

ITEMS BELOW APPLY TO AND BECOME PART OF BID. ANY EXCEPTIONS THERETO MUST BE IN WRITING.

1. BIDDING REQUIREMENTS:

- Bidders must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.
- Bids must be received electronically through the University's online Procurement Portal at: uthscsa.bonfirehub.com, on or before the Submittal Deadline. Competitive Bids will be listed on the Procurement Portal, and submissions will only be accepted through the portal. University will not accept bids submitted by paper, telephone, facsimile ("FAX") transmission, or electronic mail (i.e., e-mail) in response to this RFB. You can register for a free Supplier account at: uthscsa.bonfirehub.com/login/default location, which will be required when you prepare a submission.
- Bidders must price per unit shown. Unit prices shall govern in the event of extension errors. If a price quotation is submitted as part of the bid, the quotation must be referenced in the bid document and signed by the bidder to establish formal linkage to the bid.
- Late and/or unsigned bids will not be considered under any circumstances. Person signing bid must have the authority to bind the firm in a contract.
- Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
- Bids are to be valid for University acceptance for a minimum of **180 days** from the submittal deadline date to allow time for evaluation, selection, and any unforeseen delays.
- Bid cannot be altered or amended after opening time. Alterations made before opening time should be initialed by bidder or their authorized agent. No bid can be withdrawn after opening time without approval by the University based on an acceptable written reason.
- Purchases made for State use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.
- The Supplier ID Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. If the Supplier ID number is not known, enter Bidder's Federal Employer's Identification Number, or Social Security Number if a sole owner. Bidder will provide the name and Social Security Number for each person having at least 25% ownership interest in Bidder. This disclosure is mandatory pursuant to Section 231.006, Texas Family Code, and will be used for the purpose of determining whether an owner of Bidder with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the Texas Public Information Act, Chapter 552, Texas Government Code, and other applicable laws.
- Consistent and continued tie bidding could cause rejection of bids by the University and/or investigation for antitrust violations.
- Inquiries pertaining to RFBs must include the Request for Bid No., description, and opening date.
- Submission of a quotation in response to this RFB indicates bidder's acceptance of the award selection process and criteria.

2. SPECIFICATIONS:

- Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless advertised under Texas Government Code, Title 10, Subtitle D, Section 2155.067. If bidding on other than references, bid should show manufacturer, brand or trade name, and other description of product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made part of the bid. Failure to take exception to specifications or reference data will require bidder to furnish specified brand names, numbers, etc.
- Unless otherwise specified, items shall be new and unused and of current production.
- All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.
- Samples, when requested, must be furnished free of expense to the University. If not destroyed in examination, they will be returned to the bidder, on request, at bidder's expense. Each sample should be marked with bidder's name and address, and requisition number. Do not enclose in or attach bid to sample.
- The University will not be bound by any oral statement or representation contrary to the written specifications of this RFB.
- Manufacturer's standard warranty shall apply unless otherwise stated in the RFB.

3. TIE BIDS:

Awards will be made in accordance with TAC Rule 113.6 (b) (3) and 113.8 (Preferences).

4. DELIVERY:

- Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Unrealistic delivery promises may cause bid to be disregarded.
- If delay is foreseen, supplier shall give written notice to the University and the ordering agency. Supplier must keep the University and ordering agency advised at all times of status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the University to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting supplier.
- No substitutions permitted without written approval of University.
- Delivery shall be made during normal working hours only, unless prior approval has been obtained from ordering agency.
- The Texas Hazard Communication Act (Article 5182b, VTCS) requires chemical manufacturers and distributors to provide Material Safety Data Sheets (MSDSs) for hazardous materials sold. Products covered by this Act must be accompanied by a MSDS and such products must be labeled in compliance with the law. For any product not covered under the Act, a statement of exemption must be provided.

5. AWARD OF CONTRACT:

A response to this RFB is an offer to contract based upon the terms, conditions, and specifications contained herein. Bids do not become contracts until they are accepted through an open market purchase order.

The contract shall be governed, construed, and interpreted under the laws of the State of Texas.

Best Value: The bidder awarded an order under this RFB will be that bidder whose quotation, as presented in their response to this RFB, provides best value to University. In addition to price, the factors set forth in Section 51.9335 Education Code, will be considered in determining an award. The University reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of the University. Any contract may also be extended up to three months at the sole discretion of the University.

The factors listed in Texas Government Code, Title 10, Subtitle D, Section 2155.074, 2155.144, 2156.007, and 2157.003 shall also be considered in making an award when specified. Any legal actions must be filed in Bexar County, Texas.

Cash discounts will not be considered in determining award, unless otherwise indicated per the bid documents.

6. PAYMENT:

Supplier shall submit an itemized invoice showing the Purchase Order number. Invoices may be submitted electronically by email to: ap-einvoice@uthscsa.edu. The University will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods and services and an uncontested invoice.

7. PATENTS OR COPYRIGHTS:

The supplier agrees to protect the University from claims involving infringement of patents or copyrights.

8. SUPPLIER ASSIGNMENTS:

Supplier hereby assigns to ordering agency any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and the antitrust laws of the State of Texas, TEX. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967).

9. BIDDER AFFIRMATION: By signature hereon affixed, the bidder hereby certifies that:

9.1 Representations and Warranties. Bidder represents, warrants, certifies, acknowledges, and agrees as follows:

- 9.1.1 Bidder will furnish the Products and Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFB
- 9.1.2 Bidder acknowledges and agrees that (1) this RFB is a solicitation for a bid and is not a contract or an offer to contract; (2) the submission of a bid by Bidder in response to this RFB will not create a contract between University and Bidder; (3) University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFB; and (4) Bidder will bear, as its sole risk and responsibility, any cost arising from Bidder's preparation of a response to this RFB.
- 9.1.3 Bidder is a reputable company that is lawfully and regularly engaged in providing the Services.
- 9.1.4 Bidder has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
- 9.1.5 Bidder is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances related to performance of work.
- 9.1.6 Bidder understands (i) the requirements and specifications set forth in this RFB and (ii) the terms and conditions set forth in this RFB, under which Bidder will be required to operate.
- 9.1.7 If selected by University, Bidder will not delegate any of its duties or responsibilities under this RFB or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
- 9.1.8 If selected by University, Bidder will maintain any insurance coverage as required by the Agreement during the entire term.
- 9.1.9 All statements, information and representations prepared and submitted in response to this RFB are current, complete, true and accurate. Bidder acknowledges that University will rely on such statements, information and representations in selecting Contractor. If selected by University, Bidder will notify University immediately of any

material change in any matters with regard to which Bidder has made a statement or representation or provided information.

- 9.1.10 Bidder will defend with counsel approved by University, indemnify, and hold harmless University, The University of Texas System, the State of Texas, and all of their regents, officers, agents and employees, from and against all actions, suits, demands, costs, damages, liabilities and other claims of any nature, kind or description, including reasonable attorneys' fees incurred in investigating, defending or settling any of the foregoing, arising out of, connected with, or resulting from any negligent acts or omissions or willful misconduct of Bidder or any agent, employee, subcontractor, or supplier of Bidder in the execution or performance of any contract or agreement resulting from this RFB.
- 9.1.11 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Bidder under any contract or agreement resulting from this RFB may be applied directly to any debt or delinquency that Bidder owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 9.1.12 Any terms, conditions, or documents attached to or referenced in Bidder's bid are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFB, and (b) do not place any requirements on University that are not set forth in this RFB. Submission of a bid is Bidder's good faith intent to enter into the Agreement with University as specified in this RFB and that Bidder's intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Bidder's bid.
- 9.1.13 Pursuant to Chapter 2270, *Government Code*, Bidder certifies Bidder (a) does not currently boycott Israel; and (b) will not boycott Israel during the Term of the Agreement. Bidder acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
- 9.1.14 Pursuant to Subchapter F, Chapter 2252, *Government Code*, Bidder certifies Bidder is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Bidder acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
- 9.2 No Benefit to Public Servants.** Bidder has not given or offered to give, nor does Bidder intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted bid. Failure to sign the **RFB Form**, or signing with a false statement, may void the submitted bid or any resulting contracts, and the Bidder may be removed from all bid lists at University.
- 9.3 Tax Certification.** Bidder certifies is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Bidder is exempt from the payment of those taxes, or that Bidder is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting contract or agreement.
- 9.4 Antitrust Certification.** Bidder certifies that neither the Bidder nor any firm, corporation, partnership or institution represented by Bidder, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
- 9.5 Authority Certification.** The individual signing this document and the documents made a part of this RFB, is authorized to sign such documents on behalf of Bidder and to bind Bidder under any agreements and other contractual arrangements that may result from the submission of Bidder's bid.
- 9.6 Child Support Certification.** Under Section 231.006, *Family Code*, relating to child support, the individual or business entity named in the Bidder's bid is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFB may be terminated if this certification is inaccurate."
- 9.7 Relationship Certifications.** (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Bidder that is a sole proprietorship, the officers or directors of any Bidder that is a corporation, the partners of any Bidder that is a partnership, the joint venturers of any Bidder that is a joint venture or the members or managers of any Bidder that is a limited liability company, on one hand, and an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to University in writing;
- (ii) Bidder has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and
- (iii) No person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Bidder's bid or any contract resulting from this RFB (ref. Section 669.003, *Government Code*). All disclosures by Bidder in connection with this certification will be subject to administrative review and approval before University enters into a contract or agreement with Bidder.
- 9.8 Compliance with Equal Employment Opportunity Laws.** Bidder is in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 9.9 Compliance with Safety Standards.** All products and services offered to University in response to this RFB meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFB.

9.10 Exceptions to Certifications. Bidder will and has disclosed, as part of its bid, any exceptions to the certifications stated in this Bidder Affirmation. All such disclosures will be subject to administrative review and approval prior to the time University makes an award or enters into a contract or agreement with Bidder.

9.11 Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act Certification. If Bidder will sell or lease computer equipment to the University under any agreements or other contractual arrangements that may result from the submission of Bidder's bid then, pursuant to Section 361.965(c), *Health & Safety Code*, Bidder certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code* states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

9.12 Conflict of Interest Certification.

- Bidder is not a debarred supplier or the principal of a debarred supplier (i.e. owner, proprietor, sole or majority shareholder, director, president, managing partner, etc.) either at the state or federal level.
- Bidder's provision of services or other performance under any Agreement resulting from this RFB will not constitute an actual or potential conflict of interest.
- Bidder has disclosed any personnel who are related to any current or former employees of University.
- Bidder has not given, nor does Bidder intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an officer or employee of University in connection with this RFB.

10. Information Collection. With few exceptions, individuals are entitled on request to be informed about the information that governmental bodies of the State of Texas collect about such individuals. Under Sections 552.021 and 552.023, Government Code, individuals are entitled to receive and review such information. Under Section 559.004, Government Code, individuals are entitled to have governmental bodies of the State of Texas correct information about such individuals that is incorrect.

11. Breach of Contract Claims. To the extent Chapter 2260, Texas Government Code, is applicable to any contract or agreement resulting from this Request for Bid and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by University and Bidder to attempt to resolve any claim for breach of contract made by Bidder that cannot be resolved in the ordinary course of business. The chief business officer of University or his or her delegate will examine Bidder's claim and any counterclaim and negotiate with Bidder in an effort to resolve such claims. The parties specifically agree that (i) neither the execution by University of any contract or agreement resulting from this Request for Bid nor any other conduct, action or inaction of any representative of University relating to such a contract or agreement constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit; and (ii) University has not waived its right to seek redress in courts.

12. Public Information. Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

13. Access by Individuals with Disabilities. Bidder represents and warrants under both this bid and any contract or agreement between Bidder and the University that results from this Request for Bid ("EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that Bidder provides or offers to provide to the University under this bid or any resulting contract or agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent successful Bidder becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Bidder represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Bidder is unable to do so, then the University may reject Bidder's bid and/or terminate any contract or agreement between Bidder and the University resulting from this Request for Bid and Bidder will refund to the University all amounts the University has paid under any contract or agreement resulting from this Request for Bid within thirty (30) days after the termination date.

14. Federal Funds. All procurements of supplies, equipment, and services utilizing Federal Funds (e.g., Federal Grant or Contract) shall be made in accordance with all applicable federal rules and regulations:

- Federal Acquisition Regulation (FAR)
- Federal Office of Management and Budget (OMB)
- A-21 for cost principles
- A-110 for administrative requirements, and
- A-133 for audit requirements
- Circulars: Educational and Non-Profit Institutions Documents <http://www.whitehouse.gov/omb/circulars/#educational>
- Excluded Parties List (Debarred Bidders List) <https://www.sam.gov/>

By signing this solicitation document, supplier certifies they are in compliance with OMB A110 and are not on the Debarred Bidders List.