

### **INSTRUCTIONS FOR BIDDERS SUBMITTING ELECTRONIC BIDS**

The following instructions shall apply to the submission of bids via the eBid Exchange website (<http://www.ebidexchange.com>) in response to an invitation for bids issued by the Issuing Office of the individual university or office that is part of the State System of Higher Education, an agency of the Commonwealth of Pennsylvania (hereinafter the "Issuing Office" or "University").

#### **1. SUBMISSIONS OF BIDS:**

- a. Bids are requested for the item(s) described in the Invitation for Bids (IFB). For purposes of these instructions, the IFB shall include all documents attached or incorporated by reference that are used for soliciting bids.
- b. Bids must be submitted by an properly authorized officer of the Bidder or his/her designee.
- c. Bids must be firm, with no qualifications. If a Bid is submitted with conditions or exceptions or not in conformance with the terms and conditions referenced in the IFB, it shall be rejected. The Bid shall also be rejected if the terms or items offered by the Bidder are not in conformance with the specifications, as determined in the University's sole discretion.
- d. The Bidder, intending to be legally bound hereby, offers and agrees, if its Bid is accepted, to provide the awarded items at the price(s) set forth in this Bid at the time(s) and place(s) specified.

2. **QUESTIONS:** Any questions concerning conditions and specifications must be directed to the University and submitted via the eBid website at: <http://www.ebidexchange.com>

#### **3. BIDDER'S REPRESENTATION AND AUTHORIZATION:**

- a. Each Bidder, by making its Bid, understands, represents, and acknowledges that:
  - i. The bidder is registered to do business with the Commonwealth of Pennsylvania.
  - ii. The bidder has read and understands the terms and conditions of the IFB and the Bid is made in accordance with those terms and conditions.
  - iii. The item(s) offered in the Bid will be in conformance with the specifications referenced on the IFB without exceptions.
  - iv. The price(s) and amount of the Bid have been arrived at independently and without consultation, communication, or agreement with any other contractor, Bidder, or prospective Bidder.
  - v. Neither the price(s) nor the amount of the Bid, and neither the approximate price(s) nor the approximate amount of the Bid, have been disclosed to any other firm or person who is a Bidder or prospective Bidder, and they will not be disclosed before Bid opening.
  - vi. No attempt has been made or will be made to induce any firm or person to refrain from bidding on the contract, or to submit a bid higher than the Bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
  - vii. The Bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
  - viii. To the best of the knowledge of the person submitting the Bid for the Bidder, the Bidder, its affiliates, subsidiaries, officers, directors, and employees are not currently under

investigation by any government agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as disclosed by the Bidder in its Bid.

- ix.** Neither the Bidder, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth of Pennsylvania, or any governmental entity, instrumentality, or authority. If the bidder cannot so certify, then it shall submit, along with the Bid, a written explanation of why such certification cannot be made.
  - x.** To the best of the knowledge of the person submitting the Bid for the Bidder, and except as otherwise disclosed by the Bidder in its Bid, the Bidder has no outstanding or delinquent obligations to the Commonwealth of Pennsylvania including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Bidder that is owed to the Commonwealth of Pennsylvania.
  - xi.** The Bidder has not, under separate contract with the University or the Commonwealth of Pennsylvania, made any recommendations to the University or the Commonwealth of Pennsylvania concerning: the IFB, the need for item(s) described in the IFB, or the specifications for the item(s) described in the IFB.
  - xii.** All information provided by, and representations made by, the Bidder in the Bid are material and important and will be relied upon by the University in awarding the contract.
- b.** Each Bidder, by making its Bid, authorizes all Commonwealth of Pennsylvania agencies to release information related to liabilities to the University including, but not limited to taxes, unemployment compensation, and workers' compensation liabilities.
  - c.** If an award is made to the Bidder, the Bidder agrees that it intends to be legally bound to the contract that is formed between the University and the Bidder.
- 4. PRICES:** The successful Bidder will be required to provide the awarded item(s) at the prices quoted in its Bid.
- 5. CONTINGENT BIDS:** Bidders shall not make its bid contingent upon the University's acceptance of specifications or contract terms that conflict with or are in addition to those in the IFB.
- 6. APPROVED EQUAL:** Whenever an item is defined in this IFB by trade name and catalogue number of a manufacturer or vendor, the term "or approved equal," if not inserted shall be implied. Any reference to a particular manufacturer's product either by trade name or by limited description is solely for the purpose of more clearly indicating the minimum standard of quality desired, except where a "no substitute" is requested. When a "no substitute" is requested, the Issuing Office will consider Bids for the referenced product only. The term "or approved equal" is defined as meaning any other make which, in the sole opinion of the Issuing Office, is of such character, quality and performance equivalence as to meet the standard of quality of products specified for which it is to be used equally as well as that specified. A Bidder quoting on a product other than the referenced product shall: a) furnish complete identification in its Bid of the product it is offering by trade name, brand and/or model number; b) furnish descriptive literature and data with respect to the substitute product it proposes to furnish; and c) indicate any known specification deviations from the referenced product. If the information required in a) through c) above is not provided, the Bid shall be deemed nonresponsive.

- 7. ALTERNATE PRODUCTS:** A Bidder who wants to offer an alternate must notify the Issuing Office in writing, at least five (5) days prior to the scheduled Bid opening that the Bidder intends to offer an alternate in its Bid. An “alternate” is a product that deviates from the requirements of the specifications in its composition, qualities, performance, size dimension, etc. The written notification from the Bidder must include a complete description of the alternate and must identify the product’s deviations from the specifications. Upon receipt of the notification, the Issuing Office will determine whether the alternate is acceptable. If the Issuing Office, in its discretion, determines that the alternate is acceptable, the Issuing Office will issue an addendum to the invitation for the bids that revises the specifications. If no addendum is issued revising the specification, a Bid offering the alternate shall be deemed denied and no alternative will be considered for award.
- 8. NEW EQUIPMENT:** Unless otherwise specified in the IFB, all products offered by Bidders must be new. Items which are used, demonstrations, obsolete, seconds or which have been discontinued are unacceptable without the prior written approval of the Issuing Office.
- 9. MODIFICATION OR WITHDRAWAL OF BID:**
- a. Bid Modification Prior to Bid Opening. Bids may be modified up until the exact hour and date specified for Bid opening. Upon successful modification of a previously submitted bid eBid Systems will provide a message indicating date, time and Bid receipt number. Bidders are encouraged to print and save this screen for their records.
  - b. Bid Withdrawal Prior to Bid Opening. Bids may be withdrawn prior to the exact hour and date specified for Bid opening.
  - c. Bid Withdrawal After Bid Opening. Bidders are permitted to withdraw erroneous Bids after Bid opening only if all of the following conditions are met:
    - i. The Bidder submits a written request for withdrawal.
    - ii. The Bidder presents credible evidence, as solely determined by the Issuing Office, with the written request that the reason for the lower Bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the Bid.
    - iii. The request for relief and supporting evidence must be received by the Issuing Office within three (3) business days after Bid opening, but before award of the contract.
    - iv. The Issuing Office shall not permit a Bid withdrawal if the Bid withdrawal would result in the award of the contract on another Bid of the same Bidder, its partner, or corporation or business venture owned by or in which the bidder has a substantial interest.
    - v. If a Bidder is permitted to withdraw its Bid, the Bidder cannot supply any material or labor or perform any subcontract or other work agreement for the awarded contractor, without written approval of the Issuing Office.
  - d. Firm Bid. Except as provided above, a Bid may not be modified, withdrawn, or canceled by any Bidder for a period of sixty (60) days following the time and date designated for the Bid opening, unless otherwise specified by the Bidder in its Bid. If the lowest responsible Bidder, as determined by the Issuing Office, withdraws its Bid prior to the expiration of the award period or fails to comply with the requirements set forth in the IFB including, but not limited to, any requirement to submit performance or payment bonds or insurance certificates within the required time period, the Bidder shall be liable to the University for all costs and damages

associated with the re-award or re-bid including the difference between the Bidder's price and the actual cost that the University pays for the awarded items.

- e. **Clarification and Additional Information.** After the receipt of Bids, the Issuing Office shall have the right to contact Bidders for the purpose of seeking:
  - i. Clarification of the Bid which confirms the Issuing Office's understanding of the statements or information in the bid or;
  - ii. Additional information on the items offered; provided the IFB does not require the rejection of the Bid for failure to include such information.

**10. REJECTION OF BIDS:** The Issuing Office reserves the right to reject any and all Bids, to waive technical defects or any informality in Bids, and to accept or reject any part of any Bid if the best interests of the University are thereby served.

**11. LEGAL REVIEW:** Prior to any agreement resulting from the IFB being effective, it must be reviewed for form and legality by legal counsel for the University pursuant to the Commonwealth Attorneys Act. This review may result in changes to the terms and conditions specified in the IFB.

**12. AWARDS:** Unless all Bids are rejected, and except as otherwise provided by law, award will be made, through the issuance of a Purchase Order or other appropriate agreement to the lowest responsible and responsive Bidder. Unless otherwise specified by the Issuing Office in the IFB, the University reserves the right to award by item or on a total Bid basis, whichever is deemed more advantageous to the University. In cases of discrepancies in prices, the unit price will be binding unless the unit price is obviously in error and the extended price is obviously correct, in which case the erroneous unit price will be corrected.

**13. TIE BIDS:** All tie Bids will be broken by the Issuing Office.

**14. PRICING WARRANTY AND DISCOUNTS:** The University qualifies for governmental discounts and educational discounts. Unit prices shall reflect these discounts. Bidder warrants that the terms, conditions and price(s) are not less favorable to the University than those extended to any other institutions, comparable universities, teaching hospitals, colleges, and/or community colleges for the same or similar goods or services in similar quantities or scope of work. Bidder warrants that prices submitted are complete and include transportation, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating.

**15. PROMPT PAYMENT DISCOUNTS:** Prompt payment discount will not be considered in making an award. If prompt payment discounts are offered by any Bidder, however, the Issuing Office will take advantage of such offer.

**16. EXPORT CONTROL LAW COMPLIANCE:** The Bidder acknowledges that any goods, materials, or services specified in the IFB may be subject to the export control laws of the United States, specifically including, but not limited to, the requirements of the International Traffic in Arms Regulations (ITAR), 22 C.F.R. 120 et seq., and the Export Administration Regulations, 15 C.F.R. 730-774. Bidder shall inform the University of the export classification in its bid. The University may elect not to receive certain export controlled items.

**17. BID PROTEST PROCEDURES:** Any bidder or prospective bidder who feels aggrieved concerning the solicitation or award of a contract submit a protest within seven (7) calendar days after the bidder knows or should have known of the facts giving rise to the protest with the Issuing Office. The protest must clearly be identified as a protest, identify the type and nature of the protest and

include the protest relevant solicitation information. Protests will be governed by the procedures set forth in the Commonwealth Procurement Code, 62 Pa.C.S. §§ 101-2311.