

**Academy of Accelerated Learning, Inc. (AAL)**

Re-post Request for Proposal for Placement of Modular Building  
at the Chimney Rock Campus

Inquiries and proposals should be directed to:

Martha Bravo, Director of Operations

Address: 5300 N. Braeswood, Suite 8, Houston,

TX 77096

Phone: 713-668-8237

Fax: 713-838-9474

Email: [payables@aalinc.org](mailto:payables@aalinc.org)

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## **Legal Notice**

The Academy of Accelerated Learning, Inc. (AAL) invites qualified General Contractors to submit a response to a Request for Proposal for Construction Management/General Contractor services (CMGC). AAL is seeking a skilled, professional, and dedicated firm for assistance in installing a modular classroom building. The selected firm will provide site improvements and flat work, entrance deck/ramps, skirting, utilities extensions and connections, and overall preparation for building placement (by others). This is a repost from June 7 and June 14, 2020.

Proposal deadline is 2:00 pm on Monday, July 20, 2020.

## AAL Information

### A. Background

The Academy of Accelerated Learning (AAL) established in 1998 to provide academic programs and enrichment activities for youth from underserved areas of greater Houston. AAL is a non-profit 501(c)3 organization which receives its funds primarily from State and Federal agencies. The mission of the Academy of Accelerated Learning is to develop an accelerated learning environment that clearly charts a path for empowerment for primarily at-risk students to become tomorrow's problem solvers, thinkers, and leaders through participation in a wide variety of educational experiences appropriate to their age, interests, and needs.

### B. Who May Respond

Firms that are licensed to do business in the State of Texas and are not listed on the federal and state debarment lists.

### C. Instructions on Proposal Submission

- a. **Bid Availability:** Bid packages will be re-posted at 2:00 p.m. on July 1, 2020 at <https://www.aalinc.org/domain/90>.
- b. **Site Walkthrough:** July 13, 2020
- c. **Closing Submission Date:** Proposals must be received no later than 2:00 pm on Monday July 20, 2020.
- d. **Inquiries:** Written inquiries concerning this RFP may be submitted via e-mail, mail, or fax. E-mailed inquiries should be directed to Martha Bravo at [payables@aalinc.org](mailto:payables@aalinc.org) by 5:00 p.m. July 15, 2020. A questions and answers form will be provided on the AAL website as needed.
- e. **Conditions of Proposal:** All costs incurred in the preparation of a proposal responding to this RFP will be the responsibility of the Offeror and will not be reimbursed by AAL.
- f. **Instructions to Prospective Contractors:**

Your proposal should be addressed as follows:

Entity: Academy of Accelerated Learning, Inc. (AAL)  
Name: Martha Bravo  
Title: Director of Operations  
Address: 5300 North Braeswood, Ste 8, Houston, TX 77096

Proposals must be clearly marked on the outside with the vendor's name, address, RFP#19-20 for Construction Management/General Contractor to Install Modular Building, and date of submission.

It is the responsibility of the Offeror to ensure that the proposal is received by AAL by the date and time specified above. To schedule drop-off of your proposal, please contact Ms. Martha Bravo via e-mail at [payables@aalinc.org](mailto:payables@aalinc.org).

Late proposals will be considered nonresponsive.

- g. Right to Reject: AAL reserves the right to reject any and all proposals received in response to this RFP. A contract for the accepted proposal will be based upon the factors described in this RFP.
- h. Small and/or Minority-Owned Businesses: Efforts will be made by AAL to utilize small businesses and minority-owned businesses. An Offeror qualifies as a small business firm if it meets the definition of “small business” as established by the Small Business Administration. An Offeror qualifies as a minority-owned business if it is at least 51% owned, managed, and controlled by a minority.
- i. Notification of Award:
  - i. It is expected that a decision selecting the successful firm will be made within two (2) weeks after the closing date for the receipts of proposals.
  - ii. Upon conclusion of final negotiations with the successful firm, all Offerors will be informed in writing.

## **Specification Schedule**

### **A. Project Description**

AAL seeks proposals from firms to oversee the installation of one modular building. The classrooms within the building will provide space to serve up to 22 students per room. The modular building will be located on existing land leased by AAL at 6025 Chimney Rock Road, Houston, TX 77081.

The firm shall coordinate and cooperate with the personnel of AAL and all other contractors associated with the building project.

### **B. Scope of Work**

#### **Pre-Construction Services**

1. Procurement Process: The architect will develop and recommend a procurement process for all trade work, materials and equipment that will result in the development of the Guaranteed Maximum Price (GMP). The architect will be responsible for developing all necessary scope of work and bid forms, contacting potential bidders, conduct the bidding and present the final bid tabulation for each section or the work for the approval by AAL. Minimum three (3) bids are required from subcontractors for each service that will exceed \$10,000. The architect will secure all necessary building permits for the workings.

#### **Construction Services:**

Provide construction services from the execution of a Notice to Proceed with Construction through Final Completion of Construction in accordance with the approved GMP and final construction schedule.

The construction services will include but will not be limited to:

1. Project management, and on-site supervision and coordination.
2. Monitor and control the project schedule
3. Quality Control and safety inspections
4. Monitor and control project costs
5. Mediate and problems that arise between project participants
6. Provide and install aluminum ramps, covered walkways, handrails and guardrails
7. Connect modular building to existing sanitary sewer line
8. Build new electrical service and connect modular building
9. Construct new 5'-" wide concrete sidewalk along south side of property line (Ashbrook Drive)
10. Remove existing asphalt driveways (2) and construct (2) new asphalt driveways with 24" dia. Concrete pipe
11. Install landscaping as indicated on plans
12. Install 6'-0" high chain link fencing with gates as indicated on plans

### **Post-Construction Services**

Perform such post-construction services as necessary to ensure successful issuance and closeout of the all required certificates and permits and perform such warranty work as required.

The services will include:

1. Manage post construction phase
2. Obtain certificate of occupancy
3. Prepare, distribute and insure timely completion of punch list
4. Obtain all required close out documents
5. Oversee training in equipment utilization
6. Provide as-builts
7. Conduct warranty walk-through.
8. Provide architect with redline drawings/documentation to complete record drawings, "as built."

## C. Delivery Schedule

### General Contractor RFP Schedule

<b>ACTION</b>	<b>DATE</b>
RFP Re-Released	Thursday, June 3, 2020
Deadline for final questions	Wednesday, July 15, 2020
Proposals due	Monday, July 20, 2020
Sealed bids opened	Wednesday, July 22, 2020
Award notification	Monday, July 27, 2020

### Tentative Construction Schedule

<b>ACTION</b>	<b>DATE</b>
Final preparation of construction documents	July/August 2020
Land preparation/utilities	July/August 2020
Building placement	July/August 2020

## Technical Qualifications

The Offeror, in its proposal, shall, at a minimum, include the following:

### A. Company Information

1. Name of Firm
2. Address of Firm
3. Telephone Number
4. Contact Person's Name
5. Contact Person's E-mail Address
6. Firm Website URL
7. Brief History of Firm
8. Key Members of Firm

### B. Project Experience

Provide a summary of the last three construction projects that have been managed and completed. This should include name of building/entity and a brief description of the project including total square feet, project cost, date completed, and contact information.

### C. Cost Effective Design

For the last three construction projects please list the cost estimate, final costs, and difference. Please list any changes in scope if appropriate and if this change in scope resulted in an increase in your fee.

### D. Fee Proposal

Proposed costs necessary to oversee the construction project to its completion, as specified in the scope of work. Please include a detailed breakdown of what your fee proposal includes.

<b>Service Type</b>	<b>Percentage Construction Budget</b>	<b>Flat Fee</b>	<b>Reimbursable (Please List)</b>
Pre-construction Services			
Construction Services			
Post Construction Services			
Indirect construction cost - General Conditions - Insurance - Building permit and Plan - Other (Please list)			
Contingency			
CMGC profit			
Other costs (Please List)			

**E. Licensure**

Has the firm or key members of the firm had their license suspended within the past five years?

**F. Insurance**

Evidence of Workers' Compensation Insurance

Evidence of Liability Insurance in the amount of no less than \$1,000,000 per occurrence

**G. Legal Proceedings**

Identify any on-going legal proceedings or pending legal proceedings (arbitration, complaint, or court action) filed by an owner or contractor against your firm or key members of your firm, for any project in the past five years.

**H. Project Approach**

Describe your firm's management approach to these types of projects. Include any unique aspects your firm may employ in the management of the project.

**I. References**

Provide a minimum of three references from recent projects of similar scope and type.

**J. Certifications**

The Offeror must sign and include, as an attachment to its proposal, the Certifications enclosed with this RFP.



## Proposal Evaluation

### A. Submission of Proposals

All proposals shall include the Offeror's technical qualifications and pricing information. These documents will become part of the contract.

### B. Nonresponsive Proposals

Proposals may be judged nonresponsive and removed from further consideration if any of the following occur:

1. The proposal is not received timely in accordance with the terms of this RFP.
2. The proposal does not include all of the items listed in this RFP.

### C. Proposal Evaluation

Evaluation of each proposal will be scored using the following criteria:

Prior experience	0-25 Points
Staff experience and qualifications	0-25 Points
Fee Proposal	0-25 Points
Project Approach	0-25 Points
Positive References	0-10 Points
Minority/Small Business	0-5 Points
Total	0-115 Points

### D. Review Process

AAL may, at its discretion, request presentations by, or meetings with, any or all Offerors to clarify or negotiate modifications to the Offeror's proposal.

AAL reserves the right to make an award without further discussion of the proposals submitted. Therefore, proposals should be submitted initially on the most favorable terms, from both technical and price standpoints, which the Offeror can propose.

AAL contemplates award of the contract to the responsive responsible Offeror with the highest total points.

## Certifications

On behalf of the Offeror:

1. The individual signing certifies that he/she is authorized to contract on behalf of the Offeror.
2. The individual signing certifies that the Offeror is not involved in any agreement to pay money or other consideration for the execution of this agreement, other than to an employee of the Offeror.
3. The individual signing certifies that the prices in this proposal have been arrived at independently without consultation, communication, or agreement, for the purpose of restricting competition.
4. The individual signing certifies that the prices quoted in this proposal have not been knowingly disclosed by the Offeror prior to an award to any other Offeror or potential Offeror.
5. The individual signing certifies that there has been no attempt by the Offeror to discourage any potential Offeror from submitting a proposal.
6. The individual signing certifies that he/she has read and understands all of the information in this Request for Proposal.
7. The individual signing certifies that the Offeror, and any individuals to be assigned to the construction project, do not have a record of substandard work and have not been debarred or suspended from doing work with any federal, state or local government. (If the Offeror or any individual to be assigned to the construction project has been found in violation of any state or professional standards, this information must be disclosed.)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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(Offeror's Firm Name)

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(Signature of Offeror's Representative)

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(Printed Name and Title of Individual Signing)

**ACADEMY OF ACCELERATED LEARNING, INC.  
GENERAL TERMS AND CONDITIONS**

**BIDDING REQUIREMENTS:**

- 1.01. Bidders must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.
- 1.02. Bids should be submitted on this form. Bidders must price per unit shown. Unit prices shall govern in the event of extension errors. If a price quotation is submitted as part of the bid, the quotation must be referenced on the bid document and signed by the bidder to establish formal linkage to the bid.
- 1.03. Bids must be received at the Academy of Accelerated Learning, Inc. (AAL) Administration Office on or before the hour and date specified for the bid opening.
- 1.04. Late and/or unsigned bids will not be considered under any circumstances. Person signing bid must have the authority to bind the Respondent to a contract entered into with AAL.
- 1.05. Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
- 1.06. Bid prices must remain valid for 90 days from bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts Proposed will be taken if earned.
- 1.07. Bidder should enter Texas Identification Number System (TINS) number, Federal Employer's identification Number (FEIN), full Respondent name and address of bidder on the face of this form. Enter in the space provided, if not shown. Additionally, Respondent name should appear on each continuation page of a bid, in the block provided in the upper right hand corner.
- 1.08. Bid cannot be altered or amended after opening time. Alterations made before opening time should be initialed by bidder or his/her/its authorized agent. No bid can be withdrawn after opening time without approval by AAL based on an acceptable written reason.
- 1.09. Purchases made for AAL use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.
- 1.10. AAL reserves the right to make an award on the basis of low line item bid, low total of line items, or in any other combination that will serve the best interest of AAL and to reject any and all bid items at the sole discretion of AAL. AAL also reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of AAL. Any contract may also be extended up to six months at the sole discretion of AAL.
- 1.11. Consistent and continued tie bidding could cause rejection of bids by AAL and/or investigation for antitrust violations.
- 1.12. Inquiries pertaining to this solicitation must include the name of the bid and any bid number and opening date.

**2. SPECIFICATION:**

- 2.01 Catalogs, 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 advertised under §2155.067, Texas Government Code (Gov't Code). If bidding on other than references, bid should show manufacturer, brand or trade name, and other description of product proposed. If other than brand(s) specified is proposed, illustrations and complete description of product proposed are requested to be made part of the bid. Failure to take exception to specifications or reference data will require bidder to furnish specified brand names, numbers, etc.
- 2.02 Unless otherwise specified, items shall be new and unused and of current production.

- 2.03 All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.
  - 2.04 Samples, when requested, must be furnished free of expense to AAL. If not destroyed in examination, they will be returned to the bidder, on request, at bidder's expense. Each sample should be marked with bidder's name and address, and bid number. Do not enclose in or attach bid to sample.
  - 2.05 AAL will not be bound by any oral statement or representation contrary to the written specifications of this solicitation.
  - 2.06 Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.
- 3. TIE BIDS:** Awards will be made in accordance with 34 TAC Rules 20.36(b)(3) and 20.38 (Preferences).
- 4. DELIVERY:**
- 4.01. Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates bidder to deliver in 14 calendar days. Unrealistic delivery promises may cause bid to be disregarded.
  - 4.02. If delay is foreseen, bidder shall give written notice to AAL. Bidder must keep AAL advised at all times of status of order.
  - 4.03. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes AAL to purchase the goods or services of this solicitation elsewhere and charge any increased costs for the goods or services, including the cost of rebidding, to the bidder.
  - 4.04. No substitutions permitted without written approval of AAL.
  - 4.05. Delivery shall be made during normal working hours only, unless prior approval has been obtained from ordering agency.
- 5. INSPECTION AND TESTS:** All goods will be subject to inspection and test by AAL. Authorized AAL personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by the bidder in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at the AAL's option, be returned to the bidder or held for disposition at bidder's expense. Latent defects may result in revocation of acceptance.
- 6. AWARD OF CONTRACT:** A Qualification to this solicitation is a Qualification to contract based upon the terms, conditions, and specifications contained herein. Bids do not become contracts until they are accepted through a purchase order. The contract shall be governed, construed, and interpreted under the laws of the State of Texas. The factors listed in §§2155.074, 2155.144, 2156.007, and 2157.003, Gov't Code, may also be considered in making an award when specified. Any legal actions must be filed in Harris County, Texas.
- 7. PAYMENT:** Bidder shall submit 2 copies of an itemized invoice showing AAL purchase order number on all copies. AAL will incur no penalty for late payment if payment is made within 30 days after receipt of goods or services and an uncontested invoice.
- 8. PATENTS, TRADEMARKS, OR COPYRIGHTS:** Bidder agrees to defend and indemnify AAL and the State of Texas from claims involving infringement or violation of patents, trademarks, copyrights,

trade secrets, or other proprietary rights, arising out of the AAL's or the State's use of any good or service provided by the bidder as a result of this solicitation.

**9. BIDDER ASSIGNMENTS:** Bidder hereby assigns to the AAL any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A. §1, *et seq.*, and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code §15.01, *et seq.*

**10. BIDDER AFFIRMATIONS:** Signing this bid with a false statement is a material breach of contract and shall void the submitted bid and any resulting contracts, and the bidder shall be removed from all bid lists. By signature hereon affixed, the bidder hereby certifies that:

10.01. The bidder has not given, proposed to give, nor intends 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 bid.

10.02. Pursuant to 15 U.S.C. §1, *et seq.* and Tex. Bus. & Comm. Code §15.01, *et seq.* neither the bidder nor the corporation, partnership, or institution represented by the bidder, or anyone acting for such a Respondent, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

10.03. Pursuant to §2155.004, Gov't Code, neither the bidder nor any person or entity which will participate financially in any contract resulting from this RFQ/RFB received compensation for participation in the preparation of the specifications for this RFQ/RFB.

10.04. Pursuant to §231.006(d), Texas Family Code, regarding child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate.

10.05. Under §2155.004, Gov't Code, the bidder certifies that the individual or business entity named in this bid or any contract resulting from this solicitation is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate. §2155.004 prohibits a person or entity from receiving a state contract if they received compensation for participating in preparing the solicitation or specifications for the contract.

10.06. As required by §2252.903, Gov't Code, bidder agrees that any payments due under a contract resulting from this RFQ/RFB shall be directly applied towards eliminating any debt or delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, until the debt is paid in full. Bidder shall comply with rules adopted by AAL under §§403.055, 403.0551, 2252.903, Gov't Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

10.07. Pursuant to §669.003, Gov't Code, AAL may not enter into a contract with a person who employs a current or former executive head of the AAL until four years has passed since that person was the executive head of AAL. By submitting a bid, the bidder certifies that it does not employ any person who was the executive head of AAL in the past four years. If bidder does employ a person who was the executive head of AAL, provide the following Qualification:

**Name of Former Executive:** \_\_\_\_\_

**Date of Separation from AAL:** \_\_\_\_\_

**Position with Bidder:** \_\_\_\_\_

**Date of Employment with Bidder:** \_\_\_\_\_

10.08. In accordance with §2155.4441, Gov't Code, bidder agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.

- 10.09. Bidder certifies that the bidding entity 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 bidder is in compliance with the State of Texas statutes and rules relating to procurement and that bidder is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>
- 10.10. Sections 2155.006 and 2261.053, Gov't Code, prohibit state agencies from awarding contracts to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005. Under §2155.006, Gov't Code, bidder certifies that the individual or business entity named in its bid is not ineligible to receive a contract and acknowledges that any contract resulting from this RFQ/RFB may be terminated and payment withheld if this certification is inaccurate.
- 10.11. Bidder represents and warrants that payment to the bidder and the bidder's receipt of appropriated or other funds under any contract resulting from this RFQ/RFB are not prohibited by §556.005 or §556.008, Gov't Code, relating to the prohibition of using state funds for lobbying activities.
- 10.12. Bidder represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to AAL under the RFQ/RFB and any resulting contract, if any, and that bidder's provision of the requested items under the RFQ/RFB and any resulting contract, if any, would not reasonably create an appearance of impropriety.
  
11. **NOTE TO BIDDER:** If bidder takes any exceptions to any provisions of the solicitation, these exceptions must be specifically and clearly identified by section in bidder's bid in Qualification to the solicitation and bidder's proposed alternative must also be provided in the bid. Bidders cannot take a 'blanket exception' to the entire RFQ/RFB. If any bidder takes a 'blanket exception' to the entire RFQ/RFB or does not provide proposed alternative language, the bidder's bid may be disqualified from further consideration.
  
12. **PROTEST PROCEDURES:** Any actual or prospective bidder who is aggrieved in connection with this solicitation, evaluation, or award of any contract resulting from this solicitation may formally protest as provided in the TAC rules at 34 TAC Rule 20.384.
  
13. **DISPUTE RESOLUTION:** The dispute resolution process provided for in Chapter 2260, Gov't Code must be used by AAL and the bidder to attempt to resolve any dispute arising under any contract resulting from this RFQ/RFB.
  
14. **NON-APPROPRIATION OF FUNDS:** Any contract resulting from this RFQ/RFB is subject to termination or cancellation, without penalty to AAL, either in whole or in part, subject to the availability of state funds. AAL is a state open enrollment charter school whose authority and appropriations are subject to actions of the Texas Legislature and the Texas Education Agency. If AAL becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render AAL's or bidder's delivery or performance under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, AAL will not be liable to bidder for any damages, which are caused or associated with such termination, or cancellation and AAL will not be required to give prior notice.
  
15. **TEXAS PUBLIC QUALIFICATION ACT:** Notwithstanding any provisions of this solicitation to the contrary, bidder understands that AAL will comply with the Texas Public Qualification Act (Chapter 552, Gov't Code) as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Qualification, documentation, and other material in connection with this solicitation or any

resulting contract may be subject to public disclosure pursuant to the Texas Public Qualification Act. Within three (3) days of receipt, bidder will refer to AAL any third party requests, received directly by bidder, for Qualification to which bidder has access as a result of or in the course of performance under any contract resulting from this solicitation. Any part of the solicitation Qualification that is of a confidential or proprietary nature must be clearly and prominently marked as such by the bidder.

16. **CONFLICT OF INTEREST:** Under §2155.003, Gov't Code, a AAL employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and bidders who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of AAL or purchasers of other state agencies.
17. **FORCE MAJEURE:** Neither bidder nor AAL shall be liable to the other for any delay in, or failure of performance, of any requirement included in any contract resulting from this solicitation caused by force majeure. 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. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, 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.
18. **INDEPENDENT CONTRACTOR:** Bidder is and shall remain an independent contractor in relationship to AAL. AAL shall not be responsible for withholding taxes from payments made under any contract resulting from this solicitation. Bidder shall have no claim against AAL for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
19. **INDEMNIFICATION:** BIDDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS, ITS OFFICERS, AND EMPLOYEES, AND AAL, ITS OFFICERS, AND EMPLOYEES AND CONTRACTORS, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND COURT COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF BIDDER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF BIDDER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT WITH BIDDER RESULTING FROM THIS SOLICITATION. BIDDER SHALL COORDINATE ITS DEFENSE WITH THE TEXAS ATTORNEY GENERAL AS REQUESTED BY AAL. THIS SECTION IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE BIDDER TO INDEMNIFY OR HOLD HARMLESS THE STATE OR AAL FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF AAL OR ITS EMPLOYEES.

- 20. RIGHT TO AUDIT:** In addition to and without limitation on the other audit provisions of this solicitation, pursuant to §2262.003, Texas Government Code, the state auditor may conduct an audit or investigation of the bidder or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the bidder or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the bidder or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any Qualification the state auditor considers relevant to the investigation or audit. This solicitation or any contract resulting from this solicitation may be amended unilaterally by AAL to comply with any rules and procedures of the state auditor in the implementation and enforcement of §2262.003, Texas Government Code. Bidder will ensure that this clause concerning the authority to audit funds will be delivered to subcontractors through the bidder and that they be required to cooperate and that such requirement is included in any subcontract Bidder awards.
- 21. EQUAL OPPORTUNITY:** Contractor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age and disability in the performance of this Contract.
- 22. NON-DISCRIMINATION:** AAL, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat.252, 42U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will firmly ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in Qualification to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- 23. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED:** Senate Bill 20 update of Government Code 572.069 states a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.
- 24. DAVIS-BACON WAGE COMPLIANCE:** Respondent represents and agrees that it shall comply with the Davis-Bacon Wage requirements and that all laborers and mechanics employed by contractors and subcontractors on AAL construction projects are required to be paid wages at not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with subchapter IV of Chapter 31 of title 40 of the United States Code.

Determinations regarding the applicable prevailing wages are contained at the Department of Labor's official website: [www.wdol.gov](http://www.wdol.gov).



## **25. ANTI-BOYCOTT ISRAEL VERIFICATION:**

**PURCHASES:** The Vendor represents that, to the extent this purchase constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Vendor (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement. The term “boycott Israel” as used in this paragraph has the meaning assigned to it in Section 808.001 of the Texas Government Code, as amended.

**SOLICITATIONS:** The Respondent represents that, to the extent this Solicitation constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Respondent (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement. The term “boycott Israel” as used in this paragraph has the meaning assigned to it in Section 808.001 of the Texas Government Code, as amended.

End of General Conditions

**EXHIBIT A**

**EXECUTION OF OFFER**

*NOTE: THIS EXHIBIT MUST BE SIGNED AND RETURNED WITH THE BID/QUALIFICATION. QUALIFICATIONS THAT DO NOT INCLUDE THIS EXHIBIT WILL BE DISQUALIFIED. THE QUALIFICATION SHALL BE VOID IF FALSE STATEMENTS ARE CONTAINED IN THIS EXHIBIT.*

**By signature hereon, Bidder certifies that:**

All statements and information prepared and submitted in the response to this RFQ/RFB are current, complete, and accurate.

Respondent has not given, proposed to give, nor intends 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 response.

Neither Respondent nor the Respondent, corporation, partnership, or institution represented by Respondent or anyone acting for such Respondent, corporation, or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated the contents of this Qualification either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for this RFQ/RFB.

When a Texas business address shown hereon that address is, in fact, the legal business address of Respondent and Respondent qualifies as a Texas Resident Bidder under Texas Administrative Code, Title 34, Part 1, Chapter 20.

Under Government Code § 2155.004, no person who prepared the specifications or this RFQ/RFB has any financial interest in Respondent's Qualification. If Respondent is not eligible, then any contract resulting from this RFQ/RFB shall be immediately terminated. Furthermore, under Section 2155.004, Government Code, the vendor/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.

Under Family Code § 231.006, relating to child support obligations, Respondent and any other individual or business entity named in this solicitation are eligible to receive the specified payment and acknowledge that this contract may be terminated and payment withheld if this certification is inaccurate.

Any Qualification submitted under this RFQ/RFB shall contain the names and social security numbers of all persons or entities holding at least a twenty-five percent (25%) ownership interest in the business entity submitting the Qualification.

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

Social Security Number: \_\_\_\_\_

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

Social Security Number: \_\_\_\_\_

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

Social Security Number: \_\_\_\_\_

Under Government Code § 669.003, relating to contracting with an executive of a state agency, Respondent represents that no person who, in the past four years, served as an executive of the AAL was involved with or has any interest in this Qualification or any contract resulting from this RFQ/RFB. If Respondent employs or has used the services of a former executive head of AAL then Respondent shall provide the following information: Name of former executive, name of state agency, date of separation from AAL, position with Respondent, and date of employment with Respondent.

Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

AAL is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS), <http://www.epls.gov>, which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

Respondent certifies that the responding entity 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 Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been:

- (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or
- (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFB/RFQ may be terminated and payment withheld if this certification is inaccurate.

Pursuant to Section 2262.003 of the Texas Government Code, the state auditor may conduct an audit or an investigation of the vendor or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the Respondent or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee,

to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Respondent or other 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. Respondent will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract it awards.

**ANTI-BOYCOTT ISRAEL VERIFICATION**

The Respondent represents that, to the extent this solicitation constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Respondent (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement. The term “boycott Israel” as used in this paragraph has the meaning assigned to it in Section 808.001 of the Texas Government Code, as amended.

**PREFERENCES**

See Section 2.38 of the State of Texas Procurement Manual regarding preferences. Check below to claim a preference under 34 TAC Rule 20.38

- Supplies, materials and/or equipment produced in TX or proposed by TX bidder or TX bidder that is owned by a service disabled veteran
- Agricultural products produced or grown in TX
- Agricultural products and services proposed by TX bidders
- USA produced supplies, materials or equipment
- Products of persons with mental or physical disabilities
- Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
- Energy Efficient Products
- Rubberized asphalt paving material
- Recycled motor oil and lubricants
- Products produced at facilities located on formerly contaminated property
- Products and services from economically depressed or blighted areas
- Vendors that meet or exceed air quality standards
- Recycled or Reused Computer Equipment of Other
- Foods of Higher Nutritional Value

Respondent represents and warrants that the individual signing this Execution of Qualification is authorized to sign this document on behalf of Respondent and to bind Respondent under any contract resulting from this Qualification.

RESPONDENT (COMPANY): \_\_\_\_\_

YOUR SIGNATURE (INK): \_\_\_\_\_

YOUR NAME (TYPED/PRINTED): \_\_\_\_\_

YOUR TITLE: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP CODE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TEXAS IDENTIFICATION NUMBER (TIN): \_\_\_\_\_

FEDERAL EMPLOYEE IDENTIFICATION NUMBER (FEIN): \_\_\_\_\_

End of Exhibit A

End of the solicitation