



PROCUREMENT

The UNIVERSITY of OKLAHOMA

PART 1 INSTRUCTIONS AND CERTAIN TERMS

UNIVERSITY OF OKLAHOMA ALL CAMPUSES

These Instructions and Certain Terms (“Instructions”) apply to all Solicitations issued by the Board of Regents of the University of Oklahoma (“University”). Compliance with the Instructions is material to the determination of whether a Bid is responsive. Bidders should read all parts of this Solicitation carefully. Terms, requirements, and specifications may be stated or phrased differently than in a previous solicitation irrespective of past interpretations, practices, trade usage, or customs. In no event shall the Bidder’s failure to read and understand a term, condition, or requirement in any of the documents included in the Solicitation or provided by the University constitute grounds for a claim after the Contract’s award. Upon the Solicitation’s award to a Bidder, the Instructions shall be a Contract Document.

ARTICLE 1.

GENERAL INSTRUCTIONS

1.1 The Board of Regents of the University of Oklahoma invites interested Bidders to submit Bids pursuant to this Solicitation, as particularly set forth in the Solicitation. These Instructions governs the bidding process and the Solicitation, as amended, modified, or revised as set forth herein.

1.2 Solicitation Publication. All documents relating to this Solicitation shall be made publicly available on the University’s Procurement website or through other means.

1.3 Solicitation Cancellations or Withdrawal. At any time and without prior notice, the University reserves the right to cancel; withdraw, or not award any Solicitation without prior notice or liability.

1.4 Communications only with University Contact. All communications, clarifications, amendments, questions, responses, or any other matter relating to the Solicitation must be made only through the University Contact. No contact regarding this Solicitation with other University Parties is permitted and may be grounds to disqualify a Bidder or reject a Bid.

1.5 Bids Submitted at Bidder’s Cost. (a) The Bidder is solely responsible for any cost, expense, or fees incurred in preparing or responding to this Solicitation. The Bidder shall not seek to recoup or recover such costs at any time or through any means. (b) By submitting a Bid, Bidder agrees not to make any claims or have any rights to recover damages, costs, or other expenses of any kind resulting from Bidder’s participation in this Solicitation, including, but not limited, misunderstandings or misrepresentation of specifications, statements, or scopes of work, or because of any misinformation or lack of information.

1.6 Open Records Act. (a) The Bidder acknowledges that (i) the University is subject to the Oklahoma Open Records Act (“ORA”) set forth at 51 O.S. §24A-1, *et seq.*, as amended, and (ii) compliance with the ORA and all opinions of the Oklahoma courts and Attorney General concerning the ORA is required. (b) Bids, including all documents, materials, responses, and other information submitted by a Bidder in response to this Solicitation, are subject to the ORA and become University property. (c) Unless otherwise permitted by Oklahoma law, Bids shall not be disclosed, except for the purposes of evaluation, before award. (d) Bidders asserting that any portion of their Bid is proprietary or confidential shall be specifically marked on each page as such. Bids marked proprietary or confidential in their entirety shall not be accepted for consideration. If a Bidder fails to clearly designate or identify written or electronic Records as confidential or privileged, the University is under no obligation and has no responsibility to treat them as exempt under the ORA. The University will make final determinations regarding what must be released under the ORA. (e) Upon receiving an Open Records Request for the documents containing information the Bidder has marked proprietary or confidential before submitting them to the University, the University will notify the Bidder of the request and allow the Bidder no more than three (3) business days from the date of notification to file an application with a court of competent jurisdiction and enjoin the University from releasing the requested records. If the Bidder does not provide the University with evidence of such filing within the time provided, the records will be released. In no event will the University be liable in any manner for any disclosure made pursuant to the Oklahoma Open Records Act, any Oklahoma Attorney General opinion concerning the Act, or any other applicable law. The University will comply with any valid Court Order.

ARTICLE 2.

PRE-SUBMISSION AND OPENING ACTIVITIES

2.1 Pre-Bid Conference. The University may, in its discretion, conduct one or more pre-Bid conferences relating to the Solicitation. The purpose of the conference is to provide Bidders an opportunity to ask questions regarding terms, conditions, or specifications of the Solicitation. The University will determine whether Bidders attendance at a pre-Bid conference is mandatory, which shall be designated on the Solicitation Cover Sheet. (b) Nothing stated at the pre-Bid conference shall change the Solicitation unless a change is made by Amendment in accordance with **Section 2.3**. (c) A summary of the pre-Bid conference shall be posted publicly on the University Procurement website or via other means. If a transcript is made it shall be a public record.

2.2 Pre-Bid Questions. (a) All prospective Bidders may submit Pre-Bid Questions in writing, using the Pre-Bid Question template available in this Solicitation posting on the University website, to the University Contact before the Pre-Bid Question Deadline. The Bidder is advised to rely only upon the contents of this Solicitation (including any written clarification or amendment issued by the University). (b) Pre-Bid Questions must be submitted to University Contact via e-mail with reference to the Solicitation Number. The University will not accept Pre-Bid Questions by mail, fax, telephone, or oral communication. Answers to the Pre-Bid Questions shall be made publicly available. (c) If a Bidder fails to notify the University Contact of an ambiguity, conflict, discrepancy, omission, or other error in the Solicitation that is known to the Bidder, or that reasonably should be known to the Bidder, the Bidder accepts the risk of submitting a Bid and, if awarded a contract, shall not be entitled to additional compensation, relief, or time by reason of the error or its later correction.

2.3 Amendments. (a) No alterations to the Solicitation, including all forms, attachments, and exhibits, will be made without a formal Amendment. The University may amend the Solicitation at any time before opening by providing notice to all potential Bidders directly contacted by the University, actual Bidders, or through public notice, as determined by the University. An Amendment may provide or extend response deadlines to allow potential Bidders to review the Amendment and prepare, revise, or withdraw responses. (b) A Bidder that submitted a Bid prior to the Amendment and Bid opening shall acknowledge receipt of the Amendment by the specified Bid response due date and time. (c) Attempts to alter the Solicitation in ways other than specified in the Solicitation shall result in the proposal being deemed non-responsive. (d) Bids must include the most current, unaltered versions.

2.4 Bidder's Responsibility. The Bidder is responsible for periodically checking the University's Procurement website until the Bid Deadline to obtain any such issued Amendments, answers to Pre-Bid Questions, clarifications, or other information relating to the Solicitation. The University is not responsible for a Bidder's failure to acquire any Amendment, answer to Pre-Bid Questions, clarification, or other documents or information required to complete the Solicitation if such is made publicly available on the University's Procurement website.

2.5 NO ORAL RESPONSES, EXPLANATIONS, CLARIFICATIONS, INSTRUCTIONS, OR COMMUNICATIONS SHALL OPERATE TO ALTER, AMEND, OR CHANGE THE SOLICITATION'S TERMS OR CONTENTS. In no event shall the Bidder's failure to read and understand any term or condition in the Solicitation, any Amendments, answers to Pre-Bid Questions, or clarifications constitute grounds for a claim after the Contract award. (b) Only written responses, explanations, clarifications, or instructions issued by the University Contact shall be effective. (c) The University is not responsible for Bidder's reliance on oral communications from other University Parties.

ARTICLE 3.

BID SUBMISSION REQUIREMENTS AND STRUCTURE

3.1 Bid Deadline. All Bids must be submitted by the Bid Deadline, or as amended, to the University Contact identified in the Solicitation Cover Sheet and as set forth in **Section 3.5**. It is the Bidder's responsibility to ensure that the University Contact receives its submission before the Bid Deadline, regardless of cause.

3.2 Late Bids. The University considers any Bids, modifications, or withdrawals received after the Bid Deadline as late. The University will not consider any late Bids or modifications. The University, in its sole discretion, may consider late withdrawals. Bids, modifications, or withdrawals that would have been timely received but for the action or inaction of University Parties directly involved in the Bidding activity will not be considered late Bids, if properly demonstrated by a Bidder.

3.3 Bid Format. Any Bid not meeting these requirements may be rejected.

- The font shall be 12-point Times New Roman. The top, bottom, left and right margins shall be at least one inch, excluding headers and footers. All pages must be numbered.
- Responses must be submitted on the forms provided, where applicable. Where a form is not provided, responses must be submitted in MS Word format (.doc or .docx) or Adobe PDF (.pdf).
- Each Bidder shall submit a complete proposal in clear, concise language.
- Proposals should be tabbed and organized in easily identifiable parts mirroring the organization of this RFP.
- The Bidder shall not submit any items other than those requested in the Attachments/forms. The additional information will not be considered in the evaluation.

3.4 Bid Structure. Bid is required to be structured into separate, labelled and easily identifiable sections using the Bid packet structure in this **Section 3.4**. A Bid submitted using any other structure may be determined to be non-responsive as set forth in **Section 7.3**. Any section of the Bid packet that is not applicable to the Bid shall have a page inserted to denote the section is not applicable. As way of example, if business references are not required, the Bid should contain a page after the “Business References” section heading that reads “Not Applicable”, “N/A” or some similar notation. Bids may have page.

- **Section One – Administrative Documents**
 - A completed and executed Proposal Cover Page (Attachment 1)
 - All requested documents
 - Signed Amendment(s), if any, located at the same online link as the Solicitation. The Bidder shall acknowledge agreement with each Amendment, if any, by inserting the Amendment in this section, signed by or on behalf of the Bidder.
 - The following additional Bidder information:
 - Length of time the Bidder has been in business
 - A brief description of the company
 - Company size and organization
 - The number of years the Bidder has been providing Goods or Services of the type requested
 - The core competency of the company
 - Number of clients and average client size (*i.e.*, employee count)
 - Locations where the Bidder’s solution has been deployed
- **Section Two –References (Attachment 2)**
 - References from Bidder’s customers relating to the type of Goods or Services described in the Solicitation. All references should be signed and clearly list the contact information of the responding customer. Bidder shall not list or identify University employees or other University Parties as a reference.
- **Section Three - Executive Summary**
 - The Bidder’s executive summary shall be inserted in this section. Marketing information, general company information and other similar information should be included in the executive summary. Avoid duplication of such information in other sections of the Bid; it unnecessarily lengthens the Bid and hinders efficient evaluation.

- **Section Four - Response to Specifications and Requirements (Attachment 3)**
 - The Bid shall show the ability of the Bidder to meet or exceed the qualifications, specifications, and other matters set forth in **Article 4** and **Attachment 3**.
 - The Bid must reflect for each requirement or specification whether they can be met by an out-of-the-box solution or whether customization is required.
 - If service level agreements are required, the proposed service level agreements shall be inserted in this section.
 - If a statement of work is requested, the proposed draft shall be inserted in this section at a Bid packet page referencing the proposed statement of work.
 - If a Subcontractor is included as part of a submitted Bid, the following information is required to be included in the Bid for each such Subcontractor:
 - Company history
 - Relationship to Bidder
 - Clients for which the two entities have worked together
 - Goods or Services proposed to be provided by the Subcontractor and how those Goods or services interface with the Bidder's solution
 - Page Limits:
 - Section Four shall be limited to the number of pages defined in Attachment 3 Specifications.
 - Pages submitted in excess of this limitation will not be evaluated
- **Section Five – Pricing (Attachment 3)**
 - Unless otherwise stated in **Attachment 3**, as applicable, in each instance, pricing shall be proposed as follows:
 - (i) Deliverable-based pricing with proposed milestones and associated payments, (ii) hourly rates and roles for additional professional services in connection with the project including, without limitation, maintenance and support services and enhancement services to the extent not included in a mutually agreed statement of work, and (iii) subscription and/or other pricing for post-warranty ongoing maintenance and support.
 - A single total firm, fixed cost and include all information concerning fees, other costs, and any other information relevant to the total cost.
 - A detailed hourly breakdown showing the Bidder staffing roles necessary to complete the work; the number of hours to be worked by each role; the hourly rate for each role and the total hours to be spent on the project.
- **Section Six – Proposed Exceptions (Article 5, Attachment 4)**
- **Section Seven – Additional Bidder Terms**
 - Any additional terms that the Bidder requests be applicable to the Contract shall be inserted in this section and shall be provided in Word format. THE UNIVERSITY HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR ADDITIONAL TERMS AND ANY SUCH TERMS NOT SUBMITTED IN THIS SECTION OF THE BID SHALL NOT BE CONSIDERED. Should a Bidder be awarded a Contract, the University shall not be required to execute additional documents not included in a Bid. For example, if a Bidder typically uses an ordering document in connection with an acquisition, the ordering document template shall be included in the Bid.

- **Section Eight - Offer of Value-Added Goods or Services**

- If a Bid includes an offer of value-added Goods or Services, such offer shall be inserted in this section and include associated pricing and any other information relevant to such value-added offer. However, the University is not obligated to purchase value-added Goods or Services.

3.5 Submission of Bid. Bid must be emailed to OUBIDS@ouhsc.edu with the Solicitation Name and Number in the subject line. No other information may be included except as specifically set forth in this **Article 3**, and any such information shall not be considered included in the submission. The email timestamp received by the University shall be the official time of receipt. In person, commercial carrier or facsimile submittals shall not be accepted.

3.5.1 Please note that it is possible a Bidder's email system may have limitations on the size of outgoing email attachments and plan accordingly for the entire Bid to be received by the Bid Deadline.

3.5.2 A Bid emailed directly to or cc'd to the University Contact or other University Parties shall be considered non-responsive.

3.5.3 The University is not responsible for incorrect link information or its inability to access a submitted Bid. If a Bidder believes a Bid has been sent but has not received, the Bidder should contact the University Contact. Receipt of the Bid by the University is the Bidder's responsibility.

3.6 Firm Bid. Bids must be held firm in all respects for a minimum period of one hundred twenty (120) days beyond the Bid Deadline to allow time for evaluation, approval, and award. Bids may only be withdrawn or revised after that period, except to the extent expressly permitted otherwise by the terms of the Solicitation.

3.7 IT IS THE BIDDER'S SOLE RESPONSIBILITY TO SUBMIT INFORMATION IN THE BID AS REQUESTED AND IN COMPLIANCE WITH THE SOLICITATION, UNIVERSITY POLICY, AND APPLICABLE LAW.

3.8 Bid as Legal Offer. A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions. Unless otherwise provided as an Exception in the Bidder's response, all Bids shall be firm representations that the responding Bidder has carefully investigated and will comply with all terms and conditions relating to the Contract. Upon award of a contract, such terms and conditions, as may be amended by the Bid after negotiation, shall become contractual obligations between the Parties.

3.9 Alternate Bids. A Bidder may submit one or more Alternate Bids. Any Alternate Bid submitted shall be a complete Bid and shall be clearly identified as an Alternate Bid in the subject line of the email. If more than one Alternate Bid is submitted, the identification in the email subject line shall refer to Alternate Bid 1, Alternate Bid 2, *etc.*

ARTICLE 4.

QUALIFICATIONS, SPECIFICATIONS, AND PRICING

4.1 Qualifications. The University may establish minimum Bidder qualifications, including, but not limited, work history, past experiences, years in business, and annual revenue. Such minimum qualifications shall be identified in **Attachment 3**.

4.2 Specifications. **Attachment 3** sets forth the University needs or objectives, Deliverables, and schedules and describes projects, requirements, scopes or statements of work, types of Goods or Services, budgets, payment structures, milestones, responsibilities, or other necessary information. The Bidder's response should address the foregoing and how Bidder can meet the University's needs or objectives.

4.2.1 Unless otherwise specified in the Solicitation, (i) manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for informational purposes and not intended to limit competition and (ii) a Bidder may offer any brand for which it is an authorized representative, which meets or exceeds the specification for any item(s). Bidder shall offer new items of current design and technology unless the University specifies older models or versions, or used, reconditioned, or remanufactured products are acceptable. Warranties in either case should be the same. However, if a Bid is based on equivalent products, the Bid is required to state the manufacturer's name and number. The Bid shall also explain in detail how the proposed equivalent will meet the specifications and not be considered an exception thereto.

4.3 Firm, Fixed Price. Unless specified otherwise, a Bidder shall submit a firm, fixed price for the term, including optional renewal terms, of the Contract. The Bidder guarantees unit prices to be correct.

4.4 Taxes. (a) As a constitutional entity of the State of Oklahoma, the University is exempt from sales, use, and excise taxes imposed by the State of Oklahoma, and from federal excise taxes pursuant to Title 26 of the United States Code. The University will provide a tax-exempt certificate upon request. (b) The University will only be responsible for taxes, duties, fees, levies, premiums, or other charges imposed by any Governmental Authority applicable to the University. All pricing hereunder shall be exclusive of such taxes.

4.5 Travel Expenses. All Travel and Subsistence Expenses to be incurred by the Bidder in performance of the Contract shall be included in the total Bid price. Travel and Subsistence Expenses include reasonable cost for hotel, food during travel, and transportation expenses actually incurred by the Bidder outside of the state in which Bidder's principal office is located. If the Bidder's principal office is located in Oklahoma, cost or expenses incurred by the Bidder (i) for travel to and from the University or Person's usual place of work, (ii) incurred at a Person's usual place of work, or (iii) where a Person normally lives or resides shall not be included as a Travel and Subsistence Expense.

4.6 Early Payment Discount. A Bid containing early payment discounts may be evaluated when making an award. If a Bidder wishes to offer an early payment discount, the Bid must include available discount percentages for no less than ten (10) days payment, increasing in five (5) day increments up to thirty (30) days. The discount percentages shall be expressed in a half or whole percentage, with the minimum discount percentage being 0.5%. The University is not obligated to utilize an offered discount.

ARTICLE 5.

REQUESTED EXCEPTIONS

5.1 Bidder Exceptions. Any requested Exception or revision to terms or conditions provided by the University shall be inserted in this section using the table provided in **Attachment 4**. If no exceptions or revisions are requested, the Bid should reflect that by either submitting the table with no additions to it or by inserting a page to denote this section is not applicable. Each requested exception or revision shall identify (i) the document and section reference of the specific affected term and (ii) either that the term is inapplicable and should be intentionally omitted or offer alternative language if the Bidder is requesting revision of the term.

5.1.1 Use tracked changes to propose alternative language, added language or other revision. Requests not shown as tracked changes may be returned to the Bidder for compliance with this requirement and review will be delayed as a result.

5.1.2 Each entry on the exceptions table must reference only one subsection or section (if there are no subsections). Including multiple subsections in one entry may result in the table being returned to the Bidder for compliance with this requirement and review will be delayed as a result.

5.1.3 The Bidder must not attempt to incorporate by reference any document of any kind into said table, and any such attempted incorporation shall be disregarded and of no effect. A clarification question is not an exception and any clarification included in this section will be disregarded.

5.2 THE UNIVERSITY HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR EXCEPTIONS AND ANY EXCEPTION EMBODIED ANYWHERE OTHER THAN IN THE PROVIDED TABLE SHALL BE EXCLUDED FROM THE TERMS AND CONDITIONS OF THE BID AND ANY RESULTING CONTRACT. LIKEWISE, AN EXCEPTION EXPRESSING ONLY GENERAL DISAGREEMENT WITH THE TERMS AND CONDITIONS OF THE SOLICITATION, OR AN EXCEPTION TO ANY SPECIFIC TERM OR CONDITION WITHOUT SUGGESTED ALTERNATIVE WORDING OR AN INDICATION THAT THE TERM SHOULD BE INTENTIONALLY OMITTED, SHALL BE EXCLUDED FROM THE TERMS AND CONDITIONS OF THE BID AND ANY RESULTING CONTRACT.

5.3 Exceptions shall not form part of the Contract until accepted. If acceptable to the Parties, Exceptions, in whole or part, shall be made part of the Contract through an Addendum.

ARTICLE 6.

MODIFICATIONS, MISTAKES, AND WITHDRAWALS

6.1 Modifications and Withdrawal. (a) A Bidder may modify or withdraw a Bid by written notice via email referencing the Solicitation Number, which must be received as set forth in **Section 6.2**. (b) Any modification must be submitted before the Bid Deadline and include the following statement: "This proposal supersedes the proposal previously submitted." (c) The University shall only evaluate the last modified Bid received by the University before the Bid Deadline.

6.2 Mistakes and Corrections. No mistake or correction to a Bid may be made except as set forth in this **Section 6.2**.

6.2.1 Before Opening. A Bidder may correct mistakes discovered before the Bid opening by withdrawing or correcting the Bid as set forth in **Section 6.1**. The Bidder must provide written notice to OUBIDS@ouhsc.edu.

6.2.2 After Opening. The University presumes that all Bids are correct. However, if a Bidder or the University discovers a mistake in the Bid or believes a mistake exists, either may request, in writing, that the Bid be verified or corrected. The University Contact must receive the written notice within five (5) Business Days of the Bid Deadline.

Table 1 - Mistakes	
Minor Informalities	Mistakes in form, non-substantive errors evident from the Bid documents, or insignificant mistakes that can be waived or corrected without prejudice to other Bidders (<i>i.e.</i> , the effect on the price, quantity, quality, delivery, or contractual conditions is negligible) are permitted.
Mistake Clearly Evident	If the mistake and the intended correct Bid are clearly evident on the face of the Bid document, the Bid shall be corrected to the intended correct Bid and may not be withdrawn. These mistakes include typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
Mistake Not Clearly Evident	A Bidder may request to correct a mistake or withdraw a low Bid if: the mistake is clearly evident on the face of the Bid document but the intended correction is not similarly evident or the Bidder submits sufficient proof that clearly and convincingly demonstrates that a mistake was made.

6.3 Determination. When a Bid is corrected or withdrawn, or correction or withdrawal is denied, under **Section 6.2.2**, the Associate Vice President of Procurement (or designee) shall prepare a written determination showing that the relief was granted or denied and the bases for the determination.

ARTICLE 7.

RESPONSIVE BIDS

7.1 Only Responsive Bids Considered. The University only considers for evaluation responsive Bids. A Bidder’s request to modify or correct a Non-Responsive Bid shall be treated as a Bid mistake and such process in **Article 6** shall apply.

7.2 Responsiveness not Evaluation Criteria. A Bidder’s responsiveness to the Solicitation shall not be considered evaluation criteria. Regardless of whether they are specifically listed as evaluation criteria, costs, prices, fees, and other matters impacting such (discounts, rebates, transportation costs, fuel or delivery fees, total life cycle costs, etc.) shall always be considered as evaluation criteria.

7.3 Non-Responsive Bids. The University reserves the right to reject a Bid as non-responsive if the Bid does not conform in all material respects to the Solicitation. The University may also decide, in its sole discretion, to reject a Bid as non-responsive based on the following.

Table 2 - Non-Responsive Bids

Terms and conditions	A Bid that does not meet the terms and conditions of the Solicitation.
Forms use	A Bid that does not contain forms or other information the Solicitation specifies.
Incomplete forms	The forms required by the Solicitation do not contain complete information.,
Form entries improper	The information provided in the Bid is not legible, typewritten or printed, or submitted in the electronic format specified in the Solicitation.
Improper alterations	Any alterations do not bear the initials of the person making the alteration.
Use of unauthorized signature	A signature on a form is not an authorized signature pursuant to state laws.
Absence of notary seal	The forms do not contain a notary seal where forms indicate or otherwise comply with the manner of notarization prescribed for the Bidding Supplier's state of residence.
Bid does not contain a Bid bond or other surety	A Bidder fails to include a Bond or other surety specified as a requirement by a Solicitation.
Bid does not contain samples	If a Solicitation specifies that the Bid shall contain samples and the Bid does not contain samples.
Goods or Services not Suitable	A Bid does not offer items suitable for the intended use of the items.
Pricing	Bid pricing does not meet the requirements of the Solicitation.
Failure to acknowledge an Amendment	A Bid fails to acknowledge an Amendment to a Solicitation.
One Bid from multiple suppliers	One Bid from multiple suppliers that do not designate a prime contractor.
Additional supplier terms and conditions	A Supplier adds terms and conditions to an acquisition that are contrary to the laws of Oklahoma.
Unsigned Signatures on solicitation documents	An authorized signature is omitted from any Solicitation document that requires an authorized signature.
Mandatory Requirements	Bidder fails to meet or respond to requirements listed as mandatory.

ARTICLE 8.

BID REJECTION

8.1 The University reserves the right to reject any or all Bids, or to accept or reject any Bid in part, and to waive any minor informality or irregularity in any Bid if the University determines that doing so is in the best interests of the University.

8.2 Bids Submitted After Bid Deadline. A Bid received after the Bid Deadline SHALL BE DEEMED NON-RESPONSIVE AND SHALL NOT BE CONSIDERED unless the Associate Vice President of Procurement specifically authorizes in writing that acceptance of Bids after the Bid Deadline is necessary because of a significant error or incident that occurred which affected the receipt of a Bid.

8.3 The **Table 3** provides a non-exhaustive list that may serve as the basis for rejecting a Bid.

Table 3 - Rejection	
Bidder fails to comply with Instructions	Bidder fails to submit required information
Bidder imposes terms or conditions that would modify requirements	Bidder attempts to impose unacceptable conditions on the University or impose alternative terms not in the best interest of the University
Evidence of collusion among Bidders	The Bidder is in arrears or in default to the University or the State of Oklahoma on any contract, debt, or other obligation
The Bidder is subject to debarment	The Bidder's failure to submit an unconditional Bid
The Bidder's failure to provide any additional information requested by the University prior to award	The Bidder's lack of competency, reliability, or general suitability as revealed by information relating to the Bidder's
Pending litigation, complaints, or references	Past work or uncompleted work under any other contract
Financial, personnel, equipment, or other resources	Experience
Quality assurance programs, or a lack thereof	The Bidder poses a risk to the University

ARTICLE 9.

BID PUBLIC OPENING AND EVALUATION

9.1 There will be no physical Bid openings. A public Bid opening, which will disclose the name of each Bidder and no further information, will be conducted on a per request basis via electronic means provided the University Contact receives a written request no later than forty-eight (48) hours prior to the Bid Deadline.

9.2 Evaluation Criteria. A responsive Bid will proceed to the evaluation process. All criteria used to evaluate responsive Bids shall be identified in **Attachment 4**. Bids shall be evaluated in a manner to identify the Lowest and Best Bidder. Bidder past performance may be considered when evaluating a Bid. The University reserves the right to require demonstrations, clarifications, and additional documentation from any or all responding Bidders. Each Bidder should be prepared to participate in oral presentations and demonstrations to define the Bid, to introduce the Bidder's team, and to respond to questions regarding the Bid before award.

ARTICLE 10.

COMPETITIVE NEGOTIATIONS OF OFFERS

10.1 Negotiations. (a) The University reserves the right to negotiate with none or one or more Bidders responding to the Solicitation and may negotiate any or all content of the Bid to obtain the best value for the University. Negotiations may be conducted in person, in writing or by electronic means and shall only be conducted with potentially acceptable Bids. (b) Negotiations can entail discussions on Goods or Service, pricing, contract terminology or any other issue material to an award decision or that may mitigate the University's risks. The University shall consider all issues arising from the Bid to be negotiable and will not be artificially constrained by Bidder internal corporate policies. Bidders contending that a lack of flexibility because of corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered.

10.2 Lack of Progress. In the event of prolonged contract negotiations due to the number and/or significance of exceptions taken, lack of Bidder responsiveness, or other failure to close contract negotiations, the University may, in its discretion, offer a successful Bidder a shorter contract term, reject the Bid, move to another Bidder, or take other necessary and appropriate action.

10.3 Additional Information, Documents. Terms, conditions, prices, methodology, or other features of the Bid may be subject to negotiations and subsequent revision. As part of the negotiations, the Bidder may be required to submit supporting financial, pricing, and other data to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the Bid.

10.4 Non-Negotiable. Requirements and any terms marked as non-negotiable after the section title shall not be negotiable and shall remain unchanged unless the University determines that a change in such requirements or terms is in the best interest of the University.

10.5 Best and Final Offer. The University may request a “Best and Final Offer” and shall determine the scope and subject of such request. However, the Bidder should not expect an opportunity to otherwise strengthen its Bid and should submit its best Bid based on requirements herein. Any information offered outside the scope of the Best and Final Offer request will be disregarded.

ARTICLE 11.

CONTRACT AWARD

11.1 More than One Award. The University may award the Contract to more than one Bidder by awarding the Contract(s) by item or groups of items or may award the contract on an all or none basis, whichever is deemed to be in the best interest of the University.

11.2 Supplier Registration. To receive an award or payments from the University, a Bidder must be registered as both a Bidder and as a Supplier and must maintain the registration prior to any Contract renewal.

11.3 Pursuant to Oklahoma Attorney General Opinion No. 06-23, any Bidder that has assisted in preparing the Solicitation or developing the procurement terms, either directly or indirectly, is precluded from being awarded the Contract or from working as a Subcontractor.

11.4 Prior to award, the University may choose to request information from the Bidder to demonstrate its financial status and performance. If the Bidder is a subsidiary of another entity, the last three years audited financial statements of three years tax returns for the parent company may also be required. The University reserves the right, in its sole discretion, to determine a Bidder’s financial status and to withhold award to a Bidder who is not deemed financially responsible.

11.5 Notice. Notice of award shall be made available to the public by identifying the Bidders on the University Procurement’s website or through other means. A notice of award to a Bidder may be in the form of a purchase order or other payment mechanism or in the form of a mutually executed contract.

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EXHIBIT A

RULES OF USAGE AND DEFINITIONS

1. **Rules of Usage.** The following rules shall apply to any interpretation of this Contract and the Contract Documents unless specified otherwise.

1.1. **Actions in Writing.** Every “request,” “order,” “demand,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” “approval,” or similar action hereunder by any Party shall, unless the form thereof is specifically provided, be in writing signed by a duly authorized representative of such Party.

1.2. **Gender.** Words importing a gender include any gender.

1.3. **“Including.”** The words “including” and “includes,” and words of similar import, shall be deemed to be followed by the phrase “without limitation.”

1.4. **“Or” Not Exclusive.** The word “or” is not exclusive.

1.5. **References to Document as a Whole; Other Documents.** (a) The words “in this Contract,” “hereof,” “herein” and “hereunder,” or words of similar import, shall be deemed to refer to this Contract as a whole and not to the specific section or provision where such word appears. (b) Any term defined by reference to another instrument or document shall continue to have the meaning ascribed thereto whether such other instrument or document remains in effect.

1.6. **References to Laws as Modified.** A reference to any statute, regulation, proclamation, ordinance, or applicable Law includes all statutes, regulations, proclamations, ordinances, or applicable Laws varying, consolidating, or replacing them, and a reference to a statute includes all regulations, proclamations, and ordinances issued or otherwise applicable under that statute.

1.7. **References to an Agreement as Amended.** A reference to a document includes an amendment, modification, or supplement to, or replacement, restatement, substitution, or novation of, that document, in each case with the consent of all parties required to consent to the same.

1.8. **References to Persons.** Reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns as permitted by this Contract or applicable Addendum, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually.

1.9. **Singular and Plural.** Words importing the singular include the plural and vice versa.

1.10. **Undefined words, terms, or phrases.** Words, terms, or phrases used in this Solicitation shall have the meaning as set forth herein. Undefined words, terms, or phrases shall have the prevailing and customary meaning as understood in the industry. If there is no generally accepted meaning in the industry, according to its common usage.

2. **Definitions.** Unless otherwise defined in the General Terms, capitalized terms used in the General Terms shall have the meanings set forth below:

2.1. **“Addendum”** means a mutually executed, written modification to a Contract Document.

- 2.2. **“Alternate Bid”** means a Bid which contains an intentional substantive variation to a basic provision, specification, term, or condition.
- 2.3. **“Amendment”** means a written change, addition, correction or revision to terms, conditions, or requirements of the Solicitation.
- 2.4. **“Bidder”** means a Person submitting a Bid in response to this Solicitation.
- 2.5. **“Bids”** means any request for procurement, qualification, information, or similar public bids issued by the University under applicable procurement Laws or University policy.
- 2.6. **“Board of Regents of the University of Oklahoma”** or **“University”** means the Board of Regents of the University of Oklahoma including its constituent parts, campuses, and programs within the State of Oklahoma, unless otherwise specified in the Solicitations, Contract, or Contract Documents.
- 2.7. **“Bonds”** means performance, payment, and defect bonds or other bonds required by applicable Law or the University for protecting the University against the risk of the Contractor, Subcontractor, or other Contractor agent’s failure to perform contractual obligations under the Contract. All Bonds must be (i) of a type and form suitable to the University, (ii) issued in accordance with Oklahoma Laws, and (iii) issued from a duly authorized surety company, satisfactory to the University, license to do business in Oklahoma.
- 2.8. **“Business Day”** means any day other than (a) a Saturday or a Sunday, (b) a day on which the University is closed or closes before 12:00 p.m. Central Standard Time, or (c) a day observed as a holiday by the University of Oklahoma, the State of Oklahoma, or the federal government.
- 2.9. **“Contract”** means the agreement between the University and Bidder(s) awarded the Solicitation. The Contract terms and conditions include the accepted the General Terms & Conditions, the accepted Bid, and other mutually agreed Contract Documents.
- 2.10. **“Bidder Parties”** means the Bidder and its current and former officers, directors, agents, employees, representatives, contractors, assignees, invitees, Subcontractors, and designees thereof.
- 2.11. **“Contract Documents,”** means these General Terms and attachments hereto, any Solicitation, any statement of work, purchase order, or other similar ordering document related hereto and executed by both Parties, other mutually agreed documents, and any Addendum to any of the foregoing.
- 2.12. **“Deliverables”** means any work product, including, but not limited to, original reports, policies, manuals, training materials, writings, recordings, drawings, files, notes, memoranda, calculations, and data or any information regardless of form or completeness gathered, compiled, developed, or in any way created by Bidder for the University under this Contract or other Contract Documents.
- 2.13. **“Exceptions”** means any revision, deletion, or other omission by the Bidder of any term or condition of the Solicitation, Contract, or other Contract Document listed on **Attachment 3**.
- 2.14. **“Goods and Services”** means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature provided or performed under the Contract or Contract Document. “Goods” includes goods not in existence when the transaction is entered. “Services” include both personal and professional services. “Goods and Services” does not include interests in real property.

2.15. **“Governmental Authority”** shall mean any federal, state, county, municipal, local and/or other governmental, regulatory or administrative authority, agency, board, body, commission, instrumentality, court, judicial body, tribunal, arbitral body or quasi-governmental authority with jurisdiction over the property, activity or the Person in question.

2.16. **“Insurance”** means insurance required by the University for as set forth in the Insurance Addendum.

2.17. **“Laws”** shall mean all (i) existing and future laws, rules, regulations, acts, statutes, treaties, constitutions, codes, ordinances, permits, certificates, orders, rulings, decrees, and interpretations from, of and/or by any Governmental Authority; (ii) judgments, decrees, injunctions, writs, orders, rulings or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction; and (iii) requirements of applicable insurance companies or insurance regulatory agencies, in each instance, to the extent applicable under the particular facts and circumstances.

2.18. **“Lowest and Best Bidder”** means the Bidder(s), based on the evaluation criteria, determined to be the most responsive, responsible, and advantageous Bidder whose Bid conforms in all material respects to the requirements and criteria in Solicitation including, but not limited, price, skill, business practices, previous work record, experience, financial resources, quality of materials, facilities, personnel, service reputation, and ability to comply with state, federal, and local laws. Bidders failing to provide the required information shall not be considered the Lowest and Best Bidder. The Bidder with the lowest cost may not be the Lowest and Best Bidder.

2.19. **“Record”** means a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

2.20. **“Party”** or **“Parties”** shall mean collectively both the University and Contractor.

2.21. **“Person”** means any natural person, firm, joint venture, limited liability company, association, trust, partnership, corporation, Governmental Authority, or other legal entity.

2.22. **“Pre-Bid Questions”** means questions and requests for clarification regarding the meaning or interpretation of any part of the Solicitation. Pre-Bid questions should be concise, identify the relevant document, include specific section references and avoid use of tables or special formatting (use simple lists).

2.23. **“Pre-Bid Question Deadline”** means the deadline designated on the Solicitation Cover Sheet for the Bidder to submit questions relating to the Solicitation.

2.24. **“Solicitation”** means the document and attachment thereto inviting Bids for the acquisition of Good or Services referenced in the Solicitation Cover Sheet and any amendments thereto.

2.25. **“Solicitation Number”** means the number designated on the Solicitation Cover Sheet used to identify this Solicitation.

2.26. **“Subcontractor”** means a Person or entity who has a direct contract with the Contractor to perform or provide Goods or Services under the Contract or other Contract Document.

2.27. **“Travel and Subsistence Expense”** shall have the meaning as set forth in **Section 4.4**.

2.28. **“University Contact”** means the University employee identified on the Solicitation Cover Sheet responsible for processing the Solicitations and performing other procurement-related tasks.

2.29. **“University Parties”** means the University and its current and former regents, officers, directors, agents, employees, representatives, contractors, assignees, invitees, students, and designees thereof.

2.30. **“University Property”** means real or personal property, as applicable, owned, leased, or otherwise controlled by the University.