



**SOUTHEAST MISSOURI**  
STATE UNIVERSITY · 1873

**INVITATION FOR BID 5780**

**DELIVERY INSTRUCTIONS**

**TITLE:** COMMERCIAL FITNESS EQUIPMENT

**DATE:** SEPTEMBER 1, 2015

**BUYER:** CHRISTINA MATTISON  
SENIOR BUYER

**EMAIL:** cmattison@semo.edu

**PHONE:** (573) 651-2425

**BID MUST BE RECEIVED NO LATER THAN:**

**DATE:** SEPTEMBER 21, 2015

**TIME:** 3:30 P.M.

For USPS/FedEx/UPS, etc.  
Bids must be mailed to:  
Purchasing Department  
Southeast Missouri State University  
One University Plaza, Mail Stop 3280  
Cape Girardeau, MO 63701

OR delivered by bidder to:  
Purchasing Department  
Academic Hall Room 200F  
Normal Avenue  
Cape Girardeau, MO 63701

The notice of award is made subject to availability and appropriation of funds, and the selection of the lowest and best bidder is made in accordance with all applicable public procurement laws.

**MUST BE SIGNED TO BE VALID**

The bidder hereby agrees to furnish items and/or services, at the firm, fixed prices quoted, pursuant to all requirements and specifications contained herein, upon either the receipt of an authorized purchase order from the Purchasing Department or when this document is countersigned by the Purchasing Department as a binding contract, and further agrees that the language of this document shall govern in the event of a conflict with his or her bid.

AUTHORIZED SIGNATURE		PRINTED NAME/TITLE	
COMPANY NAME			CURRENT DATE
MAILING ADDRESS			TELEPHONE NUMBER/EXT.
CITY		STATE	ZIP CODE
CONTACT PERSON	CONTACT PERSON EMAIL ADDRESS		FACSIMILE NUMBER
DELIVERY DATE: _____ DAYS ARO, FOB DESTINATION      PROMPT PAYMENT TERMS: _____%    _____ DAYS    NET _____ DAYS			
NOTICE OF AWARD (SOUTHEAST MISSOURI STATE UNIVERSITY USE ONLY)			
AUTHORIZED SIGNATURE FOR SOUTHEAST MISSOURI STATE UNIVERSITY			DATE

SOUTHEAST MISSOURI STATE UNIVERSITY  
COMMERCIAL FITNESS EQUIPMENT  
INVITATION FOR BID 5780

TECHNICAL SPECIFICATIONS

The contractor shall provide the below listed fitness equipment for Southeast Missouri State University (hereafter referred to as "University"), in accordance with all terms, conditions, and requirements stated herein.

- Provide equipment as specified herein.
- Provide delivery and on-site set-up.
- Provide applicable warranty.

*It shall be the bidder's responsibility to advise the Purchasing Department if any language, specifications or requirements of the solicitation appear to be ambiguous, contradictory and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the solicitation to a single source. The bidder must submit such in writing no later than seven calendar days prior to the solicitation opening date and time via email to [cmattison@semo.edu](mailto:cmattison@semo.edu).*

1. General Requirements: All equipment must include and meet or exceed the specifications listed below. Brand names, if listed, are references only. Any brand equal or better shall be acceptable. All numerical specifications are approximate unless otherwise stated.

1.1 Bench Press – the University anticipates the purchase quantity of 4.

- Maximum overall dimensions: 50"H x 65"W x 73"L
- Urethane coated Olympic bar rack
- Dual height racking location
- Open frame design for spotter entry from the back
- Plate storage on frame, 12 posts total (six posts per side)
- Full commercial rating

1.2 Incline Bench Press – the University anticipates the purchase quantity of 2.

- Maximum overall dimensions: 60"H x 65"W x 70"L
- Urethane coated Olympic bar rack
- Dual height racking location
- Open frame design with elevated spotter stand for entry from the back
- Plate storage on frame, 12 posts total (six posts per side)
- Spring or hydraulic assisted seat adjustment
- Full commercial rating

1.3 Decline Bench Press – the University anticipates the purchase quantity of 1.

- Maximum overall dimensions: 50"H x 65"W x 49"L
- Urethane coated Olympic bar rack
- Dual height racking location
- Open frame design for spotter entry from the back
- Plate storage on frame, 12 posts total (six posts per side)
- Adjustable leg pads
- Full commercial rating

1.4 Multi-Adjustable Dumbbell Bench – the University anticipates the purchase quantity of 2.

- Maximum overall dimensions: 20"H x 27"W x 55"L
- 10 degree decline with adjustments every 10 degrees to 80 degree upright position
- Wear guards on the crossbar leg to protect finish
- Integrated grip and wheels for transport
- Rubber feet for floor protection
- Full commercial rating

- 1.5 Fixed Flat Dumbbell Bench – the University anticipates the purchase quantity of 1.
- Maximum overall dimensions: 20”H x 27”W x 55”L
  - Wear guards on the crossbar leg to protect finish
  - Integrated grip and wheels for transport
  - Rubber feet for floor protection
  - Full commercial rating
- 1.6 Pull-Up/Dip/Leg Raise Combo – the University anticipates the purchase quantity of 1.
- Maximum overall dimensions: 90”H x 48”W x 61”L
  - Multiple pull-up grip positions
  - Pads for elbows/forearms and back
  - Diverging dip handles
  - Wear guards on legs to act as a step
  - Full commercial rating
- 1.7 Seated Preacher Curl – the University anticipates the purchase quantity of 1.
- Maximum overall dimensions: 40”H x 30”W x 43”L
  - Urethane coated bar rack
  - Dual height racking location
  - Spring or hydraulic assisted seat adjust
  - Full commercial rating
- 1.8 Military Shoulder Press – the University anticipates the purchase quantity of 1.
- Maximum overall dimensions: 61”H x 74”W x 65”L
  - Urethane coated Olympic bar rack
  - Dual height racking location on rear bar rack
  - Additional racking location on front bar rack
  - Open frame design with elevated spotter stand for entry from the back
  - Plate storage on frame, 12 posts total (six posts per side)
  - Full commercial rating
- 1.9 Power Cage – the University anticipates the purchase quantity of 3.
- Maximum overall dimensions: 90”H x 63”W x 74”L
  - Adjustable Olympic bar racks and safety supports
  - Integrated multi-grip pull up bars
  - Plate storage on frame, 12 posts total (six posts per side)
  - Open walk through frame design
  - Full commercial rating
- 1.10 Standing Incline Lever Row – the University anticipates the purchase quantity of 1.
- Maximum overall dimensions: 50”H x 34”W x 72”L
  - Low front loading weight post for Olympic weight plates
  - Two grip locations for variety
  - Maximum 35 lb empty starting weight
  - Includes chest pad to support bodyweight
  - Includes angled platform for feet
  - Full commercial rating
- 1.11 Low Leverage Row – the University anticipates the purchase quantity of 1.
- Maximum overall dimensions: 42”H x 51”W x 79”L
  - Stainless steel knurled handles
  - Independent and diverging arm motion
  - Maximum 18 lb empty starting weight per arm
  - Adjustable chest pad and spring or hydraulic assisted seat adjust
  - Plate storage on frame, four posts total (two on each side)

- Full commercial rating
- 1.12 Angled Leg Press – the University anticipates the purchase quantity of 1.
    - Maximum overall dimensions: 59”H x 72”W x 90”L
    - 45 degree pressing angle
    - Adjustable back angle
    - Two starting positions for user height variation
    - Maximum 100 lb empty starting weight
    - Integrated handle for user entry and exit
    - Plate storage on frame, four posts total (two on each side)
    - Full commercial rating
  - 1.13 Tilt Seated Calf – the University anticipates the purchase quantity of 1.
    - Maximum overall dimensions: 38”H x 27”W x 58”L
    - Adjustable thigh pad
    - Low front/top loading weight post for Olympic weight plates
    - Integrated grip located on top of thigh pad
    - Includes angled platform for feet
    - Full commercial rating
  - 1.14 Leverage/Plate-Loaded Prone Leg Curl – the University anticipates the purchase quantity of 1.
    - Maximum overall dimensions: 30”H x 48”W x 72”L
    - Dependent four-bar linkage system (non-cable/non-belt) movement
    - Prone body position with two piece angled pad, allowing for correct body position
    - Low rear/side loading weight post for Olympic weight plates
    - Plate storage on frame
    - Integrated grip/handle located under chest pad
    - Full commercial rating
  - 1.15 Leverage/Plate Loaded Leg Extension – the University anticipates the purchase quantity of 1.
    - Maximum overall dimensions: 54”H x 48”W x 65”L
    - Dependent four-bar linkage system (non-cable/non-belt) movement
    - Seated body position with adjustable back pad
    - Low front/side loading weight post for Olympic weight plates
    - Plate storage on frame
    - Integrated grip/handle located at sides of seat pad
    - Full commercial rating
  - 1.16 Two-Tiered Dumbbell Rack – the University anticipates the purchase quantity of 4.
    - Maximum overall dimensions: 26”H x 90”W x 28”L
    - Molded urethane cradles
    - Rubber feet for floor protection
    - 10 pair rack
    - Full commercial rating
  - 1.17 Fixed Barbell Rack – the University anticipates the purchase quantity of 1.
    - Maximum overall dimensions: 54”H x 36”W x 38”L
    - Accommodates ten standard or cambered barbells
    - Urethane on frame behind cradles/barbell placement to protect finish
    - Full commercial rating
2. All equipment must be new. Used, reconditioned, and/or demo equipment will not be accepted by the University.
  3. Manuals: The contractor must provide one each of the following manuals (as applicable): operator, service, repair, and parts. All manuals must be written in American English.

4. The contractor must provide the warranty as listed herein or applicable manufacturer warranty. The warranty will commence upon the written acceptance of the equipment from the University's Purchasing Department or payment of such, whichever occurs first.
  - 4.1 Contractor must be able to provide all parts, equipment, and personnel necessary to accomplish warranty repairs. The University prefers that the contractor be able to complete the repairs within two (2) business days.
  - 4.2 Contractor is responsible for all transportation, shipping and handling charges, and parts necessary to perform all warranty repairs. Transport of equipment between University and repair site is also the responsibility of the contractor.
5. Delivery and Set-up: The contractor must deliver and set-up the new equipment. The contractor will be responsible for all travel plans, accommodations, etc., and expenses incurred for accomplishing the delivery and on-site set-up. The contractor must provide the following services at the time of delivery.
  - 5.1 Assemble and prepare all equipment for use.
  - 5.2 Remove and discard all shipping crates, wrapping, etc.
  - 5.3 Check and test all equipment for proper operation.
  - 5.4 Provide operator training for University personnel.
6. For each brand proposed, the University prefers the contractor be an authorized manufacturer dealer with an authorized manufacturer repair and maintenance service center.
7. All prices shall be as indicated on the Pricing Page of this document, or as specifically provided for by this document. The University shall not pay nor be liable for any other costs. The contractor shall not be allowed any additional compensation for any matter of which the contractor might have fully informed itself of prior to the opening date of the Invitation for Bid.
  - 7.1 Payment for all goods required herein shall be made after the successful completion of the respective contractual requirements and acceptance by the University. The University shall not make any advance deposits.
  - 7.2 The contractor shall submit an original invoice and reference the respective purchase order number. Faxed invoices shall not be accepted. Payment will be made upon submittal of the invoice on a Net 30 basis unless discount terms are offered.
8. If deemed necessary, Southeast Missouri State University reserves the right to purchase additional items at the prices quoted, at the time of purchase order award. However, the University reserves the right to not purchase all items, dependent upon prices quoted or changed needs.
9. The contractor shall fully coordinate its activities in the performance of the contract with those of the University.
10. The contractor shall understand and agree that the University cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the University, its Board of Regents, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance coverage shall include general liability and appropriate professional liability. Written evidence of the insurance shall be provided by the contractor to the University upon request. The evidence of insurance shall include, but shall not necessarily be limited to: effective dates of coverage, limits of liability, insurer's name, policy number, endorsement by representatives of the insurance company, etc. Evidence of self-insurance coverage or of another alternative risk financing mechanism may be utilized

provided that such coverage is verifiable and irrevocably reliable. In the event the insurance coverage is canceled, the University must be notified immediately.

11. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the University, including its Board of Regents, agencies, employees, and assigns.
12. The contractor represents itself to be an independent contractor offering such services to the general public and shall not represent itself or its employees to be employed by the University. The sole relationship between the University and the contractor is as established by this contract. The contractor acknowledges responsibility for filing all returns and paying all taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., associated with the performance of the contractual requirements herein, and agrees to indemnify, save, and hold the University, its officers, agents, and employees, harmless from and against, any and all losses, costs, attorney fees, and damage of any kind related to such matters. Upon request, the contractor will provide to the University evidence of compliance with these requirements.
13. Unless otherwise specified herein, the contractor shall be responsible for furnishing all material, labor, facilities, equipment, and supplies necessary to perform the services required herein.

SOUTHEAST MISSOURI STATE UNIVERSITY  
COMMERCIAL FITNESS EQUIPMENT  
INVITATION FOR BID 5780

BIDDER'S INFORMATION

This portion of the IFB pertains to any interested party which wishes to be provided an opportunity to submit a bid.

1. Southeast currently issues all solicitations via the University's website at <http://www.semo.edu/purchasing>. In addition to the original solicitation, amendments (if any) and all questions and answers received during the solicitation process will be posted to the website. Bidders are encouraged to check such frequently. In addition, the bidder can complete and submit a Vendor Registration Application via the University's website.
2. Bids must be priced, signed and returned (with all necessary attachments) to the Purchasing Department by the opening date and time specified. The unaltered, signed IFB cover sheet and signed cover sheets for any amendments, if applicable, should be placed at the beginning of the bidder's package.
3. Any bidder with questions should contact Christina Mattison, Senior Buyer. All bidders and/or anyone else acting on their behalf must direct all of their questions or comments regarding the IFB, evaluation, etc., to the Purchasing Department. Bidders may not contact other University employees regarding any of these matters while the IFB and evaluation are in process.
  - 3.1 It is preferred that all questions be e-mailed to [cmattison@semo.edu](mailto:cmattison@semo.edu). However, all questions must be submitted no later than seven (7) calendar days prior to the opening date.
4. Evaluation Process: Any award accomplished as a result of this Invitation for Bid shall be based on the lowest and best bid received in accordance with the following evaluation criteria. Failure to provide adequate information for evaluation of the criteria listed below may result in minimal subjective consideration and/or in rejection of the bid.
  - 4.1 Cost ..... 80%
  - 4.2 Proposed Equipment/Warranty/Contractor Support ..... 20%
5. COST: Cost shall be evaluated based upon the firm, fixed price(s) indicated by the bidder on the Pricing Page. The bidder shall not be entitled to any other form of payment or reimbursement not specifically provided for by this document.
6. PROPOSED EQUIPMENT/WARRANTY/CONTRACTOR SUPPORT: The bidder should fully describe all proposed equipment. In addition, the bid response should include the following:
  - 6.1 Full description of the proposed equipment in addition to manufacturer's brochure for each piece of equipment.
  - 6.2 Describe the equipment warranty in detail, to include service and support.
  - 6.3 Provide information as to whether the bidder's organization is an authorized manufacturer dealer with an authorized manufacturer repair and maintenance service center.
7. Domestic Products Procurement Act (Attachment 1): Bidders are advised that, in accordance with RSMo 34.350 - 34.359, the attached certification form for the State of Missouri Domestic Products Procurement Act (Buy American) must be completed, signed, and returned in order to be considered for preference.
8. Business Information: As a state entity, the University is required to report minority-business and women-business enterprise information to the Office of Administration, Division of Purchasing. Therefore, the bidder is requested to complete and return Attachment 2 with the bid response. Completion of Attachment 2 does not affect contract award.

9. Missouri Service-Disabled Veteran Business Preference: Pursuant to section 34.074, RSMo, a three (3) bonus point preference shall be granted to bidders who qualify as Missouri service-disabled veteran businesses and who complete and submit Attachment 3, Missouri Service-Disabled Veteran Business Preference with the bid response. If the response does not include the completed Attachment 3 and the documentation specified on Attachment 3 in accordance with the instructions provided therein, no preference points will be applied.
10. The attached Terms and Conditions, Invitation for Bid (revised 04/01/2012), are hereby incorporated. Bidder's terms and conditions which conflict with this Invitation for Bid and/or the attached Terms and Conditions could result in rejection of the bidder's response.



SOUTHEAST MISSOURI STATE UNIVERSITY  
COMMERCIAL FITNESS EQUIPMENT  
INVITATION FOR BID 5780

PRICING PAGE

The bidder must complete, sign, and return this Pricing Page in addition to all other information requested herein.

1. Fitness Equipment: The bidder must provide a firm, fixed price or “no-bid” for each item listed below. In addition, the bidder must state the manufacturer and model number for the proposed item.

Item	Description	Proposed Item Manufacturer/Model Number	Firm, Fixed Price per each
1.1	Bench Press		
1.2	Incline Bench Press		
1.3	Decline Bench Press		
1.4	Multi-Adjustable Dumbbell Bench		
1.5	Fixed Flat Dumbbell Bench		
1.6	Pull-Up/Dip/Leg Raise Combo		
1.7	Seated Preacher Curl		
1.8	Military Shoulder Press		
1.9	Power Cage		
1.10	Standing Incline Lever Row		
1.11	Low Leverage Row		
1.12	Angled Leg Press		
1.13	Tilt Seated Calf		

1.14	Leverage/Plate Loaded Prone Leg Curl		
1.15	Leverage/Plate Loaded Leg Extension		
1.16	Two-Tiered Dumbbell Rack		
1.17	Fixed Barbell Rack		

2. Delivery: The bidder must specify the number of business days needed after receipt of order (ARO) to deliver and set-up the equipment.

\_\_\_\_\_ business days ARO

3. Trade-in Allowance: The University is offering the following items for trade-in. The trade-in must allow for all items. However, the University reserves the right to make the award with or without the trade-in.

The bidder should specify the trade-in allowance below. Upon acceptance by the University, the allowance will be deducted from the purchase price. PLEASE NOTE: The contractor will be responsible for all removal and transportation costs of the equipment traded-in. However, the items will not be available until the newly purchased equipment has been delivered and accepted by the University.

The bidder may inspect the items for trade-in prior to submitting a bid. Please call (573) 651-2425 or email to [cmattison@semo.edu](mailto:cmattison@semo.edu) with the anticipated date of visit and names of all individuals that will be attending.

Item	Quantity	Year Purchased (Approximate)	Manufacturer/Description
Bench Press	4	1997	Flex Fitness, dual height racking, open frame, plate storage (six posts per side)
Incline Bench Press	2	1997	Flex Fitness, dual height racking, open frame, plate storage (six posts per side), seat adjustment
Decline Bench Press	1	1997	Flex Fitness, dual height racking, open frame, plate storage (six posts per side), adjustable leg pads
Incline Dumbbell Bench	1	1997	Flex Fitness, multi-adjustable
Flat to Incline Dumbbell Bench	1	1997	Flex Fitness, multi-adjustable
Decline to Incline Dumbbell Bench	1	2005	Promaxima MFG, multi-adjustable
Fixed Flat Dumbbell Bench	1	1997	Flex Fitness
Pull-Up/Dip Combo	1	1997	Flex Fitness
Hanging Leg Raise	1	1997	Flex Fitness
Seated Preacher Curl	1	Unknown	AAI
Standing Preacher Curl	1	2005	Flex Fitness

Military Shoulder Press	1	1997	Flex Fitness, open frame, plate storage (six posts per side)
Squat Rack	2	1997	Flex Fitness, multiple bar racks, plate storage (six posts per side), open walk through design
Smith Machine	1	1997	Flex Fitness, adjustable bar rack, plate storage (six posts per side), open walk through design
Leverage Low Row	1	1997	Flex Fitness, adjustable pads
Angled Leg Press	1	1997	Flex Fitness, adjustable angles, plate storage (two posts per side)
Tilt Seated Calf	1	1997	Flex Fitness, adjustable thigh pad
Leverage/Plate-Loaded Leg Curl	1	1997	Flex Fitness
Leverage/Plate-Loaded Leg Extension	1	1997	Flex Fitness, adjustable back pad
Two-Tiered Dumbbell Rack	4	1997	Flex Fitness, 10 pair rack
Fixed Barbell Rack	1	1997	Flex Fitness, 10 standard or cambered barbells

\$\_\_\_\_\_ Trade-in allowance

By signature below, the bidder affirms that all prices are quoted pursuant to the terms and conditions of Invitation for Bid 5780. In addition, the bidder understands and certifies the following:

- The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the University shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the University.
- The contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

\_\_\_\_\_  
Company Name

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

**ATTACHMENT 1  
DOMESTIC PRODUCTS PROCUREMENT ACT (BUY AMERICAN) PREFERENCE**

In accordance with sections 34.350-34.359, RSMo, the bidder is instructed to provide information regarding the point of manufacture for each of the products being bid so that the product's eligibility for the Domestic Products Procurement Act (Buy American) Preference can be determined. This information is requested for the finished product only, not for components of the finished product. The bidder may be required to provide supporting documentation indicating proof of compliance.

**Qualifying for the Domestic Products Preference:**

A product qualifies for the preference if one of the following circumstances exist:

- if manufactured or produced in the U.S.; or
- if the product is imported into the U.S. but is covered by an existing international trade treaty that affords the specific product the same status as a product manufactured or produced in the U.S.; or
- if only one line of products is manufactured or produced in the U.S.

**Non-Domestic Product:**

If the product is not manufactured or produced in the U.S. and does not otherwise qualify as domestic, then it will be considered non-domestic and not eligible for the preference.

**THE BIDDER MUST COMPLETE THE FOLLOWING APPLICABLE TABLES TO CERTIFY WHETHER:**

- (Table 1) ALL products bid are manufactured or produced in the U.S. and qualify for the Domestic Products Procurement Act Preference; OR
- (Table 2) ALL products bid are manufactured or produced outside the U.S. and do not otherwise qualify for the Domestic Products Procurement Act Preference; OR
- (Tables 3-6) Not all products bid fall into the prior two categories so an item-by-item certification is necessary.

**The bidder is responsible for certifying the information provided on the exhibit is accurate by signing where indicated at the end of the exhibit.**

**TABLE 1 – ALL PRODUCTS MANUFACTURED OR PRODUCED IN U.S. (eligible for preference)**

Check the box to the right if ALL products bid are MANUFACTURED OR PRODUCED IN THE U.S.:	<input type="checkbox"/>
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**TABLE 2 – ALL PRODUCTS MANUFACTURED OR PRODUCED OUTSIDE U.S. AND DON'T QUALIFY FOR PREFERENCE (ineligible for preference)**

Check the box to the right if ALL products bid are MANUFACTURED OR PRODUCED OUTSIDE THE U.S. and DO NOT OTHERWISE QUALIFY for the Domestic Products Procurement Act Preference:	<input type="checkbox"/>
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**TABLES 3 THROUGH 6 – ITEM BY ITEM CERTIFICATION (NOT ALL PRODUCTS BID FALL INTO PRIOR TWO TABLES)**

- For those line items for which a U.S.-manufactured or produced product is bid, complete **Table 3**.
- For those line items which are manufactured or produced outside the U.S. that do not qualify for the Domestic Products Procurement Act Preference, complete **Table 4**.
- For those line items which are not manufactured or produced in the U.S., but for which there is a U.S. trade treaty, law, agreement, or regulation in compliance with section 34.359, RSMo, complete **Table 5**.
- For those line items which are not manufactured or produced in the U.S., but for which there is only one U.S. Manufacturer of that product or line of products, complete **Table 6**.

<b>TABLE 3 – U.S.-MANUFACTURED OR PRODUCED PRODUCTS (Eligible for Preference)</b>			
<ul style="list-style-type: none"> <li>• List item numbers of products bid that are U.S.-manufactured or produced and therefore qualify for the Domestic Products Procurement Act Preference.</li> <li>• List U.S. city and state where products bid are manufactured or produced.</li> </ul>			
<b>Item #</b>	<b>U.S. City/State Where Manufactured/Produced</b>	<b>Item #</b>	<b>U.S. City/State Where Manufactured/Produced</b>

<b>TABLE 4 -- FOREIGN-MANUFACTURED OR PRODUCED PRODUCTS (Not Eligible for Preference)</b>			
<ul style="list-style-type: none"> <li>• List item numbers of products bid that are foreign manufactured or produced and do not otherwise qualify for the Domestic Products Procurement Act Preference.</li> <li>• List country where product bid is manufactured or produced.</li> </ul>			
<b>Item #</b>	<b>Country Where Manufactured/Produced</b>	<b>Item #</b>	<b>Country Where Manufactured/Produced</b>

(Exhibit continues on next page)

**EXHIBIT \_\_, continued: DOMESTIC PRODUCTS PROCUREMENT ACT (BUY AMERICAN) PREFERENCE**

**TABLE 5 -- FOREIGN-MANUFACTURED OR PRODUCED PRODUCTS BUT U.S. TRADE TREATY, LAW, AGREEMENT, OR REGULATION APPLIES (Eligible for Preference)**

- List item numbers of products bid that are foreign manufactured or produced but qualify for the Domestic Products Procurement Act Preference because a U.S. Trade Treaty, Law, Agreement, or Regulation applies.
- Identify country where proposed foreign-made product is manufactured or produced.
- Identify name of applicable U.S. Trade Treaty, Law, Agreement, or Regulation that allows product to be brought into the U.S. duty/tariff-free.
- Identify website URL for the U.S. Trade Treaty, Law, Agreement, or Regulation.
- NOTE: As an imported product, if an import tariff is applied to the item, it does not qualify for the preference. In addition, “Most Favored Nation” status does not allow application of the preference unless the product enters the U.S. duty/tariff-free.

Item #	Country Where Proposed Foreign-Made Product is Manufactured/Produced	Name of Applicable U.S. Trade Treaty, Law, Agreement, or Regulation	Official Website URL for the U.S. Treaty, Law, Agreement, or Regulation

**TABLE 6 -- FOREIGN-MANUFACTURED OR PRODUCED PRODUCTS BUT ONLY ONE US MANUFACTURER PRODUCES PRODUCT OR LINE OF PARTICULAR GOOD (Eligible for Preference)**

- List item numbers of products bid that are foreign manufactured or produced but qualify for the Domestic Products Procurement Act Preference because only one US Manufacturer produces the product or line of a particular good.
- Identify country where proposed foreign-made product is manufactured or produced.
- Identify sole US manufacturer name.
- Identify name of sole US manufactured product/line of particular good.

Item #	Country Where Proposed Foreign-Made Product is Manufactured/Produced	Sole US Manufacturer Name	Name of Sole US Manufactured Product or Line of Particular Good

**The bidder is responsible for certifying the information provided on this exhibit is accurate by signing below:**

I hereby certify that the information provided herein is true and correct, and complies with all provisions of sections 34.350 to 34.359, RSMo. I understand that any misrepresentation herein constitutes the commission of a class A misdemeanor.

**SIGNATURE** (If submitting bid electronically, scanned or typed signature is acceptable)

**COMPANY NAME**

## ATTACHMENT 2 MINORITY VENDOR INFORMATION

In order to identify information requested by the Office of Administration, Division of Purchasing, please complete the following by placing a check mark in the appropriate box next to the classification which best represents your business. Completion of the following information does not affect purchase order/contract award.

### BUSINESS TYPE

- |   |   |
|---|---|
| <input type="checkbox"/> A. Small, Minority, Missouri         | <input type="checkbox"/> F. Large, Non-Minority, Missouri     |
| <input type="checkbox"/> B. Small, Non-Minority, Missouri     | <input type="checkbox"/> G. Large, Minority, Non-Missouri     |
| <input type="checkbox"/> C. Small, Minority, Non-Missouri     | <input type="checkbox"/> H. Large, Non-Minority, Non-Missouri |
| <input type="checkbox"/> D. Small, Non-Minority, Non-Missouri | <input type="checkbox"/> I. Female-Owned Business             |
| <input type="checkbox"/> E. Large, Minority Missouri          | <input type="checkbox"/> J. Unable to Classify                |

**SMALL:** An organization with less than 500 employees.

**LARGE:** An organization with greater than 500 employees.

**MINORITY:**

An organization that has been (1) certified socially and economically disadvantaged by the Small Business Administration, (2) certified as a minority business enterprise by a state or federal agency, or (3) is an independent business concern that is 51% owned and controlled by a minority group member including:

- a. Black American
- b. Hispanic American with origins from Puerto Rico, Mexico, Cuba, South or Central America
- c. Native Indian, Eskimo, or Native Hawaiian
- d. Asian Pacific American with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, northern Marianas, Laos, Cambodia, Taiwan, or the Indian Subcontinent

**NON-MINORITY:**

An organization that does not satisfy the criteria listed above for Minority.

**MISSOURI:**

An organization whose state of incorporation is in Missouri, or if not incorporated whose principal place of business is in Missouri.

**NON-MISSOURI:**

An organization whose state of incorporation is not in Missouri, or if not incorporated whose principal place of business is located outside Missouri.

*For example:* An organization having 50 employees, owned by a Black American, and whose General Mailing Address is Tampa, Florida would be classified as follows: Small, Minority, Non-Missouri.

**ATTACHMENT 3**  
**MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE**

Pursuant to 34.074 RSMo, Southeast Missouri State University has a goal of awarding three (3) percent of all contracts for the performance of any job or service to service-disabled veteran businesses (see below for definitions included in 34.074 RSMo) either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

**Service-Disabled Veteran** is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

**Service-Disabled Veteran Business** is defined as a business concern:

- a. not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. the management and daily business operations of which are controlled by one or more service-disabled veterans.

If a bidder meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the bidder **must** provide the following with the bid in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable:

- a. a copy of a letter from the Department of Veterans Affairs (VA), or a copy of the bidder's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the bidder was in, stating that the bidder has a service-connected disability rating ranging from 0 to 100% disability; and
- b. a completed copy of this attachment

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the bidder's discharge paper to this Attachment.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

\_\_\_\_\_  
Service-Disabled Veteran's Name  
(Please Print)

\_\_\_\_\_  
Service-Disabled Veteran Business Name

\_\_\_\_\_  
Service-Disabled Veteran's Signature

\_\_\_\_\_  
\_\_\_\_\_  
Missouri Address of Service-Disabled Veteran Business

**SOUTHEAST MISSOURI STATE UNIVERSITY  
TERMS AND CONDITIONS  
INVITATION FOR BID**

**1. TERMINOLOGY/DEFINITIONS**

Whenever the following words and expressions appear in an Invitation for Bid (IFB) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Amendment** means a written, official modification to an IFB or to a contract.
- b. **Attachment** applies to all forms which are included with an IFB to incorporate any informational data or requirements related to the performance requirements and/or specifications and which the bidder should complete and submit with the sealed bid prior to the specified opening date and time.
- c. **Bid Opening Date and Time** and similar expressions mean the exact deadline required for the physical receipt of sealed bids in the Purchasing Department.
- d. **Bidder** means the person or organization that responds to an IFB by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the IFB document.
- e. **Buyer** means the procurement staff member of the Purchasing Department. The **Contact Person** as referenced herein is usually the Buyer.
- f. **Contract** means a legal and binding agreement between two or more competent parties, in exchange for consideration, for the procurement of equipment, supplies, and/or services.
- g. **Contractor** means a person or organization who is a successful bidder as a result of an IFB and who enters into a contract.
- h. **Invitation for Bid (IFB)** means the solicitation document issued by the Purchasing Department to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Attachments, and Amendments thereto.
- i. **May** means that a certain feature, component, or action is permissible, but not required.
- j. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive and not evaluated nor considered for contract award.
- k. **Pricing Page(s)** applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the IFB. The pricing pages must be completed and submitted by the bidder with the sealed bid prior to the specified bid opening date and time.
- l. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of the University's Purchasing Department.
- m. **Shall** has the same meaning as the word must.
- n. **Should** means that a certain feature, component and/or action is desirable but not mandatory.
- o. **University and/or Southeast** means Southeast Missouri State University.

**2. APPLICABLE LAWS, REGULATIONS, AND POLICIES**

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provision shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the University.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must file and pay, in a timely fashion, all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the IFB or resulting contract shall be in the Circuit Court of Cape Girardeau County, Missouri.
- f. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.
- g. The contractor shall comply with the University's Tobacco Usage in the Workplace Policy. The University is a tobacco-free campus except in designated areas. Therefore, smoking (both indoors and outdoors) is prohibited on University property and in University vehicles except in designated areas. The use of smokeless tobacco is prohibited inside all University buildings other than student residential housing units.
- h. The contractor shall never have been terminated from a contract under section 432 of the HEA for a reason involving the acquisition, use, or expenditure of Federal, State, or local government funds, or have been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds; or contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds; or Administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds.

**3. OPEN COMPETITION/INVITATION FOR BID DOCUMENT**

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the Purchasing Department if any language, specifications or requirements of an IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the IFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the Purchasing Department. Such communication must be received no later than seven (7) calendar days prior to the official bid opening date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than seven (7) calendar days prior to the IFB opening date may not be answered.
- c. Bidders are cautioned that the only official position of the University is that which is issued by the Purchasing Department in the form of the IFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. Southeast monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The IFB and any Amendments are available for viewing and printing from the University's website. Registered bidders may be electronically notified of the bid opportunity based on the information maintained in the University's vendor database.
- f. The University reserves the right to officially amend or cancel an IFB after issuance. E-mail notification of the amendment or cancellation will not be issued.

**4. PREPARATION OF BIDS**



- a. Bidders **must** examine the entire IFB carefully. Failure to do so shall be at bidder's risk.
- b. Unless otherwise specifically stated in the IFB, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the IFB, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the bidder shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements, and (2) why the proposed equivalent should not be considered an exception thereto. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Bids lacking any indication of intent to bid an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the IFB.
- e. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the IFB clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- f. Prices shall include all packing, handling and shipping charges and must be FOB destination unless otherwise specified in the IFB.
- g. Bids, including all pricing therein, shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, the entire bid, including all prices, shall be firm for the specified contract period.
- h. Any foreign bidder not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their bid in order to be considered for award.

## 5. SUBMISSION OF BIDS

- a. All bids must (1) be signed by a duly authorized representative of the bidder's organization, (2) contain all information required by the IFB, (3) be priced as required, (4) be sealed in an envelope or container, and (5) be mailed or hand-delivered to the Purchasing Department and officially clocked in no later than the exact opening time and date specified in the IFB.
- b. Mailed bids should be clearly marked on the outermost envelope with (1) the official IFB number, and (2) the official opening date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
- c. A bid which has been delivered to the Purchasing Department may be modified by signed, written notice which has been received by the Purchasing Department prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, telegraphic, email, or faxed requests to modify a bid shall not be honored.
- d. A bid which has been delivered to the Purchasing Department may only be withdrawn by a signed, written notice or facsimile which has been received by the Purchasing Department prior to the official opening date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or e-mail requests to withdraw a bid shall not be honored.
- e. Bidders must sign and return the IFB cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all IFB terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.
- f. Faxed bids shall not be accepted unless otherwise indicated on the IFB cover sheet. However, faxed and e-mailed no-bid notifications shall be accepted.

## 6. BID OPENING

- a. Bid openings are public on the opening date and at the opening time specified on the IFB document. Names, locations, and prices of respondents shall be read at the bid opening.
- b. Bids which are not received in the Purchasing Department prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Under extraordinary circumstances, the Purchasing Department may authorize the opening of a late bid. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance: (1) University offices were closed due to inclement weather conditions or other unforeseen reasons, and (2) postal or courier services were delayed due to labor strikes or unforeseen "Acts of God".

## 7. PREFERENCES

- a. In the evaluation of bids, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority- and women-owned businesses in selecting subcontractors.
- d. In the evaluation of bids, a service-disabled veteran business preference shall be applied in accordance with Section 34.074 RSMo.

## 8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the Purchasing Department before contract award. Upon discovering an apparent clerical error, the buyer shall contact the bidder and request clarification of the intended bid. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are (1) misplacement of a decimal point, and (2) obvious mistake in designation of unit.
- b. Any pricing information submitted by a bidder shall be subject to evaluation if deemed to be in the best interest of the University.
- c. The bidder is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the University. However, unless otherwise specified in the IFB, pricing shall be evaluated at the maximum potential financial liability to the University.
- d. Award shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the IFB, (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the IFB, and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
- e. In the event all bidders fail to meet the same mandatory requirement in the IFB, the University reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, the University reserves the right to waive any minor irregularity or technicality found in any individual bid.
- f. The University reserves the right to reject any and all bids. When all bids are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, the University may negotiate for the required supplies.
- g. When evaluating a bid, the University reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.

- i. Any award of a contract shall be made by notification from the Purchasing Department to the successful bidder. The Purchasing Department reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by the Purchasing Department based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the University.
- j. All bids and associated documentation which were submitted on or before the official opening date and time will be considered open records pursuant to Section 610.021 RSMo following the official opening of bids.
- k. The Purchasing Department reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- l. The final determination of contract award shall be made by the Purchasing Department.
- m. The Purchasing Department's website will be updated upon contract award for bidders to view for a reasonable period of time.
- n. Any bid award protest must be submitted in writing and must be received within ten (10) business days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (9). A protest submitted after the ten (10) business day period shall not be considered.

## **9. CONTRACT/PURCHASE ORDER**

- a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the IFB, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of (1) the IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) University's acceptance of the response (bid) by "notice of award" or by "purchase order." All Attachments included in the IFB shall be incorporated into the contract by reference.
- c. A notice of award issued by the University does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the University, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the University.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Purchasing Department or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

## **10. INVOICING AND PAYMENT**

- a. The University does not pay state or federal taxes unless otherwise required under law or regulation. The University's Missouri sales tax exemption number is 10124128.
- b. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the University.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the IFB.
- e. The University assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the University's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the University shall be subject to late payment charges as provided in Section 34.055 RSMo.

## **11. DELIVERY**

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

## **12. INSPECTION AND ACCEPTANCE**

- a. No equipment, supplies, and/or services received by the University pursuant to a contract shall be deemed accepted until the University has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The University reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The University's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the University may have.

## **13. WARRANTY**

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the University, (2) be fit and sufficient for the purpose expressed in the IFB, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the University's acceptance of or payment for said equipment, supplies, and/or services.

## **14. CONFLICT OF INTEREST**

- a. Officials and employees of the University, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

## **15. REMEDIES AND RIGHTS**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the University of any existing or future right and/or remedy available by law in the event of any claim by the University of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the University of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the University.

## **16. CANCELLATION OF CONTRACT**

- a. In the event of material breach of the contractual obligations by the contractor, the University may cancel the contract. At its sole discretion, the University may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide the University, within 10 working days from notification, a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the University will issue a notice of cancellation terminating the contract immediately.
- c. If the University cancels the contract for breach, the University reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the University deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the University for any period in which funds have not been appropriated, and the University shall not be liable for any costs associated with termination caused by lack of appropriations.

## **17. COMMUNICATIONS AND NOTICES**

Any notice to the bidder/contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, posted to the University's website, transmitted by facsimile, transmitted by e-mail, or hand-carried and presented to an authorized employee of the bidder/contractor.

## **18. BANKRUPTCY OR INSOLVENCY**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the Purchasing Department immediately.
- b. Upon learning of any such actions, the Purchasing Department reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

## **19. INVENTIONS, PATENTS AND COPYRIGHTS**

The contractor shall defend, protect, and hold harmless the University, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

## **20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the University shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the University until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

## **21. AMERICANS WITH DISABILITIES ACT**

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

## **22. FILING AND PAYMENT OF TAXES**

The University shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in Chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore bidder's failure to maintain compliance with Chapter 144, RSMo may eliminate their bid from consideration for award.

## **23. EMERGENCIES**

In the event a catastrophic situation occurs at the University, the University may request the contractor's assistance with the emergency procurement or transportation of equipment, supplies, and/or services.

## **24. TITLES**

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.

Revised 04/01/2012