

# TIPS VENDOR AGREEMENT

Between Navitas, LLC and \_\_\_\_\_  
(Insert Company Name)

## THE INTERLOCAL PURCHASING SYSTEM (TIPS), a Department of Texas Education Service Center Region 8 for **TIPS RFQ 220104 Energy Savings Performance Contract**

### General Information

The Vendor Agreement (“Agreement”) made and entered into by and between The Interlocal Purchasing System (hereinafter “TIPS”) a government cooperative purchasing program authorized by the Region 8 Education Service Center, having its principal place of business at 4845 US Hwy 271 North, Pittsburg, Texas 75686 and the TIPS Vendor. This Agreement consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth shall control unless otherwise agreed by the parties in writing and by signature and date on the attachment.

A Purchase Order (“PO”), Agreement or Contract is the TIPS Member’s approval providing the authority to proceed with the negotiated delivery order under the Agreement. Special terms and conditions as agreed between the Vendor and TIPS Member should be added as addendums to the Purchase Order, Agreement or Contract. Items such as certificate of insurance, bonding requirements, small or disadvantaged business goals are some, but not all, of the possible addendums.

## Terms and Conditions

### Freight

All quotes to Members shall provide a line item for cost for freight or shipping regardless if there is a charge or not. If no charge for freight or shipping, indicate by stating “No Charge”, “\$0”, “included in price” or other similar indication. Otherwise, all shipping, freight or delivery charges shall be passed through to the TIPS Member at cost with no markup and said charges shall be agreed by the TIPS Member unless alternative shipping terms are agreed by TIPS as a result of the proposal award.

### Warranty Conditions

All new supplies equipment and services shall include **manufacturer's minimum standard warranty** unless otherwise agreed to in writing. Vendor shall be legally permitted to sell all products offered for sale to TIPS Members if the offering is included in the Request for Proposal (“RFP”) category. All goods proposed and sold shall be new unless clearly stated in writing.

### Customer Support

The Vendor shall provide timely and accurate customer support for orders to TIPS Members as agreed by the Parties. Vendors shall respond to such requests within a commercially reasonable time after receipt of the request. If support and/or training is a line item sold or packaged with a sale, support shall be as agreed with the TIPS Member.

## Agreements

Agreements for purchase will normally be put into effect by means of a contract, agreement, or purchase order(s) executed by authorized agents of the TIPS Member participating government entities, but other means of placing an order may be used at the Member's discretion. Vendor accepts and understands that when a purchase order or similar purchase document is sent from a customer through TIPS to the Vendor, TIPS is recording the purchase and verifying whether the purchase is within the parameters of the TIPS Contract only. Vendor agrees that TIPS is not a legal party to the purchase order or similar purchase document and TIPS is not responsible for identifying fraud, mistakes, or misrepresentations for the specific order. Vendor agrees that any purchase order or similar purchase document issued from a customer to Vendor, even when processed through TIPS, constitutes a legal contract between the customer and Vendor only. A Vendor that accepts a purchase order or similar purchase document and fulfills an order, even when processed through TIPS, is representing that the vendor has carefully reviewed the purchase order or similar purchase document for legality, authenticity, and accuracy.

## Tax exempt status

Most TIPS Members are tax exempt and the related laws and/or regulations of the controlling jurisdiction(s) of the TIPS Member shall apply.

## Assignments of Agreements

No assignment of this Agreement may be made without the prior notification of TIPS. Written approval of TIPS shall not be unreasonably withheld. Payment for delivered goods and services can only be made to the awarded Vendor, Vendor designated reseller or vendor assigned company.

## Disclosures

- Vendor and TIPS affirm that he/she, or any authorized employees or agents, has not given, offered 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 this Agreement.
- Vendor shall attach, in writing, a complete description of any and all relationships that might be considered a conflict of interest in doing business with the TIPS program.
- The Vendor affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this Agreement.

## Term of Agreement and Renewals

The Agreement with TIPS is for approximately **five (5)** years with an option for renewal for an additional **one (1)** consecutive **year**. If TIPS offers the renewal extension year, the Vendor will be notified by email to the primary contact of the awarded Vendor and shall be deemed accepted by the Vendor unless the awarded Vendor notifies TIPS of its objection to the additional term. TIPS may or may not exercise the available extension(s) provided in the original solicitation beyond the base **five-year** term. Whether or not to offer the extension is at the sole discretion of TIPS.

**“Start Date” for Term Calculation Purposes Only:** Regardless of actual award/effective date of Contract, for Agreement “term” calculation purposes only, the Agreement “start date” is the last day of the month that Award Notifications are anticipated as published in the Solicitation

**Example:** *If the anticipated award date published in the Solicitation is March 24, 2022 but extended negotiations delay award until June 27, 2022 The end date of the resulting initial “five-year” term Agreement, (which is subject to an extension(s)) will still be March 31, 2027.*

**“Termination Date”:** The scheduled Agreement “termination date” shall be the last day of the month of the month of the Original Solicitation’s Anticipated Award Date plus **five years**.

**Example:** *If the original term is approximately five years, and the solicitation provides an anticipated award date of March 24, 2022, the expiration date of the original five-year term shall be May 31, 2027.*

**Extensions:** Any extensions of the original term shall begin on the next day after the day the original term expires.

**Example Following the Previous Example:** *If TIPS offers a one-year extension, the expiration of the extended term shall be March 31, 2028.*

TIPS may offer to extend Vendor Agreements to the fullest extent the original Solicitation permits but is not required to do so.

**Automatic Renewal Clauses Incorporated in Awarded Vendor Agreements with TIPS Members Resulting from the Solicitation and with the Vendor Named in this Agreement.**

No Agreement for goods or services with a TIPS Member by the awarded vendor named in this Agreement that results from the solicitation award named in this Agreement, may incorporate an automatic renewal clause that exceeds month to month terms with which the TIPS Member must comply. All renewal terms incorporated in an Agreement by the vendor with the TIPS Member shall only be valid and enforceable when the vendor receives written confirmation by purchase order, executed Agreement or other written instruction issued by the TIPS Member for any renewal period. The purpose of this clause is to avoid a TIPS Member inadvertently renewing an Agreement during a period in which the governing body of the TIPS Member has not properly appropriated and budgeted the funds to satisfy the Agreement renewal. This term is not negotiable and any Agreement between a TIPS Member and a TIPS awarded vendor with an automatic renewal clause that conflicts with these terms is rendered void and unenforceable.

**Shipments**

The Vendor shall ship, deliver or provide ordered products or services within a commercially reasonable time after the receipt of the order from the TIPS Member. If a delay in said delivery is anticipated, the Vendor shall notify TIPS Member as to why delivery is delayed and shall provide an estimated time for completion of the order. TIPS or the requesting entity may cancel the order if estimated delivery time is not acceptable or not as agreed by the parties.

**Invoices**

Each invoice or pay request shall include the TIPS Member’s purchase order number or other identifying designation as provided in the order by the TIPS Member. If applicable, the shipment tracking number or pertinent information for verification of TIPS Member receipt shall be made available upon request.

**Payments**

The TIPS Member will make payments directly to the Vendor, the Vendor Assigned Dealer or as agreed by the Vendor and the TIPS Member after receiving invoice and in compliance with applicable payment

statute(s), whichever is the greater time or as otherwise provided by an agreement of the parties.

### **Pricing**

All pricing submitted to TIPS' Members shall include the participation fee, as provided in the solicitation, to be remitted to TIPS by the Vendor. Vendor will not show adding the fee to the invoice presented to TIPS Member customer.

### **Participation Fees and Reporting of Sales to TIPS by Vendor**

The Participation Fee that was published as part of the Solicitation and the fee published is the legally effective fee, along with any fee conditions stated in the Solicitation. Collection of the fees by TIPS is required under Texas Government Code §791.011 Et seq. Fees are due on all TIPS purchases reported by either Vendor or Member. Fees are due to TIPS upon payment by the Member to the Vendor, Reseller or Vendor Assigned Dealer. Vendor, Reseller or Vendor Assigned Dealer agrees that the participation fee is due to TIPS for all Agreement sales immediately upon receipt of payment including partial payment, from the Member Entity and must be paid to TIPS at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently, or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS. Thus, when an awarded Vendor, Reseller or Vendor Assigned Dealer receives any amount of payment, even partial payment, for a TIPS sale, the legally effective fee for that amount is immediately due to TIPS from the Vendor and fees due to TIPS should be paid at least on a monthly basis, specifically within 31 calendar days of receipt of payment, if not more frequently. **Fees for this RFQ is 1% of the sale price paid by the TIPS Member entity.**

### **Reporting of Sales to TIPS by Vendor**

Vendor is required to report all sales under the TIPS contract to TIPS. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract number on any communications and related sales documents exchanged with the TIPS Member entity. To report sales, the Vendor must login to the TIPS Vendor Portal online at [https://www.tips-usa.com/vendors\\_form.cfm](https://www.tips-usa.com/vendors_form.cfm) and click on the PO's and Payments tab. Pages 3-7 of the [Vendor Portal User Guide](#) will walk you through the process of reporting sales to TIPS. Please refer to the TIPS [Accounting FAQ's](#) for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com). The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS. Failure to render the participation fee to TIPS shall constitute a breach of this agreement with our parent governmental entity, Texas Education Service Center Region 8, as established by the Texas legislature and shall be grounds for termination of this agreement and any other agreement held with TIPS and possible legal action. Any overpayment of participation fees to TIPS by a Vendor will be refunded to the Vendor within ninety (90) days of receipt of notification if TIPS receives written notification of the overpayment not later than the expiration of six (6) months from the date of overpayment and TIPS determines that the amount was not legally due to TIPS pursuant to this agreement and applicable law. It is the Vendor's responsibility to identify which sales are TIPS Agreement sales and pay the correct participation fee due for TIPS Agreement sales. Any notification of overpayment received by TIPS after the expiration of six (6) months from the date of overpayment will be non-refundable. Region 8 ESC and TIPS reserve the right to extend the six (6) month deadline to notify if approved by the Region 8 ESC Board of Directors. TIPS reserves all rights under the law to collect the fees due. Please contact TIPS at [tips@tips-usa.com](mailto:tips@tips-usa.com) or call (866) 839-8477 if you have questions about paying fees.

### **Indemnity**

The Vendor agrees to indemnify and hold harmless and defend TIPS, TIPS Member(s), officers and employees from and against all claims and suits by third parties for damages, injuries to persons (including death), property damages, losses, and expenses including court costs and reasonable attorney's fees, arising out of, or resulting from, Vendor's performance under this Agreement, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part, upon allegations of negligent or intentional acts on the part of the Vendor, its officers, employees, agents, subcontractors, licensees, or invitees. Parties found liable shall pay their proportionate share of damages as agreed by the parties or as ordered by a court of competent jurisdiction over the case. **NO LIMITATION OF LIABILITY FOR DAMAGES FOR PERSONAL INJURY OR PROPERTY DAMAGE ARE PERMITTED OR AGREED BY TIPS/ESC REGION 8.** Per Texas Education Code §44.032(f), and pursuant to its requirements only, reasonable Attorney's fees are recoverable by the prevailing party in any dispute resulting in litigation.

#### **State of Texas Franchise Tax**

By signature hereon, the Vendor hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code.

#### **Miscellaneous**

The Vendor acknowledges and agrees that continued participation in TIPS is subject to TIPS sole discretion and that any Vendor may be removed from the participation in the Program at any time with or without cause. Nothing in the Agreement or in any other communication between TIPS and the Vendor may be construed as a guarantee that TIPS or TIPS Members will submit any orders at any time. TIPS reserves the right to request additional proposals for items or services already on Agreement at any time.

#### **Purchase Order Pricing/Product Deviation**

If a deviation of pricing/product on a Purchase Order or contract modification occurs between the Vendor and the TIPS Member, TIPS must be notified within five (5) business days of receipt of change order.

#### **Termination for Convenience of TIPS Agreement Only**

TIPS reserves the right to terminate this agreement for cause or no cause for convenience with a thirty (30) days prior written notice. Termination for convenience is conditionally required under Federal Regulations 2 CFR part 200 if the customer is using federal funds for the procurement. All purchase orders presented to the Vendor, but not fulfilled by the Vendor, by a TIPS Member prior to the actual termination of this agreement shall be honored at the option of the TIPS Member. The awarded Vendor may terminate the agreement with ninety (90) days prior written notice to TIPS 4845 US Hwy North, Pittsburg, Texas 75686. The vendor will be paid for goods and services delivered prior to the termination provided that the goods and services were delivered in accordance with the terms and conditions of the terminated agreement. This termination clause does not affect the sales agreements executed by the Vendor and the TIPS Member customer pursuant to this agreement. TIPS Members may negotiate a termination for convenience clause that meets the needs of the transaction based on applicable factors, such as funding sources or other needs.

#### **TIPS Member Purchasing Procedures**

Usually, purchase orders or their equal are issued by participating TIPS Member to the awarded vendor and should indicate on the order that the purchase is per the applicable TIPS Agreement Number. Orders are typically emailed to TIPS at tipspo@tips-usa.com.

- Awarded Vendor delivers goods/services directly to the participating member.
- Awarded Vendor invoices the participating TIPS Member directly.
- Awarded Vendor receives payment directly from the participating member.

- Fees are due to TIPS upon payment by the Member to the Vendor. Vendor agrees to pay the participation fee to TIPS for all Agreement sales upon receipt of payment including partial payment, from the Member Entity or as otherwise agreed by TIPS in writing and signed by an authorized signatory of TIPS.

### **Licenses**

Awarded Vendor shall maintain, in current status, all federal, state and local licenses, bonds and permits required for the operation of the business conducted by awarded Vendor. Awarded Vendor shall remain reasonably fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of goods or services under the Agreement. TIPS and TIPS Members reserves the right to stop work and/or cancel an order or terminate this or any other sales Agreement of any awarded Vendor whose license(s) required for performance under this Agreement have expired, lapsed, are suspended or terminated subject to a 30-day cure period unless prohibited by applicable statute or regulation.

### **Novation**

If awarded Vendor sells or transfers all assets, rights or the entire portion of the assets or rights required to perform this Agreement, a successor in interest must guarantee to perform all obligations under this Agreement. A simple change of name agreement will not change the Agreement obligations of awarded vendor. TIPS will consider Contract Assignments on a case by case basis. TIPS must be notified within five (5) business days of the transfer of assets or rights.

### **Site Requirements (*only when applicable to service or job*)**

**Cleanup:** When performing work on site at a TIPS Member's property, awarded Vendor shall clean up and remove all debris and rubbish resulting from their work as required or directed by TIPS Member or as agreed by the parties. Upon completion of work, the premises shall be left in good repair and an orderly, neat, clean and unobstructed condition.

**Preparation:** Awarded Vendor shall not begin a project for which TIPS Member has not prepared the site, unless awarded Vendor does the preparation work at no cost, or until TIPS Member includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

**Registered sex offender restrictions:** For work to be performed at schools, awarded Vendor agrees that no employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are, or reasonably expected to be, present unless otherwise agreed by the TIPS Member. Awarded Vendor agrees that a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at the TIPS Member's discretion. Awarded Vendor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge. **Safety measures:** Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded Vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

### **Safety Measures**

Awarded Vendor shall take all reasonable precautions for the safety of employees on the worksite, and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Awarded vendor shall post warning signs against all hazards created by the operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.

**Smoking**

Persons working under Agreement shall adhere to the TIPS Member's or local smoking statutes, codes or policies.

**Marketing**

Awarded Vendor agrees to allow TIPS to use their name and logo within TIPS website, marketing materials and advertisement subject to any reasonable restrictions provided to TIPS in the Proposal to the Solicitation. The Vendor may submit an acceptable use directive for Vendor's names and logos with which TIPS agrees to comply. Any use of TIPS name and logo or any form of publicity, inclusive of press release, regarding this Agreement by awarded vendor must have prior approval from TIPS which will not be unreasonably withheld. Request may be made by email to TIPS@TIPS-USA.COM.

**Supplemental Agreements**

The TIPS Member entity participating in the TIPS Agreement and awarded Vendor may enter into a separate Supplemental Agreement or contract to further define the level of service requirements over and above the minimum defined in this Agreement such as but not limited to, invoice requirements, ordering requirements, specialized delivery, etc. Any Supplemental Agreement or contract developed as a result of this Agreement is exclusively between the TIPS Member entity customer and the Vendor. TIPS, its agents, TIPS Members and employees not a party to the Supplemental Agreement with the TIPS Member customer, shall not be made party to any claim for breach of such agreement unless named and agreed by the Party in question in writing in the agreement. If a Vendor submitting a Proposal requires TIPS and/or TIPS Member to sign an additional agreement, those agreements shall comply with the award made by TIPS to the Vendor. Supplemental Vendor's Agreement documents may not become part of TIPS' Agreement with Vendor unless and until an authorized representative of TIPS reviews and approves it. TIPS review and approval may be at any time during the life of this Vendor Agreement. TIPS permits TIPS Members to negotiate additional terms and conditions with the Vendor for the provision of goods or services under the Vendor's TIPS Agreement so long as they do not materially conflict with this Agreement.

**Survival Clause**

All applicable sales, leases, Supplemental Agreements, contracts, software license agreements, warranties or service agreements that were entered into between Vendor and TIPS or the TIPS Member Customer under the terms and conditions of this Agreement shall survive the expiration or termination of this Agreement. All Orders, Purchase Orders issued or contracts executed by TIPS or a TIPS Member and accepted by the Vendor prior to the expiration or termination of this agreement, shall survive expiration or termination of the Agreement, subject to previously agreed terms and conditions agreed by the parties or as otherwise specified herein relating to termination of this agreement.

**Legal obligations**

It is the responding Vendor's responsibility to be aware of and comply with all local, state and federal laws governing the sale of products/services identified in the applicable Solicitation that resulted in this Vendor Agreement and any awarded Agreement thereof. Applicable laws and regulations must be followed even if not specifically identified herein.

**Audit rights**

Due to transparency statutes and public accountability requirements of TIPS and TIPS Members', the awarded Vendor shall, at their sole expense, maintain appropriate due diligence of all purchases made by TIPS Member that utilizes this Agreement. TIPS and Region 8 ESC each reserve the right to audit the

accounting of TIPS related purchases for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. In order to ensure and confirm compliance with this agreement, TIPS shall have authority to conduct audits of Awarded Vendor's pricing or TIPS transaction documentation with TIPS Members with 30 days' notice unless the audit is ordered by a Court Order or by a Government Agency with authority to do so without notice. Notwithstanding the foregoing, in the event that TIPS is made aware of any pricing being offered to eligible entities that is materially inconsistent with the pricing under this agreement, TIPS shall have the ability to conduct the audit internally or may engage a third- party auditing firm to investigate any possible non- compliant conduct or may terminate the Agreement according to the terms of this Agreement. In the event of an audit, the requested materials shall be reasonably provided in the time, format and at the location acceptable to Region 8 ESC or TIPS. TIPS agrees not to perform a random audit the TIPS transaction documentation more than once per calendar year, but reserves the right to audit for just cause or as required by any governmental agency or court with regulatory authority over TIPS or the TIPS Member.

### **Force Majeure**

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

### **Choice of Law**

The Agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles.

### **Venue, Jurisdiction and Service of Process**

Any Proceeding arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Venue for any dispute resolution process, other than litigation, between TIPS and the Vendor shall be located in Camp or Titus County, Texas.

### **Project Delivery Order Procedures**

The TIPS Member having approved and signed an interlocal agreement, or other TIPS Membership document, may make a request of the awarded Vendor under this Agreement when the TIPS Member desires goods or services awarded to the Vendor. Notification may occur via phone, the web, courier, email, fax, or in person. Upon notification of a pending request, the awarded Vendor shall acknowledge the TIPS

Member's request as soon as possible, but must make contact with the TIPS Member within two working days.

**Status of TIPS Members as Related to This Agreement**

TIPS Members stand in the place of TIPS as related to this agreement and have the same access to the proposal information and all related documents. TIPS Members have all the same rights under the awarded Agreement as TIPS.

**Vendor's Resellers as Related to This Agreement**

Vendor's Named Resellers ("Resellers") under this Agreement shall comply with all terms and conditions of this agreement and all addenda or incorporated documents. All actions related to sales by Authorized Vendor's Resellers under this Agreement are the responsibility of the awarded Vendor. If Resellers fail to report sales to TIPS under your Agreement, the awarded Vendor is responsible for their contractual failures and shall be billed for the fees. The awarded Vendor may then recover the fees from their named reseller.

**Support Requirements**

If there is a dispute between the awarded Vendor and TIPS Member, TIPS or its representatives may, at TIPS sole discretion, assist in conflict resolution if requested by either party. TIPS, or its representatives, reserves the right to inspect any project and audit the awarded Vendor's TIPS project files, documentation and correspondence related to the requesting TIPS Member's order. If there are confidentiality requirements by either party, TIPS shall comply to the extent permitted by law.

**Incorporation of Solicitation**

The TIPS Solicitation which resulted in this Vendor Agreement, whether a Request for Proposals, the Request for Competitive Sealed Proposals or Request for Qualifications solicitation, or other, the Vendor's response to same and all associated documents and forms made part of the solicitation process, including any addenda, are hereby incorporated by reference into this Agreement as if copied verbatim.

**SECTION HEADERS OR TITLES**

THE SECTION HEADERS OR TITLES WITHIN THIS DOCUMENT ARE MERELY GUIDES FOR CONVENIENCE AND ARE NOT FOR CLASSIFICATION OR LIMITING OF THE RESPONSIBILITIES OF THE PARTIES TO THIS DOCUMENT.

**STATUTORY REQUIREMENTS**

Texas governmental entities are prohibited from doing business with companies that fail to certify to this condition as required by Texas Government Code Sec. 2270.

By executing this agreement, you certify that you are authorized to bind the undersigned Vendor and that your company (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

You certify that your company is not listed on and does not and will not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

You certify that if the certified statements above become untrue at any time during the life of this Agreement that the Vendor will notify TIPS within three (3) business day of the change by a letter on Vendor's letterhead from and signed by an authorized representative of the Vendor stating the non-compliance decision and the TIPS Agreement number and description at:

Attention: General Counsel  
ESC Region 8/The Interlocal Purchasing System (TIPS)  
4845 Highway 271 North  
Pittsburg, TX, 75686  
And by an email sent to [bids@tips-usa.com](mailto:bids@tips-usa.com)

### Insurance Requirements

The undersigned Vendor agrees to maintain the below minimum insurance requirements for TIPS Contract Holders:

<b>General Liability</b>	\$1,000,000 each Occurrence/ Aggregate
<b>Automobile Liability</b>	\$300,000 Includes owned, hired & non-owned
<b>Workers' Compensation</b>	Statutory limits for the jurisdiction in which the Vendor performs under this Agreement.
<b>Umbrella Liability</b>	\$1,000,000

When the Vendor or its subcontractors are liable for any damages or claims, the Vendor's policy, when the Vendor is responsible for the claim, must be primary over any other valid and collectible insurance carried by the Member. Any immunity available to TIPS or TIPS Members shall not be used as a defense by the contractor's insurance policy. The coverages and limits are to be considered minimum requirements and in no way limit the liability of the Vendor(s). Insurance shall be written by a carrier with an A-; VII or better rating in accordance with current A.M. Best Key Rating Guide. Only deductibles applicable to property damage are acceptable, unless proof of retention funds to cover said deductibles is provided. "Claims made" policies will not be accepted. Vendor's required minimum coverage shall not be suspended, voided, cancelled, non-renewed or reduced in coverage or in limits unless replaced by a policy that provides the minimum required coverage except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to TIPS or the TIPS Member if a project or pending delivery of an order is ongoing. Upon request, certified copies of all insurance policies shall be furnished to the TIPS or the TIPS Member.

## Special Terms and Conditions

- **Orders:** All Vendor orders received from TIPS Members must be emailed to TIPS at [tips@tips-usa.com](mailto:tips@tips-usa.com). Should a TIPS Member send an order directly to the Vendor, it is the Vendor's responsibility to forward a copy of the order to TIPS at the email above within 3 business days and confirm its receipt with TIPS.
- **Vendor Encouraging Members to bypass TIPS agreement:** Encouraging TIPS Members to purchase directly from the Vendor or through another agreement, when the Member has requested using the TIPS cooperative Agreement or price, and thereby bypassing the TIPS Agreement is a violation of the terms and conditions of this Agreement and will result in removal of the Vendor from the TIPS Program.
- **Order Confirmation:** All TIPS Member Agreement orders are approved daily by TIPS and sent to the Vendor. The Vendor should confirm receipt of orders to the TIPS Member (customer) within 3 business days.
- **Vendor custom website for TIPS:** If Vendor is hosting a custom TIPS website, updated pricing when effective. TIPS shall be notified when prices change in accordance with the award.

- **Back Ordered Products:** If product is not expected to ship within the time provided to the TIPS Member by the Vendor, the Member is to be notified within 3 business days and appropriate action taken based on customer request.

NOTE: It is always the Vendor's responsibility under the TIPS agreement to report all sales under the TIPS Agreement. When a public entity initiates a purchase with a TIPS Awarded Vendor, if the Member inquires verbally or in writing whether the Vendor holds a TIPS Contract, it is the duty of the Vendor to verify whether or not the Member is seeking a TIPS purchase. Once verified, the Vendor must include the TIPS Contract Number on all related quotes, invoices, and similar sales documents. It is the duty of the Vendor to submit documentation of all final purchases to TIPS for processing. This may only be done through the TIPS Vendor Portal or by emailing the sales documentation to [TIPSP0@TIPS-USA.com](mailto:TIPSP0@TIPS-USA.com), unless TIPS agrees to an alternative reporting method in writing. Failure to report a TIPS sale may result in termination of Vendor's TIPS Contract(s) and preclusion to responding to future solicitations.

The TIPS Vendor Agreement Signature Page is inserted here.

# TIPS Vendor Agreement Signature Form

RFQ 220104 Energy Savings Performance Contracts

Company Name Navitas

Address 25618 W 103rd Street

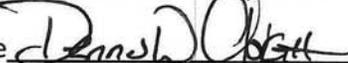
City Olathe State KS Zip 66061

Phone (913) 344-0049 Fax (913) 345-0617

Email of Authorized Representative dclough@navitas.us.com

Name of Authorized Representative Dennis Clough

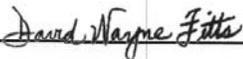
Title Managing Director, Infrastructure Solutions

Signature of Authorized Representative 

Date 2/16/22

TIPS Authorized Representative Name David Fitts

Title Executive Director

TIPS Authorized Representative Signature 

Approved by ESC Region 8 

Date 3/24/2022

## **NOTICE TO MEMBERS REGARDING ATTRIBUTE RESPONSES**

TIPS VENDORS RESPOND TO ATTRIBUTE QUESTIONS AS PART OF TIPS COMPETITIVE SOLICITATION PROCESS. THE VENDOR'S RESPONSES TO ATTRIBUTE QUESTIONS ARE INCLUDED HEREIN AS "SUPPLIER RESPONSE." PLEASE BE ADVISED THAT DEVIATIONS, IF ANY, IN VENDOR'S RESPONSE TO ATTRIBUTE QUESTIONS MAY NOT REFLECT VENDOR'S FINAL ATTRIBUTE RESPONSE, WHICH IS SUBJECT TO NEGOTIATIONS PRIOR TO AWARD. PLEASE CONTACT THE TIPS OFFICE AT 866-839-8477 WITH QUESTIONS OR CONCERNS REGARDING VENDOR ATTRIBUTE RESPONSE DEVIATIONS. PLEASE KEEP IN MIND THAT TIPS DOES NOT PROVIDE LEGAL COUNSEL TO MEMBERS. TIPS RECOMMENDS THAT YOU CONSULT YOUR LEGAL COUNSEL WHEN EXECUTING CONTRACTS WITH OR MAKING PURCHASES FROM TIPS VENDORS.



## 220104 Addendum 1 Navitas, LLC Supplier Response

### Event Information

Number: 220104 Addendum 1  
Title: Energy Savings Performance Contracts (ESPC)  
Type: Request for Qualification  
Issue Date: 1/6/2022  
Deadline: 2/18/2022 03:00 PM (CT)  
Notes:

**IF YOU CURRENTLY HOLD TIPS CONTRACTS (170103) Energy Savings Performance Contracts ("170103") OR (200209) Energy Savings Performance Contracts ("200209"), YOU MUST RESPOND TO THIS SOLICITATION TO PREVENT LAPSE OF CONTRACT. THIS AWARDED CONTRACT WILL REPLACE YOUR EXPIRING TIPS CONTRACT.**

### Contact Information

Address: Region 8 Education Service Center  
4845 US Highway 271 North  
Pittsburg, TX 75686  
Phone: +1 (866) 839-8477  
Email: [bids@tips-usa.com](mailto:bids@tips-usa.com)

## Navitas, LLC Information

Address: 25618 W 103rd St  
Olathe, KS 66061  
Phone: (913) 344-0049

By submitting your response, you certify that you are authorized to represent and bind your company.

Dennis Clough

*Signature*

*Submitted at 2/17/2022 1:47:05 PM*

dclough@navitas.us.com

*Email*

## Requested Attachments

### Agreement Signature Form

Navitas Agreement Signature Form.pdf

If you have not taken exception or deviation to the agreement language in the solicitation attributes, download the AGREEMENT SIGNATURE FORM from the "ATTACHMENTS" tab. This PDF document is a fillable form. Download the document to your computer, fill in the requested company information, print the file, SIGN the form, SCAN the completed and signed AGREEMENT SIGNATURE FORM, and upload here.

If you have taken exception to any of the agreement language and noted the exception in the deviations section of the attributes for the agreement, complete the AGREEMENT SIGNATURE FORM, but DO NOT SIGN until those deviations have been negotiated and resolved with TIPS management. Upload the unsigned form here, because this is a required document.

### Confidentiality Claim Form

Navitas Confidentiality Claim Form.pdf

REQUIRED CONFIDENTIALITY FORM. Complete the form according to your company requirements, make any desired attachments and upload to the appropriate section under "Response Attachments" THIS FORM DETERMINES HOW ESC8/TIPS RESPONDS TO LEGAL PUBLIC INFORMATION REQUESTS.

### Proposed Goods and Services

Navitas Proposed Goods Services.pdf

Please upload one or more documents or sheets describing your offerings, line cards, catalogs, links to offerings OR list links to your offerings that illustrate the catalog of proposed lines of goods and or services you carry and offer under this proposal. It does not have to be exhaustive but should, at a minimum tell us what you are offering. It could be as simple as a sheet with your link to your online catalog of goods and services.

### Reference Form

Navitas ESPC Reference Form.xls

The vendor must download the References spreadsheet from the attachment tab, fill in the requested information and upload the completed spreadsheet. DO NOT UPLOAD encrypted or password protected files.

### Current W-9 Tax Form

Navitas W9 2022.01.13.pdf

You are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

### Vendor Agreement

Navitas Vendor Agreement.pdf

The vendor must download the Vendor Agreement from the attachment tab, fill in the requested information and upload the completed agreement.  
DO NOT UPLOAD encrypted or password protected files.

### OPTIONAL Information Requested

*No response*

IF you agree to do so, Please upload the Optional Information Requested regarding ESaaS.  
See attachment.

**All Other Certificates**

No response

All Other Certificates (if applicable) must be scanned and uploaded. If vendor has more than one other certification scan into one document. (PDF Format ONLY)  
DO NOT UPLOAD encrypted or password protected files.

**Conflict of Interest Form CIQ- ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS**

No response

ONLY REQUIRED IF A CONFLICT EXISTS PER THE INSTRUCTIONS  
Conflict of Interest Form for Vendors that are required to submit the form. The Conflict of Interest Form is included in the Base documents or can be found at <https://www.tips-usa.com/assets/documents/docs/CIQ.pdf>.

**D/M/WBE Certification OPTIONAL**

No response

D/M/WBE Certification documentation may be scanned and uploaded if you desire to claim your status as one of the identified enterprises. (Disadvantaged Business Enterprise, Minority Business Enterprise and/or Woman Business Enterprise) If vendor has more than one certification scan into one document. (PDF Format ONLY)  
DO NOT UPLOAD encrypted or password protected files.

**Warranty**

No response

Warranty information (if applicable) must be scanned and uploaded. (PDF Format ONLY)  
DO NOT UPLOAD encrypted or password protected files.

**Supplementary**

No response

Supplementary information may be scanned and uploaded. (Company information, brochures, catalogs, etc.) (PDF Format ONLY)  
DO NOT UPLOAD encrypted or password protected files.

**Logo and Other Company Marks**

No response

If you desire, please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the Supplementary section or another non-required section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

**Certification of Corporate Offerer Form- COMPLETE ONLY IF OFFERER IS A CORPORATION**

No response

COMPLETE AND UPLOAD FORM IN ATTACHMENTS SECTION ONLY IF OFFERER IS A CORPORATION

**Disclosure of Lobbying Activities Standard Form LLL**

No response

ONLY IF you answered "I HAVE Lobbied per above" to attribute #66, please download and complete and upload the Standard Form-LLL, "disclosure Form to Report Lobbying," in the Response attachments section.

**Bid Attributes**

<b>1</b>	<p><b>Yes - No</b></p> <p>Disadvantaged/Minority/Women Business Enterprise - D/M/WBE/Federal HUBZone (Required by some participating governmental entities). Vendor certifies that their firm is a D/M/WBE or HUBZone? Vendor must upload proof of certification to the "Response Attachments" D/M/WBE CERTIFICATES section.</p> <p><input type="text" value="NO"/></p>
<b>2</b>	<p><b>Yes - No</b></p> <p>Historically Underutilized Business - HUB (Required by some participating governmental entities) Vendor certifies that their firm is a HUB as defined by the State of Texas at <a href="https://comptroller.texas.gov/purchasing/vendor/hub/">https://comptroller.texas.gov/purchasing/vendor/hub/</a>.</p> <p>Proof may be submitted. Vendor must upload proof of certification to the "Response Attachments" HUB CERTIFICATES section.</p> <p><input type="text" value="No"/></p>

3	<p><b>Yes - No</b></p> <p>The Vendor can provide services and/or products to all 50 US States?</p> <p><input type="text" value="Yes"/></p>
4	<p><b>States Served:</b></p> <p>If answer is NO to question #3, please list which states can be served. (Example: AR, OK, TX)</p> <p><input type="text" value="No response"/></p>
5	<p><b>Company and/or Product Description:</b></p> <p>This information will appear on the TIPS website in the company profile section, if awarded a TIPS contract. (Limit 750 characters.)</p> <p><input type="text" value="Navitas is an energy services company specializing in a wide range of energy-efficiency solutions. We focus on identifying and implementing resource conservation strategies, to help improve the quality of financial and facility assets for public and private sector clients. Our tagline represents our purpose: conserving resources and renewing facilities."/></p>
6	<p><b>Primary Contact Name</b></p> <p>Primary Contact Name</p> <p><input type="text" value="Dennis Clough"/></p>
7	<p><b>Primary Contact Title</b></p> <p>Primary Contact Title</p> <p><input type="text" value="Managing Director, Infrastructure Solutions"/></p>
8	<p><b>Primary Contact Email</b></p> <p>Primary Contact Email</p> <p><input type="text" value="dclough@navitas.us.com"/></p>
9	<p><b>Primary Contact Phone</b></p> <p>Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477</p> <p><input type="text" value="4439099642"/></p>
10	<p><b>Primary Contact Fax</b></p> <p>Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477</p> <p><input type="text" value="9133450617"/></p>
11	<p><b>Primary Contact Mobile</b></p> <p>Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477</p> <p><input type="text" value="4439099642"/></p>
12	<p><b>Secondary Contact Name</b></p> <p>Secondary Contact Name</p> <p><input type="text" value="Ryan Terry"/></p>

1 3	<b>Secondary Contact Title</b> Secondary Contact Title <input type="text" value="Business Development Manager"/>
1 4	<b>Secondary Contact Email</b> Secondary Contact Email <input type="text" value="rterry@navitas.us.com"/>
1 5	<b>Secondary Contact Phone</b> Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9133440035"/>
1 6	<b>Secondary Contact Fax</b> Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9133450617"/>
1 7	<b>Secondary Contact Mobile</b> Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9135939919"/>
1 8	<b>Admin Fee Contact Name</b> Admin Fee Contact Name. This person is responsible for paying the admin fee to TIPS. <input type="text" value="Sarah Kremer"/>
1 9	<b>Admin Fee Contact Email</b> Admin Fee Contact Email <input type="text" value="skremer@navitas.us.com"/>
2 0	<b>Admin Fee Contact Phone</b> Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9133440021"/>
2 1	<b>Purchase Order Contact Name</b> Purchase Order Contact Name. This person is responsible for receiving Purchase Orders from TIPS. <input type="text" value="Sarah Kremer"/>
2 2	<b>Purchase Order Contact Email</b> Purchase Order Contact Email <input type="text" value="skremer@navitas.us.com"/>
2 3	<b>Purchase Order Contact Phone</b> Enter 10 digit phone number. (No dashes or extensions) Example: 8668398477 <input type="text" value="9133440021"/>

2 4	<b>Company Website</b> Company Website (Format - www.company.com) <input type="text" value="www.navitas.us.com"/>
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2 5	<b>Entity D/B/A's and Assumed Names</b> Please identify all of your entity's assumed names and D/B/A's. Please note that you will be identified publicly by the legal name under which you responded to this solicitation unless you organize otherwise with TIPS after award. <input type="text" value="Navitas, LLC"/>
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2 6	<b>Primary Address</b> Primary Address <input type="text" value="25618 W 103rd Street"/>
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2 7	<b>Primary Address City</b> Primary Address City <input type="text" value="Olathe"/>
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2 8	<b>Primary Address State</b> Primary Address State (2 Digit Abbreviation) <input type="text" value="KS"/>
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2 9	<b>Primary Address Zip</b> Primary Address Zip <input type="text" value="66061"/>
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3 0	<b>Search Words:</b> Please list search words to be posted in the TIPS database about your company that TIPS website users might search. Words may be product names, manufacturers, or other words associated with the category of award. <b>YOU MAY NOT LIST NON-CATEGORY ITEMS.</b> (Limit 500 words) (Format: product, paper, construction, manufacturer name, etc.) <input type="text" value="Navitas, energy professional services, energy savings performance contracts, ESPC, turnkey project delivery, performance contracting, guaranteed energy savings contracts, EPC"/>
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3 1	<b>Do you want TIPS Members to be able to spend Federal grant funds with you if awarded? Is it your intent to be able to sell to our members regardless of the fund source, whether it be local, state or federal?</b> Most of our members receive Federal Government grants or other funding and they make up a significant portion of their budgets. The Members need to know if your company is willing to sell to them when they spend federal budget funds on their purchase. There are attributes that follow that include provisions from the federal regulations in 2 CFR part 200, etc. Your answers will determine if your award will be designated as eligible for TIPS Members to utilize federal funds with your company.  Do you want TIPS Members to be able to spend Federal funds, at the Member's discretion, with you? <input type="text" value="Yes"/>
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3  
2 **Yes - No**

Certification of Residency (Required by the State of Texas) The vendor's ultimate parent company or majority owner:

(A) has its principal place of business in Texas;

OR

(B) employs at least 500 persons in Texas?

This question is required as a data gathering function for information to our members making purchases with awarded vendors. It does not affect scoring with TIPS.

3  
3 **Company Residence (City)**

Vendor's principal place of business is in the city of?

3  
4 **Company Residence (State)**

Vendor's principal place of business is in the state of?

3  
5 **TIPS Administration Fee**

By submitting a proposal, I agree that all pricing submitted to TIPS shall include the Administration Fee, as designated in the solicitation or as otherwise agreed in writing which shall be remitted to TIPS by the Vendor, or the vendor's named resellers, and as agreed to in the Vendor Agreement. I agree that the fee shall not and will not be added by the Vendor as a separate line item on a TIPS member invoice, quote, proposal or any other written communications with the TIPS member.

3  
6 **Yes - No**

Vendor agrees to remit to TIPS the required administration fee or, if resellers are named, Vendor agrees to guarantee the fee remittance by or for the reseller named by the vendor?

TIPS/ESC Region 8 is required by Texas Government Code § 791 to be compensated for its work and thus, failure to agree shall render your response void and it will not be considered.

3  
7 **TIPS Administration Fee Paid by Vendor - Not Charged Separately to Customer**

Vendor understands and agrees that it owes TIPS a TIPS Administration Fee (published in the RFP/RCSP document) on every TIPS sale made under an awarded TIPS Contract. Vendor further understands and agrees that Vendor shall submit pricing to Member entity which includes and accounts for the TIPS Administration Fee and **shall never** separately charge the TIPS Member Customer the TIPS fee or add the TIPS Administration Fee line item to an invoice or similar purchase document. Submission of this proposal is Vendor's certification that Vendor agrees to this mandatory term.

<b>3 8</b>	<b>Years in Business as Proposing Company</b> Years in business as proposing company? <input style="width: 100px;" type="text" value="10"/>
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<b>3 9</b>	<b>Resellers:</b> Does the vendor have resellers that it will name under this contract? Resellers are defined as other companies that sell your products under an agreement with you, the awarded vendor of TIPS.  EXAMPLE: BIGmart is a reseller of ACME brand televisions. If ACME were a TIPS awarded vendor, then ACME would list BIGmart as a reseller.  (If applicable, Vendor should add all Authorized Resellers within the TIPS Vendor Portal upon award). <input style="width: 100px;" type="text" value="No"/>
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<b>4 0</b>	<b>Right of Refusal</b> The proposing vendor has the right not to sell under the awarded agreement with a TIPS member at vendor's discretion unless required by law.
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<b>4 1</b>	<b>NON-COLLUSIVE BIDDING CERTIFICATE</b> By submission of this bid or proposal, the Bidder certifies that:  1) This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;  2) This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor or potential competitor:  3) No attempt has been or will be made to induce any other person, partnership or corporation to submit or not to submit a bid or proposal;  4) The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.  Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.
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<b>4 2</b>	<b>CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ - Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement?</b> Do you have any CONFLICT OF INTEREST TO REPORT OR DISCLOSE under this statutory requirement? YES or NO  If you have a conflict of interest as described in this form or the Local Government Code Chapter 176, cited therein- you are required to complete and file with TIPS. The Form CIQ is one of the attachments to this solicitation.  There is an optional upload for this form provided if you have a conflict and must file the form <input style="width: 100px;" type="text" value="No"/>
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<b>4 3</b>	<b>Filing of Form CIQ</b> If yes (above), have you filed a form CIQ by uploading the form to this RFP as directed above? <input type="text" value="No response"/>
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<b>4 4</b>	<b>Regulatory Standing</b> I certify to TIPS for the proposal attached that my company is in good standing with all governmental agencies Federal or state that regulate any part of our business operations. If not, please explain in the next attribute question. <input type="text" value="Yes"/>
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<b>4 5</b>	<b>Regulatory Standing</b> Regulatory Standing explanation of no answer on previous question. <input type="text" value="No response"/>
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<b>4 6</b>	<b>Antitrust Certification Statements (Tex. Government Code § 2155.005)</b> By submission of this bid or proposal, the Bidder certifies that:  I affirm under penalty of perjury of the laws of the State of Texas that:  (1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;  (2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;  (3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law;  (4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.
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**47 Suspension or Debarment Instructions**

Instructions for Certification:

1. By answering yes to the next Attribute question below, the vendor and prospective lower tier participant is providing the certification set out herein in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participants,” “person,” “primary covered transaction,” “principal,” “proposal” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and / or debarment.

**48 Suspension or Debarment Certification**

By answering yes, you certify that no federal suspension or debarment is in place, which would preclude receiving a federally funded contract as described above.

Yes

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9

## Non-Discrimination Statement and Certification

In accordance with Federal civil rights law, all U.S. Departments, including the U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

(Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities)

All U.S. Departments, including the USDA are equal opportunity provider, employer, and lender.

Not a negotiable term. Failure to agree by answering YES will render your proposal non-responsive and it will not be considered. I certify that in the performance of a contract with TIPS or its members, that our company will conform to the foregoing anti-discrimination statement and comply with the cited and all other applicable laws and regulations.

Yes, I certify (Yes)

5  
0

## 2 CFR PART 200 Contract Provisions Explanation

Required Federal contract provisions of Federal Regulations for Contracts for contracts with ESC Region 8 and TIPS Members:

The following provisions are required to be in place and agreed if the procurement is funded in any part with federal funds.

The ESC Region 8 and TIPS Members are the subgrantee or Subrecipient by definition. Most of the provisions are located in 2 CFR PART 200 - Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards at 2 CFR PART 200. Others are included within 2 CFR part 200 et al.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

**5**  
**1** **2 CFR PART 200 Contracts**

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Notice: Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does vendor agree?

**5**  
**2** **2 CFR PART 200 Termination**

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for cause after giving the vendor an appropriate opportunity and up to 30 days, to cure the causal breach of terms and conditions. ESC Region 8 and TIPS Members reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process for convenience with 30 days notice in writing to the awarded vendor. The vendor would be compensated for work performed and goods procured as of the termination date if for convenience of the ESC Region 8 and TIPS Members. Any award under this procurement process is not exclusive and the ESC Region 8 and TIPS reserves the right to purchase goods and services from other vendors when it is in the best interest of the ESC Region 8 and TIPS.

Does vendor agree?

**5**  
**3** **2 CFR PART 200 Clean Air Act**

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

Pursuant to the Clean Air Act, et al above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires that the proposer certify that during the term of an award by the ESC Region 8 and TIPS Members resulting from this procurement process the vendor agrees to comply with all of the above regulations, including all of the terms listed and referenced therein.

Does vendor agree?

**5 4 2 CFR PART 200 Byrd Anti-Lobbying Amendment**

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

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that during the term and during the life of any contract with ESC Region 8 and TIPS Members resulting from this procurement process the vendor certifies to the terms included or referenced herein.

Does vendor agree?

**5 5 2 CFR PART 200 Federal Rule**

Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$250,000)

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, ESC Region 8 and TIPS Members requires the proposer certify that in performance of the contracts, subcontracts, and subgrants of amounts in excess of \$250,000, the vendor will be in compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

Does vendor certify that it is in compliance with the Clean Air Act?

**5 6 2 CFR PART 200 Procurement of Recovered Materials**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does vendor certify that it is in compliance with the Solid Waste Disposal Act as described above?

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## 2 CFR PART 200 Rights to Inventions

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

Pursuant to the above, when the foregoing applies to ESC Region 8 and TIPS Members, Vendor certifies that during the term of an award resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in the Federal rule above.

Does vendor agree?

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## 2 CFR PART 200 Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

Does vendor agree?

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## 2 CFR PART 200 Ban on Foreign Telecommunications

Federal grant funds may not be used to purchase equipment, services, or systems that use “covered telecommunications” equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications” means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Pursuant to the above, when federal funds are expended by ESC Region 8 and TIPS Members, Vendor certifies that Vendor will not purchase equipment, services, or systems that use “covered telecommunications”, as defined by 2 CFR §200.216 equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Does vendor agree?

**6** **2 CFR PART 200 Contract Cost & Price**

For contracts more than the simplified acquisition threshold currently set at \$250,000, a TIPS Member may, in very rare circumstances, be required to negotiate profit as a separate element of the price pursuant to 2 C.F.R. 200.324(b). Under those circumstances, Vendor agrees to provide information and negotiate with the TIPS Member regarding profit as a separate element of the price. However, Vendor certifies that the total price charged by the Vendor shall not exceed the Vendor's TIPS pricing and pricing terms proposed.

Does Vendor Agree?

**6** **FEMA Fund Certifications**

Submission of this proposal is Vendor's certification that Vendor agrees to this term. Vendor certifies that **IF and when** Vendor accepts a TIPS purchase paid for in full or part with FEMA funds, Vendor certifies that:

(1) Vendor agrees to provide the TIPS Member, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to and rights to reproduce any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Vendor agrees to provide the FEMA Administrator or an authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. Vendor acknowledges and agrees that no language in this contract or the contract with the TIPS Member is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

(2) The Vendor shall not use the Department of Homeland Security's seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

(3) The Vendor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(4) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

(5) The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract.

**6** **Certification of Compliance with the Energy Policy and Conservation Act**

When appropriate and to the extent consistent with the law, Vendor certifies that it will comply with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq; 49 C.F.R. Part 18) and any mandatory standards and policies relating to energy efficiency which are contained in applicable state energy conservation plans issued in compliance with the Act.

Does Vendor agree?

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3

**Certification Regarding Lobbying**

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

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**If you answered "I HAVE lobbied" to the above Attribute Question**

If you answered "I HAVE lobbied" to the above Attribute question, you must download the Lobbying Report "Standard From LLL, disclosure Form to Report Lobbying" which includes instruction on completing the form, complete and submit it in the Response Attachments section as a report of the lobbying activities you performed or paid others to perform.

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**Subcontracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.**

Do you ever anticipate the possibility of subcontracting any of your work under this award if you are successful?

IF NO, DO NOT ANSWER THE NEXT ATTRIBUTE QUESTION. . IF YES, and ONLY IF YES, you must answer the next question YES if you want a TIPS Member to be authorized to spend Federal Grant Funds for Procurement.

**6 6 ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement, do you agree to comply with the following federal requirements?**

ONLY IF YES TO THE PREVIOUS QUESTION OR if you ever do subcontract any part of your performance under the TIPS Agreement,

do you agree to comply with the following federal requirements?

Federal Regulation 2 CFR §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. (a)The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce ; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs(1) through (5) of this section.

YES

**6 7 Indemnification**

The ESC Region 8 and TIPS is a Texas Political Subdivision and a local governmental entity; therefore, is prohibited from

indemnifying third parties pursuant to the Texas Constitution (Article 3, Section 52) except as specifically provided by law or as

ordered by a court of competent jurisdiction. A provision in a contract to indemnify or hold a party harmless is a promise to pay for

any expenses the indemnified party incurs, if a specified event occurs, such as breaching the terms of the contract or negligently

performing duties under the contract. Article III, Section 49 of the Texas Constitution states that "no debt shall be created by or on

behalf of the State ... " The Attorney General has counseled that a contractually imposed obligation of indemnity creates a "debt" in

the constitutional sense. Tex. Att'y Gen. Op. No. MW-475 (1982). Contract clauses which require the System or institutions to

indemnify must be deleted or qualified with "to the extent permitted by the Constitution and Laws of the State of Texas." Liquidated

damages, attorney's fees, waiver of vendor's liability, and waiver of statutes of limitations clauses should also be deleted or qualified

with "to the extent permitted by the Constitution and laws of State of Texas."

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered. Do you agree

to these terms?

Yes, I Agree (Yes)

**6  
8 Remedies**

The parties shall be entitled to exercise any right or remedy available to it either at law or in equity, subject to the choice of law, venue and service of process clauses limitations agreed herein. Nothing in this agreement shall commit the TIPS to an arbitration resolution of any disagreement under any circumstances. Any Claim arising out of or related to the Contract, except for those specifically waived under the terms of the Contract, may, after denial of the Board of Directors, be subject to mediation at the request of either party. Any issues not resolved hereunder MAY be referred to non-binding mediation to be conducted by a mutually agreed upon mediator as a prerequisite to the filing of any lawsuit over such issue(s). The parties shall share the mediator's fee and any associated filing fee equally. Mediation shall be held in Camp or Titus County, Texas. Agreements reached in mediation shall be reduced to writing, and will be subject to the approval by the District's Board of Directors, signed by the Parties if approved by the Board of Directors, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

Do you agree to these terms?

**6  
9 Remedies Explanation of No Answer**

**7  
0 Choice of Law**

The agreement between the Vendor and TIPS/ESC Region 8 and any addenda or other additions resulting from this procurement process, however described, shall be governed by, construed and enforced in accordance with the laws of the State of Texas, regardless of any conflict of laws principles. THIS DOES NOT APPLY to a vendor's agreement entered into with a TIPS Member, as the Member may be located outside Texas.

Do you agree to these terms?

**7  
1 Venue, Jurisdiction and Service of Process**

Any proceeding, involving Region 8 ESC or TIPS, arising out of or relating to this procurement process or any contract issued by TIPS resulting from or any contemplated transaction shall be brought in a court of competent jurisdiction in Camp County, Texas and each of the parties irrevocably submits to the exclusive jurisdiction of said court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court, and agrees not to bring any proceeding arising out of or relating to this procurement process or any contract resulting from or any contemplated transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and freely bargained for agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this Section may be served on any party anywhere in the world. Any dispute resolution process other than litigation shall have venue in Camp County or Titus County Texas.

Do you agree to these terms?

**7  
2** **Infringement(s)**

The successful vendor will be expected to indemnify and hold harmless the TIPS and its employees, officers, agents, representatives, contractors, assignees and designees from any and all third party claims and judgments involving infringement of patent, copyright, trade secrets, trade or service marks, and any other intellectual or intangible property rights attributed to or claims based on the Vendor's proposal or Vendor's performance of contracts awarded and approved.

Do you agree to these terms?

Yes, I Agree

**7  
3** **Infringement(s) Explanation of No Answer**

*No response*

**7  
4** **Contract Governance**

Any contract made or entered into by the TIPS is subject to and is to be governed by Section 271.151 et seq, Tex Loc Gov't Code. Otherwise, TIPS does not waive its governmental immunities from suit or liability except to the extent expressly waived by other applicable laws in clear and unambiguous language.

Yes, I Agree (Yes)

**7  
5** **Payment Terms and Funding Out Clause**

Payment Terms:

TIPS or TIPS Members shall not be liable for interest or late payment fees on past-due balances at a rate higher than permitted by the laws or regulations of the jurisdiction of the TIPS Member.

Funding Out Clause:

Vendor agrees to abide by the laws and regulations, including Texas Local Government Code § 271.903, or any statutory or regulatory limitations of the jurisdiction of any TIPS Member which governs contracts entered into by the Vendor and TIPS or a TIPS Member that requires all contracts approved by TIPS or a TIPS Member are subject to the budgeting and appropriation of currently available funds by the entity or its governing body.

See statute(s) for specifics or consult your legal counsel.

Not a negotiable term. Failure to agree will render your proposal non-responsive and it will not be considered.

Do you agree to these terms?

Yes, I Agree (Yes)

**7 Insurance and Fingerprint Requirements Information**

**6 Insurance**

If applicable and your staff will be on TIPS member premises for delivery, training or installation etc. and/or with an automobile, you must carry automobile insurance as required by law. You may be asked to provide proof of insurance.

**Fingerprint**

It is possible that a vendor may be subject to Chapter 22 of the Texas Education Code. The Texas Education Code, Chapter 22, Section 22.0834 & 22.08341. Statutory language may be found at: <http://www.statutes.legis.state.tx.us/>

If the vendor has staff that meet both of these criterion:

- (1) will have continuing duties related to the contracted services; and
- (2) has or will have direct contact with students

Then you have "covered" employees for purposes of completing the attached form.

TIPS recommends all vendors consult their legal counsel for guidance in compliance with this law. If you have questions on how to comply, see below. If you have questions on compliance with this code section, contact the Texas Department of Public Safety Non-Criminal Justice Unit, Access and Dissemination Bureau, FAST-FACT at [NCJU@txdps.state.tx.us](mailto:NCJU@txdps.state.tx.us) and you should send an email identifying you as a contractor to a Texas Independent School District or ESC Region 8 and TIPS. Texas DPS phone number is (512) 424-2474.

See form in the next attribute to complete entitled:  
Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

### Texas Education Code Chapter 22 Contractor Certification for Contractor Employees

Introduction: Texas Education Code Chapter 22 requires entities that contract with school districts to provide services to obtain criminal history record information regarding covered employees. Contractors must certify to the district that they have complied. Covered employees with disqualifying criminal histories are prohibited from serving at a school district.

Definitions: Covered employees: Employees of a contractor or subcontractor who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes direct contact with students. Disqualifying criminal history: Any conviction or other criminal history information designated by the District, or one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school:

(a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

I certify that:

**NONE (Section A)** of the employees of Contractor and any subcontractors are covered employees, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

OR

**SOME (Section B)** or all of the employees of Contractor and any subcontractor are covered employees. If this box is checked, I further certify that:

- (1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.
- (2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.
- (3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.
- (4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

None

**7** **Texas Business and Commerce Code § 272 Requirements as of 9-1-2017**

**8** SB 807 prohibits construction contracts to have provisions requiring the contract to be subject to the laws of another state, to be required to litigate the contract in another state, or to require arbitration in another state. A contract with such provisions is voidable. Under this new statute, a "construction contract" includes contracts, subcontracts, or agreements with (among others) architects, engineers, contractors, construction managers, equipment lessors, or materials suppliers. "Construction contracts" are for the design, construction, alteration, renovation, remodeling, or repair of any building or improvement to real property, or for furnishing materials or equipment for the project. The term also includes moving, demolition, or excavation. BY RESPONDING TO THIS SOLICITATION, AND WHEN APPLICABLE, THE PROPOSER AGREES TO COMPLY WITH THE TEXAS BUSINESS AND COMMERCE CODE § 272 WHEN EXECUTING CONTRACTS WITH TIPS MEMBERS THAT ARE TEXAS GOVERNMENT ENTITIES.

**7** **Texas Government Code 2270 & 2271 Verification Form**

**9** Texas Government Code 2270 & 2271 Verification Form

If (a) Vendor is not a sole proprietorship; (b) Vendor has ten (10) or more full-time employees; and (c) this Agreement has a value of \$100,000 or more, the following certification shall apply; otherwise, this certification is not required. Pursuant to Chapter 2271 of the Texas Government Code, the Vendor hereby certifies and verifies that neither the Vendor, nor any affiliate, subsidiary, or parent company of the Vendor, if any (the "Vendor Companies"), boycotts Israel, and the Vendor agrees that the Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Our entity further certifies that it is is not listed on and we do not do business with companies prohibited by Texas Government Code 2270 or that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations per Texas Gov't Code 2270.0153 found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>

I swear and affirm that the above is true and correct.

YES

**8** **Logos and other company marks**

**0** Please upload your company logo to be added to your individual profile page on the TIPS website. If any particular specifications are required for use of your company logo, please upload that information under the "Logo and Other Company Marks" section under the "Response Attachment" tab. Preferred Logo Format: 300 x 225 px - .png, .eps, .jpeg preferred

Potential uses of company logo:

- \* Your Vendor Profile Page of TIPS website
- \* Potentially on TIPS website scroll bar for Top Performing Vendors
- \* TIPS Quarterly eNewsletter sent to TIPS Members
- \* Co-branding Flyers and or email blasts to our TIPS Members (Permission and approval will be obtained before publishing)

**8**  
**1 Solicitation Deviation/Compliance**

Does the vendor agree with the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation?

**8**  
**2 Solicitation Exceptions/Deviations Explanation**

If the bidder intends to deviate from the General Conditions Standard Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this attribute, with complete and detailed conditions and information included or attached.

TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any bid based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Standard Terms and Conditions, Item Specifications, and all other information contained in this Solicitation.

**8**  
**3 Agreement Deviation/Compliance**

Does the vendor agree with the language in the Vendor Agreement?

**8**  
**4 Agreement Exceptions/Deviations Explanation**

If the proposing Vendor desires to deviate from the Vendor Agreement language, all such deviations must be listed on this attribute, with complete and detailed conditions and information included. TIPS will consider any deviations in its proposal award decisions, and TIPS reserves the right to accept or reject any proposal based upon any deviations indicated below. In the absence of any deviation entry on this attribute, the proposer assures TIPS of their full compliance with the Vendor Agreement.

**8**  
**5 Felony Conviction Notice**

Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony." Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract." (c) This section does not apply to a publicly held corporation. The person completing this proposal certifies that they are authorized to provide the answer to this question.

Select A., B. or C.

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

OR B. My firm is not owned nor operated by anyone who has been convicted of a felony, OR

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony. (if you answer C below, you are required to provide information in the next attribute.

**86** **If you answered C. My Firm is owned or operated by a felon to the previous question, you are REQUIRED TO ANSWER THE FOLLOWING QUESTIONS.**

If you answered C. My Firm is owned or operated by a felon to the previous question, you must provide the following information.

1. Name of Felon(s)
2. The named person's role in the firm, and
3. Details of Conviction(s).

**87** **Required Confidentiality Claim Form**

Required Confidentiality Claim Form

This completed form is required by TIPS. By submitting a response to this solicitation you agree to download from the "Attachments" section, complete according to the instructions on the form, then upload the completed form, with any confidential attachments, if applicable, to the "Response Attachments" section titled "Confidentiality Form" in order to provide to TIPS the completed form titled, "CONFIDENTIALITY CLAIM FORM". **THIS REQUIRED PROCESS IS THE ONLY WAY TO DEEM PROPOSAL DOCUMENTATION CONFIDENTIAL ANY OTHER CONFIDENTIAL DESIGNATION WILL BE DISREGARDED UNLESS THE DOCUMENT IS IDENTIFIED BY AND ATTACHED TO THE REQUIRED FORM.** By completing this process, you provide us with the information we require to comply with the open record laws of the State of Texas as they may apply to your proposal submission. If you do not provide the form with your proposal, an award will not be made if your proposal is qualified for an award, until TIPS has an accurate, completed form from you.

Read the form carefully before completing and if you have any questions, email bids@tips-usa.com.

**88** **Member Access to Vendor Proposal**

Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Contract constitutes Vendor's consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, **to TIPS Members**. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or any other party. By submitting this proposal, Vendor certifies the foregoing.

**89** **Choice of Law clauses with TIPS Members**

If the vendor is awarded a contract with TIPS under this solicitation, the vendor agrees to make any Choice of Law clauses in any contract or agreement entered into between the awarded vendor and with a TIPS member entity to read as follows: "Choice of law shall be the laws of the state where the customer resides" or words to that effect.

**90** **Venue of dispute resolution with a TIPS Member**

In the event of litigation or use of any dispute resolution model when resolving disputes with a TIPS member entity as a result of a transaction between the vendor and TIPS or the TIPS member entity, the Venue for any litigation or other agreed upon model shall be in the state and county where the customer resides unless otherwise agreed by the parties at the time the dispute resolution model is decided by the parties.

**9 1 Indemnity Limitation with TIPS Members**

Texas and other states restrict by law or state Constitution the ability of a governmental entity to indemnify others. TIPS requires that any contract entered into between a vendor and TIPS or a TIPS Member as a result of an award under this Solicitation limit the requirement that the Customer indemnify the Vendor by either eliminating any such indemnity requirement clauses in any agreements, contracts or other binding documents **OR** by prefacing all indemnity clauses required of TIPS or the TIPS Member entity with the following: "To the extent permitted by the laws or the Constitution of the state where the customer resides, ".

**Agreement is a required condition to award of a contract resulting from this Solicitation.**

**9 2 Arbitration Clauses**

Except for certain circumstances, TIPS forbids a mandatory arbitration clause in any contract or agreement entered into between the awarded vendor with TIPS or a TIPS member entity. Does the vendor agree to exclude any arbitration requirement in any contracts or agreement entered into between TIPS or a TIPS member entity through an awarded contract with TIPS?

**9 3 Required Vendor Sales Reporting**

By responding to this Solicitation, you agree to report to TIPS all sales made under any awarded Agreement with TIPS. Vendor is required to report all sales under the TIPS contract to TIPS. If the TIPS Member entity requesting a price from the awarded Vendor requests the TIPS contract, Vendor must include the TIPS Contract number on any communications with the TIPS Member entity. If awarded, you will be provided access to the Vendor Portal. To report sales, login to the TIPS Vendor Portal and click on the PO's and Payments tab. Pages 3-7 of the Vendor Portal User Guide will walk you through the process of reporting sales to TIPS. Please refer to the TIPS Accounting FAQ's for more information about reporting sales and if you have further questions, contact the Accounting Team at [accounting@tips-usa.com](mailto:accounting@tips-usa.com). The Vendor or vendor assigned dealers are responsible for keeping record of all sales that go through the TIPS Agreement and submitting same to TIPS.

**9 4 Upload of Current W-9 Required**

Please note that you are required by TIPS to upload a current W-9 Internal Revenue Service (IRS) Tax Form for your entity. This form will be utilized by TIPS to properly identify your entity.

**9 5 CERTIFICATION REGARDING BOYCOTTING CERTAIN ENERGY COMPANIES (Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:**

If (a) company is not a sole proprietorship; (b) company has ten (10) or more full-time employees; and (c) this contract has a value of \$100,000 or more that is to be paid wholly or partly from public funds, the following certification shall apply; otherwise, this certification is not required. Pursuant to Tex. Gov't Code Ch. 2274 of SB 13 (87<sup>th</sup> session), the company hereby certifies and verifies that the company, or any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of these entities or business associations, if any, does not boycott energy companies and will not boycott energy companies during the term of the contract. For purposes of this contract, the term "company" shall mean an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, that exists to make a profit. The term "boycott energy company" shall mean "without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law, or (b) does business with a company described by paragraph (a)." See Tex. Gov't Code § 809.001(1).

**9  
6 CERTIFICATION PROHIBITING DISCRIMINATION AGAINST FIREARM AND AMMUNITION INDUSTRIES  
(Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree, when it is applicable, to the following required by Texas law as of September 1, 2021:**

If (a) company is not a sole proprietorship; (b) company has at least ten (10) full-time employees; (c) this contract has a value of at least \$100,000 that is paid wholly or partly from public funds; (d) the contract is not excepted under Tex. Gov't Code § 2274.003 of SB 19 (87<sup>th</sup> leg.); and (e) governmental entity has determined that company is not a sole-source provider or governmental entity has not received any bids from a company that is able to provide this written verification, the following certification shall apply; otherwise, this certification is not required.

Pursuant to Tex. Gov't Code Ch. 2274 of SB 19 (87<sup>th</sup> session), the company hereby certifies and verifies that the company, or association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary parent company, or affiliate of these entities or associations, that exists to make a profit, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this contract against a firearm entity or firearm trade association. For purposes of this contract, "discriminate against a firearm entity or firearm trade association" shall mean, with respect to the entity or association, to: "(1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. See Tex. Gov't Code § 2274.001(3) of SB 19. "Discrimination against a firearm entity or firearm trade association" does not include: "(1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association." See Tex. Gov't Code § 2274.001(3) of SB 19.

**9  
7 CERTIFICATION REGARDING CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH  
CRITICAL INFRASTRUCTURE (Texas law as of September 1, 2021)**

**By submitting a proposal to this Solicitation, you certify that you agree to the following required by Texas law as of September 1, 2021:**

Proposing Company is prohibited from entering into a contract or other agreement relating to critical infrastructure that would grant to the company direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the Proposing Company for product warranty and support purposes. Company, certifies that neither it nor its parent company nor any affiliate of company or its parent company, is (1) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; (2) a company or other entity, including governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (3) headquartered in China, Iran, North Korea, Russia, or a designated country. For purposes of this contract, "critical infrastructure" means "a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility." See Tex. Gov't Code § 2274.0101(2) of SB 1226 (87<sup>th</sup> leg.). The company verifies and certifies that company will not grant direct or remote access to or control of critical infrastructure, except for product warranty and support purposes, to prohibited individuals, companies, or entities, including governmental entities, owned, controlled, or headquartered in China, Iran, North Korea, Russia, or a designated country, as determined by the Governor.

**9  
8 Acknowledgement**

By submitting this proposal, Vendor certifies that it has read, examined, and understands all portions of this solicitation including but not limited to all attribute questions, attachments, solicitation documents, bid notes, and the Vendor Agreement(s). Vendor certifies that, if found to be necessary by the proposing vendor, vendor has sought the advice of counsel in understanding all portions of the solicitation.

## **AMENDED**

### **OPTIONAL INFORMATION REQUESTED**

**It has come to my attention that the correct name for the below process is Energy Efficiency as a Service (EEaaS)**

**I have modified the below document to use this commonly accepted term.**

**Additional Information Requested Regarding Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS)**

Vendors ***are not*** required to respond to the additional request for information related to Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS) and qualifications to provide same.

Failure to respond to this additional information request for Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS) will have **NO BEARING** on the evaluation of your qualifications to provide offer Energy Savings Performance Contracting (ESPC).

If it is later determined that governmental procurement of Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS) is permitted, TIPS will timely issue a legally sufficient solicitation to address that need. All information gathered here will be used to aid TIPS in the solicitation process for contracts with companies that provide ESaaS.

Texas statutes do not specifically address **Energy Efficiency ~~Savings~~ as a Service (ESaaS) (EEaaS)** however TIPS recognizes that it is an option offered by many vendors that also offer Energy Savings Performance Contracting (ESPC).

Please provide in a separate sheet(s) or document if your company offers ~~ESaaS~~ EEaaS and how that service is offered to governmental entities. Please provide your detailed information related to your company's qualifications and your process as it relates to ~~ESaaS~~ EEaaS and governmental customers. Please list existing governmental customers currently contracted with you for ~~ESaaS~~ EEaaS. Please provide details on how this model is structured, how it differs from ESPC and how a governmental entity would benefit from ~~ESaaS~~ EEaaS as it compares with ESPC.

You may utilize the Confidentiality Form included in the RFQ to declare this information confidential if you choose to. Final determination of confidentiality of any information provided to TIPS as a department of the Texas governmental entity Texas Education Service Center Region 8 is at the discretion of the Texas Attorney General and subject to Texas Government Code §552. See <https://comptroller.texas.gov/about/policies/open-records/public-information-act.php>

## References

TIPS RFQ 220104 Energy Savings Performance Contracts

## Navitas, LLC

**DO NOT** HANDWRITE REFERENCES AND DO NOT CONVERT EXCEL SHEET TO ANY OTHER FORMAT.

**ALL INFORMATION MUST BE TYPED AND FORM**  
**MUST BE UPLOADED IN EXCEL FORMAT.**

Please provide **FIVE (5) VERIFIED AND WILLING** references, preferably from school districts or other governmental entities who have used your services within the last three years. Additional references may be required.

DO NOT INCLUDE TIPS EMPLOYEES AS A REFERENCE.

You may provide more than FIVE (5) references.

Entity Name	Contact Person	<b>VALID TYPED EMAIL IS REQUIRED</b>	Phone
Cabool R-IV School District	Karl Janson	<a href="mailto:kjanson@cabool.k12.mo.us">kjanson@cabool.k12.mo.us</a>	(417) 962-3153
Center School District	Michael Weishaar	<a href="mailto:mweishaar@center.k12.mo.us">mweishaar@center.k12.mo.us</a>	(816) 349-3320
City of Fremont	Troy Schaben	<a href="mailto:troy.schaben@fremontne.gov">troy.schaben@fremontne.gov</a>	(402) 727-2630
City of Shawnee	Caitlin Gard	<a href="mailto:gard@cityofshawnee.org">gard@cityofshawnee.org</a>	(913) 742-6230
Fort Osage R-1 School District	Steve Morgan	<a href="mailto:smorgan@fortosage.net">smorgan@fortosage.net</a>	(816) 650-7000
Jefferson City School District	Frank Underwood	<a href="mailto:frank.underwood@jcschools.us">frank.underwood@jcschools.us</a>	(573) 659-3017
Lindbergh School District	Jöel Scheible	<a href="mailto:joelscheible@lindberghschools.us">joelscheible@lindberghschools.us</a>	(314) 729-2480
Oak Grove R-IV School District	Tom Huffington	<a href="mailto:thuffington@ogr6.org">thuffington@ogr6.org</a>	(816) 690-4156

Orrick R-XI School District	Scott Archibald	<a href="mailto:sarchibald@orrick.k12.mo.us">sarchibald@orrick.k12.mo.us</a>	(816) 770-0094
Pleasant Hill R-III School District	Steve Meyers	<a href="mailto:smeyers@pleasanthillschools.com">smeyers@pleasanthillschools.com</a>	(816) 540-3161
Wichita School District	Randy Scott	<a href="mailto:rscott@usd259.net">rscott@usd259.net</a>	(316) 973-2266
Wynot Public Schools	Paul Hans	<a href="mailto:paul.hans@wynotpublicschools.org">paul.hans@wynotpublicschools.org</a>	(402) 357-2121

**Required Confidential Information Status Form**

Navitas, LLC

Name of company

Koby Kampschroeder, President

Printed Name and Title of Authorized Company Officer declaring below the confidential status of material

25618 W 103rd Street	Olathe	KS	66061	(913) 344-0049
<b>Address</b>	<b>City</b>	<b>State</b>	<b>ZIP</b>	<b>Phone</b>

**ALL VENDORS MUST COMPLETE THE ABOVE SECTION**

CONFIDENTIAL INFORMATION SUBMITTED IN RESPONSE TO COMPETITIVE PROCUREMENT REQUESTS OF EDUCATION SERVICE CENTER REGION 8 AND TIPS (ESC8) IS GOVERNED BY TEXAS GOVERNMENT CODE, CHAPTER 552

If you consider any portion of your proposal to be confidential and not subject to public disclosure pursuant to Chapter 552 Texas Gov't Code or other law(s), you must attach a copy of all claimed confidential materials to this COMPLETED form, name the combined PDF documents "CONFIDENTIAL", and upload the combined, confidential documents with your proposal submission. If a document is not attached, it will not be considered confidential. The copy uploaded will be the sole indicator of which material in your proposal, if any, you deem confidential in the event TIPS/ESC 8 receives a Public Information Request. If ESC 8 receives a request, any responsive documentation not deemed confidential by you in this manner will be automatically released. For documents deemed confidential by you in this manner, ESC8 and TIPS will follow procedures of controlling statute(s) regarding any claim of confidentiality and shall not be liable for any release of information required by law, including Attorney General determination. Notwithstanding any other information provided in this solicitation or Vendor designation of certain documentation as confidential or proprietary, Vendor's acceptance of this TIPS Vendor Agreement constitutes Vendor's consent to the disclosure of Vendor's comprehensive proposal, including any information deemed confidential or proprietary, to TIPS Members. The proposing Vendor agrees that TIPS shall not be responsible or liable for any use or distribution of information or documentation by TIPS Members or any other party.

**ALL VENDORS MUST COMPLETE ONE OF THE TWO OPTIONS BELOW**

**OPTION 1:**

I **DO CLAIM** parts of my proposal to be confidential and **DO NOT** desire to expressly waive a claim of confidentiality of all information contained within our response to the solicitation. The attached contains material from our proposal that I classify and deem confidential under Texas Gov't Code Sec. 552 or other law(s) and I invoke my statutory rights to confidential treatment of the enclosed materials.

**IF CLAIMING PARTS OF YOUR PROPOSAL CONFIDENTIAL, YOU MUST ATTACH THE SHEETS TO THIS FORM AND LIST THE NUMBER OF TOTAL PAGES THAT ARE CONFIDENTIAL.**

**ATTACHED** ARE COPIES OF \_\_\_\_\_ PAGES OF CLAIMED CONFIDENTIAL MATERIAL FROM OUR PROPOSAL THAT WE DEEM TO BE NOT PUBLIC INFORMATION AND WILL DEFEND THAT CLAIM TO THE TEXAS ATTORNEY GENERAL IF REQUESTED WHEN A PUBLIC INFORMATION REQUEST IS MADE FOR OUR PROPOSAL.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**OR**

**OPTION 2:**

I **DO NOT CLAIM** any of my proposal to be confidential, complete the section below.

**Express Waiver:** I desire to expressly waive any claim of confidentiality as to any and all information contained within our response to the competitive procurement process (e.g. RFP, CSP, Bid, RFQ, etc.) by completing the following and submitting this sheet with our response to Education Service Center Region 8 and TIPS.

Signature Koby Kampschroeder Digitally signed by Koby Kampschroeder  
DN: C=US, E=kkampschroeder@navitas.us.com, O=Navitas, CN=Koby  
Kampschroeder  
Date: 2022.02.16 14:13:10-06'00' Date 02/16/2022



**THOMAS McGEE  
GROUP**

February 17, 2022

**RE: NAVITAS, LLC  
RFQ 200209 Energy Savings Performance Contracts**

To Whom It May Concern,

This letter is in response to your request concerning the surety program of Navitas, LLC. We are pleased to respond in this regard.

Navitas, LLC's bonds are written by Westfield Insurance Company. Westfield Insurance Company has an A (Excellent) rating, Class Size XV, by A.M. Best, an insurance industry rating organization. Westfield Insurance Company is an approved surety for Federal projects as provided for in the July 1, 2016 Treasury Department Circular 570 with an underwriting limitation of \$133,620,000. Westfield Insurance Company is compliant with all underwriting and licensing requirements demanded of Navitas, LLC.

Navitas has been authorized to bid individual projects up to \$40,000,000 with an aggregate program of \$80,000,000. All bonded projects have been successfully completed with the utmost professionalism demonstrated by Navitas, LLC. The company remains very well financed, professionally managed and technically superior in their field of work. If Navitas is awarded the reference project, the surety company, Westfield, is prepared to issue performance and payment bond subject to review of final contract documents.

This letter is not to be construed as an agreement to provide surety credit for any particular project, but rather is offered as an indication of our past experience and confidence in this firm. Any request for bonds is a matter between Navitas, LLC and the surety and will be underwritten based on its own merits. The surety assumes no liability to any party if for any reason they do not execute said bonds.

Thomas McGee, L.C. has been in business since 1910 with a significant portion of our business resulting from the construction industry. On the basis of our experience, Navitas comes to you with our full recommendation.

If you need additional information, please contact me.

Sincerely,  
**THOMAS McGEE GROUP**

A handwritten signature in blue ink, appearing to read "MS", written over a light blue circular stamp.

Michael L. Swift  
Producer/Surety Specialist

## 3. Proposed Goods & Services

### 3.1 References

*“Our district has worked hard to be good financial stewards of our taxpayer’s money. We were able to implement an energy conservation program that has brought both our old buildings and newer buildings to be high performing schools. Making smart decisions, we are saving over \$30m that has been utilized to improve our facilities and optimize their performance. The ongoing support and education from the data analytics has made a huge impact to our energy conservation success, facility comfort and maintenance planning. Over a year into our program, we are seeing persistent savings that is greater than what was promised. All schools should find a partner like Navitas and do this. Real partner, real impact, real savings.”*

*—Dr. Dan Clemens, Superintendent North Kansas City Schools*

Navitas has successfully developed and completed over \$170M in projects throughout the United States, providing millions in savings for our customers. We take a holistic approach to evaluating and finding solutions to cover all aspects of how a client’s facilities use energy. This includes energy supply, infrastructure, building equipment and systems, industrial treatment processes, facility operation, and human behavior. Our unique approach integrates building system improvements with behavioral programs and monitoring building analytics to reduce energy costs and provide optimum building performance. Figure 3.1 illustrates our more recent energy savings project experience.

Figure 3.1 Energy Savings Project Experience

Owner	City	State	Project Value
Cabool R-IV School District	Cabool	MO	\$3,510,000
Center School District	Kansas City	MO	\$9,960,000
City of Fremont	Fremont	NE	\$1,490,000
City of Gladstone	Gladstone	MO	\$4,060,000
City of Excelsior Springs	Excelsior Springs	MO	\$190,000
City of Shawnee	Shawnee	KS	\$6,570,000
Educational Service Unit 1	Wakefield	NE	\$190,000
Hickman Mills C-1 School District	Kansas City	MO	\$4,220,000
Everton R-III School District	Everton	MO	\$1,060,000
Fort Osage R-1 School District	Independence	MO	\$9,930,000
Jefferson City School District	Jefferson City	MO	\$20,690,000
Knob Noster R-VIII School District	Knob Noster	MO	\$1,180,000
Lindbergh School District	St. Louis	MO	\$10,650,000
Lockwood R-1 School District	Lockwood	MO	\$1,590,000
North Kansas City Schools	North Kansas City	MO	\$28,760,000
Oak Grove R-IV School District	Oak Grove	MO	\$5,730,000



Owner	City	State	Project Value
Omaha Home for Boys	Omaha	NE	\$6,230,000
Orrick R-XI School District	Orrick	MO	\$2,600,000
Pattonville School District	St. Ann	MO	\$10,250,000
Platte County R-3 School District	Platte City	MO	\$5,150,000
Pleasant Hill R-III School District	Pleasant Hill	MO	\$6,190,000
Steamboat Springs Re-2 School District	Steamboat Springs	CO	\$2,780,000
Wakefield Community Schools	Wakefield	NE	\$1,920,000
Wamego Unified School District 320	Wamego	KS	\$1,990,000
Washington County Unified School District 108	Washington	KS	\$2,050,000
Whiteman Elementary School	Whiteman AFB	MO	\$3,020,000
Wichita School District	Wichita	KS	\$17,300,000
Wynot Public Schools	Wynot	NE	\$1,440,000
		<b>Total</b>	<b>\$170,700,000</b>

## 3.2 Project Management

### 3.2.1 Project Management Plan

#### 3.2.1.1 Project Development

Our approach to a client's program will be comprehensive and tailored to meet their needs. This will not just be a construction project; it is an energy management program. The end goal of our implementation plan is to achieve success as they define it. This success is really started from the right work being done in the consulting phase and carries through the construction phase and into the performance phase. To achieve this, we need an implementation plan to guide or mutual efforts.

Most programs require a multi-stage, multi-faceted approach to achieve success. While we find most facilities have opportunities for savings, some facilities will be newer and have the desirable energy efficient equipment and systems already in place. Others have failing equipment and systems that are past their expected useful life. A closer look at the organization and the people that are impacted by the decisions we make will provide great value in determining a final solution. We feel a combination of organizational changes, behavioral and operational changes along with technological changes will ultimately make up the final plan. Figure 3.2 graphically depicts our solution development approach.

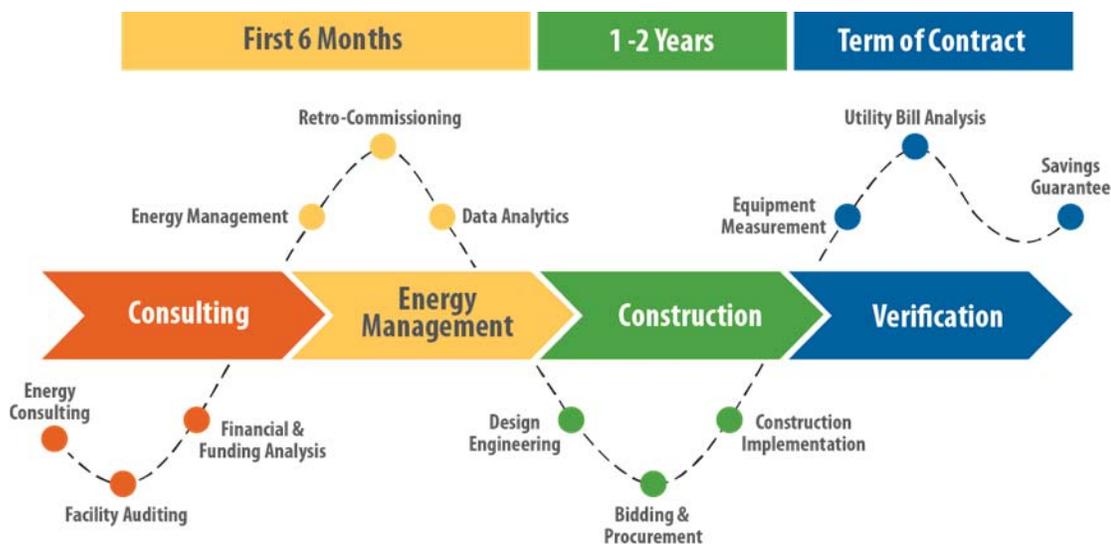
Figure 3.2 Solution Development Approach



### Implementation Strategy

The end goal of the implementation strategy is success as the client's administration defines it. This success begins from the right work being done in the development of the program and carries through the implementation and verification of the results. To achieve this, we need an implementation strategy to guide our mutual efforts. The implementation strategy will include efforts in consulting and development of the program, performance of the energy program, construction plan for any improvements desired, and verification of the results. Figure 3.3 illustrates this implementation strategy.

Figure 3.3 Implementation Strategy



Any effort to reduce building energy consumption starts with an assessment of the current energy use and considers the lifecycle of the building. Each phase throughout a building's lifecycle may provide unique opportunities for savings. Examining the data the client's building provides helps prioritize energy efficiency projects and savings opportunities to get the most out of their efficiency efforts. Today's buildings offer an enormous amount of data for assessment. It is important to learn how people react and experience the building as well as how the building operates and reacts to external factors. Here are steps we propose for developing the program:

- **Workshops and Interviews:** Navitas is committed to helping the client achieve their goals and address their issues. We recognize that each department (and even each individual) may have unique needs and goals for our program. To identify their goals, issues, and concerns we will hold a series of interviews and workshops. We will meet with key client personnel to determine what challenges and issues they may face and how we can align our goals to develop the best solutions.
- **Data Collection and Management:** The first step for any energy efficiency related effort is to identify and collect all the data that is necessary to determine the current occupant issues and operational performance of the building. In many cases, the relevant building performance data is likely not collected, stored, or tracked in a single system, which can cause difficulty in acquiring the information. Navitas will collect utility data each month, install utility pulse meters throughout each facility to obtain granular data, and collect key



data and diagnostics on specific pieces of equipment. Our approach is to implement these data collection systems early in the process to help in the facility and behavioral auditing process. We also utilize readily available information such as utility bills, operational cost data, and other financial tools to help in our understanding of how each building currently performs.

- ***Analysis, Benchmarking, Reporting:*** The next step is to turn the data into actionable intelligence that will help us make better decisions. This includes developing baselines of current energy consumption, daily profiles of building operation, identifying building equipment maintenance or performance issues, comparing buildings to identify trouble spots, benchmarking with ENERGY STAR<sup>®</sup> and generating reports that can be shared with key stakeholders.
- ***Facility Auditing:*** The site evaluation of each facility is typically started after the utility and other financial information are evaluated. The interviews and analysis of the financial information helps provide a road map for what we look for in the facility. The goal is to understand the equipment and systems used in the facility and determine the changes or alternatives that could be proposed to reduce energy and operating costs. Our staff will analyze the existing condition of energy-consuming equipment and current maintenance practices.
- ***Energy Management Services:*** As we stated before the client has already done an exceptional job at managing energy but having a long-term energy management partner can help the client continually improve their operation to lower utility bills, reduce maintenance costs, and maximize the life of mechanical equipment. We believe it is important to include a dedicated energy manager with a programmed strategy to help manage building operation and schedules long term. With the other efforts it takes to operate a facility, this is often a weakness in facility maintenance and operating plans.
- ***Ongoing Monitoring Plan:*** Once the facilities have been analyzed, it is important to continue monitoring performance of key indicators. Our data analytics are vital for prioritizing subsequent building efficiency activities as well as the continued effort in enhancing continual and sustained performance.

Once the data has been gathered and analyzed and systems for ongoing monitoring have been implemented, we can decide how to apply the intelligence that has been gathered into the energy management plan. Depending on the client's goals, type of building, and its efficiency, age, purpose, and design; there are a few options to consider:

- ***Re-commissioning/Retro-commissioning:*** In most cases, a holistic view of an inefficient building's operation leads us to do a checkup to determine if the existing systems are working as they should. A commissioned building is one that is cited as ready for service. Before completion, a building must pass milestones such as equipment installation and testing, problem identification, resolution, and training. In essence, commissioning represents a thorough quality assurance process of equipment operation and sequencing. Re-commissioning is the process of updating a building that was commissioned when



first built but has been de-commissioned over time, while retro-commissioning focuses on an existing building that was never commissioned.

- **Data Driven Performance Optimization:** Our data driven performance optimization takes the next step to performance by continually monitoring and using key performance data to understand how complex systems in the building operate and interact. This data collection provides the knowledge we need to create a customized approach to improve comfort and optimize energy efficiency.
- **Energy Management Plan and Rewarding Behavior:** The energy management plan will start with a formal energy policy that will begin to structure the energy management behavioral strategies. The details will be organized for principals, teachers, maintenance staff, custodians, and other personnel. They will be educated on how the strategies work, why they work, and will be rewarded for achieving results.
- **Operation, Service, and Maintenance:** It is likely that all this continuous, actionable intelligence will lead us to identify specific pieces of equipment in the building that are not working at their peak level of performance and that would benefit from a change in operation, maintenance, or be repair. This data analysis solution can provide detailed information that highlights the needs of the client's building infrastructure.
- **Retrofits, Repairs and Replacements:** Through the data analysis and facility evaluation, there will be obvious facility improvements identified. Some will be for replacement of existing systems that are past their useful lives while others will be capital improvements that have significant energy savings potential and a compelling return on investment. The list of deferred maintenance issues that have been identified by the client will be utilized as well to see if there are significant opportunities to help reduce these deferred maintenance needs through the program.

We have found the best results occur when an integrated approach is used. Our proposed solution will manage the data and provide analysis to help with the monitoring and verification of results after changes have been made. Ongoing, we will continue collecting utility data each month, monitoring utility pulse meters, key data, and diagnostics on specific pieces of equipment. This is vital for optimizing and sustaining performance.

### 3.2.1.2 Engineering Design

Most buildings were not designed with efficient use of energy in mind. Additionally, even many buildings that are designed to be energy efficient are not operated as intended. Not only does this inefficient operation result in a larger "carbon footprint" but the fact is, inefficient buildings cost more money to run and are less comfortable for occupants. Energy engineering can help transform a client's buildings into higher performing buildings that are environmentally friendly, more comfortable, and less costly to operate.

Navitas has extensive experience in evaluating the complexities of energy efficiency as it relates to energy consuming systems and buildings. In order to bill its customers, utilities set public rate plans and collect metered energy consumption data for each facility. At a minimum, this information reflects the monthly kilowatt hours (electric), or thousand cubic feet (gas) consumed



in the prior month. Metering larger facilities frequently includes hourly or even 15-minute “demand” or “interval” data.

This information can be extremely useful in assessing building performance and energy consumption on a daily basis. Navitas will work with the utility companies to install pulse meters, giving us the opportunity to collect this incremental data and understand the client’s consumption use even better. Navitas will use it to help the client make the best decisions as it relates to energy use and building management. Load profiles can be established to identify large sources of off-hour energy consumption resulting from poorly controlled lighting, HVAC, or underperforming energy management control systems. This relationship between utility rate structures, building use, equipment efficiency, and facility management is a complex relationship that is evaluated, analyzed, and improved through energy engineering.

We provide services to help our clients with these energy components through:

- Facility and equipment energy audits
- Utility bill review and analysis
- Utility rate structure review
- Utility incentive programs
- Utility monitoring and/or trending systems
- Funding incentives and grant programs
- Federal tax credit programs such as EPACT
- Energy savings calculation and analysis
- Building modeling
- ENERGY STAR®
- LEED® certifications
- Monitoring based commissioning

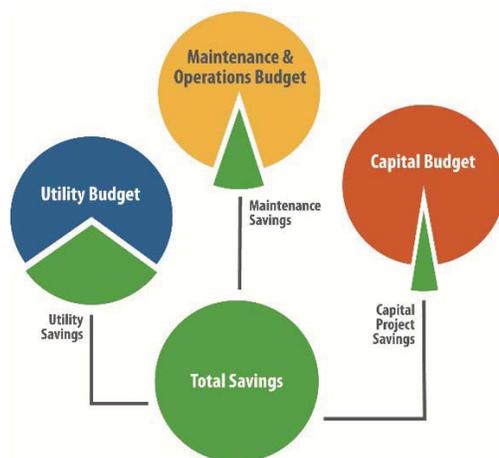
Our staff has helped clients save hundreds of millions of dollars over the years by helping them become more energy efficient.

#### Establish Allowable Cost and Savings Factors

Most clients are looking to have real energy savings help them pay for the program including any upgrades that are needed. Some companies identify savings that might be “justified” but do not actually provide savings in the client’s budget. Savings typically fall in one of three categories: utility savings, operation and maintenance savings, and capital cost savings. Figure 3.4 illustrates these sources of savings.

These savings come from the client’s utility budget, maintenance, operations budget, and capital budget. All these savings can be identified and captured over 15-20 years and used to pay for the program and other needs.

Figure 3.4 Sources of Savings



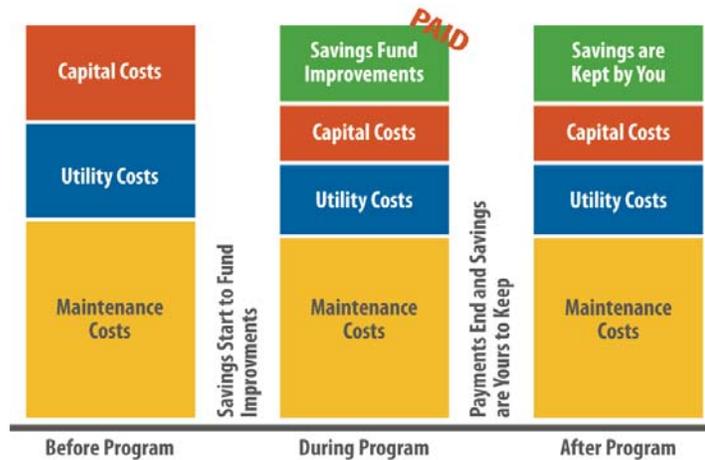
These cost savings are further described below:

1. **Utility or energy savings.** These savings are created by eliminating utility expenditures and provide a true positive cash flow to the client. It includes funds that will be re-directed from existing utility bills back to the client. This is accomplished by the higher efficiencies of the systems and equipment that are installed, utility rate modifications, fuel source changes and identified billing errors. These savings are real savings that will provide funding to help pay for the program.
2. **Maintenance savings or operational expenses eliminated.** This type of savings has been further broken down into the following descriptions to help make sure the client considers the potential impact the soft savings will have on their budget if they are not aware.
  - a. **Hard maintenance savings provide a true cash flow to the client.** This will include funds that will be re-directed from outside maintenance contracts, outside contractor fees, vendors, and suppliers. This provides a real cash savings that can be used to fund the program.
  - b. **Soft maintenance savings do not provide a true cash flow to the client.** These savings come from reduced labor time from facility staff, which includes reduced work-orders, reduced in-house repairs, and increased staff time to apply toward preventative maintenance or other proactive functions. Since employees will still be on the payroll, there is no true savings cash flow, but there is real value in having them work on other more beneficial or proactive tasks. The beneficial effects of these savings to a facility should be considered, but not planned on to help meet payments for program costs.
3. **Capital cost avoidance savings or future replacement expenditures.** These savings are created by the replacement of old or failing equipment that is past its useful life. These are expenses that the client will incur within the term of the program if the equipment is not replaced now.
  - a. **Hard capital cost avoidance savings provide a true cash flow to the client.** This includes funds that have been budgeted for the replacement, repair, or implementation of new equipment and systems.
  - b. **Soft capital cost avoidance savings do not provide a true cash flow to the client.** This will include replacement, repair, or implementation of equipment and systems that have not been budgeted but are determined to be necessary. There is real value in getting these projects completed, but there is no identified funding source. The beneficial effects of these savings should be considered, but not planned on to help meet payments for program costs.



Any of the soft cost savings identified above do not have a funding source. Only true budget savings will be utilized to pay for the program and any construction upgrades implemented. The money the client is currently paying to other companies for utilities and maintenance costs will be redirected to fund their program. After the program is paid for, then the savings will remain with the client and can be utilized for other purposes. This is illustrated in Figure 3.5.

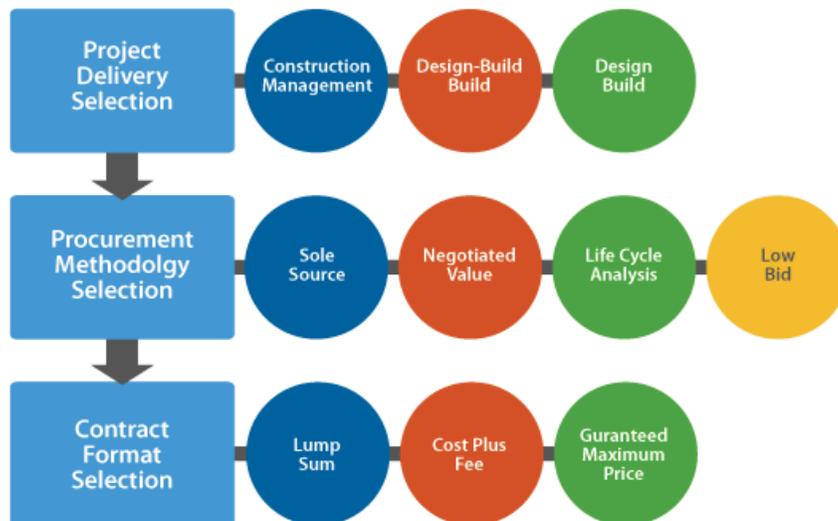
Figure 3.5 Savings Pay for Program



### 3.2.1.3 Construction Management

There are various options that are available to delivering, procuring, and contracting for services. Most of our clients have determined that a hybrid design-build is the best for their project delivery and make procurement decisions on life cycle costs and then determine which contract mechanism is best for each subcontractor. Figure 3.6 illustrates the different project contracting methods.

Figure 3.6 Project Contracting Methods



When the customer workshops, investment grade audit, and final design are complete, the construction phase begins. Our process of constructing a guaranteed energy cost savings contract includes the following critical elements:

- **Communication** – In a complex guaranteed energy cost savings contract, it is critical to provide continuing exchange of data, advice and opinions, proposals, and decisions.
- **Delivery Process** – An implementation process that is efficient, effective, and as painless for the client as possible. This includes identifying the design and construction services required to accomplish the project and decisions about how to procure and manage these services.
- **Receiving and Awarding of Contracts** – As a team member and partner, it is an option for the client to have input in cost versus quality and the selection of subcontractors and vendors. Through a guaranteed energy cost savings contract, we are not obligated to take the “low-bid.”
- **Construction Contract Administration** – This brings all the pre-design, design, documentation, bidding, and negotiation services to realization.
- **Scheduling and Schedule Analysis** – Provides assurance that the client’s project will be coordinated to provide minimal disruptions, completed on time, and be managed to eliminate surprises.
- **Budget and Financial Controls** – These controls are put in place to make sure projects are implemented on budget and within the financial constraints of the project.
- **Field Administration** – Provides on-site management of subcontractors and vendors to assure schedule compliance and quality of work.
- **Project Closeout** – At the point of substantial completion, we provide a process to assure the client’s sign-off before subcontractors receive final payment.

#### Communication

Communication is important throughout any project but is vital with the complexities that arise in a guaranteed energy cost savings contract. Success hinges on a continuing exchange of information, advice, opinions, proposals, and decisions. To handle this effectively, Navitas will dedicate a single project manager, who in conjunction with the business development associate will coordinate regularly scheduled team meetings to keep all parties informed of schedule compliance and status during each stage of the project.

Communication is key to preventing problems on the project. If there are problems, our staff has shown great expertise on many other projects to solve them satisfactorily through communication, understanding, and knowledge. It is important to create a trusting relationship with all key project members to allow everyone to confide in one another. We do not expect that there will be problems on the job but rest assured that we are capable of handling situations that may arise.



### Delivery Process

Our construction methods provide many choices in managing a project. Our ability to assume the risk of a construction project allows added flexibility and options to our successful management capabilities. Therefore, the client can transfer the risk associated with complex projects while obtaining our team's excellent time, cost, and quality control services.

- **Design-Led Design-Build Delivery:** Our purpose is to provide the greatest possible value and our approach enables us to provide a competitive selection process, contractor input, a guaranteed maximum price, and project delivery in a timely fashion. We have proven over time that this project delivery method provides the highest quality, lowest cost, and the shortest implementation time possible for our clients. Our approach enhances client and contractor involvement to minimize confusion over scope of work and eliminates non-client-initiated change orders. Quality of equipment and workmanship is superior because of quality specifications and pre-qualified contractors in each trade are utilized.

Navitas provides an implementation process that combines the best attributes of design-award-build and design-build. We are not a contractor that provides a design-build method to create opportunities to install lesser-quality equipment and then pocket the cost savings as profit. We offer a design-led design-build where we are the client's representative, project designer, and construction manager. We are not a contractor, but we take responsibility for them. We provide open book pricing where you get what you pay for. We, and our clients, have found that this provides significant benefits over contractor-led design-build where the contractor has full financial control on all aspects of the project. A contractor-led design-build approach allows the proverbial "fox guarding the hen house" type scenario. This is what happens when a consultant also provides products or uses their own construction crews. Many of our competitors use this approach and most clients do not feel this is in their best interest.

- **Flat-Tier Management Approach:** We elect to subcontract directly with each major contractor rather than use a tiered approach where we subcontract with one or two contractors who then subcontract to multiple contractors underneath them. We have found this to be a great benefit to our clients and allow us to use our expertise to deal directly with each subcontractor. Our flat-tier approach greatly reduces multiple-tier markups, which also reduces cost (up to forty and fifty percent of subcontractor markup) and expands the scope that can be achieved with the dollar savings generated. Figures 3.7 and 3.8 illustrate the difference between our approach and the traditional approach.



Figure 3.7 Our Project Management Approach

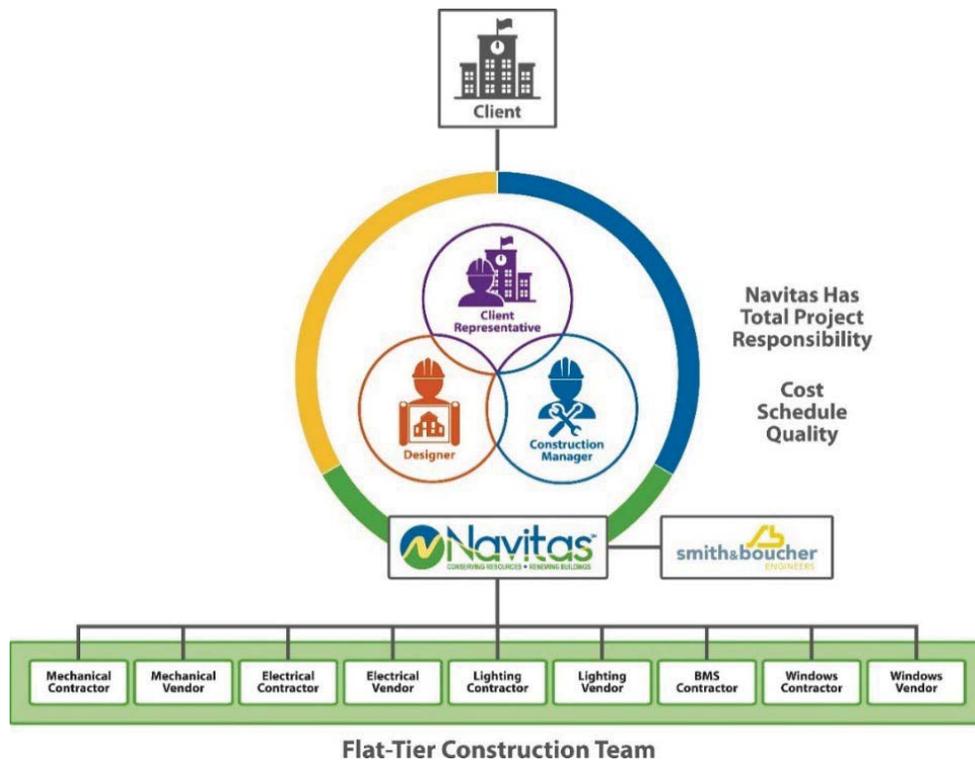
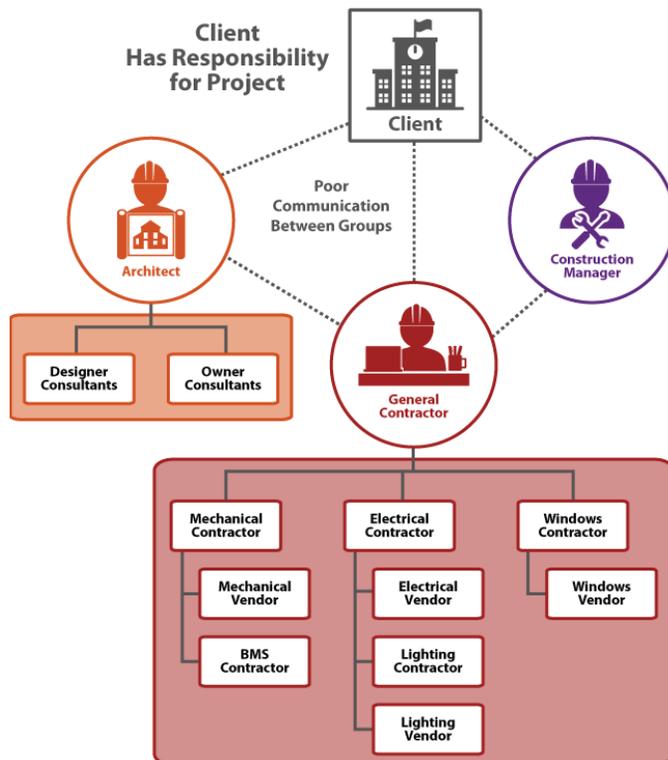


Figure 3.8 Traditional Project Management Approach – NOT USED IN NAVITAS' APPROACH



We have built our team with personnel that understand subcontractors and can manage them directly to eliminate multiple-tier markups. Navitas will work with our clients to develop a list of local preferred subcontractors/vendors for each specialized trade and product. As the design of each project comes together, our experts will involve contractors to get them familiar with the project, discuss scope, get recommendations, and obtain more detailed pricing. This leads to accurate pricing and instills a sense of ownership in the project for subcontractors. This also helps ensure we have a smooth and timely transition into the construction phase.

Our flat-tier approach provides separation of the specialized trades and products, which can shorten implementation time. We do not have to wait for the entire project to be designed before we begin to bid and award contracts. This allows the project to be “fast track” in nature and may lend considerable benefit to get projects done over tight summer breaks. Timely construction enables the client to reap the rewards of energy savings as early as possible and maximizes facility infrastructure improvements obtained through the project.

#### Receiving and Awarding of Contract

Receiving the construction subcontractor bids are usually the beginning of a several-step process to evaluate the bids, which happens after completion of the design engineering. This bid evaluation includes comparing the scope of the equipment and services, the pricing, serviceability, maintenance costs and long-term energy savings. These are all critical components in the long-term success of the project. The bid results are shared with the client for input, advice, and approval.

With the client’s approval, after any modifications resulting from negotiations and changes are completed, Navitas and the subcontractor will sign an agreement during this construction phase. Once this construction agreement is signed, the next phase is to proceed with the contract administration.

#### Construction Contract Administration

This is the first portion of the construction phase of the project. The construction phase brings all the pre-design, design, documentation, bidding, and negotiation services to realization. The contract administration includes:

- Observing the construction work for conformance to drawings and specifications
- Process subcontractors’ shop drawings, product data, and samples
- Review the results of construction tests and inspections
- Provide a schedule of values
- Evaluate subcontractor requests for payment
- Provide up-to-date schedules “critical path method”
- Handle and assume all risk for changes during construction
- Address and resolve issues brought by our clients or subcontractors
- Administer the completion and closeout process for our clients



### Scheduling and Schedule Analysis

Using Microsoft Project® software, we prepare critical path schedules that can manage many activities and sort them by area, phase, responsibility, or importance. We can expand and collapse the schedule to provide an executive overview or a contractor's to do list. We continuously analyze project risks, such as if a team member is unable to obtain a permit or deliver equipment on time. Project coordination must include contingency plans that can be swiftly implemented if needed

Holding weekly or bi-weekly meetings to discuss the schedule and project issues is a requirement of our projects. We provide meeting minutes and notes to hold ourselves, and our subcontractors, accountable to our commitments and update the schedule accordingly. The most important thing in our meeting is the action items for the next steps in the project. We utilize a three-week look ahead to bring everyone together in agreement on how the next three weeks activities are going to go. This provides for smooth coordination between subcontractors and facility activities. We document important items of interest in the discussion and then form conclusions about the next steps to take. An action item list will be emailed to all team members and follow up will be implemented.

As a team, our expertise includes organizing the interrelated tasks of the construction project, using software to analyze those relationships, and presenting the information in a way that is meaningful to the people using it. We create the schedules, analyze them for completeness, sound logic, and reasonableness, and then execute them with our progress meetings and on-site management. We present these vetted schedules to subcontractors for buy in and acceptance. This is a key piece to our schedule success. Having contractor involvement and buy in to the construction approach and timeline brings them on the client's side of the table trying to achieve the desired end result. With all team members on board, we are then able to coordinate and work together to manage the project resulting in a project that is completed on time.

### Budget and Financial Controls

During the execution of a project, procedures for project financial control and record keeping become indispensable tools to our clients, our subcontractors, and us. These tools serve the dual purpose of recording the financial transactions that occur as well as giving our project managers an indication of the progress and problems associated with a project. The problems of project financial controls are aptly summed up in an old definition of a project that we found, "A project is any collection of vaguely related activities that are ninety percent complete, over budget, and late." The tasks of our project financial controls are to give an early indication of the existence and the extent of such problems.

Our project team's financial controls assess the project financial status by reporting in four categories, which represent the sum of all the various individual vendor, subcontractor, and internal costs associated with each category listed below.

- **Budgeted Cost:** The budgeted cost is derived from the detailed cost estimate prepared at the early stages of the investment grade audit.



- **Estimated Total Cost:** The estimated or forecast total cost in each category is the current best estimate of costs based on contractor bids, construction progress and any changes affecting the original budget. Estimated total costs are the sum of cost to date, anticipated changes in the work and anticipated risk.
- **Cost Committed and Cost Exposure:** Estimated cost-to-completion in each category is divided into firm commitments and estimated additional cost or exposure. Commitments represent material orders or subcontracts costs for which firm dollar amounts have been committed by the subcontractor or vendor.
- **Cost to Date:** The actual cost incurred to date is recorded and is derived from our financial record keeping accounts.

Our budget software tracks the budget and detailed expenses similar to a checkbook register. We know which part of the budget is assigned to what work and track it to make sure that part of the work is completed within the budget. Managing the finances of a project in a detailed fashion is the only way to assure our projects finish on budget.

Scope changes are handled in the same manner we price projects. Changes in scope will be estimated by us and then bid by the appropriate contractor or vendor. We will compare their price to our estimates for accuracy. This pricing is then provided in an open book fashion to the client for a determination to move forward.

Once projects are bid and contractors are selected, we provide a guaranteed price. It is our responsibility to make sure the project is implemented with no budget overruns. We are the experts, and we take the financial responsibility for the work we, and our subcontractors, provide.

#### Field Administration

Our project manager and field superintendents will be on the site to become intimately familiar with the progress and quality of the work. In this role, our project manager and field superintendents are responsible for the following:

- Staff, facility users, visitor, and trade contractor safety is top priority
- To be on-site while construction occurs
- Inspections of the work for quality control and serviceability
- Construction means, methods, techniques, sequences, procedures, or safety precautions and programs
- Monitoring and effectively improving or maintaining the time schedule for completion
- Scheduling and running team progress meetings

During construction there will be regular team meetings. Our project manager will serve as the client's advisor and representative. Our field superintendent will be the day-to-day contact for activity coordination at the building sites. We will monitor the progress of the construction in relation to the schedule and the client's goals to keep them fully informed.



### Project Close-Out

As a project nears the point of substantial completion of construction, Navitas will initiate the closeout process by satisfying a number of obligations. They are as follows:

- Provide a list of incomplete items, stating why each of the items is incomplete.
- Notify the client relative to any changes in insurance coverage requirements.
- Submit all warranties, maintenance contracts and required operating instructions.
- Submit record documents to reflect any changes made during the construction.
- Deliver replacement and maintenance stock of material if this is specified as part of the work.
- Instruct the client's staff in the operation and maintenance of systems and equipment.
- Thoroughly clean construction debris from all areas.
- Restore any damaged finishes.
- Submit the required guarantees certificates of inspection, certificates of disposal and bonds.
- Request the client's inspection for substantial completion and create a punch list.
- Finish punch list items and present final completion documentation.

Navitas believes that in world of design and construction, it is the last impressions that pave the way for positive recommendations and additional services. This close out process is very important to completing the final details of our projects.

## 3.2.2 Establishing Baseline & Baseline Adjustment

### 3.2.2.1 Baseline Calculation Methodology

Navitas defines the baseline as part of the facility audit process. Our baselines typically include a thorough understanding of the client's current utility consumption over a three-year period. We have analysis tools and modeling tools to help us analyze how they are consuming utilities and why. We also baseline physical conditions, such as equipment inventory and conditions, occupancy, nameplate data, energy consumption rate, control strategies, etc., that are determined through surveys, inspections, spot measurements, and short-term metering activities. Baseline conditions are established for the purpose of calculating savings by comparing the baseline energy use to the post-installation energy use. Baseline data is used to account for any changes that may occur during the performance period, which may require baseline energy use adjustments.

In almost all cases after the measure has been installed, one cannot go back and re-evaluate the baseline, because it no longer exists. Therefore, it is very important to properly define and document the baseline conditions before implementation. Deciding what needs to be monitored, and for how long, depends on factors such as the complexity of the measure and the stability of the baseline, including the variability of equipment loads and operating hours, and the number of variables that affect the load.



### 3.2.2.2 Adjustment to Baseline Methodology

Adjustments to baseline typically occur when there are changes in weather, with building additions, and increases or decreases in the base load of the building. Baseline adjustments are unique to each building and will be discussed with the client if they are needed for this project.

## 3.2.3 Measurement & Verification

### 3.2.3.1 Method of Measurement & Verification

The results of energy cost savings programs cannot be directly measured, as they can only be defined by the absence of energy consumption resulting from an action that targeted such reduction. The adage that “what cannot be measured cannot be managed” cannot be truer than in the context of energy efficiency initiatives. There is thus an important need to “measure and verify” the savings. The “before” case is called the baseline. The “after” case is referred to as the post-implementation or performance period. Proper determination of savings includes adjusting for the changes that affect energy use but are not caused by the conservation strategies. Such adjustments may account for changes in weather, billing period, occupancy or other factors between the baseline and performance periods. The most widely used M&V procedure for a guaranteed energy cost savings program is called the International Performance Measurement and Verification Protocol (IPMVP). It was developed by the US Department of Energy originally in 1995 and been refined each year by the international energy efficiency community over the past twenty years.

Navitas utilizes this method for our guarantee in conjunction with monitoring utility consumption data to see what is happening to utility consumption in real time. The IPMVP provides four different acceptable approaches or options for measuring and verifying. They are described in Figure 3.9.



Figure 3.9 IPMVP Methods of Savings Verification

	A. Partially Measured Retrofit Isolation	B. Retrofit Isolation	C. Whole Facility	D. Calibrated Simulation
<b>Overview</b>	Savings are determined by partial field measurement of the energy use of the system(s) to which an ECM was applied; separate from the energy use of the rest of the facility. Measurements may be either short-term or continuous. Partial measurement means that some but not all parameter(s) may be stipulated if the total impact of possible stipulation error(s) is not significant to the resultant savings. Careful review of ECM design and installation will ensure that stipulated values fairly represent the probable actual value. Stipulations should be shown in the M&V Plan along with analysis of the significance the error they may introduce.	Savings are determined by field measurement of the energy use of the systems to which the ECM was applied; separate from the energy use of the rest of the facility. Short-term or continuous measurements are taken throughout the post-retrofit period.	Savings are determined by measuring energy use at the whole facility level. Short-term or continuous measurements are taken throughout the post-retrofit period.	Savings are determined through simulation of the energy use of components or the whole facility. Simulation routines must be demonstrated to model actual energy performance measured in the facility adequately. This option usually requires considerable skill in calibrated simulation.
<b>How Savings Are Calculated</b>	Engineering calculations using short term or continuous post-retrofit measurements and stipulations.	Engineering calculations using short term or continuous measurements.	Analysis of whole facility utility meter or sub-meter data using techniques from simple comparison to regression analysis.	Energy use simulation, calibrated with hourly or monthly utility billing data and/or end-use metering.
<b>Typical Applications</b>	Lighting retrofit where power draw is measured periodically. Operating hours of the lights are assumed to be based on occupancy.	Applications of controls to vary the load on a constant speed pump using a variable speed drive. Electricity use is measured by a kWh meter installed on the electrical supply to the pump motor. In the base year, this meter is in place for a week to verify constant loading. The meter is in place throughout the post-retrofit period to track variations in energy use.	Multifaceted energy management program affecting many systems in a building. Energy use is measured by the gas and electric utility meters for a twelve-month base ear period and throughout the post-retrofit period.	Multifaceted energy management program affecting many systems in a building, but base year data is not available. Post-retrofit period energy use is measured by the gas and electric utility meters. Base year energy is determined by simulation using a model calibrated by the post-retrofit period utility data.
<b>Weakness</b>	Assumptions that are not measured are estimated and may be different from actual results. Does not consider whole utility bill or help provide knowledge of how all energy is being consumed.	More accurate, but also more expensive than option A. Does not consider whole utility bill or help provide knowledge of how all energy is being consumed.	Reviews entire utility bill but does not give clarity to the role of each measure in actually achieving savings. "Baseline adjustments" cloud the achievement of real savings results.	Reviews entire utility bill, but engineering calculations and estimates for the role of each measure in actually achieving savings. "Baseline adjustments" cloud the achievement of real savings results.

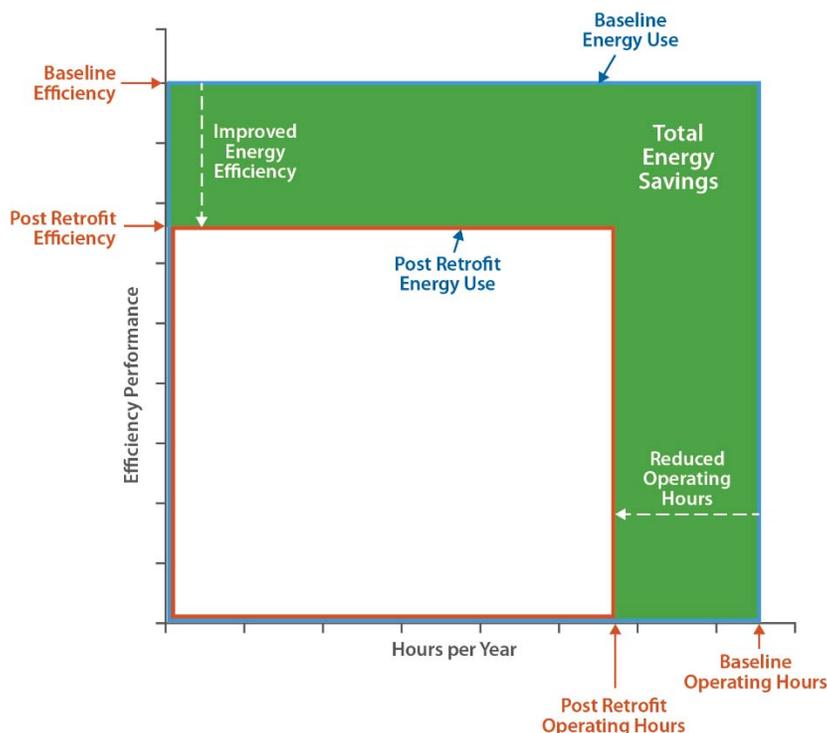


All four options use the following fundamental formula:

$$\left[ \frac{\text{Baseline Energy Use}}{\text{Baseline Efficiency}} - \frac{\text{Post Retrofit Energy Use}}{\text{Post Retrofit Efficiency}} \right] \pm \text{Routine Adjustments} \pm \text{Non - Routine Adjustments} = \text{Savings}$$

The area of the large blue outlined box in the Figure 3.10 represents the total energy used in the baseline case. Improvements in either the efficiency performance of the equipment or a reduction in the number of hours they operate leads to the reduced total energy use, as shown in the smaller box. The difference between the two boxes (the green shaded area) represents energy savings.

Figure 3.10 How Energy Consumption is Changed



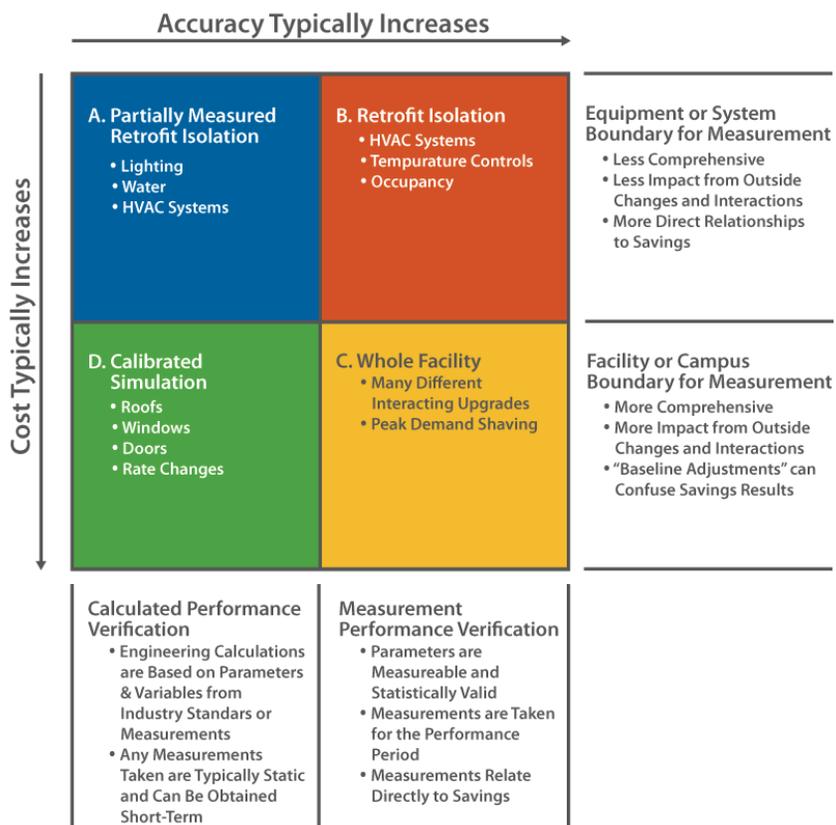
The choice among the options involves many considerations, one of which is the definition of the measurement boundary (e.g., an individual system, building or an entire campus.) If the M&V plan calls for determining savings at the facility level, Option C or D may be favored. However, if only the performance of an individual energy conservation measure or retrofit itself is of concern, a retrofit-isolation technique may be more suitable (Option A, B, or D).

When working with our clients to manage the balance of measurement and verification implementation cost, measurement accuracy, and security in the results, we find that our client's choice of measurement option is often tied to their organization's objective in tracking savings and costs.



Figure 3.11 illustrates how cost relates to the IPMVP categories of verification. While all the options have their strengths and challenges, the client will make the decision of what is right for them, and we welcome the opportunity to provide measurement and verification in the fashion that they desire. Navitas issues an annual energy savings M&V reconciliation report, describing the achieved savings for the project and all implemented energy conservation strategies.

Figure 3.11 Cost & IPMVP Categories of Verification



The first step in verifying energy savings is to measure and understand the client’s current energy consumption, current operating parameters and having valid data that proves it. We plan to measure, meter, and capture energy and/or operational data. This will be done in a couple of different ways to obtain accurate data in a cost-effective way. This will be done through the evaluation of monthly utility bills and equipment data logging of minute or hourly data.

The M&V methods chosen can affect how the baseline is defined and determine what level of measurements are required during the audit. The project specific M&V plan includes program-wide items as well as details for each energy conservation measure.

Program-wide items included in the M&V plan include:

- Overview of proposed energy and cost savings
- Snapshot of total facility energy use
- Schedules of all M&V activities



- Witnessing requirements of the client for M&V activities
- Utility rates and the way they will be used to calculate cost savings
- Reporting responsibilities

Energy conservation level items included in M&V plan include:

- Details of the baseline conditions and data collected
- Documentation of all assumptions and sources of data
- Details of engineering analysis performed
- How energy and cost savings will be calculated
- Details of O&M cost savings
- Detailed baseline energy and water rates
- What will be verified and how
- Who will conduct the M&V activities
- Discussion on risk allocation and savings uncertainty
- Performance period adjustment factors if used
- How adjustments will be made

#### Monthly Utility Bill Monitoring

Alongside this measurement and verification plan, we also support our clients with management of the performance of our programs through monthly utility bill review and analysis. Energy tracking and accounting monthly utility bills is one of the activities that can provide great value in the persistence of energy savings over time. The collection, recording and tracking of monthly energy costs should be presented to key team members and building level administration for knowledge and awareness. Sharing this information can help staff identify changes in consumption and to track and forecast utility costs. If conscientiously used, it can be an effective management tool that provides the capability to:

- Track monthly energy bills for electric, fuel oil, propane, and natural gas
- Produce graphic summaries of facility energy use that effectively communicated energy performance to client staff
- Estimate achieved cost avoidance based on “baseline” costs
- Identify changes in monthly or seasonal energy consumption due to billing errors, control malfunctions and equipment deterioration
- Track other resource costs such as telephone, water, sewer, etc.
- Enables simple creation and evaluation of utility usage and cost budgets.

Navitas has developed an energy information system (EIS) that will utilize information from the building automation system and utility bills to develop baselines and support the efforts of monitoring cost avoidance. Our staff has developed this system over the past twenty years of implementing and tracking utility bills through a guaranteed energy cost savings program.



### Reporting of Measurement and Verification Results

Navitas will issue monthly reconciliation reports, describing the achieved savings for the program and all implemented energy conservation strategies. Additional verification support will include surveys, inspections, spot measurements, and short-term or long-term metering. Navitas will monitor utility consumption in short term (fifteen minute) increments to validate decisions and verify efficiency success. This continual analysis and evaluation is important to the program's success. If we see issues arise, the sooner we catch them, the sooner we can take corrective action to make sure our clients achieve the promised results.

These verification activities begin immediately after program implementation to ensure that the proper strategies are implemented, that they are operating correctly, and that they are generating the predicted savings. This type of measurement will be completed in for the term of the program.

In addition to the monthly report, we will provide an annual report of utility bill analysis to help our clients understand how they are using energy. Moreover, while this utility bill report and analysis usually applies to a contractual agreed annual term, it is beneficial for both our clients and Navitas to keep track of utility use on a monthly basis so that if any issues come up, they can be identified and addressed immediately.

### 3.2.3.2 Guarantee of Savings

Energy conservation projects with guaranteed savings are based on the guaranteed savings. Any authentic guarantee of energy and cost savings includes adequate measurement and verification activities. Measurement and verification should not be an afterthought, but a process that links the efforts of estimating, measuring, evaluating, tracking, and accurately reporting energy savings, quantifiable costs, and benefits created as a result of implementing energy conservation measures. These efforts include up front details of developing an energy baseline, estimating the energy savings from a potential energy saving opportunity and evaluating the financial benefits. After implementation of the upgrades comes measuring energy use or savings and tracking the progress and performance of the implemented projects.

We provide a savings guarantee to help our clients deal with the risks of achieving the utility savings. It is important that the client knows we can manage the risks that go along with these programs and will continue to be there for them in the future. We will guarantee that the savings are achieved, or they will not make full payment for our services.

## 3.4. Energy Savings Performance Contract Experience

### 3.4.1 Business Unit Dedicated to Providing Guaranteed Energy Savings Programs

Our entire company is dedicated to providing guaranteed energy savings programs and ensuring project performance. We are an independent provider of comprehensive services, energy efficiency solutions, facility infrastructure upgrades, energy consulting, and engineering for businesses and organizations. Our principal service is the development, design, engineering,

*Navitas was recently awarded a \$31 million project to improve a wastewater treatment facility in Upstate New York.*



and installation of projects that reduce the energy and operations and maintenance costs of customers' facilities. These projects generally include a variety of measures customized for the facility and designed to improve the efficiency of major building systems, such as heating, ventilation, cooling lighting systems.

### 3.4.2 Business Unit Dedicated to Ensuring Project Performance

Navitas commits to customers that our energy efficiency projects will satisfy agreed to performance standards upon installation or will achieve specified increases in energy efficiency. In most cases, the forecasted lifetime energy and operating cost savings of the energy efficiency measures installed will defray all or almost all the cost of such measures.

Energy performance contracting enables aging facilities to upgrade their equipment with no upfront costs, using the generated savings to pay for the project. Additionally, this program increases cash flow, reduces deferred maintenance, and decreases exposure to ambiguous utility charges. This approach essentially eliminates any performance risk to the customer providing guaranteed operational and energy savings.

After a project is complete, Navitas may provide continuing services that include utility bill savings assessment, energy management consulting, building system performance optimization, and continuous commissioning for the customer's energy systems under a multi-year contract, which provides us with recurring energy management and visibility into the customer's evolving needs.

The core offerings included in our energy performance contracts are as follows:

- ***Retrofit, Repair and Replacement of Old and Inefficient Equipment.*** Often, we identify a need to replace existing systems that are past their useful lives. These systems are often limping along with many temporary repairs and improper modifications. Major equipment breakdowns, system failures, and plant shutdowns, typically occur at the most inopportune times, and become more common as equipment ages. Old technology that is inefficient with compounding poor operation can become very expensive.

Many of customer's facility and systems are old and past their useful lives have new, more efficient versions that manufacturers have developed to improve operation and efficiencies. Innovations have occurred that substantially improve the efficiency of equipment compared to the original purchase.

- ***New Energy Efficient Systems and Equipment.*** There are many new technologies that have significant energy savings potential and a compelling return on investment. We pride ourselves in helping our clients evaluate these technologies for improving their efficiency and building performance.
- ***Re-commissioning/Retro-commissioning.*** In most cases, a holistic view of an inefficient building's operation leads us to do a checkup to determine if the existing systems are working as they should. A commissioned building is one that is cited as ready for service. Before applying the building must pass milestones such as ***equipment*** installation and testing, problem identification & resolution, and training. In essence, commissioning



represents a thorough quality assurance process of equipment operation and sequencing. Re-commissioning is the process of updating a building that was commissioned when first built but has been de-commissioned over time, while retro-commissioning focuses on an existing building that was never commissioned.

- ***Efficient Operation and Maintenance Plan.*** Operating a facility in the most efficient manner takes expertise, experience, and focus. We support our clients with an operating plan to help them to maximize the performance of their facilities. This plan considers occupant use, business issues, after hours use, custodial needs, and the building's characteristics. This is a written plan to be able to educate and train facility managers, maintenance staff, custodians, and occupants.
- ***Energy Manager and Management Services.*** Many of our clients express a desire to have a long-term energy management partner to help make sure decisions are being made to help manage and continue the reduction of utility costs. We believe it is important to include a strategy to help manage building operation and schedules long term. With the other efforts it takes to operate a facility, it is often difficult to stay focused on this effort. We have provided an Energy Manager dedicated to support our clients when appropriate.
- ***Data Analytics and Performance Optimization.*** Our data analytics and performance optimization take the next step to performance by continually monitoring and using key performance data to understand how the complex systems in the building operate and interact. Our approach will pull granular data from data loggers, building automation systems, and meters. The next step is to turn the data into actionable intelligence that will help us make better decisions. Data analytics provides the knowledge we need to create a customized approach to improved comfort and optimized energy efficiency.
- ***Renewables.*** We utilize renewables to help our clients get even closer to net. After the facilities are as energy efficient as possible, we believe renewables are the next value to be provided. We have helped our clients evaluate and implement renewable energy solutions to take them the next step toward energy independence.

### 3.4.3 Affiliation with Energy and/or Business Organizations

We are active in the energy service industry and actively participate in many industry organizations. Accreditation and membership in industry organizations serves to provide ongoing education and third-party examination of our processes, technical expertise, client references, and financial stability. Following are some of the major industry organizations in which Navitas has membership and participates.



#### ***National Association of Energy Service Companies (NAESCO)***

Navitas is a NAESCO accredited energy service company and believe strongly in our involvement in this organization. Our staff has participated in NAESCO to support our own development as well as providing support for others development in the organization. This organization provides a rigorous accreditation process as well as being a collective voice of the ESCO community.





### ***Department of Energy (DOE)***

Navitas is listed on the Department of Energy's Qualified List of Energy Services Companies. The DOE qualified list evaluation process is intended as a preliminary, baseline review of the ESCOs' technical and financial capabilities.



### ***Energy Services Coalition (ESC)***

Navitas staff is actively engaged in several state chapters of the Energy Services Coalition.



### ***EPA-ENERGY STAR Partner***

Navitas is an ENERGY STAR Partner and Premier Member united in the common goal to protect our environment for future generations. We work with building energy performance benchmarks developed by ENERGY STAR to help our clients see how their energy use compares to similar facilities across the nation.



### ***U.S. Green Building Council LEED***

We continue to expand our involvement in the development of new guidelines for existing buildings and other areas where our expertise is well suited. We are well versed in the LEED standards for new and existing buildings. Our staff of LEED accredited professionals has helped many clients obtain LEED certifications.



### ***Association of Energy Engineers (AEE)***

We are a member of the American Association of Energy Engineers. The AEE provides professional certifications and an environment for energy engineers to share and learn about the latest innovations and approaches to save energy for their clients. Many on our staff have been certified by AEE including Certified Energy Managers, Certified Demand Side Managers and Measurement and Verification Professionals.



### ***Design Build Institute of America (DBIA)***

The Navitas team includes a Design Build Certified Provider, and our staff has extensive design build experience. We have staff members that are certified as design build professionals.



### ***State of Missouri Accreditation***

The State of Missouri has pre-qualified firms to provide energy performance contracting services. Navitas was selected on the following requirements: the specialized experience and technical competence of the firm and team; the capacity and capability of the firm or team to perform the work; the past record of performance of the firm or team with respect to such factors as control of costs, quality of work and ability to meet schedules.





### ***Missouri School Associations***

Navitas is the sole ESCO partner of the Missouri School Boards' Association (MSBA). We are also a premier partner with the Missouri School Business Officials (MOASBO). Additionally, we are active with the Missouri Association of School Administrators (MASA) and the Missouri School Plant Managers Association (MSPMA). These associations help us continue to understand the issues schools are dealing with and develop relationships to help our Missouri school clients.



### ***State of Kansas Accreditation***

The State of Kansas pre-qualifies firms to provide energy performance contracting services. The Facility Conservation Improvement Program (FCIP) provides administrators who actively manage the program and provide education and outreach on the components of Energy Performance Contracting. This agency maintains contract documents and sets industry standards for all Kansas Pre-Approved Energy Service Companies. Navitas team members have contributed greatly to the success of the FCIP program in Kansas.

## **3.4.4 Range of Services Offered**

### **3.4.4.1 Engineering**

All energy analysis, engineering, and MEP design engineering is performed by Navitas staff. Our engineers average more than 10 years of energy, design, and construction experience. In addition to their design experience, we have a significant amount of commissioning and on-site operations experience. This insight provides our engineers with an additional level of experience that provides value to any client and audit.

Our engineers have conducted audits on a wide variety of facility types including K-12, higher education, hospitals & medical office, state & local government, correctional, industrial, warehouses, and office buildings. The energy conservation measures developed cover a full spectrum including equipment replacements, lighting retrofits, energy management systems, renewable energy systems (solar and wind), water retrofits, envelope improvements and process system improvements.

As part of our business model, Navitas will utilize our engineering staff to develop and design all energy conservation measures and therefore controlling the design and costs associated with those measures. This mitigates the risk associated with hiring subcontractors on a design-build basis.

### **3.4.4.2 Project Management**

All project and construction management duties are provided by Navitas. Our senior project management group has over 75 years of combined construction management experience.

We provide a unique implementation process that combines the best attributes of design-bid-award-build and design-build. Our purpose is to provide the greatest possible value, and our approach enables us to provide a competitive selection process, contractor input, guaranteed



maximum price and project delivery in a timely fashion. We have proven over time that this project delivery method provides the highest quality, lowest cost, and the shortest implementation time possible for our clients. Our approach enhances client and contractor involvement to minimize confusion over scope of work and eliminates non-client-initiated change orders. Quality of equipment and workmanship is superior because of quality specifications and pre-qualified contractors in each trade are utilized.

Our construction methods provide many choices in managing projects. Our ability to assume the risk of a construction project allows added flexibility and options to our successful management capabilities. We currently can provide performance and payment bonds on individual projects up to \$40 million and in excess of \$80 million aggregate.

The success of our construction process is underpinned by the following critical success factors:

- **Communication:** In complex construction, it is critical to provide continuing exchange of data; advice and opinions; proposals; and decisions. We hold regular, scheduled construction meetings, and discuss a three week “look ahead” at each meeting to make sure we have communicated the spaces we will be in and when, coordination of trade contractors, potential disruptions or shutdowns, and short-term completion expectations.
- **Construction Contract Administration:** This brings all the pre-design, design, documentation, bidding, and negotiation services to realization. We will finalize all contracts with subcontractors and vendors and furnish the Gantt-type critical path method construction schedule.
- **On-Site Management:** Navitas provides on-site management of subcontractors and vendors to assure schedule compliance, work quality, and communication to the client. We will provide an on-site construction manager that will be there when we have any contractors working. This manager will handle any questions from these contractors and make sure they are moving at an appropriate pace.
- **Budget and Financial Management:** Navitas prepares a project cost estimate during the project development. In addition, we seek cost estimates and bids from equipment suppliers and subcontractors before finalizing the project with the client. This provides a strong foundation for understanding the finalized budget that is openly shared with the client. Throughout the project, our project manager will use a budget analysis tool that works like a checkbook in the sense that all expenses and credits are recorded as they are made. A separate line item will be established by building, by energy conservation measure to be managed and tracked. The original budget amounts will be supported with contracts with subcontractors and vendors. Unlike a traditional accounting system, which can lag several weeks behind, this gives the project manager a real-time view of the project’s financial status and allows the project manager to make informed decisions about the project. The budget is established and agreed to upfront, and then updated regularly for meetings throughout the project. The result is long-term value that is created by eliminating the need for change orders and surprises that can come up at the end of the construction.



- **Project Closeout:** At the point of substantial completion, we provide a process to assure the client's sign-off before subcontractors receive final payment. We do a thorough walk through of the project to create a punch-list, which we review with the clients and incorporate additional input from them. Once this comprehensive punch list is completed, then we will ask for final completion signatures. At the same time, we provide a thorough training program for all new systems, equipment, and operation procedures. This training program is critical to assure the client staff understands the energy efficiency goals of the project as well as the requirements to achieve those goals. Often this training includes introducing the client to new technology or systems they may not have previously had to operate and maintain. In some cases, we utilize expertise from the original equipment manufacturer to support our training program. Included in the close out process is the finalization and delivery of new equipment operation and maintenance manuals and a warranty matrix to help identify terms of the manufacturer's warranties and those responsible.

#### 3.4.4.3 Commissioning / O&M

Navitas personnel have an extensive history in building commissioning and operations and maintenance (O&M) training. Our commissioning agents have been involved in building commissioning for over 10 years and have commissioned hundreds of buildings of all facility types. The Navitas commissioning process follows the *American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Guideline 0: The Commissioning Process* and the *Building Commissioning Association (BCA) Guidelines*. Special emphasis is placed on the involvement of the client's maintenance personnel during the commissioning process. This hands-on experience is the first step in the O&M training program.

Key elements of our commissioning process include:

- **Installation Checks.** Check installed equipment to ensure that all associated components and accessories are in place.
- **Operational Checks.** Verify and document that systems are performing as expected, and that all sensors and other system control devices are properly calibrated.
- **Documentation.** Confirm that all required documentation has been provided, such as a statement of the design intent and operating protocols for all building systems.
- **O&M Manuals and Training.** Prepare comprehensive operation and maintenance (O&M) manuals and provide training for building operations staff. Integrate the owner's maintenance staff into design reviews, on-site walkthroughs, functional testing, and other non-traditional O&M training opportunities.
- **Ongoing Monitoring.** Conduct periodic monitoring after the facility is occupied to ensure that equipment and systems continue to perform according to design intent.



#### 3.4.4.4 Measurement and Verification

Measurement and verification (M&V) services are provided by Navitas to quantify and maximize the cost avoidance “savings” of specific energy efficiency measures that are implemented within an individual facility by defining, measuring, and documenting baseline energy consumption and comparing this to defined, measured, and documented end use consumption after the energy efficiency measures have been implemented and confirmed to be operational per the project intent.

The services that are provided within the context of M&V primarily include but are not limited to the following:

- Definition, measurement, and documentation of baseline energy consumption.
- Definition, measurement, and documentation of end-use energy consumption after project implementation.
- Continual monitoring and reporting of savings for a defined period.
- Provision of transparent comprehensive M&V reports to the client.

These tasks serve to enhance and improve the facility operation and the maintenance of the project savings.

Navitas utilizes the most current International Performance Measurement and Verification Protocol (IPMVP) to provide guidance and methodology when formulating and implementing the Measurement and Verification Plan for a project.

Navitas works with a client to apply the most relevant IPMVP option when developing and implementing the M&V Plan for a project. While the above options provide a generally accepted base methodology for implementing an M&V plan other protocols provide additional procedures for savings verification. Some of these protocols include:

- Measurement and Verification for Federal Energy Projects
- ASHRAE Guideline 14-2002 Measurement of Energy and Demand Savings

Navitas utilizes the IPMVP and these additional standards along with sound engineering practices to develop a transparent mutually agreeable plan to document and report the savings achieved for a project. Navitas goal, using a thoroughly developed and documented M&V plan is to report accurate, complete, conservative, consistent, relevant, and transparent savings that can be conveyed to the client and their respective patrons. These principles are taken directly from the IPMVP and Navitas has adopted them. We have an Association of Energy Engineers (AEE) certified measurement & verification professional (CMVP) on staff.

Navitas has implemented M&V practices that capitalize on the availability of modern direct digital control (DDC) Systems to provide long term measurement and verification services that can be utilized to quantify and optimize facility performance. We utilize DDC Building Automation Systems in conjunction with multi-level metering to report utility consumption to the client and quantify savings. Navitas normalizes the annual facility consumption to average weather data, adjusts the baseline based on actual weather data, and reports the savings monthly via a Building Automation System graphical display to the client. This information provides a real-time transparent display of building performance. In addition to providing Measurement and Verification reports, we provide training to the client regarding the utility consumption of the



retrofitted project, which is displayed by the building automation system to help them make the appropriate decisions and adjustments to maintain long-term facility performance.

#### 3.4.4.5 Optimizing System Performance with Data Analytics

There are many performance strategies implemented that if they are not monitored, they could easily be decommissioned over time. Some of these strategies of operation include night setback and set-up when unoccupied, proper equipment heating and cooling operation, outside air ventilation, space occupancy decisions, staff, and custodial interaction and many other factors. To help monitor and evaluate system operation and performance we have implemented a data collection system and data analytics dashboard.

Often the first step in applying analytics to our equipment systems is to get a sense of our data. As humans, we cannot easily see relationships by simply looking at a huge volume of numbers in rows and tables. Visualization tools are needed to tap into the unique capabilities of the human brain to make sense of the things we see. The rapid visualization tools we utilize illuminate patterns, relationships, and correlations in our data. Analytics are an exploratory process. Initial findings provide insight into additional relationships and correlations to be explored further on-site or in equipment operation. Through analytics we are enabling the people responsible for managing the equipment and systems to identify quickly patterns that represent issues, deviations, and anomalies by converting the data into intuitive, visual representations. This same data can be used to communicate with administration and staff to show the results of decisions that are made to validate actions taken.

Taking these factors into consideration during the design and implementation stages of our program, we can identify and track key performance indicators of utility consumption, building space temperature, and proper equipment operation. This gives us the information we need to set proper schedules, track equipment run times, monitor the number of occupant overrides entered, average night set back temperatures, and corresponding use of energy for the day, week, or month. These are some of the key parameters that contribute to efficient energy use and operation. When any parameter seems different than it should be and is identified in our system, the operator can drill down in the energy management system to determine more details of the cause.

This dashboard was created so that building performance could be evaluated quickly in a snapshot and is used to evaluate system performance and commission systems on an ongoing basis. Below are a few categories of building performance that we analyze in our dashboards.

- **Utility Monitoring Analytics.** The electric and gas utility profile is critical along with weather information for review and analysis. The electric utility consumption and weather data is pulled into our system every fifteen minutes which gives us the granularity that the utility company utilizes to evaluate and track electric demand data. It also gives us the ability to make changes in building or equipment operation and instantly see feedback on our energy performance.



- **Temperature Analytics.** Temperature analytics help us identify temperature areas that are problematic, morning warm-up for the systems, and how the room spaces float during night setback. Space temperatures are a key performance indicator of how the systems are operating and verify that appropriate set points are being utilized.
- **Equipment Operation and Run Time Analytics.** Mechanical equipment operation has a significant impact on energy consumption. It is our desire to minimize its operation only to meet the space temperature needs during occupied periods. Our analytics evaluate when equipment such as rooftop units are operating and how many are on due to occupancy schedules, overrides or are simply on when they are not supposed to be.
- **Economizer and Outside Air Ventilation.** Outside air is a significant part of the heating and cooling load that mechanical equipment has to use energy to condition. In many areas, humidity is a large part of that load and is often a problem for comfort in the space. We monitor these ventilation components for accurate operation. We find many outside air dampers are closed or left at 100% over time as linkages fail or comfort issues arise. This also evaluates how ventilation is used only when occupied by people. Is it controlling properly off CO<sub>2</sub> sensors that give reference of how many people are in the space or is the economizer mode functioning?
- **Full Dashboard Analytics.** Putting all these pieces together for a fully functioning dashboard provides the ability to quickly interrogate the proper operation and functionality of the systems to meet performance expectations. We can quickly jump from one building to another to review their operation and determine if there are issues that should be evaluated in more detail. We currently implemented this system in many facilities and in every one of them we have identified operational issues and deficiencies that result in significant energy and operational under performance.

#### 3.4.4.6 Financing

Although, financing of energy performance contract projects is an integral part of our solutions, we do not finance projects ourselves or use financing as a profit center. We work with our clients to evaluate all avenues of potential funding and financing including grants, rebates, tax credits, incentives as well as funding projects with the client's capital funds when applicable. We believe it is important to explore grants and utility rebates or low-cost initiatives that may be blended with commercial money as available. In the end, it is our commitment to work with our clients to identify the most appropriate and value-oriented methodologies of securing the financing necessary to fulfill their project since the less they pay for interest expense allows a great investment in the project principal supported by energy savings. We work with the client's staff to understand their needs and help them in selecting a financing arrangement that best meets those needs.

Whether a K-12 school district, an industrial campus, a college or university, a hospital/healthcare institution, or state, local or federal government; all need available and easily accessible capital to fulfill their missions and mandates. Energy conservation and energy efficiency is a sound investment in long-term growth and can be a catalyst for immediate economic activity. Because of this, there are many federal, state, and local programs in place that we utilize to secure funding from for our clients.



We have been involved low interest funding options including Qualified Zone Academy Bonds (QZAB), Qualified School Construction Bonds (QSCB), American Recovery and Reinvestment Act (ARRA), Energy Efficiency and Conservation Bloc Grants (EECBG), Community Development Bonds, Build America Bonds (BAB), state energy office programs, state low interest loan programs and many other funding opportunities to help our clients.

These funding sources coupled with an energy services performance contract (ESPC) can provide a better, and quicker, return-on-investment for clients seeking to reduce their energy cost and their carbon footprint while providing a proven risk-free delivery vehicle to upgrade, improve, and maintain their existing energy infrastructure.

Members of our team have helped clients secure hundreds of millions of dollars of financing for energy efficiency and energy performance contract projects. The reference projects that have financing documentation are:

### 3.5 Staffing / Personnel

Throughout the industry, most companies that provide guaranteed energy cost savings contracts are wholly owned subsidiaries or divisions of large utility companies, mechanical equipment companies or temperature control companies. The subsidiaries or divisions typically provide less than one percent of the annual revenue recognized by their much larger parent company. This arrangement often puts these subsidiaries or divisions in situations where they are coerced into providing biased evaluations and product solutions that serve the best interest of their parent company rather than their clients. They also inherit employees from the parent company that have no experience in the energy services business. It is also a sad fact that many parent companies often decided to eliminate the subsidiary or division due to poor profitability, poor industry understanding, and leadership, or a change in corporate direction. Due to the number of times this has happened within the industry, inherent uncertainty is created in these organizations and the clients they serve.

The founders of Navitas were very aware of these inherent ownership problems and intentionally structured Navitas in a very different fashion. Navitas is independent of products or outside vested interests other than our client's success. This allows us to work in our client's best interest and sit on their side of the table to help them make the best decisions. It has allowed us to bring in the right experienced people that have expertise in our industry.

The people assigned to work with client personnel, to develop and implement their project, is one of the most important aspects in ensuring success. The associates on our team are some of the highest caliber people available in the energy, engineering, construction, and performance contracting industry.

We recognize that people are one of the most important facets to success in any endeavor. We believe:

- Without people, nothing gets accomplished
- Without the right personal relationships, very little productive work is accomplished
- With the right relationships and motivation, success is exponential



Guiding principles to reflect this understanding:

- We will deliver superior value to our clients and provide exceptional service.
- We will treat others as we would want to be treated.
- We believe our associates are our most important assets.

We use a four-phase approach to completing projects: consulting, energy management, construction, and verification. Our project team structure is designed to facilitate effective execution of this approach. Project team members are selected for each individual project by matching our team's skill sets to the needs of the specific client, projected scope of work, and best attempt to match personalities to ensure a positive working relationship. Our project team provides sound technical and financial solutions for the client's long-term mission and goals. Figure 3.12 lists the potential team members for a project



Figure 3.12 Potential Project Team Members

Last Name	First Name	Title	Degree	License/Certifications	Experience (Years)
Bensman	Tim	Director of Engineering & Construction	BS Construction Science & Management	LEED AP	20
Clough	Dennis	Managing Director, Infrastructure Solutions	B.S. Architectural Engineering	DBIA	26
Durr	Chris	Construction Manager	BS Technology (Construction Management)		21
Flageolle	Zack	Director of Optimization Services	BS Architectural Engineering	PE CEM	13
Harrell	Paul	Business Development Manager	BS Business Administration	CPA, CCEP	38
Heitman	Chad	Project Manager	BS Political Science		26
Jensen	Paul	Energy Strategy Manager	BS Architectural Engineering	PE, LEED AP	11
Kampschroeder	Koby	President	BS Mechanical Engineering	CEM, CDSM	30
Klish	Devin	Energy Manager	B.S. Business Administration	CEM	19
Lee	Miseon	Data Analytics Engineer	B.S. Computer Engineering; BS E-business		7
Lindesmith	Lucas	Business Development Manager	B.S. Mechanical Engineering	EIT	4
Lynch	Eian	Project Engineer	B.S. in Chemical Engineering; M.S. Environmental Biogeochemistry	PE	17
McNeil	Mike	Project Manager	none	LEED AP BD+C	39
Miller	Matt	Project Engineer	BS Mechanical Engineering	EIT	2
Miller	Bob	Senior Project Engineer	Architectural Engineering	PE, CEM	30
Morrison	Ryan	Project Engineer	BS Mechanical Engineering	EIT	2
Pinthuprapa	Chatchai	Data Analytics Engineer	MS Engineering, Industrial; PhD Engineering, Industrial	PhD, PE, CEM, CEA, CMVP	16
Pivaler	Leland	Senior Energy Engineer	BS Architectural Engineering	PE, CEM, CMVP, CxA, LEED AP	22
Punselie	Roland	Energy Manager	BS Business Administration		19
Reed	Mitch	Project Manager	BS Construction Engineering Technology	LEED AP BD+C	20
Richter	Blaine	Energy Manager	M.B.A. Concentration in Sustainability		9
Rippe	Rob	Project Manager	none		36
Rosenberry	Nick	Business Development Manager	MS Architectural Engineering	PE, LEED AP	18
Schutz	Wayne	Infrastructure Process Engineer	B.S. Environmental Resource Management; M.S. Environmental Pollution Control		41
Terry	Ryan	Business Development Manager	BS Mechanical Engineering; MBA Finance	PE, CEM, LEED AP	19
Williams	Nicole	Energy Manager	BS Business Administration		20
Wimmer	Bob	Project Director	BS Dairy Science; MS Environmental Engineering	PE	22
Winters	Mark	Senior Project Engineer	BS Mechanical Engineering	PE, CEM	21



### 3.6 Financial strength/ Bonding Capacity

We have included a letter from our surety company, Thomas McGee, which discusses our project bonding ability. This letter can be found immediately following this page.





**THOMAS McGEE  
GROUP**

February 17, 2022

**RE: NAVITAS, LLC  
RFQ 200209 Energy Savings Performance Contracts**

To Whom It May Concern,

This letter is in response to your request concerning the surety program of Navitas, LLC. We are pleased to respond in this regard.

Navitas, LLC's bonds are written by Westfield Insurance Company. Westfield Insurance Company has an A (Excellent) rating, Class Size XV, by A.M. Best, an insurance industry rating organization. Westfield Insurance Company is an approved surety for Federal projects as provided for in the July 1, 2016 Treasury Department Circular 570 with an underwriting limitation of \$133,620,000. Westfield Insurance Company is compliant with all underwriting and licensing requirements demanded of Navitas, LLC.

Navitas has been authorized to bid individual projects up to \$40,000,000 with an aggregate program of \$80,000,000. All bonded projects have been successfully completed with the utmost professionalism demonstrated by Navitas, LLC. The company remains very well financed, professionally managed and technically superior in their field of work. If Navitas is awarded the reference project, the surety company, Westfield, is prepared to issue performance and payment bond subject to review of final contract documents.

This letter is not to be construed as an agreement to provide surety credit for any particular project, but rather is offered as an indication of our past experience and confidence in this firm. Any request for bonds is a matter between Navitas, LLC and the surety and will be underwritten based on its own merits. The surety assumes no liability to any party if for any reason they do not execute said bonds.

Thomas McGee, L.C. has been in business since 1910 with a significant portion of our business resulting from the construction industry. On the basis of our experience, Navitas comes to you with our full recommendation.

If you need additional information, please contact me.

Sincerely,  
**THOMAS McGEE GROUP**

A handwritten signature in blue ink, appearing to be "MS", written over a light blue horizontal line.

Michael L. Swift  
Producer/Surety Specialist