

## **EL PASO WATER (EPWater)**

1154 Hawkins Blvd, El Paso, Texas 79925, 1<sup>st</sup> Floor Purchasing and Contracts  
Solicitation Check List

### **RATE CONSULTING SERVICES**

Proposal # RFP37-23

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THIS CHECKLIST IS PROVIDED FOR YOUR CONVENIENCE

**Before turning in your Proposal, did you do the following?**

- \_\_\_\_\_ Did you check our website, [www.epwater.org](http://www.epwater.org), for any addenda?  
**(Failure to sign the addenda and include it with the Proposal may deem the offeror's submission non-responsive.)**
- \_\_\_\_\_ Did you complete the Conflict-of-Interest Questionnaire?
- \_\_\_\_\_ Did you complete the Statement of Residency?
- \_\_\_\_\_ Did you complete the Statement of Nondivestment from Israel?
- \_\_\_\_\_ Did you REVIEW the process associated with the Texas Ethics Commission form 1295?  
**(Form is required and must be completed by the awardee on the Friday before Public Service Board Meeting)**
- \_\_\_\_\_ Did you provide one (1) hard copy proposal signed in blue ink?
- \_\_\_\_\_ Did you electronically save your signed proposal as a PDF on a USB drive?
- \_\_\_\_\_ Did you complete the Evaluation Criteria?
- \_\_\_\_\_ Did you save the Proposal on the USB Drive?  
**(Failure to include it in the USB Drive may deem the Offeror's submission non-responsive).**  
**Please Label the USB Drive with the RFP number and Company name.**
- \_\_\_\_\_ Is your Proposal in a sealed envelope marked with the **RFP Number** and **Company name**?  
Deliver your proposal to the El Paso Water Utilities Purchasing Department  
(See Schedule of Events).

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# SOLICITATION FOR EPWater

1154 HAWKINS BLVD., EL PASO, TX 79925  
Phone: (915) 594-5628 Fax: (915) 594-5689

The undersigned proposer offers to provide all services shown below in accordance with specifications, terms, and conditions set forth herein.

**SUBJECT:** RATE CONSULTING SERVICES  
**BID NUMBER:** RFP 37-23  
**BID DEADLINE:** 10:30 A.M. MOUNTAIN TIME, June 21, 2023  
**TO BE OPENED:** 11:00 A.M. MOUNTAIN TIME, June 21, 2023

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PRINT LEGIBLY

**FIRM:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_

**STREET ADDRESS:** \_\_\_\_\_ **PRINTED NAME:** \_\_\_\_\_

**CITY/STATE/ZIP:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**PHONE NUMBER:** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**E-MAIL:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## PART 1 – PROPOSAL INFORMATION

### 1.1 PROPOSAL SUBMITTAL

Submit **ONE (1)** hard copy of the **PROPOSAL**, and it shall bear an **ORIGINAL signature in blue ink** of a responsible officer or agent for the company. Failure to sign the Proposal will be the basis for declaring the bid proposal non-responsive.

The Proposal is to be in a sealed envelope with the following information:

“PROPOSAL ENCLOSED”  
RFP37-23 RATE CONSULTING SERVICES  
Attn: Barbara Logan, Procurement Analyst  
El Paso Water Utilities  
Purchasing & Contracts Administration  
1154 Hawkins Blvd.  
El Paso, Texas 79925

Note: Faxed and/or Emailed proposals **WILL NOT** be accepted

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## 1.2 PROPOSAL FORMAT

Offerors are requested to respond to all the questions listed herein, and responses should be complete. Indicate the areas of this proposal that your firm is not able to provide.

**Offerors are also to complete the following:**

1. **Checklist** – First page of this Solicitation
2. **Evaluation Criteria**

## 1.3 USB DRIVE

**Offerors must provide a read-only USB Drive with the following documents saved in the USB drive:**

1. PDF electronic version of the completed AND signed proposal in blue ink.
2. USB Drive must be labeled with the RFP number and company name.
3. Failure to comply with Items 1 and 2 may deem the offeror's submission non-responsive.

Successful offeror(s) shall be selected based on the responsiveness of the submittal.

## 1.4 SCHEDULE OF EVENTS

EVENTS	DATE AND/OR TIME
Advertisement	May 28, 2023, and June 4, 2023
Questions Deadline	June 7, 2023, @ 3:00 P.M. MT
Answers Posted	June 12, 2023
Proposal Deadline	June 21, 2023, @ 10:30 A.M. MT
Proposal Opening	June 21, 2023, @ 11:00 A.M. MT The link for the Proposal Opening is provided on our website at <a href="http://www.epwater.org">www.epwater.org</a>
Formal Interviews	July 5, 2023 thru July 19, 2023
Public Service Board	August 9, 2023

**EPWater reserves the right, at its sole discretion, to adjust this Schedule of Events as it deems necessary. EPWater will communicate adjustments to any event in the Schedule in the form of an Addendum. The Addendum will only be issued and posted on Answers Posted deadline in the Schedule.**

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## 1.5 REQUESTS FOR CLARIFICATION

Any requests for clarifications and/or changes to this solicitation shall be made in writing via email to:

EMAIL: [Purchasing.Info@epwater.org](mailto:Purchasing.Info@epwater.org)  
SUBJECT: RFP37-23 Rate Consulting Services  
TO: Barbara Logan

Requests submitted after the deadline will not elicit a response.

## 1.6 PROPOSAL OPENING

The proposal opening will be live-streamed. Check scheduling information on the solicitation page at [www.epwater.org](http://www.epwater.org).

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## **PART 2 – GENERAL CONDITIONS AND SPECIFICATIONS**

### **2.1 PROJECT OVERVIEW AND OBJECTIVE**

El Paso Water Utilities Public Service Board (EPWater), a component unit of the City of El Paso, Texas (“City”), is soliciting proposals to perform a comprehensive Cost of Service and Rate Design Study (Study) with the following objectives for the Water and Wastewater Utility only:

- Evaluate and create a cost-of-service analysis assessing the different customer class cost of service compared to revenues generated by each class.
- Develop new rate models to support the results of the Cost of Service Study and provide alternative rate structures. In addition, to providing different rate design scenarios, the Consultant will provide recommendations and presentations to the Public Service Board (PSB) Communications Committee and to the Public Service Board at a scheduled board meeting.

### **2.2 HISTORY OF EL PASO WATER UTILITIES**

Although the Utility has existed in some form for as long as the City of El Paso has, it was not until 1952, when the **Public Service Board (PSB)** was created, that **El Paso Water Public Service Board (EPWater)** took its present form. With the leadership and foresight of Mayor Fred Hervey to address El Paso’s water demands and make water issues as apolitical as possible, the PSB was created through a city ordinance. El Paso City Ordinance No. 752, adopted May 22, 1952, established a five-member board of trustees known as the PSB. It was given complete management and control of the city’s water system. The ordinance was later amended to increase the size of the board to seven members. The board of trustees consists of the mayor of the City of El Paso and six residents of El Paso County, Texas. Except for the mayor, all other trustees are appointed by the City Council and serve staggered four-year terms. The PSB typically meets on the second Wednesday of each month.

For financial reporting purposes, EPWater is considered a component unit of the City of El Paso; with oversight of the PSB, EPWater has complete control over the operations and management of the Utility on behalf of the City. The PSB adopts an annual combined operating, capital, and debt service budget, with associated rates and fees for services, and issues updates to its Rules and Regulations, which carry the force of law. The Utility does not issue *ad valorem* property taxes. Instead, the PSB recovers the cost of providing water, wastewater, and stormwater services primarily through user charges. The Utility endeavors to provide the highest quality water, wastewater, and stormwater services to its customers at the most reasonable cost possible.

In 2008, the City Council established a Stormwater Utility to be operated and maintained by EPWater and supported by monthly user fees. The creation of the stormwater utility was a result of the 2006 storms that caused significant flooding and more than \$200 million in damages to businesses and homes.

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### **Background:**

According to the U.S. Census for 2020, El Paso was the sixth-largest city in Texas and the 22nd-largest city in the United States, with a population of about 680,000. El Paso County is the ninth largest county in Texas, with an estimated population of 865,000. El Paso's sister city of Ciudad Juárez, Mexico, in 2021 had an estimated population of 1.5 million. With a population of about 220,000 in the neighboring Doña Ana County, New Mexico, the combined Borderplex region constitutes one of the largest international border communities in the world.

EPWater provides water, reclaimed water, and wastewater services to 220,000 customers, including retail, commercial, industrial, government, and residential. In addition, the Utility also provides water and wastewater service through seven current wholesale contracts to approximately 33,000 customers within the EPWater service area. EPWater also provides stormwater services to approximately 207,000 City of El Paso residential and non-residential customers.

EPWater's water facilities include water storage facilities, a substantial water rights portfolio, pumping facilities, a distribution system, and other miscellaneous system assets. EPWater owns and operates the Canal Water Treatment Plant, Jonathan Rogers Water Treatment Plant, the Upper Valley Water Treatment Plant, and the Kay Bailey Hutchison Desalination Facility.

EPWater's wastewater facilities include four wastewater treatment plants (WWTP), the Roberto R. Bustamante, Haskell St., John T. Hickerson, and the Fred Hervey Water Reclamation Facility. In addition to lift stations, a collection system, and other miscellaneous system assets. EPWater owns and operates the WWTPs that serve residents within EPWater's service area.

On March 1, 2022, EPWater went live with a new Customer Service Information System, C2M, from Oracle. All customer billing, payment collection and posting, call center, and field work orders are processed through C2M. The Utility's fiscal year runs from March 1 to the last day of February.

### **Highlights of Current Rates and Fees**

EPWater has had nine straight years of rate increases for water, reclaimed water, and wastewater services, in addition to three consecutive years of fee increases for stormwater services. The main driver of rate and fee increases is the Capital Improvement Program (CIP). The Utility's current financial plans include \$2.7 billion for water and wastewater CIP projects and \$350 million for stormwater projects over the next five years.

The challenge ahead for the Utility is how to fund large CIPs while trying to keep rates affordable to our customers.

Additional rate and fee information can be found on EPWater's website under the following link:  
[https://www.epwater.org/customer\\_service/rates\\_and\\_fees](https://www.epwater.org/customer_service/rates_and_fees)

### **Potable Water Rate Structure**

Monthly water charges include the following:

- Monthly minimum charge by meter size and for residential customers only, it includes a volume allowance of five (5) centum cubic feet (CCF)s,
- Monthly water supply replacement charge (WSRC) by meter size, if the monthly water consumption is less than four (4) CCFs, the monthly charge for Water Supply Replacement is waived,
- Water used in excess of the volume allowance (5 CCF) included in the minimum residential charge is billed by blocks calculated on volume usage and Average Winter Consumption (AWC) average amount of water used during the most recent months of December, January, and February.

### **Wastewater Rate Structure**

Monthly wastewater charges include the following:

- Monthly minimum charge by meter size and for residential customers only, it includes a volume allowance of 5 CCFs,
- A commodity charge for all customers of \$3.78 per CCF for sewer service. The commodity charge is calculated at 90% of actual water AWC for all CCF in excess of the volume allowance included in the minimum charge.

### **Stormwater Fee Structure**

The comprehensive Cost of Service and Rate Design Study will not include the Stormwater Utility at this time; no changes to the fee structure are anticipated. The following is for informational purposes only.

- A monthly stormwater fee is imposed on each improved parcel within the City of El Paso for services and facilities provided by the Utility.
- The stormwater fee shall be based on the developed use of the benefited property and its estimated amount of impervious area.
- The adjusted stormwater rates are effective with the March Utility billing cycle and apply for stormwater service provided to properties within the City of El Paso.

### **Scope of Services**

#### **1. Determination of Revenue Requirements**

- a. Meet with the Chief Financial Officer (CFO) and Finance Department staff to review the operating and capital improvements program (CIP) budgets and related revenue requirement models and to discuss EPWater's major financial policies and objectives related to utility revenue requirements.
- b. Review and recommend total utility service revenue requirements and provide the necessary assistance and review of determinations of revenue requirements as defined in the AWWA Water Rates Manual.
- c. Revenue requirement determinations must be consistent with the financial objectives of EPWater, including the accomplishment of multi-year rate stability and compliance with established EPWater financial policies.
- d. Evaluate current EPWater rates and rate structures in terms of the ability of these rates to generate adequate revenue to meet requirements from the proper source.



## **2. Cost of Service Analysis**

- a. Recommend and implement a plan for assigning or allocating each component of revenue requirement to specific utility functions, for classifying revenue requirements, and for allocating revenue requirements to specific customer classes, considering:
  - i. analysis of historical demand levels, price elasticity of demand, and income elasticity with price elasticity, with an evaluation and projection of the key components of demand, including numbers and types of customers, daily and hourly demand, and peaking factors.
  - ii. appropriate classification and allocation of existing Utility Plant in Service; debt service requirements, and maintenance and operation expense requirements.

## **3. Rate Design and Customer Classification**

- a. Develop fair and equitable rate structures recovering costs for water delivery, water supply, wastewater, and reclaimed water based on the principle of cost-of-service recovery. Multiple results from various rate design structure options will be provided. Among the options EPWater would like to have presented are the following:
  - i. Development of proposed rate structures that incorporate lower rates for low water users and enhance affordability to our customers.
  - ii. Any additional rate design options that align with industry best practices.

## **4. Education, Presentations, and Meetings**

- a. EPWater staff will receive education about the process of rate development. This includes traditional rate-setting issues, methodologies, and state-of-the-art ideas that are being used or tested in other companies or industries. The educational component of this relationship is paramount to the success of this study. For EPWater staff, the education should include methodology, computer models, and the capability to modify or update the models or computations if necessary.
- b. It will be necessary to brief various stakeholders. These may include EPWater staff, and Consultant will provide recommendations and presentations to the PSB's Communications Committee and to the PSB. The selected Consultant will assist staff in organizing and developing the presentation materials for and participating in these meetings and include the content and conclusions of these meetings in the Deliverables outlined above. The number of presentations required will range from 2 to 4 over a period of approximately 2 to 4 months.

## **5. Deliverables**

- a. Models: Several models may need to be developed during the rate design process. All models will become the property of EPWater, and the appropriate personnel will be trained in the operation of said models. Identify the software which will be utilized for model development and transmittal.
- b. Final reports: These should include executive summaries that highlight significant issues and decisions, a comprehensive rate design section that details all methodologies, assumptions, public input, and calculations, and a background section that includes all data used in the development of recommended and alternative designs.

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**PART 3 – EVALUATION**

**3.1 EVALUATION SELECTION PROCEDURE**

All offeror(s) must follow the requirements listed below. It is the offeror's responsibility to ensure compliance with these requirements. **Failure to follow these instructions may result in disqualification.**

Successful offeror(s) shall be selected based on the responsiveness of the submittal and the evaluation criteria below and will be awarded to the offeror who submits a proposal providing the overall best value for EPWater. EPWater will attempt to negotiate final contract terms, if required, with the top-ranked Proposer. If EPWater is unable to successfully negotiate final contract terms with the top-ranked Proposer, it shall formally notify the Proposer it is ending negotiations and proceed to negotiate final contract terms in the order of the selection ranking until a contract is reached. EPWater has the option to cancel the RFP procurement at its sole discretion.

**3.2 EVALUATION CRITERIA**

RFP will be evaluated using the criteria below:

- 1. COMPLETENESS OF PROPOSAL ..... (maximum points – 20)**  
Response to all questions, documents, and forms requested in the solicitation.
  
- 2. EXPERIENCE..... (maximum points – 55)**  
**The Proposal should be no more than ten pages for the Experience section.**  
Provide your firm's experience for Cost of Service and Rate Design Study consulting services related to water, wastewater, and reclaimed water (**Rate Services**) only for comparable utilities.

Provide information in detail on the following:

Provide a list of individuals to be assigned, their roles for the engagement, and a brief professional biography of their relevant experience.

Please provide a complete list of all Rate Services for which your firm has served or currently serves as the primary consultant for the last five years to a comparable Water and Wastewater Utility. For each client listed, include, at a minimum, the following information:

- a. Client name
- b. The number of years providing **Rate Services**
- c. Type of **Rate Services** provided to the Utility
- d. Describe the rate structure complexity for each Utility

Provide your firm's experience, approach, and resources your firm will provide to accomplish the Cost of Service and Rate Design Study and objectives as described in the RFP.

**3. COST PROPOSAL ..... (maximum points – 25)**

Compensation Proposal is to include a Total (firm-fixed-price) Fee, which is what will be taken into consideration for scoring.

The Total Fee is to be inclusive of all tasks, travel expenses, staff hours, overhead, and task expenses. In addition to the Compensation Proposal, provide a breakdown of positions, staff hours, and hourly rates to include overhead, travel expenses, and expenses by task. This will not be taken into consideration for scoring but will be necessary for the contract and to maintain the timeline of this project.

Responses will be evaluated, and decisions regarding the acceptance of proposals will be based on the preceding evaluation criteria at the sole discretion of EPWater.

Formal interviews will be conducted with the top-ranked Proposer(s) at EPWater's discretion. Interview points will be added to the evaluation criteria points from sections 1-3.

**4. FORMAL INTERVIEWS ..... (maximum points – 20)**

EPWater will conduct formal interviews to allow Proposer(s) to further explain their written proposal, focusing on their specific approach to successfully execute this project. Interviews will be limited to 45 minutes, providing up to 30 minutes for the Proposer to discuss the project approach, experience, and resources that will be provided to the project and 15 minutes for questions. Interview attendees will be limited to three Proposer's key staff identified in the Proposer's proposal. All costs associated with in-person interviews will be at the Proposer's expense.

**PART 4 – ADDITIONAL RATE CONSULTING SERVICES**

The following are examples of additional services the Utility may request on an annual basis or from time to time at the Utility's discretion. These services will be negotiated with a consultant at EPWater's discretion:

- Assistance with annual rate and fee model updates for water, wastewater, reclaimed water, and stormwater
- Cost of Service Wholesale rate calculation and reports
- Water and Wastewater Impact Fee update (at least every five years)
- Miscellaneous Fees example (BOD charges)
- Other future rate services as needed

**PART 5 – FORMS**

**5.1 W-9 REQUEST FOR TAXPAYER IDENTIFICATION**

Form <b>W-9</b> (Rev. October 2018) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer          Identification Number and Certification</b> ▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.	<b>Give Form to the          requester. Do not          send to the IRS.</b>
<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.		
<b>2</b> Business name/disregarded entity name, if different from above		
See Specific Instructions on page 3.	<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.	
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <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) ▶ _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.	
	<input type="checkbox"/> Other (see instructions) ▶ _____	
<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>		
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.		Requester's name and address (optional)
<b>6</b> City, state, and ZIP code		
<b>7</b> List account number(s) here (optional)		

<b>Part I Taxpayer Identification Number (TIN)</b>											
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later.											
<b>Note:</b> If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;"><b>Social security number</b></td> </tr> <tr> <td style="width: 20%; text-align: center;"> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> </td> <td style="width: 80%;"></td> </tr> <tr> <td colspan="2" style="text-align: center;"><b>or</b></td> </tr> <tr> <td colspan="2" style="text-align: center;"><b>Employer identification number</b></td> </tr> <tr> <td style="text-align: center;"> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> </td> <td></td> </tr> </table>	<b>Social security number</b>		<input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		<b>or</b>		<b>Employer identification number</b>		<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
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<b>or</b>											
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<b>Part II Certification</b>	
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); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
<b>Certification instructions.</b> 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 for Part II, later.	

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

**General Instructions**

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

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

## 5.2 W-9 INSTRUCTIONS

Form W-9 (Rev. 10-2018)

Page 2

By signing the filled-out form, you:

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, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and 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 under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 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 section 1446 withholding on your share of partnership income.

In the cases below, the following person must give 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.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 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, give the requester the appropriate completed Form W-8 or Form 8233.

### Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% 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, payments made in settlement of payment card and third party network transactions, 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 instructions for Part II 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 *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

### What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the instructions for the Requester of Form W-9 for more information.

### 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.

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**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

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. 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 line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. 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 line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 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 U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

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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 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> 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 reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

**Line 6**

Enter your city, state, and ZIP code.

**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.

If you are a single-member LLC that is disregarded as an entity separate from its owner, 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 *What Name and Number To Give the Requester*, later, 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 SSA office or get this form online at [www.SSA.gov](http://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](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and 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 U.S. 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, 4, or 5 below indicates 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 line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

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**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 made in settlement of payment card and third party network transactions, 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), ABLE accounts (under section 529A), 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.

**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) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. 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
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> 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.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> 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.

<sup>4</sup> 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*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

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, 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 Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic 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.



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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](mailto: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 (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

### 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. commonwealths and 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.

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**5.3 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs)**

The Utility's policy is to encourage the participation of Small Locally-Owned Businesses (SLBE), Minority Business Enterprises (MBE), and Women-Owned Business Enterprises (WBE).

**My Current Historically Underutilized Business (HUB) Status is (select ONLY ONE of the three Business Enterprises below):**

- 1. Small Locally Owned Business Enterprise:**
- 2. Women-Owned Business Enterprise:**
- 3. Minority-Owned Business Enterprise: Select ONLY ONE of the categories below:**
  - Hispanic American**
  - African American**
  - Asian American**
  - Native American**
  - Service-Disabled Veteran**
  - My business is not a HUB vendor**

**INSTRUCTIONS:** For Minority-Owned Business Enterprise, please indicate your HUB Status above by selecting the appropriate category. Please make sure you select only one (1) category.

**DEFINITION OF HUB CATEGORY FOR EPWATER.**

A **Small Locally-Owned Business Enterprise** is defined as a business corporation, partnership, joint venture, sole proprietorship, or other legal entity formed for the purpose of making a profit, has been located within the County of El Paso for at least 12 months, and is 51% or more owned by residents of El Paso County; furthermore, that business must employ fewer than 100 employees or have annual gross sales of less than \$7,000,000 and is not a subsidiary of a business which would not meet the above guidelines.

A **Minority-Owned Business Enterprise** is defined as a business that is at least 51% owned and controlled by one or more citizens or lawful permanent residents of the United States who are either African American, Asian American, Hispanic American, Native American, or Service-Disabled Veteran.

A **Woman-Owned Business Enterprise** is one that is at least 51% owned and controlled by one or more citizens or lawful permanent residents of the United States who are non-minority females.

I certify that the foregoing information is a full, true, and correct statement of the facts.

\_\_\_\_\_  
Signature of Authorized Representative or Designee

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**SUBJECT: RATE CONSULTING SERVICES**  
**BID NUMBER: RFP37-23**  
**BID DEADLINE: 10:30 A.M. MOUNTAIN TIME, June 21, 2023**  
**TO BE OPENED: 11:00 A.M. MOUNTAIN TIME, June 21, 2023**

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## 5.4 CERTIFICATE OF INTERESTED PARTIES FORM 1295

**Business Entity: Disclosure of Interested Parties**  
**Texas Government Code § 2252.908**  
**TEXAS ETHICS COMMISSION FORM 1295 Instructions**

**This Form is required in the submission of your bid proposal:**

### Instructions - Form 1295

Effective January 1, 2016, a governmental entity may not enter into a contract requiring board approval unless the business entity submits a Disclosure of Interested Parties (Form 1295) at the time the business entity submits the signed contract.

The following definitions apply:

1. "Interested Party" means a person:
  - a. Who has a controlling interest in a business entity with whom a governmental entity contracts: or
  - b. Who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.
2. "Intermediary" means "a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:
  - a. Receives compensation from the business entity for the person's participation;
  - b. Communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
  - c. Is not an employee of the business entity
3. "Business Entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. "Business entity" includes a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.
4. "Contract" includes an amended, extended, or renewed contract.
5. "Controlling Interest" means:
  - a. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;
  - b. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten (10) members; or
  - c. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers."

**A business entity must file Form 1295 electronically with the Texas Ethics Commission using the Commission's online filing application, which can be found at:**

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

The business entity must **print a copy** of the completed form, including the certification of filing containing a unique certification number. Form 1295 must be **signed by an authorized agent** of the business entity, and **the form must be notarized**. The **business entity must submit the completed, signed, notarized Form 1295 to the contracting school district**.

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CERTIFICATE OF INTERESTED PARTIES			FORM 1295	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.			OFFICE USE ONLY	
1 Name of business entity filing form, and the city, state and country of the business entity's place of business.				
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.				
3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.				
4	Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
			Controlling	Intermediary
5	Check only if there is no Interested Party. <input type="checkbox"/>			
6	UNSWORN DECLARATION			
	My name is _____, and my date of birth is _____.			
	My address _____, _____, _____, _____, _____ (street) (city) (state) (zip code) (country)			
	I declare under penalty of perjury that the foregoing is true and correct.			
	Executed in _____ County, State of _____, on the _____ day of _____, 20____. (month) (year)			
	_____ Signature of authorized agent of contracting business entity (Declarant)			
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>				

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## 5.5 CHANGES TO FORM 1295

Changes to the [law](#) requiring certain businesses to file a Form 1295 are in effect for contracts entered into or amended on or after January 1, 2018. The changes exempt businesses from filing a Form 1295 for certain types of contracts and replace the need for a completed Form 1295 to be notarized. Instead, the person filing a Form 1295 needs to complete an “unsworn declaration.”

### **What type of contracts are exempt from the Form 1295 filing requirement under the amended law?**

The amended law adds to the list of types of contracts exempt from the Form 1295 filing requirement. A completed Form 1295 is not required for the following:

- a sponsored research contract of an institution of higher education;
- an interagency contract of a state agency or an institution of higher education;
- a contract related to health and human services if:
  - the value of the contract cannot be determined at the time the contract is executed; and
  - any qualified vendor is eligible for the contract;
- a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;\*
- a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code;\* or
- a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.\*

The newly exempt contract types are marked with an asterisk.

### **Why do I need to include my date of birth and address when I sign Form 1295? Was this always the case?**

In 2017, the legislature amended the [law](#) to require Form 1295 to include an “unsworn declaration,” which includes, among other things, the date of birth and address of the authorized representative signing the form. The change in the law applies to contracts entered into, renewed, or amended on or after January 1, 2018. The unsworn declaration, including the date of birth and address of the signatory, replaces the notary requirement that applied to contracts entered into before January 1, 2018.

### **Will my date of birth and address appear on the TEC’s website when I file the form?**

No. The TEC filing application does not capture the date of birth or street address of the signatory, and it will not appear on forms that are filed using the TEC filing application.

Although the TEC does not capture the date of birth and street address of the signatory, the contracting state agency or governmental agency will have a physical copy of the form that includes the date of birth and address of the signatory. The TEC cannot answer whether the contracting state agency or governmental agency may release such information. Questions regarding the Texas Public Information Act may be directed to the Office of the Attorney General. See also *Paxton v. City of Dall.*, No. 03-13-00546-CV, 2015 Tex. App. LEXIS 5228, at \*10-11 (App.—Austin May 22, 2015) (mem. op.) (pet. denied) (*available* [here](#)).

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**5.6 CONFLICT OF INTEREST QUESTIONNAIRE (Form CIQ)**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor doing business with local governmental entity</b>		
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<p><b>OFFICE USE ONLY</b></p> <p>Date Received</p>	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p>		
<p><b>2</b> <input type="checkbox"/> 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.)</p>		
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p>		
<p><b>4</b> 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.</p> <p style="margin-left: 40px;">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?</p> <p style="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p style="margin-left: 40px;">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?</p> <p style="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>		
<p><b>5</b> 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.</p>		
<p><b>6</b> <input type="checkbox"/> 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).</p>		
<p><b>7</b></p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature of vendor doing business with the governmental entity      Date</p>		

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**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
- (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.



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**5.7 VENDOR INFORMATION FORM**



**EL PASO WATER PURCHASING DEPARTMENT**  
**VENDOR INFORMATION FORM This form must be accompanied by an IRS W-9 Form**

Vendor  Add  Update  Inactivate  Contractual Employee  City of El Paso Employee

Send form back To: – Mirtha Solis, Senior Purchasing Agent by email at [Purchasing.Info@epwater.org](mailto:Purchasing.Info@epwater.org)  
or by Fax at 915-594-5689)

**VENDOR SALES ADDRESS:** If same as W-9 check here  if not please use separate sheet to indicate different pay to, or invoice to, or issue P.O. to address other wise order, P.O, or payable issued to address below.

**Company Name:** \_\_\_\_\_  
**Street:** \_\_\_\_\_  
**City:** \_\_\_\_\_ **State** \_\_\_\_\_ **Zip Code** \_\_\_\_\_  
**Contact Name & Title:** \_\_\_\_\_  
**Telephone #** (\_\_\_\_\_) \_\_\_\_\_ **Fax #** (\_\_\_\_\_) \_\_\_\_\_  
**E-Mail Address:** \_\_\_\_\_ **Web address:** \_\_\_\_\_

**VENDOR PROFILE QUESTIONNAIRE:**

- (Yes  ) (No  ) Small business concern (Less than \$7,000,000.00 Annual Receipts or 100 employees.)
- (Yes  ) (No  ) Minority-owned business (At least 51% owned and controlled by one or more citizens or lawful permanent residents of the United States who are either African American, Hispanic American, Asian American, or Native American.)
- (Yes  ) (No  ) Woman-owned business (At least 51% owned by a woman or women who also control and operate it. “Control” in this context means exercising the power to make policy decisions. “Operate” in this context means being actively involved in the day-to-day management.)
- (Yes  ) (No  ) Historically Underutilized Business (HUB) if your company is certified please send us a photo copy. We need to have an updated copy of the certificate on file.
- (Yes  ) (No  ) Disadvantage Business Enterprise -if your company is certified please send us a photo copy. We must have an updated copy of the certificate on file.

**\*El Paso Water employees only (IRS withholding not required for the following items)**  
 Pension  Refund  Mileage  Reimbursement  Settlement  Travel Request  Tuition Reimbursement.

**\*Contractual Employees or Vendors**

- Based on W-9, Individual/Sole Proprietor or partnerships are marked as withholding. Corporation is not marked as withholding. **\*INFORMATION ON HOW TO COMPLETE THE W9 FORM PLEASE GO TO <http://www.irs.gov>**
- Vendors for Rent, Medical Services, and Attorney fees are **always** marked as withholding, even if they are a corporation.

**IRS-Withholding required information – Mark one of the following which applies to the type of payment that will be made to the vendor: (Incomplete forms will be returned)**

Wages (Withholding / Default Class 7)  Juror (No Withholding / No Default Class)  
 Goods (No Withholding / No Default Class)  Services (Withholding / Default Class 7)  
 Settlement / Attorney Proceeds (Withholding / Default Class 14)  Rental Property (Withholding / Default Class 1)  
 Medical & Healthcare (Withholding / Default Class 6)  Stipend (No Withholding / No Default Class)  
 Garnishment Vendor (No Withholding/No Default Class)  Corporation (No Withholding/No Default Class)



## PART 6 – INSTRUCTIONS TO PROPOSERS

1. Proposers **MUST** use the form and format included in this Solicitation and provide all required information. The proposal will be mailed to Purchasing & Contracts Administration, PROPOSAL ENCLOSED, 1154 Hawkins Blvd., El Paso, Texas 79925 OR delivered to the Purchasing and Contracts Administration Department, EPWater Building, first floor, 1154 Hawkins Boulevard, El Paso, Texas 79925 prior to the date and time specified in this Solicitation. Proposals received after the date and time shall be returned unopened to the Proposer.
2. Proposers are invited to join the bid opening via a GoTo meeting. The link for the Proposal Opening is provided on our website at [www.epwater.org](http://www.epwater.org).
3. The Public Service Board is not bound by the issuance of this Solicitation to award a contract. Any resulting order will be awarded to the best qualified, responsible Proposer whose proposal, conforming to the Proposal, is most advantageous to EPWater. If deemed to be in the best interest of EPWater, the Public Service Board reserves the right to reject any or all proposals, award a contract for the items, either in whole or part and/or waive any irregularities.

### DEFINITIONS:

**PROPOSER** - means a person, partnership, or corporation making a proposal for the performance of the work covered by the contract documents and may be a '**Texas Resident Bidder**' or a '**Non-resident Bidder.**'

**TEXAS RESIDENT BIDDER** - means a bidder whose principal place of business is in this state and includes an Offeror whose ultimate parent company or majority owner has its principal place of business in the state of Texas.

**NON-RESIDENT BIDDER** - means a bidder whose principal place of business is not in this state but excludes an Offeror whose ultimate parent company or majority owner has its principal place of business in the state of Texas.

4. A Proposer may withdraw their proposal at any time prior to the date and time of proposal opening, provided written authorization is presented to the Purchasing Agent by an officer of the firm that submitted the proposal.
5. Any additional information about this proposal and/or complaints, questions, or comments about the proposal of another vendor must **be submitted to the Senior Purchasing Agent within 24 hours** after the proposals are opened for the information or complaint to be considered.
6. To the fullest extent permitted by laws and regulations, Proposers shall indemnify and hold harmless EPWater, The Public Service Board, its officers, agents, and employees from and against all claims, damages, losses, and expenses; direct, indirect, or consequential (including, but not limited to fees and charges of engineers, architects, attorneys, and other professionals, and court costs) arising out of or resulting from the performance of its obligations under this contract and the contract documents.
7. The Proposal **MUST** be signed by an authorized agent of the proposing company. Failure to sign the proposal or signing it with a false statement shall void the submitted proposal or any resulting contract (Purchase Order or Master Contract), and the Proposer may, at the option of the Public Service Board, be removed from the solicitation list.
8. By signing the proposal, the Proposer affirms that he has not given or offered to give nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, favor, or services to an employee or official of EPWater in connection with the submitted proposal.
9. These INSTRUCTIONS TO PROPOSERS, the proposal, and all other contract documents shall constitute a binding and enforceable contract with EPWater. Upon award of the proposal by the Public Service Board, the Proposer hereby agrees that the signature of its duly authorized agent on the first page of the proposal shall bind the Proposer to all terms and obligations of the INSTRUCTIONS TO PROPOSERS, Solicitation, and other contract documents.
10. This proposal specifically prohibits communications in writing addressed in the final bullet of the cone of silence.

(END OF SOLICITATION)

Filename: 02. Solicitation - RFP37-23 Rate Consulting Services.docx  
Directory: P:\BIDS, QUOTES & CONTRACTS\Bids 2023\RFP37-23 RATE  
CONSULTING SERVICES\01. Solicitation Documents  
Template: C:\Users\msolis\AppData\Roaming\Microsoft\Templates\Normal.d  
otm  
Title: ITEM  
Subject:  
Author: Mirtha Solis  
Keywords:  
Comments:  
Creation Date: 5/17/2023 7:10:00 PM  
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