

THE UNIVERSITY OF TENNESSEE

GENERAL BID CONDITIONS

COMMITMENT TO DIVERSITY: The University of Tennessee, consistent with state and federal law, seeks to optimize business opportunities for small and minority-owned businesses. The University will seek to do business with firms and organizations that demonstrate and embrace diversity within their programs and policies. Through these efforts The University of Tennessee will actively pursue its goal of building a more reflective marketplace for the community within the State of Tennessee.

1. **PREPARATION OF BIDS:**

- A. Failure to examine any drawings, specifications, and instructions will be at the bidder's risk.
- B. All prices and notations must be printed in ink or typewritten. No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent, and must be initialed in ink by person signing bid.
- C. Price each item separately. Unit prices shall be shown. Discounts other than "TIME" discount offered should be deducted from the unit price. Bid prices should be Net.

2. **DISCREPANCIES:** Should any bidder find discrepancies in or, omissions from, the specifications, or be in doubt as to their meaning, the bidder shall notify the Purchasing Department at once and obtain a clarification prior to submitting a proposal. Interpretations which change the terms, conditions or specifications will be made in the form of an addendum to this Request for Quotations (RFQ). If issued, the addendum will be sent promptly to all parties to whom the request for quotations has been issued.
3. **ACCEPTANCE AND REJECTION:** The University reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid.
4. **TIME OF ACCEPTANCE:** If a bidder fails to state a time within which a bid must be accepted, it is understood and agreed that the University shall have sixty (60) days beyond the bid opening date to accept.
5. **NO BID:** If not submitting a bid, respond by returning the RFQ form marked "NO BID" and completing the last page of the form. Repeated failure to quote without sufficient justification shall be cause for removal of the supplier's name from the bid mailing list. **NOTE:** To qualify as a respondent, bidder must submit a "NO BID", and it must be received no later than the stated bid opening date and hour.
6. **ERRORS IN BIDS:** In case of errors in the extension of prices in the bid, the unit price will govern. No bid shall be altered, amended, or withdrawn after specified time for opening bids. Negligence on the part of the bidder in preparing the bid confers no right for either the withdrawal or change of the bid after it has been opened.
7. **SIGNATURE ON BID:** Each bid must give the full name and business address of the bidder. The title of the person signing the bid should be shown, and, if requested by the Purchasing Department, that person must furnish satisfactory proof of authority to bind the company in contract. Bids must be written with typewriter, ink, or indelible pencil; otherwise, they may not be considered. A representative or distributor bidding in the name of a principal should give the name of the firm to which an order should be issued in the event of an award.
8. **QUALIFYING STATEMENTS AND LATE BIDS:** No qualifying letters or statements will be considered. Late bids will be rejected.
9. **DISCOUNTS:** Please quote any applicable educational discounts afforded to a state university. Discount for prompt payment periods of less than thirty (30) days will not be considered in the award process. Discounts offered for prompt payment will be taken if earned. Time will be computed either from the date of delivery at destination or from the date a correct invoice is received, whichever is later. Discounts shall apply to the total amount unless freight charges are itemized separately.
10. **SUBMITTING BIDS:** It is the bidder's responsibility to assure that his bid is delivered at the proper time and place indicated on the RFQ form. Bids which for any reason are not so delivered will be rejected.
11. **DELIVERY:** The number of calendar days in which delivery will be made after receipt of order shall be stated in the space provided on the RFQ form.
12. **EXPEDITED DELIVERY:** It is the vendor's responsibility to expedite delivery and to pay for any additional charges of special handling to prevent shipments from being late.
13. **BACK ORDERS:** If it is necessary to back order any items, the vendor should notify the consignee and advise of the expected shipping or delivery date. If this date is not acceptable, the University may seek remedies for default.
14. **SPECIFICATIONS/BRAND NAMES:** It is understood that reference to available specifications shall be sufficient to make the terms of such specifications binding on the contractor. Any reference to brand names and numbers in the RFQ is descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the standards of quality thereby indicated will be considered, unless otherwise specified, providing the bid clearly describes the article offered and how it differs from the referenced brands. Unless the bidder specified otherwise, it is understood that the bidder is offering a referenced brand item as specified in the RFQ. The University reserves the right to determine whether a substitute offer is equivalent to and meets the standards of quality indicated by the brand name referenced; and the University may require a bidder offering a substitute to supply additional descriptive material and a sample. When merchandise received from a successful bidder is not considered to be an equal by the requisitioner, it will be returned to the vendor, at the vendor's expense.
15. **SAMPLES:** Samples of items, when requested, must be furnished free of charge and if not destroyed will, upon request, be returned at the bidder's expense. Request for the return of samples must be made within ten (10) days following opening of bids. Each individual sample must be labeled with bidder's name, manufacturer's brand name and number, RFQ number and item reference. The University reserves the right to keep the sample of the low bidder. **DO NOT** submit samples unless you are specifically requested to do so.
16. **DEMONSTRATION(S) OF PRODUCTS:** The University reserves the right to require either an "in-house/on-site" demonstration of the product offered or an equivalent demonstration at a site mutually acceptable to the contracting parties to assure product performance and equivalence to University specifications.
17. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidders must furnish all information requested in the spaces provided on the RFQ form. Further, as may be applicable, each bidder must submit for bid evaluation cuts, sketches, and descriptive literature and technical specifications covering the product offered. Reference to literature submitted with a previous bid or on file with the buyer will not satisfy provision.
18. **REFERENCES:** To assist in determining the acceptability and operational quality of an alternate product, the University reserves the right to request a list of current users from the vendor offering the alternate product. If requested, the references provided must be on the exact model offered in the bid and must

be provided promptly. Failure to provide the necessary references upon request, or unsatisfactory references, may be considered sufficient grounds for rejecting the alternate product.

19. **FOB POINT:** All prices quoted are to be FOB delivered to The University of Tennessee location printed on the RFQ form (unless another FOB point is stated by the University). The successful bidder must assume all responsibility for damage in transit. Freight charges, if not included in the quoted price, must be itemized on the quotation and prepaid and added to the invoice.
20. **INTERPRETATIONS:** Any questions concerning conditions and specifications should be directed to the Purchasing Department in writing no later than five (5) days prior to the bid opening. Inquiries must reference the date of bid opening and RFQ number.
21. **CONFLICT OF INTEREST:** All bidders must disclose with their bid the name of any officer, director, or agent who is also an employee of the State of Tennessee, or any of its agencies (which includes The University of Tennessee). Further, all bidders must disclose the name of any State or University employee who owns, directly or indirectly, an interest in the bidder's firm or any of its branches. Bidding by State and University employees is prohibited.
22. **TAXES:** The University of Tennessee is exempt from federal excise taxes and from state sales taxes on purchases of tangible personal property. Copies of the appropriate exemption documentation will be provided upon request. Contractors are responsible for the payment of taxes on tangible personal property which they use in the completion of their contracts, for which sales taxes have not otherwise been paid, irrespective of who holds title to the property or for whom the work is done. Applicable taxes are to be itemized on invoices submitted for payment. **BIDDERS ARE RESPONSIBLE FOR DETERMINING THE APPLICABILITY OF TAXES.**
23. **SAFETY STANDARDS:** Unless otherwise stipulated in the RFQ, all manufactured items and fabricated assemblies shall comply with applicable requirements of Occupational Safety and Health Act and meet all applicable safety standards.
24. **UNDERWRITERS' LABORATORIES:** Unless otherwise stipulated in the RFQ, all biomedical or medical related products shall carry U.L. approval and reexamination listing where such has been established.
25. **DISPUTES:** In case of any doubt or differences of opinion as to the items to be furnished hereunder, the decision of the University shall be final and binding on both parties.
26. **COMPETITION:** The University of Tennessee is exempt from the provisions of the Robinson-Patman Act when it makes purchases for its own use.
27. **COMPARISON OF BIDS:** In comparing the bids and making awards, the University may consider such factors as relative quality and adaptability of equipment, supplies or services, the bidders' financial responsibility, skill, experience, record of integrity, ability to furnish repairs and maintenance service, the time of delivery or performance offered, and any other element or factor in addition to that of the bid price which would affect the final cost to the University and whether the bidder has complied with specifications.
28. **SEPARATE AWARDS:** Where an RFQ provides for award by item or groups of items, separate awards will not be made unless the Purchasing Department determines, in its discretion, that there are sufficient savings to justify separate and split awards.
29. **AWARDS:** Contracts and/or purchases will be made or entered into with a qualified and responsible bidder whose articles and/or services conform (considering quality and purpose or use) to the specifications, who can guarantee the delivery date specified in the invitation to bidders, who demonstrates apparent ability to perform the proposed contract, and whose bid constitutes the lowest net cost to the University. Unless the bidder specifies otherwise in his bid, the University may accept any item or group of items of any kind. The University reserves the right to modify or cancel in whole or in part in its RFQ.
30. **AWARD INFORMATION:** At the assigned date, sealed bids are publicly opened and recorded. The file becomes public record after the bid has been thoroughly evaluated and the award determined. The file may be reviewed at the Purchasing Department. A copy of the bid tabulation and result of any University of Tennessee bid will be furnished upon request and upon payment of costs for file retrieval, copying and postage.
31. **SERVICE AND WARRANTY:** Unless otherwise specified, the bidder shall define any warranty services and replacements that will be provided. Bidders shall explain on an attached sheet to what extent warranty and service facilities are provided. Any attempt to change, add, modify, or delete any warranty provision after the bid has been accepted, including by use of package labeling or inserts, will not be binding on the University unless it has so agreed in writing.
32. **DELIVERY TIME:** Time is of the essence. In the event delivery is not received within the time specified by the order, and the University has not otherwise extended the time for delivery in writing, the contractor/vendor may be held in default.
33. **MISDIRECTED SHIPMENTS:** Any costs incurred as a result of shipments being routed to a point other than the one specified on the purchase order shall be at shipper's expense.
34. **LOSS OR DAMAGE IN TRANSIT:** When shipping FOB University, delivery by a vendor to a common carrier does not constitute delivery to the University of Tennessee. Any claim for loss of damage incurred during delivery shall be between the vendor and the carrier. Title to the materials and supplies purchased hereunder shall pass directly from the vendor to the University at the FOB point shown, subject to the right of the University to reject upon inspection. The receiving department shall note all damages on the freight bill. The vendor shall make immediate replacement of the damaged merchandise or be subject to damages for breach of contract. If damage is to a small portion of a total shipment and the University will not be inconvenienced because of the shortage, the vendor may be permitted by the Purchasing Department to deduct the amount of damage or loss from his invoice, in lieu of replacement.
35. **CONDITION AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this RFQ shall be new (current production model) at the time of this bid. All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
36. **PACKING LIST:** A detailed packing list showing the purchase order number must accompany all shipments.
37. **INSPECTION:** All supplies purchased hereunder are subject to inspection and rejection upon receipt by the University, and rejected supplies may be returned at the vendor's expense. Transportation charges paid by the University's count shall be final and conclusive on all shipments not accompanied by a packing ticket. In addition to its right to return rejected supplies, in the event of delivery of supplies not in accordance with the requirements of this order, the University may notify the vendor of such damages or deficiencies, and if not repaired or corrected by the vendor within ten (10) days after receipt of such notice, or such additional time as may be mutually agreed to by the University and vendor, the University shall have the right to correct any damages, defects, insufficiencies or improprieties therein and do any other work necessary to put the supplies in condition for the use intended and the cost of such correction shall be deducted from monies due the vendor under this order.
38. **VARIATION IN QUANTITIES:** Unless otherwise specified, any variation in the quantities herein called for, not exceeding 5 percent, will be accepted as compliance with the order when caused by conditions of loading, shipping, packing or allowances in manufacturing processes, and payments shall be adjusted accordingly.
39. **IDENTIFICATION OF ORDER:** The purchase order number must appear on all invoices, correspondence, containers, shipping papers, and packing lists.
40. **CORRESPONDENCE:** All correspondence pertaining to any subsequent order must be addressed to the University of Tennessee Purchasing Department location indicated on the RFQ form.

41. **INVOICING AND PAYMENT:** The University initiates payment for materials or services upon receipt of all goods and services and receipt of an original, itemized invoice that reflects accurate contract prices. An appropriate invoice references the Purchase Order number and includes an itemized listing of the goods and/or services provided, category subtotal(s) and total cost. Invoices failing to meet this requirement may cause delay in payment or rejection of the invoice.
42. **BILLING INSTRUCTIONS:**
- A. Invoice in duplicate within five (5) days after shipment of material or performance of services. (Additional copies of the invoice may be requested on occasion. If more copies are requested, this will be specifically stated on the face of the order.)
 - B. MAIL YOUR INVOICE(S) TO THE "BILL TO" ADDRESS SHOWN ON THE ORDER. (Occasionally a different mailing address may be requested. If a different mailing address for the invoice(s) is requested, this will be stated on the face of the order.)
 - C. Delivery tickets and invoices must show the Purchase Order number and must show car number when carload shipment is made.
 - D. Render separate invoices in duplicate, unless otherwise requested, for EACH and EVERY shipment and render invoices for returnable containers, stating terms and conditions for return thereof.
43. **ASSIGNMENT:** Any Purchase Order issued pursuant to this RFQ and the monies which may become due hereunder are not assignable except with the prior written approval of the authorized representative of the University.
44. **CHANGES:** The University may at any time by written instructions make changes, within the general scope of any subsequent order, in any one or more of the following: 1) Quantity or specifications; 2) Method of shipment or packing; and 3) Place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, performance of the order, an equitable adjustment shall be made in the order price or delivery schedule, or both, and the order, shall be modified in writing accordingly. Any claim by the vendor for adjustment under this paragraph must be asserted within thirty (30) days from the date of receipt by the vendor of the notification of the change; provided, however, that the University, if it decides that the facts justify such action, may receive and act upon any claim asserted at any time prior to final payment under the order.

Except as otherwise provided, no attempt by either party to waive, change, delete, add or otherwise alter any term or condition of the order shall be effective unless and until it is agreed to in writing by both parties.

45. **CONTROLLING DOCUMENTS:** Compliance with the University's purchase order will be subject to all terms and conditions which comprise the University's General and Special Bid Conditions, if any, unless an exception is taken by the bidder to which the University has concurred in writing.
46. **DEFAULT OF CONTRACTOR:** In case of default of the contractor, the University reserves the right to procure the articles or services from other sources and hold the contractor responsible for any excess costs incurred in remedying such default, including a reasonable attorney's fee.
47. **CANCELLATION OF ORDER:** The University reserves the right to cancel the order or any part hereof without penalty, if the vendor fails to comply with the terms and conditions of this transaction, or fails to make shipment within the time agreed upon, except for causes beyond the vendor's control.
48. **GOVERNMENTAL RESTRICTIONS:** In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality workmanship or performance of the items offered on this RFQ prior to their delivery, it shall be the responsibility of the successful bidder to notify the Purchasing Department at once, indicating in his letter the specific regulation which required an alteration. The University reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the order at no expense to the University.
49. **LEGAL REQUIREMENTS:** The successful bidder shall be responsible for compliance with all federal, state and local laws, ordinances, rules and regulations that in any manner affect the items covered herein. Lack of knowledge by the bidder will in no way be a cause for relief from responsibility for their bid.
50. **LIABILITY:** The supplier shall hold and save the University, its officers, agents, and employees harmless from any claims, damages and actions of any nature arising from the use of any materials, goods or services furnished by the supplier, provided that such liability is not attributable to negligence on the part of the user or failure of the user to use the item in the manner outlined by the supplier in descriptive literature or specification submitted with the supplier's bid.
51. **PATENTS AND ROYALTIES:** The bidder, without exception, shall indemnify and save harmless the University and its employees for liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the University. If the bidder uses any design, device, or materials, covered by letters patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.
52. **ADVERTISING:** In submitting a bid, bidder agrees not to use the results therefrom as a part of any commercial advertising.
53. **INDICIA LICENSING:** All products bearing a University of Tennessee indicia must be fully licensed by the University of Tennessee Office of Trademark Licensing.
54. **VENDOR INDEMNIFICATION:** The University will not enter into any contract which contains a clause requiring the University to indemnify or hold harmless any party. Any liability of the University will be limited to the terms and limits of the Tennessee Claims Commission Act.
55. **LIMITATION OF REMEDIES:** The University will not enter into any contract which contains a clause limiting its remedies against any party. Any exception will be only to the extent permitted by Tennessee law.
56. **APPLICABILITY OF PROVISIONS:** Notwithstanding anything in these conditions or other applicable conditions to the contrary, any provision(s) will not apply to the extent it is (they are) finally determined by a court of competent jurisdiction, including appellate review if pursued, to violate the laws or constitution of the State of Tennessee. Such determination shall not affect the validity of the remainder of the contract.
57. **EQUAL EMPLOYMENT OPPORTUNITY:** When awarded, this quotation is subject to provisions of Title 7 of the Civil Rights Act of 1964 and parts II, III, and IV of the Executive Order 11246, dated September 4, 1965. In connection with the execution of the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training including apprenticeship.
58. **AFFIRMATIVE ACTION CLAUSE CONCERNING EMPLOYMENT FOR THE DISABLED:** By accepting this order (if it exceeds \$2500) the contractor agrees that he/she will not discriminate against any employee or applicant for employment because of disabilities with regard to any position for

which the employee or applicant is qualified. The contractor agrees that he/she will take affirmative action to employ and advance in employment qualified individuals with disabilities. Rehab. Act., 29 U.S.C. Section 793 and the American with Disabilities Act (ADA), 42 U.S.C. Sections 1201 et seq.

59. **UNIVERSITY OF TENNESSEE/AFFIRMATIVE ACTION STATEMENT: The University of Tennessee is a EEO/AA/Title VI/ Title IX/Section 504/ADA employer.** The University does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in the provision of educational programs and services or employment opportunities and benefits, pursuant to applicable federal and state laws.

UT conforms to all applicable rules, regulations and relevant orders of the Secretary of Labor. All applicable affirmative action clauses and supporting regulations are incorporated herein.

60. **THE FOLLOWING SECTIONS OF THE TENNESSEE CODE ANNOTATED APPLY TO THIS INVITATION:**

Section 12-3-106: Acceptance of gifts from contractors prohibited. No officer or employee of the Department of General Services nor any member of the Board of Standards, nor any head of any state department, institution or agency charged with responsibility or initiating requisitions, shall accept or receive, directly or indirectly, from any person or firm or corporation to whom any contract for the purchase of materials, supplies, or equipment for the State of Tennessee may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future rewards or compensation.

Section 12-4-101: Personal interest of officers prohibited. It shall not be lawful for any officer, committeeman, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend, any work or any contract in which any municipal corporation, county, or the state, shall or may be interested, to be directly interested in any such contract.

It shall not be lawful for any officer, committeeman, director, or other person whose duty is to vote for, let out, overlook, or in any manner superintend any work or any contract in which any municipal corporation, county, state, development districts, utility districts, human resource agencies, and other political subdivisions created by statute shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges his interest.

Section 12-4-103: Bidding by State employees prohibited. It is hereby declared unlawful for any State official or employee to bid on, or sell, or offer for sale, any merchandise, equipment or material, or similar commodity to the State of Tennessee during the tenure of his office or employment, or for six (6) months thereafter, or to have any interest in the selling of the same to the State.

61. **RECORDKEEPING:** The contractor shall maintain documentation for all charges against the University under the contract. The books, records and documents of the contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by the University or the Comptroller of the Treasury for the State of Tennessee, or their duly appointed representatives. These records shall be maintained in accordance with generally accepted accounting principles.
62. **GOVERNING LAW:** The contract with the University will be governed by and construed in accordance with the laws of the State of Tennessee.
63. **PROTEST PROCEDURE:** Any bidder wishing to protest a Purchasing decision must initially do so in writing to the Purchasing Department within seven (7) calendar days after the basis for the protest becomes, or should have become, known. In the case of a pending award, a stay of the award may also be requested. Copies of the University's policies and procedures regarding the resolution of vendor protests may be obtained by contacting the Purchasing Department https://my.tennessee.edu/portal/page?_pageid=34.140536&_dad=portal&p_policy=F10410#8
64. **NOTIFICATION OF AWARD:** It is the bidder's responsibility to make inquiry to the purchasing department to determine award status of the RFQ. If specific delivery dates are requested in the RFQ, the award will routinely be made to accommodate this date. No other notification may be provided.
65. **PARKING PERMITS:** Vendors must conform to all parking regulations while on University of Tennessee campuses. Parking permits are available by contacting the Parking Services office on the appropriate campus.
66. **GRAY MARKET PRODUCTS:** The University does not accept bids on gray market products. Bids submitted on equipment or supplies from bidders not authorized by the manufacturer to either sell, service, or warrant such equipment in the continental United States is not acceptable. Evidence to substantiate the dealer's relationship with the manufacturer may be required.

TERM CONTRACTS ONLY

67. **PRICE DECREASE:** Any price decrease effectuated during the contract period either by reason of market change or on the part of the contractor tendering price reductions to other customers shall be passed on to the University.
68. **CANCELLATION:** Notwithstanding any other cancellation provision, this contract may be cancelled in whole or in part by the University by giving thirty (30) days' prior notice in writing to the other party.
69. **EXTENSION:** The University reserves the right to extend the period of this contract, or any portion thereof, for an additional contract period. Extension of the contract period shall be by mutual agreement in writing.
70. **ABNORMAL QUANTITIES:** While it is not anticipated, should any unusual or abnormal quantity requirements arise, the University reserves the right to call for separate proposals thereon.
71. **CONTRACT PRICING:** In situations where the University has negotiated a valid contract or is a member of an organization which has a valid contract for its members to purchase items at a favorable rate, such contracts may be considered bids if in the University's best interest.
72. **CANCELLATION OF CONTRACT:** The University is required by State law to purchase its requirements from state contractors if their prices are less than those prices obtained by the University of Tennessee. If during the term of this contract, a State contract is received which has lower prices, the University reserves the right to cancel all or part of this contract.
73. **VENDOR ADHERENCE TO CONTRACT:** No purchases should be accepted or charged against the contract for items or pricing not covered in the contract. Failure to adhere to this requirement may be deemed grounds for cancellation of the contract.