requirements of this Solicitation. Emphasis shall be on the **QUALITY**, completeness, clarity of content, responsiveness to the requirements, and an understanding of University's needs.
- 5.1.2 Statements of Qualifications shall be a **MAXIMUM OF FIFTY PRINTED PAGES**. The cover, table of contents, divider sheets, and Execution of Offer do not count as printed pages.
- 5.1.3 Respondents shall carefully read the information contained in this Solicitation and submit a complete response to all requirements and questions as directed. Incomplete Statements of Qualifications and Pricing and Delivery Proposals will be considered non-responsive and subject to rejection.
- 5.1.4 Statements of Qualifications and Pricing and Delivery Proposals and any other information submitted by Respondents in response to this Solicitation shall become the property of LIT
- 5.1.5 Statements of Qualifications or Pricing and Delivery Proposals that are qualified with conditional clauses, alterations, items not called for in the Solicitation documents, or irregularities of any kind are subject to rejection by LIT, at its option.
- 5.1.6 LIT makes no representations of any kind that an award will be made as a result of this Solicitation. LIT reserves the right to accept or reject any or all Statements of Qualifications, and Pricing and Delivery Proposals, waive any informalities or minor technical inconsistencies, or delete any item/requirements from this Solicitation when deemed to be in LIT's best interest.
- 5.1.7 It is not necessary to repeat the question in the Statement of Qualifications section; however, it is essential to reference the question number with the corresponding answer.
- 5.1.8 Failure to comply with all requirements contained in this Solicitation may result in the rejection of the Proposal.

### **5.2 PAGE SIZE, BINDING, DIVIDERS, AND TABS:**

- 5.2.1 Statements of Qualifications and Pricing and Delivery Proposals shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral-type bindings or staples. **DO NOT USE METAL-RING HARD COVER BINDERS.**
- 5.2.2 Additional attachments shall **NOT** be included with the Statements of Qualifications or Pricing and Delivery Proposals. Only the responses provided by the Respondent to the questions identified in Section 3 and the Price Proposal, Section 8, of this Solicitation will be used by LIT for evaluation.

- 5.2.3 Separate and identify each criterion response to Section 3 of this Solicitation by use of a divider sheet with an integral tab for ready reference.
- 5.2.4 Separate the components of the Pricing and Delivery Proposal by use of a divider sheet with an integral tab for ready reference.
- 5.3 **TABLE OF CONTENTS:**
  - 5.3.1 Submittals shall include a “Table of Contents” with page numbers for each page of each submittal (Statements of Qualifications and Pricing and Delivery Proposals).
- 5.4 **PAGINATION:**
  - 5.4.1 Number all pages of the submittal sequentially using Arabic numbers (1, 2, 3, etc.)

**END OF REQUEST FOR STATEMENTS OF QUALIFICATIONS  
PRICING AND DELIVERY PROPOSALS –**



## **SECTION 6 – SCHEDULE OF PROPOSAL PROCESS**

LIT wishes to adhere to the following schedule:

<b>DATE:</b>	<b>ACTION:</b>
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May 24, 2016:	RFP posted to State Electronic State Business Daily (ESBD)
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May 31, 2016:	Deadline for submission of questions and/or clarifications regarding RFP. All questions must be received by 5:00p.m. Central Time in order to be considered.
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June 7, 2016:	Written responses received by Lamar University on or before 2:00p.m. Central Time.
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June 10, 2016:	Clarification of responses, negotiations, and/or demonstrations/presentations (if necessary)
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June 13, 2016:	Request for “Best and Final Offer” (BAFO)
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June 15, 2016:	Notification of successful Respondent(s) contingent upon execution of contract.
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June 28, 2016:	Contract(s) executed.
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NOTE: This schedule may be modified or changed at the sole discretion of LIT, if it is determined to be in LIT’s best interests to do so.

## SECTION 7 – SCOPE OF WORK

Lamar Institute of Technology “LIT” is seeking to establish a price list for the *future* of ordering of specialty gasses used in the ongoing Welding Technology Program.

Attention to the following conditions is of crucial importance:

1. Delivery – desired a maximum of two business days from the date of order. All orders must be delivered Monday through Friday between 8:00am and 1:00pm.
2. Term of Agreement – agreement is one year with the option to renew up to 3 (three) additional years if mutually agreeable to contractor and LIT.
3. Price Increase – any price increase must be submitted in writing by vendor and accepted by Lamar Institute of Technology in writing before increase or the contract will be considered breached.
4. Vendor is encouraged to present incentives such as but not limited to:
  - 4.1 Scholarships
  - 4.2 Rebates
  - 4.3 Internships
  - 4.4 Incentives
  - 4.5 Other ideas and recommendations

## SECTION 8 – PRICING AND DELIVERY PROPOSAL

Proposal of: \_\_\_\_\_  
(Respondent Company Name)

To: LIT

RFP # \_\_\_\_\_

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish Specialty Gases required pursuant to the above-referenced Request for Proposal upon the terms quoted below.

VENDOR :

ITEM	Item	NA	NA	NA	Quantity	Price
1	105 lbs. HPG Propylene Fuel Gas				1	
2	#3 Acetylene Fuel Gas (390cf)				1	
3	T-Argon (336cf)				1	
4	T-75/25 (381cf)				1	
5	T-Oxygen (337cf)				1	
6	T-Oxygen 6-pack (2022cf)				1	
7	T-Argon 6-pack (2016cf)				1	
8	T-75/25 6-pack (2286cf)				1	
9	Cylinder Rental Fee				1	
10	Fee Per Delivery					
	<b>TOTAL COST:</b>					

Respectfully submitted,

By: \_\_\_\_\_  
Authorized Signature

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_