

**GENERAL TERMS AND CONDITIONS**  
**ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS**  
**OF BID**  
**ANY EXCEPTIONS THERETO MUST BE IN WRITING**

**NOTE:** Texas A&M University-Kingsville is an agency of the State of Texas and the Laws of the State of Texas must prevail on all bids. The terms Texas A&M University-Kingsville, University, State, and State of Texas shall have the same legal meaning and shall be considered as completely interchangeable in this document or any subsequent document.

**1.0 BIDDING REQUIREMENTS**

1.1 Our system requires pricing per unit shown and extensions. If a trade discount is shown on bid, it should be deducted and net line extensions shown. Bidder guarantees product offered will meet or exceed specifications identified in this Invitation for Bids.

1.2 Bids should be submitted on the specified bid form. Each bid should be placed in a separate envelope completely and properly identified. See instructions. Bids must be received at Texas A&M University-Kingsville Office of Strategic Sourcing and General Services before the hour and date specified for the bid opening. Late bids properly identified will be returned to bidder unopened.

1.3 When sending bids via the U.S. Postal Service, use the specified U.S. Mail address (i.e. MSC 212, 700 University Blvd., Kingsville, TX 78363) unless otherwise specified. When using a delivery service which requires a street address, use the street address (i.e. Room 121 College Hall, 955 University Blvd, Kingsville, TX 78363) unless otherwise specified.

1.4 Late bids will not be considered under any circumstances.

1.5 Quote F.O.B. Destination Freight Allowed. Otherwise, show exact cost to deliver. Bid unit price on quantity and unit of measure specified, extend and show total. In case of errors in extension, unit prices shall govern. Bids subject to unlimited price increase will not be considered.

1.6 Bid prices are requested to be firm for Texas A&M University-Kingsville acceptance for 30 days from bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discount will not be considered in determining the low bid. All cash discounts offered will be taken if earned.

1.7 Bids should give Payee ID Number, full firm name and address of bidder (enter in the block provided if not shown). Failure to sign bid will disqualify it. Person signing bid should show title or authority to bind their firm in a contract. Firm name should appear on each page of a bid, in the block provided in the upper left hand corner.

The Payee ID Number is the taxpayer or number assigned and used by the Comptroller of Public Accounts of Texas.

Enter this number in the spaces provided on the front side (upper left if it is not printed. If this number is not known, complete the following:

1. Enter your Federal Employer's Identification Number,

2. Sole owner should also enter Social Security Number

No payments for any award will be made until this information is furnished.

1.8 Bid cannot be altered or amended after opening time. Any alterations made before opening time should be initiated by bidder or their authorized agent. No bid can be withdrawn after opening time without approval by Texas A&M University-Kingsville based on a written acceptable reason.

1.9 Purchases made for State use are exempt from the State Sales Tax and Federal Excise Tax. Exemption Certificate will be furnished on request.

1.10 The State 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 State.

1.11 Consistent and continued tie bidding could cause rejection of bids by Texas A&M University-Kingsville and/or investigation for antitrust violations.

**2.0 SPECIFICATIONS:**

2.1 Any catalog, brand name or manufacturer's reference used in the Invitation for Bids is descriptive only (not restrictive), and are used to indicate type and quality desired. Bids on brands of like nature and quality will be considered unless advertised as Sole Source. If bidding on other than reference specifications, bid should show manufacturer, brand or trade name, and other description of product offered. If bidder takes no exception to specifications or reference data in their bid, they will be required to furnish brand names, numbers, etc., as specified in the Invitation for Bids.

2.2 All items bid shall be new and unused, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated in Invitation for Bids. Oral agreements to the contrary will not be recognized. All items must be standard production of a line which is normally produced and offered for sale to the public unless custom built items are specified.

2.3 Samples, when requested, must be furnished free of expense. Each sample should be marked with bidder's name and address, State requisition number and code. Do not enclose in or attach bid to sample.

2.4 The State will not be bound by any oral statement or representation contrary to the written specifications of this Invitation for Bids.

2.5 Manufacturer's standard warranty shall apply unless otherwise stated in the Invitation for Bid.

**3.0 TIE BIDS-**In case of tie bids, the award will be made in accordance with Rule 1 TAC Section 113.6 (b) (3) (4).

**4.0 DELIVERY:**

4.1 Bid should show number of days required to place material in the designated location under normal conditions. Failure to state delivery time obligates bidder to complete delivery in 14 calendar days. Unrealistically short or long delivery promises may cause bid to be disregarded. Consistent failure to meet delivery promises without valid reason may cause removal from bid list. (See 4.2 following)

4.2 If delay is foreseen, contractor shall give written notice to Texas A&M University-Kingsville. The University has the right to extend delivery date if reasons appear valid. Contractor must keep the University advised at all times of status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes Texas A&M University-Kingsville to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting contractor.

4.3 No substitutions or cancellations permitted without written approval of Texas A&M University-Kingsville.

4.4 Delivery shall be made during normal working hours only, unless prior approval for late delivery has been obtained from authorized agent of the University.

**5.0 INSPECTION AND TESTS-**All goods will be subject to inspection and test by the University to the extent practicable at all times and places. Authorized University personnel shall have access to any supplier's place of business for the purpose of inspection merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. In the event tested products fail to meet or exceed all conditions and requirements of the specification, the cost of the sample used and the cost of the testing shall be borne by the supplier. Goods which have been delivered and rejected in whole or in part may, at the University's option, be returned to the vendor or held for disposition at vendor's risk and expense. Latent defects may result in revocation of acceptance.

**6.0 AWARD OF CONTRACT-**A response to an Invitation for Bid is an offer to contract with the University based upon the terms, conditions and specifications contained in the Invitation for Bid. Bids do not become contracts unless and until they are accepted by the Executive Director of Strategic Sourcing and General Services, or designee, through an open market purchase order. The contract shall be governed, construed and interpreted under the laws of the State of Texas.

6.1 Award will be made based on best value. In lieu of other considerations, best value will be considered at lowest price meeting specifications.

6.2 Any actual or prospective bidder, offeror, proposer, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a contract may formally protest by following the Protest Procedure. This procedure is available by request at [procurement@tamuk.edu](mailto:procurement@tamuk.edu).

6.3 It is the policy of Texas A&M University-Kingsville to involve qualified Historically Underutilized Businesses (HUBs) to the greatest extent allowed by law in the University's construction contracting, professional services, and purchase, lease, or rental of all supplies, materials, services and equipment. The University, its contractors and subcontractors shall not discriminate on the basis of race, color, religion, national origin, sex, disability, political belief or affiliation in the award of contracts. Every University employee responsible for conducting business with outside vendors has the responsibility of making a good faith effort of ensuring that HUBs are afforded an equitable opportunity to compete for all procurement and contracting activities of the University.

**7.0 PAYMENT-**Vendor shall submit an itemized invoice showing Purchase Order Number. The University will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice.

**8.0 PATENTS OR COPYRIGHTS-**The contractor agrees to protect the University and State from claims involving infringement of patents or copyrights.

**9.0 VENDOR ASSIGNMENTS-**Vendor hereby assigns to purchaser any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967). Inquiries pertaining to bid invitations must give bid number, codes, and opening date.

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

10.1 The bidder 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 the submitted bid.

10.2 The bidder is not currently delinquent in the payment of any franchise tax owed the State of Texas under Chapter 171 TAX Code.

10.3 Neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State 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.

10.4 The bidder has not received compensation for participation in the preparation of the specifications for this invitation for bid.

10.5 Pursuant to Section 231.006, Family Code, the vendor certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

10.6 Pursuant to Section 2155.004 of the Texas Government Code (relating to the collection of state and local sales and use taxes), the bidder certifies that the individual or business entity named in bid is not ineligible to receive the specified contract and that the contract may be terminated and/or payment withheld if this certification is inaccurate.

10.7 The contractor shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings

costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract.

10.8 Texas Resident Affirmation Clause: By signing this bid, bidder certifies that if a Texas address is shown as the address of the bidder, bidder qualifies as a Texas Resident Bidder as defined in GSC Rule 1TAC 111.2.

10.9 Bidder agrees that any payments owing to the contractor under this contract will be applied toward elimination of the contractor's indebtedness to the state, delinquency in payment of taxes to the state, or delinquency in payment of taxes that the Comptroller administers or collects until the indebtedness or delinquency is paid in full.

10.10 Bidder certifies that they are in compliance with section 618.003 of the Government Code relating to contracting with executive head of a State Agency. If section 618.003 applies, bidder will complete the following information in order for the bid to be evaluated:

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

Name of State Agency: \_\_\_\_\_

Date of Separation: \_\_\_\_\_

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

10.11 Bidder agrees to comply with Govt Code 2155.4441, pertaining to service contract use of products produced in the State of Texas.

10.12 Bid must include names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the bid. Bidders that have pre-registered this information on the GSC CMBL have satisfied this requirement. If not pre-registered, complete the following:

Enter name above and SSAN below:

\_\_\_\_\_

Enter name above and SSAN below:

\_\_\_\_\_

Enter name above and SSAN below:

\_\_\_\_\_

Enter name above and SSAN below:

\_\_\_\_\_

**11.0 NOTE TO BIDDERS**-Any terms and conditions attached to a bid will not be considered unless the bidder specifically refers to them on the front of this bid form.

Warning: Such terms and conditions may result in disqualification of the bid (e.g. bids with the laws of a State other than Texas, requirements for prepayment, limitations on remedies, etc.)

#### 12.0 OSHA STATEMENT

Seller represents and warrants that all articles and services covered by the document meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91:596) and its regulations in effect or proposed as of the date of this document.

#### 13.0 CERTIFICATION OF NONSEGREGATED FACILITIES AND EQUAL EMPLOYMENT COMPLIANCE

If this transaction exceeds \$10,000 or if the seller anticipates or has a history of exceeding \$10,000.00 in sales to Texas A&M University-Kingsville within any continuous twelve (12) month period, the acceptance of this document will signify their compliance with the provisions of SECTION 202 of EXECUTIVE ORDER No. 11246 pertaining to Equal Employment Opportunities effective September 24, 1965 and its amendment EXECUTIVE ORDER No. 11375 effective October 13, 1967 insofar as Section 202 is affected by changing the word "creed" to "religion" and by adding the word "sex". The signing will also serve as written affirmation of the following CERTIFICATION OF NON-SEGREGATED FACILITIES. By the acceptance of this document, the bidder, offeror, applicant or subcontractor certifies that they do not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not permit their employees to perform their services at any location under their control, where segregated facilities are maintained. They certify further that they will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they will not permit their employees to perform their services at any location under their control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification the term "segregated facilities" means any waiting room, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin, because of habit, local custom, or otherwise. They further agree that (except where they have obtained identical certifications from proposed subcontractors for specific time periods) they will obtain identical certifications from proposed subcontractor prior to the award of subcontracts exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, that they will retain such certifications in their files and that they will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods). NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES - A certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000.00 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

#### 14.0 AFFIRMATIVE ACTION COMPLIANCE

In addition to the above certification, if this transaction exceeds \$50,000 the seller must have included as part of the bid a copy of their written Civil Rights "Affirmative Action Compliance Program". If a bidder is not required to have such a written program they must have so stated on the bid form indicating the reason it is not required.

Paragraph 60.741.4 of Title 41 of Part 60-741 Affirmative Action Obligations of Contracts and Subcontracts for Handicapped Workers is incorporated by reference for all contracts of \$3,500.00 or greater.

If any additional information is required regarding these requirements, please contact the Ag Program Purchasing Services department prior to the shipping date.

#### 15.0 DISPUTE RESOLUTION PROCESS:

(1) The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Texas A&M University-Kingsville and the contractor to attempt to resolve any claim for breach of contract made by the contractor:

(A) A contractor's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, the contractor shall submit written notice, as required by subchapter B, to the Executive Director of Strategic Sourcing and General Service. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Texas A&M University-Kingsville and the contractor otherwise entitled to notice under the parties' contract. Compliance by the contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Government Code.

(B) The contested case process provided in Chapter 2260, subchapter C, of the Government Code is the contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Texas A&M University-Kingsville if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.

(C) Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by Texas A&M University-Kingsville nor any other conduct of any representative of Texas A&M University-Kingsville relating to the contract shall be considered a waiver of sovereign immunity to suit.

(2) The submission, processing and resolution of the contractor's claim is governed by the published rules adopted by the Office of the Attorney General, pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found at 1 TAC, Ch. 68.

(3) Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the contractor, in whole or in part.

(4) The designated individual responsible on behalf of Texas A&M University-Kingsville for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 of H.B. 826 of the 76<sup>th</sup> Texas Legislature shall be the Executive Director of Strategic Sourcing and General Service, MSC 121, Room 121 College Hall, Kingsville, TX 78363.

**16.0 ELECTRONIC AND INFORMATION RESOURCES STATEMENT:** Vendor represents and warrants ("EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it offers to provide to the Agency under this purchase order (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 vendor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then vendor represents and warrants that it will, at no cost to Agency, 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 vendor is unable to do so, then the Agency may terminate this Agreement and vendor will refund to the Agency all amounts the Agency has paid under this purchase order within thirty (30) days after the termination date.

**17.0 CONFLICT OF INTEREST:** By executing this Agreement, Contractor and each person signing on behalf of Contractor certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

**18.0 PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL:** By executing this Agreement, the Contractor certifies it does not and will not, during the performance of this contract, boycott Israel. Contractor acknowledges this Agreement may be terminated if this certification is inaccurate.

**19.0 CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS:** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated if this certification is inaccurate.

#### 20.0 PUBLIC INFORMATION:

A. Contractor acknowledges that Texas A&M University-Kingsville is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

B. Upon Texas A&M University-Kingsville's written request, Contractor will provide specified public information exchanged or created under this Agreement that is not otherwise accepted from disclosure under Chapter 552, Texas Government Code, to Texas A&M University-Kingsville in a non-proprietary format acceptable to Texas A&M University-Kingsville. As used in this provision, "public information" has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which Texas A&M University-Kingsville has a right of access.

C. Contractor acknowledges that Texas A&M University-Kingsville may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.