



SOUTHEAST MISSOURI
STATE UNIVERSITY · 1873

INVITATION FOR BID 5925

TITLE: INDUSTRIAL GASES

DATE: NOVEMBER 13, 2018

BUYER: SHEMMA ABDULAZIZ

EMAIL: sabdulaziz@semo.edu

PHONE: (573) 651-2202

BID MUST BE RECEIVED NO LATER THAN:

DATE: DECEMBER 4, 2018

TIME: 3:30 P.M.

DELIVERY INSTRUCTIONS

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

**ASOUTHEAST MISSOURI STATE UNIVERSITY
INDUSTRIAL GASES
INVITATION FOR BID 5925**

SCOPE OF WORK AND GENERAL INFORMATION

The contractor shall provide medical, industrial and specialty grade gases and supplies for Southeast Missouri State University that meet or exceed the specifications in accordance with all terms, conditions and requirements stated herein. The contractor shall supply chemicals and supplies to the University on an as needed, if needed, basis. The University does not guarantee any specific amount of usage under the contract.

The University currently contracts with Airgas Mid America and Ozarc Gas. The products and prices are indicated below.

Industrial Gas	Company	Cylinder Size	Price Per Cylinder \$	Monthly Rental \$
Acetylene	Ozarc Gas	B	23.00	n/a
Acetylene, 99.6%	Airgas	300 cf	77.17	3.60
Acetylene, Industrial	Airgas	110 cf	26.06	2.19
Acetylene, Industrial	Ozarc Gas	4	35.00	5.70
Acetylene, Industrial	Airgas	10 cf	8.91	2.19
Acetylene, PVT	Ozarc Gas	MC	9.00	n/a
Air, Laboratory	Ozarc Gas	T	24.26	5.70
Air, Laboratory	Airgas	318 cf	29.21	3.60
Anhydrous Ammonia, Laboratory	Airgas	53#	730.55	3.60
Argon	Airgas	125 cf	12.30	2.19
Argon	Airgas	336 cf	24.51	2.19
Argon	Ozarc Gas	M	9.10	5.70
Argon, Ultra High Pure	Airgas	336 cf	25.72	3.60
Argon, Ultra High Pure	Ozarc Gas	T	60.48	5.70
Argon/CO2	Airgas	125 cf	11.65	2.19
Argon/CO2	Ozarc Gas	T	33.82	5.70
Argon/CO2 Mixture	Ozarc Gas	M/T	12.01	5.70
Argon/CO2 Mixture	Airgas	378 cf	22.99	2.19
Argon/CO2/Oxygen Mixture	Airgas	348 cf	24.69	2.19
Argon/CO2/Oxygen Mixture	Ozarc Gas	T	33.82	5.70
Breathing Air	Ozarc Gas	H	16.24	5.70
Breathing Air	Airgas	318 cf	5.30	2.19
Carbon Dioxide	Ozarc Gas	H	12.80	5.70
Carbon Dioxide	Airgas	20 #	4.44	2.19
Carbon Dioxide	Airgas	50 #	7.39	2.19
Helium	Ozarc Gas	H	73.20	5.70
Helium	Airgas	290 cf	79.60	2.19
Helium, Ultra High Pure	Airgas	291 cf	114.83	3.60
Helium, Ultra High Pure	Ozarc Gas	T	90.00	5.70
Hydrogen, Laboratory Grade	Airgas	260 cf	115.68	3.60
Hydrogen, Ultra High Pure	Ozarc Gas	T	110.00	5.70
Hydrogen, Ultra High Pure	Airgas	259 cf	69.69	3.60
Hydrogen/Nitrogen Mixture, Laboratory Grade	Ozarc Gas	T	112.00	5.70
Hydrogen/Nitrogen Mixture, Laboratory Grade	Airgas	278 cf	181.28	3.60
Liquid Helium, Laboratory Grade	Airgas	2663 cf	621.09	26.70
Liquid Nitrogen	Ozarc Gas	50 lit	29.50	n/a
Liquid Nitrogen	Airgas	50 liq	31.93	n/a

Industrial Gas	Company	Cylinder Size	Price Per Cylinder \$	Monthly Rental \$
Liquid Nitrogen	Ozarc Gas	230 lit	88.00	45.00
Liquid Nitrogen	Airgas	230 lit	45.51	26.70
Liquid Nitrogen, Laboratory Grade	Airgas	5658 cf	45.51	26.70
Methane, Ultra High Pure	Airgas	360 cf	148.96	3.60
Methane/Argon/P-10 Mixture, Laboratory Grade	Ozarc Gas	T	79.00	5.70
Methane/Argon/P-10 Mixture, Laboratory Grade	Airgas	308 cf	92.70	3.60
Natural Gas	Airgas	360 cf	90.64	3.60
Nitrogen, High Ultra High Pure	Airgas	304 cf	9.00	3.60
Nitrogen, Industrial Size	Ozarc Gas	H	13.80	5.70
Nitrogen, Industrial Size	Airgas	304 cf	8.06	2.19
Nitrogen, Laboratory Grade	Ozarc Gas	H	18.40	5.70
Nitrogen, Laboratory Grade	Airgas	304 cf	8.86	3.60
Nitrogen, Ultra High Pure	Ozarc Gas	T	58.00	5.70
Oxygen	Airgas	251 cf	7.59	2.19
Oxygen	Ozarc Gas	M	5.00	5.70
Oxygen, Industrial	Ozarc Gas	H	10.04	5.70
Oxygen, Industrial	Airgas	125 cf	6.30	2.19
Oxygen, Industrial	Airgas	337 cf	8.48	2.19
Oxygen, Industrial	Ozarc Gas	20 cf	9.00	5.70
Oxygen, Laboratory Grade	Airgas	337 cf	46.24	3.60
Oxygen, Laboratory Grade	Ozarc Gas	H	9.41	5.70
Oxygen/Nitrogen Mixture	Airgas	218 cf	131.84	3.60
Propane	Ozarc Gas	33 #	24.75	n/a
Propane	Ozarc Gas	20 #	6.60	n/a
Sulfur Hexafluoride, Laboratory Grade	Airgas	273 cf	1,058.73	3.60

1. Gas and Containers Specifications:

- The minimum purity of any gas must be equal to, or greater than, the stated purity on the Pricing Pages. The gases shall be commercial grade, unless otherwise noted.
- The cylinder size must be within five (5) percent of the size listed on the Pricing Pages.
- All medical gases supplied in this contract must be medical grade and must be manufactured in an FDA registered facility. All medical gases must meet United States Pharmacopeia (USP) and National Fire Protection Association (NFPA) regulations.
- All compressed gas cylinders used for the packaging of gases shall be manufactured under regulations of the U.S. Department of Transportation and no gas shall be filled into a cylinder that is not properly marked to indicate that it complies with these specifications. All cylinders shall contain a positive type safety disc to meet requirements of the Department of Transportation and the Bureau of Explosives.
- Before filling special gases for analytical usage, each cylinder shall have any remaining gas removed and be inspected and tested before delivery.
- All post-type cylinder valves shall be pin indexed in accordance with Compressed Gas Association regulations.

2. Cylinder Labeling, Identification, and Certification

- All cylinders shall be affixed with a label identifying supplier's name/logo and address to ensure the correct cylinders are returned to the contractor.
- Each cylinder must list contents and grade.
- All containers/cylinders shall be marked, labeled and shipped in accordance with the nationally recognized standards and in accordance with all parts of the Code of Regulations – US Department of Transportation, Office of Hazardous Materials Regulations 49 CFR, Parts 171-185, (10/2011) and NFPA Pamphlet 58, Standard for the Storage and Handling of Liquefied Petroleum Gas Code (2017), or most current versions.
- For all high purity, ultra high purity, specialty gases as well as gas mixtures, the contractor shall provide, at no cost to the University, a "Certificate of Analysis" (COA) and/or a batch analysis for all gases being delivered under this contract. Any delivery without a COA and/or batch analysis may be deemed unacceptable and non-compliant to the terms of the contract and may be returned at the contractor's expense.
- All cylinder valves shall comply with all applicable laws, rules and regulations, including, but not limited to, those set forth by the Compressed Gas Association and the US Department of Transportation.

3. Cylinder Fittings

- All cylinder fittings shall be in accordance with the Compressed Gas Association (CGA) standards. In the event of any modifications by the CGA to these standards the University shall be notified, in writing, 30 days prior to the delivery of any modified cylinders to allow time to obtain new cylinder regulators.

4. Quality Control

- If quality problems are suspected, a technical representative shall be available within 48 hours of notification.
- Any damages due to non-compliant gases (i.e., contamination from improper gas formulations, mislabeled, or defective cylinders) shall be the responsibility of the contractor. If supplied gases are the suspected cause of any damages to the University's equipment, the University reserves the right to request an analysis by an independent laboratory. Should the analysis reveal the gas was non-compliant; the contractor shall reimburse the University for the cost of the analysis, in addition to any other damages.
- If a cylinder belonging to another vendor is picked up in error by the contractor, the contractor shall be responsible for returning the cylinder to its owner and notifying the University of this transaction.

5. Delivery and Pickup

- All deliveries are to be made directly to each requesting department, as required by individual orders. Gases should be delivered within three (3) business days unless other delivery is noted by the contractor.
 - The contractor shall be responsible for delivery and off-loading of cylinders and loading and return of empty cylinders. Pickup dates and times will be agreed upon by the ordering

department and the contractor.

- The contractor must clearly and permanently mark all cylinders owned by the contractor.
- After each delivery and pickup, the contractor shall provide and leave a packing slip or other similar document with the University contact that contains:
 - Size, serial number and contents of each container delivered.
 - Size, serial number and contents of each container rejected.
 - Size, serial number and contents of each container ready to be returned.
 - Size, serial number and contents of each container actually returned.
 - Date of delivery/pickup.
 - Name of driver.
 - Signature of driver and University contact.
- All cylinders requiring metal caps shall be securely applied on delivery.
- Contractor must keep a sufficient back-stock of commonly used gases.
- Contractor shall designate a representative to visit with the University's designee, if requested, to assess, analyze, and recommend changes to service.
- Contractor shall provide the name and contact information of a representative who will be available 24 hours a day, 7 days a week, in the event of an emergency.
- Contractor shall provide the services and products contained herein in such a manner that does not result in damage to existing structures or equipment. In the event that damage does occur during the performance of this contract, the contractor shall repair or replace the damage at no cost to the University. If the contractor fails or refuses to make proper repairs or replacements, the contractor shall be liable for the cost thereof, which may be deducted from unpaid invoices or recovered by any other means provided by law.
- University-owned cylinders which are eligible for extended hydrostatic re-test periods, testing by modified hydrostatic method or visual inspection in lieu of hydrostatic testing, shall be serviced by the contractor by means which will comply with US Department of Transportation, Office of Hazardous Materials Safety 49 CFR. When modified or reduced, such testing requirements are contingent upon post usage of the cylinders. A written statement from the University indicating that the cylinders have been used exclusively for a specific gas may be considered acceptable evidence of the cylinders' eligibility for modified testing or inspection.
 - Hydrostatic testing shall be in compliance with US Department of Transportation, Office of Hazardous Materials Safety 49 CFR. Visual inspection in lieu of hydrostatic testing, where permitted by the above regulations, shall be performed in accordance with "Standards for Visual Inspection of Compressed Gas Cylinders", Pamphlet C-6, Compressed Gas Association, Inc.
 - Upon completion of the hydrostatic test and visual inspection, the interior of the cylinder shall be dried and cleaned in a manner that will prevent moisture from condensing on the walls of the cylinder.

6. Safety Data Sheets

- The contractor shall submit a Safety Data Sheet, in accordance with the requirements of 29 CFR 1910.1200(g) for all hazardous material. Data shall be submitted whether or not the contractor is

the actual manufacturer of these items. Failure to submit the Safety Data Sheet before the use of any hazardous material shall result in termination of the contract with the contractor for default.

- The list of hazardous material in effect at commencement of this contract must be updated during performance of the contract whenever the contractor determines that any hazardous material not previously listed is to be delivered under this contract.
- During performance of the contract, if there is a change in the composition of the item(s) which renders incomplete or inaccurate the data previously submitted, the contractor shall promptly notify the ordering department and submit complete and accurate data.
- Nothing contained in this clause shall relieve the contractor from complying with applicable Federal, State, and local laws, codes, ordinances and regulations (including the obtaining of licenses and permits) regarding hazardous materials.
- The University's rights in data furnished under this contract with respect to hazardous material are to use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to —
 - Advise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;
 - Obtain medical treatment for those affected by the material; and
 - Have others use, duplicate, and disclose the data for the University for these purposes.
- The University is not precluded from using similar or identical data acquired from other sources.

7. Returnable Cylinders

- Cylinder, referred to in this clause, is a pressure vessel having a circular cross section.
- Returnable cylinders shall remain the contractor's property but shall be leased to the University for a period of one year (hereafter referred to as lease period) following the day of delivery to the FOB point specified in the contract. The lease fee, as specified in the Pricing Page, per cylinder, shall be computed separately for cylinders by type, size, and capacity and for each point of delivery named in the contract.
- For each cylinder lost or damaged beyond repair while in the University's possession, the University shall pay to the contractor the replacement value, less the allocable lease paid for that cylinder (If applicable) as specified on the Pricing Pages. These cylinders shall become University property.
- If any lost cylinder is located within thirty calendar days after payment by the University, it may be returned to the contractor by the University, and the contractor shall pay to the University an amount equal to the replacement value, less the additional lease computed in accordance with paragraph above, and continuing to the date on which the cylinder was delivered to the contractor.

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GENERAL CONTRACTUAL REQUIREMENTS

This portion of the IFB pertains to the bidder selected for final contract award ("contractor").

1. The contract shall not bind, nor purport to bind, the University for any contractual commitment in excess of the original contract period, which is anticipated to be January 1, 2019, through December 31, 2019. The University shall have the right, at its sole option, to extend the contract for three (3) one year periods, or any portion thereof. In the event that the University exercises such right, all terms, conditions, and specifications of the original contract, as amended, shall remain the same and apply during the extension period.
 - 1.1 If an extension option is exercised, the contractor shall agree that the price(s) stated on the Pricing Pages shall not be increased in excess of the maximum percentage of increase for the applicable option.
 - 1.2 The percentage of increase for each extension option shall be computed against and added to the price(s) stated on the Pricing Pages for the original contract period. The increase is not a cumulative increase. If the Pricing Pages do not include such percentages or if applicable spaces are not completed by the contractor, the price(s) during extension periods shall be the same as during the original contract period.
 - 1.3 The University may not automatically exercise an extension option based upon the maximum percentage of increase and reserves the right to request justification from the contractor supporting the requested increase. The University reserves the right to request an extension of the contract at a price less than that price derived from the contractor's maximum percentage of increase.
 - 1.4 In the event of an extended re-procurement effort and the contract's available renewal options have been exhausted, the University reserves the right to extend the contract. If exercised, the extension shall be for a reasonable period of time as mutually agreed to by the University and the contractor at the same terms, conditions, provisions, and pricing in order to complete the procurement process and to transition to the new contract.
2. All prices and percentages shall be as indicated on the Pricing Pages 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.
 - 2.1 Payment for all goods required herein shall be made in arrears on a regular basis.
 - 2.2 Invoices that do not contain the correct pricing, as indicated on the Pricing Page of this document, may experience delay in payment and/or be returned to the contractor for correction.
 - 2.3 In the event the scope of work is revised by the University, additional compensation shall be considered and negotiated at that time.
3. The contractor agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the University may secure identical and/or similar services from other sources at anytime in conjunction with or in replacement of the contractor's service.
4. 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.

5. The contractor shall fully coordinate its activities in the performance of the contract with those of the University.
6. In accordance with all applicable provisions of the Revised Statutes of the State of Missouri, no official or employee of the University or its governing body and no other public official of the State of Missouri who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Scope of Work covered by the contract shall voluntarily acquire any personal interest, directly or indirectly, in the contract.
7. If the services specified in the contract require the contractor to: (1) operate a vehicle over 26,000 pounds, (2) haul hazardous materials, (3) transport more than 15 passengers, or (4) engage in any other activity outlined in the Uniform Commercial Driver License Act, the vehicle's driver must meet the requirement of the Uniform Commercial Drivers License Act. The contractor must submit proof of such if requested by the University.
8. 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. The insurance shall include an endorsement that adds the University as an additional insured. 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.
9. In the event of manufacturer discontinuation of a contract item, the contractor shall substitute an item with equal or better capabilities for equal or less cost than the discontinued item. The contractor shall not substitute any item without final approval of the University. The University shall be the final authority as to the acceptability of requested substitutions and reserves the right to accept or reject any substitution requests.
10. Authorized Personnel: 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.
 - 10.1 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 University 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 University may also withhold up to twenty-five percent of the total amount due to the contractor.

- 10.2 The contractor shall agree to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
- 10.3 If the contractor meets the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo the contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the contractor's business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo then the contractor shall, prior to the performance of any services as a business entity under the contract:
- a. Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
 - b. Provide to the University the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
 - c. Submit to the University a completed, notarized Affidavit of Work Authorization provided in the attachment titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

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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 www.semo.edu/purchasing/bids. Bidders are encouraged to check such frequently. Additionally, the University will update the website immediately upon award.
2. Bids must be completed, signed, and returned (with all necessary attachments) to the Purchasing Department by the opening date and time as specified on the IFB cover sheet. In addition to the original bid, the bidder should include two (2) copies of his/her bid. However, the University only requests copies of any pages completed by the bidder and any additional pages added by the bidder. Copies of the original Invitation for Bid package or any attachments thereto are not needed.
3. Any bidder with questions should contact Shemma Abdulaziz, 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. Inappropriate contacts are grounds for suspension and/or exclusion from this procurement or future procurements.
 - 3.1 It is preferred that all questions be emailed to sabdulaziz@semo.edu. All questions must be submitted no later than seven (7) calendar days prior to the bid opening.
4. It shall be the bidder's responsibility to ask questions, request changes or clarifications, or otherwise advise the Purchasing Department if any language, specifications or requirements 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. The bidder must submit such in writing no later than seven calendar days prior to the IFB opening date via email at sabdulaziz@semo.edu.
5. EVALUATION PROCESS: The award of a contract resulting from the IFB shall be based on the following evaluation criteria. The evaluation criteria is further defined in subsequent paragraphs. Failure to provide adequate information for evaluation of the below listed criteria may result in minimal subjective consideration and/or rejection of the bidder's package. The University anticipates multiple awards.

5.1	Cost.....	75%
5.2	Experience and Reliability of Bidder's Organization.....	10%
5.3	Proposed Products/Contractor Support.....	15%
6. COST: Cost shall be evaluated based upon the firm, fixed prices indicated by the bidder on the Pricing Page. Percentages quoted for extension options shall also be considered in the evaluation of cost.
 - 6.1 The bidder shall not be entitled to any other form of payment or reimbursement not specifically provided for by this document. Discount shall be evaluated as part of the subjective criteria.
 - 6.2 Rental charges shall also be considered in the evaluation of cost.
7. EXPERIENCE AND RELIABILITY OF BIDDER'S ORGANIZATION
 - 7.1 The bidder should submit at least three (3) customers who have acquired the same or similar type of product/services from the bidder. Each reference should include organization name, contact person with respective e-mail address, title, telephone number, and address. In addition,

the bidder should provide a brief description of services performed for each reference. The bidder may utilize Attachment 1 to provide this information.

- 7.2 The bidder is advised to submit any information which documents successful and reliable experience in past performances similar in nature to the requirements specified in this document. Specifically, the bidder should address which products have been supplied for use in health care facilities, educational institutions, and municipal, state and other governmental institutions for the previous two (2) years.
- 7.3 The bidder should describe the geographic area served by the bidder's company.
8. PROPOSED PRODUCTS/CONTRACTOR SUPPORT: Bids will be subjectively evaluated for product and contractor support. The bidder must completely describe all proposed items for evaluation purposes.
 - 8.1 The bidder should describe, in detail, all gases proposed and how such meet the requirements stated in the Scope of Work portion of this document. The bidder is encouraged to describe and list all gases that might be purchased by the University. It is the bidder's responsibility to ensure that all items proposed are adequately described. The bidder should not assume that members of the evaluation committee have specific knowledge of gases; however, each member of the committee does have sufficient technical background to conduct an evaluation when presented with complete information.
 - 8.2 The bidder should describe the systems used to contain, label, and dispense products. Features of the product identification system which ensure safe and correct product usage should be clearly explained. Methods such as product numbering, matching symbols, and/or color coding should be included in the bidder's product description.
 - 8.3 The bidder should specify whether any specific individual will be assigned to the University as a single point of contact.
9. Attachment 2: It is the intent of Southeast Missouri State University to seek and solicit vendor participation from certified minority, women, Missouri service-disabled veteran owned businesses, and blind/sheltered workshops. Therefore, the offeror is requested to complete and return Attachment 2 with the bid/proposal response. Completion of this Attachment does not affect contract award.
10. Affidavit of Work Authorization and Documentation: Pursuant to section 285.530, RSMo, if the bidder meets the section 285.525, RSMo definition of a "business entity", <http://www.moga.mo.gov/statutes/C200-299/2850000525.HTM>, the bidder must affirm the bidder's enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services requested herein. The bidder should complete applicable portions of Attachment 3, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization. The applicable portions of Attachment 3 must be submitted prior to an award of a contract.
11. The attached Terms and Conditions, Invitation for Bid (revised 10/09/18), 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 bid.

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PRICING PAGE

1. Industrial Gases – See Itemized Pricing Page
The bidder must state a firm, fixed price or “no-bid” for each gas listed. The bidder must include pricing for all available cylinder sizes, monthly cylinder rental and cylinder purchase prices. The bidder is encouraged to provide pricing for other gases that are available. All prices must include all applicable charges (shipping, handling, dispensing, training etc.) including hazardous material and fuel surcharges. No additional charges will be allowed. The University will only accept items shipped FOB destination.

2. Urgent Delivery: If a University department has an urgent need for delivery which cannot be met by scheduled delivery date/time, please indicate if you are willing to provide urgent delivery.

_____ Yes _____ No

If yes, please provide the following:

Delivery will be made within _____ hours of request

Urgent Delivery Charge: _____ firm, fixed cost

3. In the event the University exercises its option to renew the contract, the bidder must state the maximum percentage of increase to be applied to the above prices for each renewal period. Statements such as “consumer price index” or “cost of living increase” are not acceptable. The bidder is strongly encouraged to review page 7, paragraph 1 before completing this section. Failure to complete this section may result in rejection of the bid.

Please note: The percentage of increase indicated below by your organization is computed against and added to the original bid prices, NOT against the previous year’s prices. Therefore, if you anticipate a yearly increase of 1%, you will need to indicate 1% for renewal year one, 2% for renewal year two, etc.

_____ % Maximum percentage of increase
First twelve-month renewal period

_____ % Maximum percentage of increase
Second twelve-month renewal period

_____ % Maximum percentage of increase
Third twelve-month renewal period

4. The bidder must provide a firm, fixed discount off list price for other items provided by the bidder, but not listed on the Pricing Page. This can include support equipment, accessories and supplies. The discount off list price must include all applicable charges (shipping, handling, etc.) and must be stated FOB destination.

_____ % firm, fixed discount off list price

By signature below, the bidder affirms that all prices and percentages are quoted pursuant to the terms and conditions of Invitation for Bid 5925. 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 laws of the 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.

In addition, the contractor shall maintain enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services included herein.

Company Name

Signature/Date

**ATTACHMENT 1
BIDDER'S EXPERIENCE**

The bidder should provide three (3) references as requested.

Organization Name _____

Contact Person _____

E-mail Address _____

Address _____

Telephone No. _____

Brief Description _____

Organization Name _____

Contact Person _____

E-mail Address _____

Address _____

Telephone No. _____

Brief Description _____

Organization Name _____

Contact Person _____

E-mail Address _____

Address _____

Telephone No. _____

Brief Description _____

ATTACHMENT 2 VENDOR INFORMATION

It is the intent of Southeast Missouri State University to seek and solicit vendor participation from certified minority, women, Missouri service-disabled veteran owned businesses, and blind/sheltered workshops. Please complete the applicable sections of this form and return with your bid or proposal response. Completion of the following information does not affect purchase order/contract award.

SECTION I

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 |

DEFINITIONS:

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:

- Black American
- Hispanic American with origins from Puerto Rico, Mexico, Cuba, South or Central America
- Native Indian, Eskimo, or Native Hawaiian
- 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:

- Small, Minority, Non-Missouri

SECTION II

SERVICE-DISABLED VETERAN STATUS

Service-Disabled Veteran (SDV): Any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business Enterprise (SDVE): a business concern

- 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
- the management and daily business operations of which are controlled by one or more service-disabled veterans.

If a bidder meets the standards of a qualified SDVE 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, please provide the following:

- a copy of an award 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); AND
- a completed copy of this section

By signing below, I certify that I meet the standards of a SDVE as defined in section 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

MO Address of Service-Disabled Veteran Business

SECTION III

BLIND OR SHELTERED WORKSHOP

Indicate appropriate business classification (s):

_____ Organization _____ Sheltered
for the Blind Workshop

Organization Name: _____

Organization Address: _____

Organization Contact Name: _____

Email Address: _____

Phone Number: _____

Certification Number: _____

(or attach a copy of certificate)

Certification Expiration Date: _____

Authorization Signature of Participating Organization
(Organization of the Blind or Sheltered Workshop)

Date

ATTACHMENT 3
BUSINESS ENTITY CERTIFICATION, ENROLLMENT DOCUMENTATION,
AND AFFIDAVIT OF WORK AUTHORIZATION

BUSINESS ENTITY CERTIFICATION:

The bidder must certify their current business status by completing either Box A or Box B on this Attachment.

BOX A: To be completed by a non-business entity as defined below.

BOX B: To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at <https://www.e-verify.gov/>.

Business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term “**business entity**” shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term “**business entity**” shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term “**business entity**” shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities, out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

BOX A – CURRENTLY NOT A BUSINESS ENTITY

I certify that _____ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo as stated above, because: (check the applicable business status that applies below)

- I am a self-employed individual with no employees; **OR**
- The company that I represent utilizes the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

I certify that I am not an alien unlawfully present in the United States and if _____ (Company/Individual Name) is awarded a contract for the services requested herein under _____ (IFB/RFP/RFQ number) and if the business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo then, prior to the performance of any services as a business entity, _____ (Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide Southeast Missouri State University with all documentation required in Box B of this attachment.

Authorized Representative's Name
(Please Print)

Authorized Representative's Signature

Company Name (if applicable)

Date

ATTACHMENT 3 continued

BOX B – CURRENT BUSINESS ENTITY STATUS

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530.

Authorized Business Entity
Representative's Name
(Please Print)

Authorized Business Entity
Representative's Signature

Business Entity Name

Date

E-Mail Address

As a business entity, the bidder/offeror/contractor must perform/provide each of the following. The bidder/offeror/contractor should check each to verify completion/submission of all of the following:

- Enroll and participate in the E-Verify federal work authorization program (Website: <https://www.e-verify.gov/>; Phone: 888-464-4218; Email: e-verify@dhs.gov) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder's/offeror's name and the MOU signature page completed and signed, at minimum, by the bidder/offeror and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the bidder's/offeror's name and company ID, then no additional pages of the MOU must be submitted.; AND
- Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Attachment.

**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.
- 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 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.
- e. 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.
- f. The contractor shall comply with the University's Tobacco Usage in the Workplace Policy. The University is a smoke-free, tobacco-free campus. Therefore, smoking and using tobacco products (both indoors and outdoors) is prohibited on University property and in University vehicles.
- g. 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. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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, ethnicity, religion, national origin, sex, sexual orientation, gender identity, age, genetic information, disability, or protected 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.

20. 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).

21. 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.

22. 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.

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