

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

1. BIDDING REQUIREMENTS:

- 1.1 Bidders must comply with all applicable federal, state and local laws, rules, regulations and ordinances and statutes relating to purchasing in the State of Texas in addition to the requirements of this form.
- 1.2 Bidders must price per unit shown. Unit prices shall govern in the event of extension errors.
- 1.3 Bids must be submitted at utrgv.bonfirehub.com. This Bid Portal will log the date and time of bid submission. Late and/or unsigned bids will not be considered under any circumstances.
- 1.4 Quote F.O.B. destination, freight prepaid and allowed. Otherwise, show exact delivery cost and terms.
- 1.5 Bid prices are requested to be firm for UTRGV acceptance for 60 days from bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts offered will be taken if earned.
- 1.6 Bid cannot be altered or amended after opening time. Alterations made before opening time should be initialed by bidder or his authorized agent. No bid can be withdrawn after opening time without approval by UTRGV based on an acceptable written reason.
- 1.7 Purchases made for State use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.
- 1.8 UTRGV reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of UTRGV.
- 1.9 Consistent and continued tie bidding could cause rejection of bids by UTRGV and/or investigation for antitrust violations.

2. SPECIFICATIONS:

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

3. TIE BIDS - Awards will be made in accordance with Rule 1 TAC Section 113.6 (b) (3) and 113.8 (preferences).

4. DELIVERY:

- 4.1 Show number of days required to place material in receiving agency's designated location under normal conditions. Failure to state delivery time obligates bidder to delivery in 14 calendar days. Unrealistic delivery promises may cause bid to be disregarded.
- 4.2 No substitutions permitted without written approval of UTRGV.

- 4.3 Delivery shall be made during normal working hours only, unless prior approval has been obtained from UTRGV.
- 4.4 The Texas Health and Safety Code, Chapter 502, Texas Hazard Communication Act, requires chemical manufacturers and distributors to provide Material Safety Data Sheets (MSDS's) for hazardous materials sold. Products covered by this Act must be accompanied by a MSDS and such products must be labeled in compliance with the law. For any product not covered under the Act, a statement of exemption must be provided.
5. INSPECTION AND TESTS - All goods will be subject to inspection and test by UTRGV. Authorized UTRGV personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by the vendor in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at UTRGV's option, be returned to the vendor or held for disposition at vendor's expense. Latent defects may result in revocation of acceptance.
6. AWARD OF CONTRACT - A response to the IFB is an offer to contract based upon the terms, conditions and specifications contained herein. Bids do not become contracts until they are accepted through a purchase order. The contract shall be governed, construed and interpreted under the laws of the State of Texas. The factors listed in Texas Government Code, Title 10, Subtitle D, Section 2156.007 shall also be considered in making an award.
7. BEST VALUE: The bidder awarded an order under this IFB will be that bidder whose quotation, as presented in their response to this IFB, provides best value to UT Rio Grande Valley. In addition to price, the factors set forth in Section 51.9335 Education Code, will be considered in determining an award. The University reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of the University. Any contract may also be extended up to three months at the sole discretion of the University.
8. PAYMENT: Vendor shall submit an itemized invoice showing the Purchase Order number UTRGV will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. For restrictions regarding prepayment, see section 11, below.
9. PATENTS OR COPYRIGHTS: Vendor agrees to protect the University from claims involving infringement of patents or copyrights.
10. VENDOR ASSIGNMENTS - Vendor hereby assigns to UTRGV any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967). Inquires pertaining to IFBs must give IFB number, codes and opening date.
11. BIDDER AFFIRMATION - Signing this bid with a false statement is a material breach of contract and shall void the submitted bid or any resulting contracts, and the bidder shall be removed from all bid lists. By signature hereon affixed, the bidder hereby certifies that:
 - 11.1 The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.
 - 11.2 The bidder is not currently delinquent in the payment of any franchise tax owed the State of Texas.
 - 11.3 Bidder hereby certifies that neither bidder nor the firm, corporation, partnership or institution represented by bidder, or anyone acting for such firm, corporation, or institution is currently on hold, suspended or debarred by any State of Texas or Federal Agency, or has been excluded from participation in any federal reimbursement program.
 - 11.4 Neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State or the Federal Antitrust Laws (see section 9, above), nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.
 - 11.5 The bidder has not received compensation for participation in the preparation of the specifications for this IFB.
 - 11.6 Pursuant to Section 231.006(c), Family Code, bid must include names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the bid. Bidders that have pre-registered this information on the TBPC Centralized Master Bidders List have satisfied this requirement. If not pre-registered, attach name & social security for each person.
 - 11.7 Pursuant to Section 231.006(d), Family Code, re: child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and any payment may be withheld if this certification is inaccurate.

- 11.8 Pursuant to Section 2155.004 Government Code, re: collection of state and local sales and use taxes, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
- 11.9 Bidder certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 11.10 The bidder shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents, and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities arising out of, connected with, or resulting from any acts or omissions of bidder or any agent, employee subcontractor, or supplier of bidder in the execution or performance of this contract.
- 11.11 Bidder agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
- 11.12 Bidder certifies that they are in compliance with section 618.003 of the Government Code, relating to contracting with executive head of a State agency. If section 618.003 applies, the bidder will complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____ Date of Separation from State Agency : _____
 Name of State Agency: _____ Date of Employment with Bidder: _____

- 11.13 Bidder agrees to comply with Government Code 2155.4441, pertaining to service contract use of product produced in the State of Texas.
- 11.14 Pursuant to Section 361.965 of the *Texas Health and Safety Code*, in the event that Bidder is selling or leasing 'computer equipment' to the University as defined in Section 361.952 (2) of *the Texas Health and Safety Code*, Bidder certifies that it is in full compliance with the State of Texas Computer Equipment Recycling Program set forth in Chapter 361, Subchapter Y of the *Texas Health and Safety Code* and acknowledges that this bid may be terminated and payment will be withheld if this certification is inaccurate.
- 11.15 This order may be funded wholly or partially with federal funds subject to the *American Recovery and Reinvestment Act* of 2009 (ARRA). The vendor shall comply with all applicable provisions of ARRA, which may include, but are not limited to the provisions in Division A, Titles XV and XVI (e.g., audit provisions, whistleblower protection, and preferences for American products).
- 12. ACCESS BY INDIVIDUALS WITH DISABILITIES - Bidder represents and warrants ("EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it provides to the University under this Bid (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent Bidder becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Bidder represents and warrants that it will, at no cost to University, either
 - (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Bidder is unable to do so, then the University may terminate this Order and Bidder will refund to the University all amounts the University has paid under this Order within thirty (30) days after the termination date.
- 13. BIDDER CERTIFICATION REGARDING BOYCOTTING ISRAEL: Pursuant to [Chapter 2270, Texas Government Code](#) Bidder certifies Bidder (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Bidder acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 14. BIDDER CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS: Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Bidder certifies Bidder is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Bidder acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

If applicable, Bidder must comply with the following requirements:

- 15. INSURANCE: If Bidder's employees, agents, suppliers or subcontractors will be present on University's property, Bidder will maintain and cause its agents, suppliers and subcontractors (if any) to maintain the following insurance coverages for at least the specified limits:

<u>Coverages</u>	<u>Limits</u>
Workers' Compensation	Statutory Limits
Employer's Liability	\$1,000,000 per accident and employee
Commercial General Liability (including contractual liability)	\$1,000,000 per occurrence

Personal & Advertising Injury	\$1,000,000 per occurrence
Product/Completed Ops	\$1,000,000 aggregate
Business Auto Liability	\$1,000,000 combined single limit
General Aggregate	\$2,000,000 per policy limit

16. Subcontracting: Bidder will use good faith efforts to subcontract the goods or services performed under this Purchase Order in accordance with the Bidder's Historically Underutilized Business Subcontracting Plan ("HSP") submitted in connection with this Purchase Order, if any. Except as specifically provided in the HSP, Bidder will not subcontract any of its duties or obligations under this Purchase Order, in whole or in part. This Purchase Order is subject to [34 TAC §20.285](#). Bidder will comply with all of its duties and obligations under [34 TAC §20.285](#). In addition to other rights and remedies, University may exercise all rights and remedies authorized by [34 TAC §20.285](#).
17. Responsibility FOR INDIVIDUALS PERFORMING WORK; CRIMINAL BACKGROUND CHECKS: Each individual who is assigned to perform services under this Purchase Order will be an employee of Bidder or an employee of a subcontractor engaged by Bidder. Bidder is responsible for the performance of all individuals performing services under this Purchase Order. Prior to commencing services, Bidder will (1) provide University with a list ("List") of all individuals who may be assigned to perform services, and (2) have an appropriate criminal background screening performed on all the individuals. Bidder will determine on a case-by-case basis whether each individual assigned to perform services is qualified to provide the services. Bidder will not knowingly assign any individual to provide services on University's campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Bidder will update the List each time there is a change in the individuals assigned to perform services. Prior to commencing performance of services under this Purchase Order, Bidder will provide University a letter signed by an authorized representative of Bidder certifying compliance with this Section. Bidder will provide University an updated certification letter each time there is a change in the individuals assigned to perform services.
18. INSTALLATION: If installation of goods is procured under this Purchase Order, Bidder will properly install or set up the goods in accordance with the manufacturer's recommendations. Bidder will remove from University's premises, and properly dispose of, or recycle, all waste materials, including packaging. Bidder will not deposit waste materials in University waste receptacles.
19. HIPAA COMPLIANCE: Bidder agrees to keep private and to secure any information provided by University that is considered either Individually Identifiable Health Information ("IIHI") by the Health Insurance Portability and Accountability Act of 1996, codified at 42 USC § 1320d through d-8 ("HIPAA"), or Protected Health Information ("PHI") as promulgated in 45 CFR Part 164 ("HIPAA Privacy Regulations") and 45 CFR Part 142 ("HIPAA Security Regulations"). Bidder agrees to only use and disclose PHI (i) received from University, (ii) used, created, received, maintained or disclosed by University, or (iii) otherwise associated with University (collectively, "University PHI") as required to perform the services outlined in this Purchase Order, which services may include the proper management and administration of this Purchase Order and data aggregation services for the health care operations of University. Bidder will not use or further disclose University PHI other than as permitted under this Purchase Order and Bidder will use appropriate safeguards to prevent the use or disclosure of University PHI for any reason other than as provided by this Purchase Order. Bidder agrees to promptly notify University of any use or disclosure of University PHI not permitted under this Purchase Order. Bidder agrees to notify University of its corrective actions to cure any breaches of this Section, HIPAA, or the HIPAA Privacy Regulations as soon as possible. Bidder understands that University may terminate this Purchase Order immediately without liability to Bidder if Bidder's actions are not successful in remedying the breach. University may also report the problem to the Secretary of Health and Human Services. Bidder will require any of its agents or subcontractors who receive University PHI to be bound by the same restrictions and conditions set forth in this Purchase Order. Bidder agrees to comply with §164.524 (Access of Individuals to PHI), 164.526 (Amendment of PHI) and 164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Regulations. Bidder agrees to make its internal practices, books, and records relating to the use and disclosure of University PHI available to the Secretary of Health and Human Services or University for purposes of determining the Bidder's compliance with the HIPAA Privacy Regulations. After Bidder has completed working with or using University PHI, Bidder agrees to return or destroy all University PHI, if feasible, and if not feasible, Bidder agrees to continue to protect University PHI from wrongful uses and disclosures. If Bidder decides to destroy University PHI under this Purchase Order, Bidder will maintain a record of the proper destruction of University PHI or provide University with notice and certification of proper destruction of University PHI.
20. FEDERAL FUNDING PROVISIONS: If this Purchase Order is made with federal funds awarded to University, the following provisions are made a part of this Purchase Order, as applicable:
- 20.1 (a) Equal Employment Opportunity. Bidder agrees to comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.E. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 20.2 (b) Copeland "Anti-kickback" Act (18 U.S.C. 874 and U.S.C. 276c). When the value of this Purchase Order exceeds \$2,000 for construction or repair, Bidder and any subcontractors will comply with Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, "Bidders and Sub-bidders on Public Buildings or Public Works Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each bidder or sub-recipient will be prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work, to give up any part of the compensation to which he is otherwise

- entitled. University is bound to report all suspected or reported violations to the federal awarding agency.
- 20.3 (c) Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7). When required by federal program legislation and the value of this Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7). When required by federal program legislation and the value of this Purchase Order exceeds \$2,000, Contract and any subcontractors will comply with the Davis-Bacon Act (40 U.S.C. 276a- to a-7) as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, bidders will be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, bidders will be required to pay wages not less than once a week. Should the Davis-Bacon Act apply to this Purchase Order, this Contract is conditioned upon the acceptance by the Bidder of the wage determination. University is bound to report all suspected or reported violations to the federal awarding agency.
- 20.4 (d) Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended. When the value of this Purchase Order exceeds \$100,000, the Bidder agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.). University is bound to report violations to the federal awarding agency and the Regional Office of the Environmental Protection Agency.
- 20.5 (e) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). When the value of this Purchase Order exceeds \$100,000, the Bidder and its subcontractors are required to file the required Anti-Lobbying Certification certifying that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. Bidder and its subcontractors will also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded from tier-to-tier up to University.
- 20.6 (f) Debarment and Suspension (E.O.s 12549 and 12689). When the value of this Purchase Order equals or exceeds \$25,000, the Bidder, by accepting this Purchase Order, certifies that neither it nor its principal employees, owners or directors have been debarred, suspended, or otherwise excluded by agencies to receive federal funds.
- 20.7 (g) Rights to Inventions Made Under this Purchase Order. If this Purchase Order is made for the performance of experimental, developmental, or research work, and the parties have not otherwise contracted in a separate document, rights to inventions made under this Purchase Order will, when applicable, be covered by 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements.
- 20.8 (h) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). When the value of this Purchase Order exceeds \$2,000 for construction or \$2,500 for all other purposes and when the employment of mechanics or laborers is required, Bidder will comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each bidder will be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic will be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- 20.9 (i) EEOC and Veterans. This bidder and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime bidders and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
- 20.10 Federal Requirements for Telecommunications Equipment or Services
- a) Contractor represents that it will not provide covered telecommunications equipment or services, as defined in 2 CFR § 200.216, to University in the performance of this Agreement or any contract, subcontract, or other contractual instrument resulting from this Agreement.
- b) In the event Contractor identifies covered telecommunications equipment or services, as defined in 2 CFR § 200.216, used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of this Agreement, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report information about the contract, equipment item, and mitigation measures to University within one business day, and provide University with an update within ten business days that includes measures to prevent recurrence.

21. NOTE TO BIDDERS - Any terms and conditions attached to a bid will not be considered unless specifically referred to on this bid form.

WARNING: Such terms and conditions may result in disqualification of the bid. (e.g. bids with the laws of a State other than Texas, requirements for prepayment not defined in or allowed for in this IFB, limitations on remedies, etc.)