



HENDERSON COUNTY TEXAS
ATHENS ANNEX
AUDIT OFFICE
125 N PRAIRIEVILLE, STE 202
ATHENS, TX 75751

INVITATION FOR BID: FY2017 Road Materials
BID OPENING: Tuesday, December 13, 2016, 2:00 pm cst

Sealed bids subject to terms and conditions of this invitation to bid must be returned to the address shown by the date & time shown in a sealed envelope clearly labeled with the name and address of bidder, invitation of bid title & opening date & time on the outside of the envelope. Bidder must return this cover sheet and the bid response form attached. Any bid, proposal, quote or qualification received after the specified time will not considered returned to the submitter.

Any questions pertaining to the bid should be directed to Jennifer Nicholson in writing. The questions may be sent to the address shown above or e-mailed to jnicholson@co.henderson.tx.us. Responses to all questions pertaining to this bid will be posted at www.henderson-county.com/departments/county-auditor/purchasing.

The undersigned by his/her signature represents that he/she is authorized to bind the bidder to fully comply with the terms and conditions of the attached Invitation For Bid, Specifications, and Special Provisions, as well as any and all addenda, for the amount(s) shown on the accompanying bid sheets(s). By signing below, you have read the entire document and agreed to the terms therein. **FAILURE TO SIGN WILL DISQUALIFY BID.**
Name and Address of Bidder:

(Company Name)

(Authorized Signature and date)

(Company Address)

(Name of authorized representative)

(City) (State)

(Zip) (Title)

(Federal I. D. Number)

(Telephone)

(Email Address)

STANDARD TERMS AND CONDITIONS

PLEASE READ CAREFULLY

Standard Terms and Conditions apply to all Invitations for Bid. However, these may be superseded, in whole or in part, by the SPECIAL TERMS AND CONDITIONS/INSTRUCTIONS OR OTHER DATA CONTAINED HEREIN.

All bids shall be binding upon the respondent if accepted by the County within sixty (60) days of the bid opening.

Bids are solicited for furnishing merchandise, supplies, services and/or equipment set forth in this document. **By returning this bid with price(s) quoted, vendors certify and agree to the following:**

BIDDING REQUIREMENTS: Bidders must comply with all statutes, rules, regulations and policies relating to purchasing at Henderson County and required herein. All required documents must be received by the date and time specified.

Bids cannot be altered or amended after due date and time.

DEADLINE EXTENSIONS: Henderson County reserves the right to make a judgment call to extend any deadline. All deadline extensions will be posted as an addendum on the Henderson County website.

If there is an unforeseen event causing the County to close for business or delay opening, the submission deadline may be extended. If the unforeseen event causes delays in carrier service operation, the County may issue an addendum to extend the deadline.

BIDDER CERTIFICATION: The bidder agrees that submission of a signed bid is certification that the bidder will accept an award made to it as a result of the submission.

BIDDER AFFIRMATION: Signing this Bid with a false statement is a material breach and shall void the submitted bid and the bidder shall be removed from all bid lists. By signature, the bidder certifies that the bidder has not given, offered to give, nor does it intend to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any Henderson County employee in connection with the submitted bid; (ii) received compensation for participation in the preparation of this Invitation for Bid or its specifications; and (iii) violated the antitrust laws of this state or the Federal Antitrust Laws or communicated directly or indirectly to any competitor or any other person engaged in such line of business in connection with this invitation for Bids.

ACKNOWLEDGEMENT OF AMENDMENTS: Bidder/proposers shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose, or by letter. The acknowledgment must be received by Henderson County by the time and at the place specified for receipt of bids/proposals.

ADDITIONAL INFORMATION: Questions regarding this solicitation must be submitted in writing to the above address. Bidder/Proposers are cautioned that any statement by said contact that materially changes any portion of the solicitation document shall not be relied

upon unless subsequently ratified by formal written amendment to the solicitation document.

BID/PROPOSAL WITHDRAWAL: **Prior to opening**, bidders/proposers may withdraw simply by making a written request to Henderson County. No explanation is required.

After opening, bidders/proposers must submit in writing a request for withdrawal stating the reason for the request. Along with the written request, supporting documentation and all original work papers, documents and other materials used in the preparation of the bid/proposal shall be submitted as objective evidence that the bid/proposal was submitted in error. Any request for withdrawal must be received by Henderson County within 10 days after opening. If permitted to withdraw its bid/proposal, the bidder/proposer shall not supply any material, labor or perform any work in connection with an award.

BID PRICES: **Bidders must price as 'per unit'**. Unit prices shall govern in the event of price extension errors. Bid prices shall be firm for a minimum of sixty (60) days from the date of opening and withdrawals are not permitted. The price for the goods shall be no higher than the lowest price charged to the Seller's customers who take delivery in substantially similar amounts under similar conditions during the same period of time.

SPECIFICATION: Catalog, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless expressly stated otherwise. If bidding on other than references, bidder must show manufacturer, brand or trade name and other description of goods offered. Manufacturer's standard warranty shall apply unless otherwise stated in the Invitation for Bids or Request for Proposals.

DELIVERY AND FREIGHT CHARGES: **All delivery and freight charges are to be included**, on the basis of deliveries being **FOB destination**. Deliveries are to be made per Audit Office instructions. Shipments sent C.O.D. without Henderson County's consent may not be accepted and will be at Seller's risk.

PACKAGING: The risk of loss or damage in transit shall be upon the Seller. Upon receipt of written instruction from Henderson County, Seller will promptly replace any goods damaged in transit and make good any defects of the goods. Seller must enter with the carrier and prosecute all claims for damage or loss in shipment.

INSPECTION: Acceptance of the goods is subject to Henderson County inspection and approval. Such inspection and approval may be made within 10 days after the date of delivery. Notwithstanding the preceding sentence, Henderson County shall have reasonable time within which to reject goods with defects not noticeable by visual inspection, after discovery thereof. All goods failing to meet Henderson County inspection and specification may be accepted by Henderson County with an equitable adjustment in price, sold for the account of Seller or be held or returned at Seller's risk and expense, at Henderson County's option, all without prejudice to Henderson County other remedies at law or in equity. The cost of rework, inspection, transportation, repackaging, and re-inspection shall be at Seller's expense.

WARRANTY: In addition to warranties implied by law, Seller warrants that the goods will be new, unused and of current production; merchantable; free from defects in design, material, fabrication and workmanship; in conformity with applicable specifications or samples; will be delivered free of any security interest or other encumbrance, and will be

free of any claim of infringement and fit for their intended use; and that Henderson County will acquire good and marketable title to the goods. Seller warrants that services of any nature furnished will be rendered competently by qualified personnel and in accordance with the highest applicable standards. These warranties will survive acceptance and payment. All warranties will run to Henderson County and its customers.

SAMPLES: Samples, when requested, shall be furnished free of expense to Henderson County. If not destroyed or consumed in examination, they will be returned to the bidder, upon written request, at bidder's expense. Each sample must be marked with the bidder's name and address.

MATERIAL SAFETY DATA SHEETS: The Seller shall provide, at no additional cost 1 copy of any applicable Manufacturer's Material Safety Data Sheet(s) (MSDS) to Henderson County. If OSHA or federal, state or local laws provide for other requirements, such requirements are in addition to the MSDS requirement.

QUANTITIES: Quantities indicated in the Bid are estimates based upon the best available information. The County reserves the right to increase or decrease the quantities by any amount deemed necessary to meet its needs without any adjustment in the bid price.

AWARD: Henderson County reserves the right to award on the basis of **BEST VALUE** in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one bidder, and/or to reject any or all bids. In the event the lowest dollar bidder, meeting the specifications, is not awarded, the bidder may dispute the award to Commissioners' Court. Offer must notify, in writing, the Audit Office of the intent to appear. In determining **BEST VALUE** the following is taken into consideration: price, life cycle costs, quality, installation, delivery, training and past performance. Cash discounts are not considered in bid award.

MULTIPLE BID AWARD: Henderson County reserves the right to concurrently award this bid to multiple bidders.

BIDDER/PROPOSER RESPONSIBILITY: The Contractor shall obtain any necessary permit(s) from the appropriate City, County, or State of Texas as required by the ordinances of the City, County or State for the performance of the work.

MINIMUM STANDARDS FOR RESPONSIBLE PROSPECTIVE BIDDER: A Bidder must affirmatively demonstrate their responsibility. A Bidder must meet the following requirements:

1. have adequate financial resources, or the ability to obtain such resources as required;
2. be able to comply with the required or proposed delivery schedule;
3. have a satisfactory record of performance;
4. have a satisfactory record of integrity and ethics;
5. be otherwise qualified and eligible to receive an award.

PROTESTS: A supplier who disagrees with an action taken by Henderson County shall submit a written protest stating the basis for its position. Henderson County shall provide a prompt response to the supplier's protest. If the supplier requests further review of the action, such review shall be promptly conducted by Counsel for Henderson County.

TIE BIDS: Award will be made by drawing of lots. Consistent and continued tie bidding could cause rejection of bids by Henderson County and/or investigation for antitrust violations.

ALTERNATE BIDS: Bidders offering alternatives other than those permitted by the specifications or statement of work may submit a separate envelope clearly marked "Alternate Bid". Alternative bids will be deemed non responsive and will not be considered for award. All such responses, however, will be examined prior to award. Such examination may result in cancellation of all bids received to permit rewriting the specifications or statement of work to include the alternative, or the alternative may be considered for future requirements of Henderson County.

FORCE MAJEURE: No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of terrorism, or other cause of similar or dissimilar nature beyond its control.

FAILURE TO ENFORCE: Failure by Henderson County at any time to enforce the provisions of the award shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the award or any part thereof or the right of Henderson County to enforce any provision at any time in accordance with its terms.

PURCHASE ORDER REQUIREMENT: Purchases of Henderson County are authorized only if a purchase order is issued in **advance** of the transaction, showing that the ordering department has sufficient funds available to pay for the order. Contractors providing goods or services **without a purchase order** do so at their own **risk**. Henderson County shall not be liable for payment for any goods or services provided unless a valid purchase order has been issued to the contractor.

PAYMENT: Seller shall send an original copy of invoices on date of shipment. Invoices must clearly indicate the **Purchase Order Number**. Payment shall be made by Henderson County in thirty (30) days from the day the invoice was received in the County Auditor's Office or delivery date whichever is later. Invoices shall be submitted in such detail and with such supporting documentation as may reasonably be required by Henderson County. Acceptance by Seller of final payment shall be deemed a release of Henderson County for all claims and liabilities of Henderson County to Seller. No payment, however, final or otherwise, shall operate to release Seller from any obligation arising under the Order.

SALES TAX: Henderson County is exempt from all federal excise, state and local taxes unless otherwise stated in this document. Henderson County claims exemption from all sales and/or use taxes under Texas Tax Code 151.309, as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the Henderson County Auditor.

ORAL STATEMENTS: Henderson County will not be bound by any oral statement or representation in connection with the solicitation. Any changes will be in written form and issued by the Henderson County Audit Office.

INDEMNITY: Seller shall indemnify and hold Henderson County, its officers and employees harmless from all claims for personal injury, death and/or property damage resulting directly or indirectly for contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this bid, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under the terms of this bid. Certification of such coverage must be provided to the County before beginning any work.

REMEDIES: If Seller breaches any of these terms, Henderson County shall have all the rights available in law and equity, including the right to: (i) rescind or cancel this order for goods or services or any part thereof, and to retain any delivered goods, and to retain from any money otherwise due for goods previously delivered an amount which Henderson County determines is adequate to cover all damages from Seller's breach; (ii) purchase substitute goods and charge Seller with any loss incurred thereby; (iii) reject any nonconforming tender, and/or store and/or return such goods to Seller at Seller's risk and expense; and (iv) assert any claim for damages, including manufacturing cost, and incidental, consequential or special damages incurred by Henderson County. The foregoing rights are in addition to any other remedies provided herein or provided by law or in equity. Such remedies to be cumulative and not alternative.

ASSIGNMENT: Without the prior written consent of Henderson County, Seller's right and obligations hereunder may not be assigned or delegated in whole or in part. Any purported assignment or delegation made without such written permission shall be wholly null and void, and Henderson County may treat such act as a breach hereof. Henderson County may assign or delegate all or any part of its right and duties hereunder.

CHANGE OF OWNERSHIP: If ownership of your firm should change during the term of the award, Henderson County must be notified in writing within ten (10) days and a new declaration of relationships (Conflict of Interest form) be submitted to Henderson County Audit Office. Failure by the vendor to provide written notification of change of ownership may result in cancellation of the award.

CANCELLATION: Upon thirty (30) days written notice to Seller, Henderson County may cancel an order, in whole or in part, without any obligation and/or liability to either party. This award shall remain in effect until award expires, delivery/completion and acceptance of goods or services ordered or terminated by either party with a thirty (30) days written notice prior to any cancellation. The successful bidder must state therein the reasons for such cancellation. Henderson County reserves the right to award cancelled award as it deems to be in the best interest of the County.

APPLICABLE LAWS: Seller must comply with all local, state and federal laws and regulations affecting the price production, sale or delivery of the materials or services this order without limitation, the Fair Labor Standards Act of 1938, as amended (29 U.S.C. SS2000 ET. Seq.) Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. SS2000E ET. Seq.), and all applicable state and federal affirmative action and non-discrimination requirements. If Seller breaches its obligations in this Section, the Order may be terminated forthwith without notice and without any liability whatsoever on Henderson County. The goods may be returned or held for the account of seller, all at Seller's risk and expense.

GOVERNING LAW: This solicitation and any resulting award shall be construed in accordance with the laws of the State of Texas. Any action regarding a dispute arising out of any agreement shall be brought in the federal or state courts within Henderson County and the parties consent to the exclusive personal jurisdiction of such courts in the event of a dispute.

FUNDING CLAUSE: County funds for payment on any award have been provided through the Henderson County budget approved by the County Commissioners for this fiscal year only. State law prohibits the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The Fiscal Year for Henderson County extends from January 1 through December 31. Furthermore, the Henderson County Commissioners' Court unconditionally reserves the right to terminate this award at the end of each budget period notwithstanding the actual anticipated term of the award.

COOPERATIVE CONTRACTS: Henderson County reserves the right to make purchases from governmental cooperative contracts or other vendors to meet county needs. Governmental entities within Henderson County utilizing intergovernmental contracts with Henderson County will be eligible, but not obligated, to purchase goods and/or services under the award as a result of this solicitation. Using entities are responsible for obtaining charge authorization levels from awarded vendor and are responsible for conforming to their auditing regulations by statute. All purchases by using entities will be billed directly to that entity and paid by that entity. Henderson County will not be responsible for another governmental entity's debts. Each entity will order their goods and/or services as needed.

AUTHORIZED PERSONNEL: County employees, other than those designated by the Henderson County Commissioners' Court are not authorized to sign any kind of supplemental or binding purchase, lease or rental agreement for goods or services for Henderson County.

INTEGRATION: This award contains the entire agreement of the parties with respect to the matters covered by its terms. No other agreement, statement, or promise made by any party, or to any employee, office, or agent of any party that is not contained in this award shall not be of any force or effect.

SEVERABILITY: If any term or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

AWARD EXTENSION: Upon completion of the term of the original award and upon the mutual agreement of both parties, the original award may be renewed for up to four (4) additional one (1) year terms [five (5) years total]. The renewal will be under the same terms and conditions as the original award, provided. Awards are extended upon mutual agreement of both Vendor and the County. In the event a new agreement cannot be executed at the anniversary date of the original term or any renewal term, the award may be renewed month-to-month until a new agreement is executed.

RIGHT TO PURCHASE ELSEWHERE: Henderson County will not actively solicit bids, proposals, quotations or otherwise test the market solely for the purpose of seeking alternative sources. However, Henderson County reserves the right to purchase elsewhere

any and/or all items covered by this award if available from another source at a price lower than the awarded-price or if award term(s) are not met, or if the successful bidder cannot deliver the ordered goods to meet County work schedules.

EXCEPTION/SUBSTITUTIONS: All bids meeting the intent of this Invitation to Bid will be considered for award. Bidders taking exception to the specifications, or offering substitutions, shall state these exceptions in the section provided or by attachment as part of the bid. The absence of such a list shall indicate that the bidder has not taken exceptions and shall hold the bidder responsible to perform in strict accordance with the specifications of the invitation. Henderson County Commissioners Court reserves the right to accept any and/or all/none of the exception(s)/substitution(s) deemed to be in the best interest of the County.

SCANNED OR RE-TYPED RESPONSE: If in its response, bidder either electronically scans, re-types, or in some way reproduces the County's published IFB package, then in the event of any conflict between the terms and provisions of the County's published IFB, or any portion thereof, and the terms and provisions of the response made by bidder, the County's IFB **as published** shall control. Furthermore, if an alteration of any kind to the County's published IFB is only discovered after the award is executed and is or is not being performed; the award is subject to immediate cancellation.

SUSPENSION, DEBARMENT, AND TERRORISM: Vendor certifies that the vendor and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any Federal, State or Local Governmental Entity and that Vendor is in compliance with the State of Texas Statutes and Rules relating to Procurement and that Vendor is not listed on the Federal Government's Terrorism Watch list as described in Executive order 13224.

Henderson County reserves the right to accept or reject all or any part of any bid and make award that best serves the interests of Henderson County.

Any responses, worksheets and/or submitted documents to this IFB becomes the property of Henderson County unless withdrawn before the due date and time of this bid.

If there is a conflict between federal, state and local laws regarding procurement, the more stringent law will apply.

SPECIAL TERMS AND CONDITIONS

The Award period will be for ten months, January 1, 2017 through December 31st, 2017. Henderson County reserves the option to award any or all items to multiple vendors.

Award criteria:

Henderson County will award the bid for the items that will serve the County's best interest; therefore, the following criteria will be used when evaluating bids:

1. quality of product
2. adherence to specifications as stated in this Invitation for Bid
3. vendors ability to furnish unit in a timely manner
4. price

Contractors must, upon the request of Henderson County, furnish satisfactory evidence of their ability to furnish products or services, in accordance with the terms and conditions of these specifications.

INSURANCE REQUIREMENTS: The Seller shall provide Henderson County prior to the start of any services and/or goods with a certificate of insurance and agrees to maintain at the Seller's expense such insurance with companies qualified to do business in Texas.

Types and Minimum limits of Insurance

- a. Worker's Compensation Insurance as required by the **STATE OF TEXAS - STATUTORY.**
- b. Employer's Liability Insurance with a limit of not less than **\$500,00.00**
- c. Comprehensive General Liability with limits of **\$1,000,000.00** per occurrence/aggregate, including product and completed operations coverage.
- d. Auto liability limits **\$1,000,000.00.**
- e. Deductible shall be **\$5,000** or less on each of the above listed coverage

Henderson County shall be named as an **Additional Insured** and held harmless as respects to the service or work performed.

FAILURE TO COMPLY WITH LAWFUL REQUIREMENTS OR ADEQUATE LIABILITY REQUIREMENTS MAY RESULT IN DELAY OF PAYMENTS AND/OR CANCELLATION OF THE AWARD

GRANT FUNDING

Any award that is to be paid from grant funds shall be limited to payment from the grant funding and the vendor/provider understands that the County has not set aside any County funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid by the grant, and further funding cannot be obtained for the award, then *the sole recourse of the provider shall be to terminate any further services under the award shall be null and void.*



INVITATION FOR BID: FY2017 Road Materials

BID OPENING: December 13, 2016 2:00pm

BID RESPONSE FORM

	PICKUP	PCT1	PCT2	PCT3	PCT4
ASPHALT BASE CRUDE OIL					
CHFRS-2P					
COLD MIX					
CRS 2					
CRS 2P					
CWE 2					
FLEX BASE A-2					
HOT MIX-W/O RECYCLED MATERIALS					
HOT MIX-WITH RECYCLED MATERIALS					
IRON ORE ROCK-RED					
OILSAND					
PEA GRAVEL					
PRIME COAT MC3000					
REFINED ROAD OIL					
ROAD OVER COAT					
SEAL COAT AC10					
SUPER SAND MIX					
TRUCK-SIZE & TYPE					
DUMP VALVES INTERIOR OR EXTERIOR					
DELIVERY COSTS & REQUIREMENTS					
LOCATIONS					
COMMENTS					

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
 - A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
 - An estate (other than a foreign estate), or
 - A domestic trust (as defined in Regulations section 301.7701-7).
- Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ¹
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor [*]
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

OFFICE USE ONLY

Date Received

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed; or
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.