

IDAHO STATE UNIVERSITY
SOLICITATION INSTRUCTIONS TO VENDORS

1. AUTHORITY TO PURCHASE: Purchases by Idaho State University are governed by Idaho Code Section 67-9225 “Procuring and Purchasing by State Institutions of Higher Education”, and by Idaho State University Policy #2560 (Purchasing). The University is authorized pursuant to Idaho Code Section 67-9225 to execute and administer Agreements for the procurement of goods and services for the University in accordance with the University’s established policies and procedures. ***Pursuant to Idaho Code Section 67-9213, all agreements made in violation of the applicable purchase statutes or rules, including the University’s purchasing policies, shall be void and any sum of money advanced by the University shall be repaid.***

2. DEFINITIONS: Unless the context requires otherwise, all terms not defined below shall have the meanings defined the Idaho State University Standard Contract Terms and Conditions, and if not defined therein, shall have the meanings defined in Idaho Code Section 67-9203 or Idaho Administrative Procedures Act Rules (“IDAPA”) 38-05-01-011. For purposes of these Solicitation Instructions, the following terms shall be defined as follows:

A. Agency - all offices, departments, divisions, bureaus, boards, commissions and institutions of the State of Idaho, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant-governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction.

B. Agreement – any University-written contract, lease, purchase order, including Solicitation or specification documents and the accepted portions of the Bid or Proposal or other submission for the acquisition of Property. An Agreement shall also include any amendments or subsequent agreement entered into and mutually agreed upon by both parties.

C. Bid – a written offer that is binding on the Contractor to perform an Agreement to purchase or supply Property in response to a solicitation. For purposes of this Agreement, the Bid shall include written questions and responses conducted as part of the solicitation process.

D. Bidder – a Vendor who has submitted a Bid.

E. Contractor – a Vendor to which the University has awarded an Agreement.

F. Invitation to Bid – all documents, whether attached or incorporated by reference, utilized for soliciting formal sealed Bids.

G. Offeror – a Vendor who has submitted a proposal in response to a Solicitation for Property to be acquired by the University.

H. Property – goods, services, parts, supplies, and/or equipment, both tangible and intangible, including, but not exclusively, designs, plans, programs, systems, techniques and any rights and interest in such Property.

I. Proposal – a written response, including pricing information, to a Solicitation that describes the solution or means of providing the Property requested and which Proposal is considered an offer to perform in full response to the Solicitation. Price may be an evaluation criterion for Proposals, but will not necessarily be the predominant basis for the Agreement award. For purposes of the Agreement, the Proposal shall include written questions and responses conducted as part of the solicitation process.

J. Quotation – an offer to supply Property in response to a Request for Quotation and generally used for small or emergency purchases.

K. Request for Quotation (RFQ) – the document form or method generally used for purchases solicited in accordance with small purchase or emergency purchase procedures.

L. Request for Proposals (RFP) – includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive Proposals and is generally utilized in the acquisition of services or complex purchases.

M. Solicitation – an Invitation to Bid, a Request for Proposal, or a Request for Quotation issued by the University for the purpose of solicitation Bids, Proposals, or Quotes to perform an Agreement.

N. State – the State of Idaho including each Agency unless the context implies other state(s) of the United States.

O. University - Idaho State University, a State of Idaho institution of higher education.

P. Vendor – a person or entity capable of supplying or providing Property to the University.

3. AWARD METHOD: Agreements may be awarded to the “Lowest Responsible Bidder.” The Lowest Responsible Bidder is defined by Idaho Code Section 67-9203(9) as “The responsible bidder whose bid reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance evaluations are conducted, the results of such evaluations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.” When deemed to be in the best interest of the University, and set forth in the Solicitation documents, additional consideration may be given to the elements of discounts, supply location, quality of products or previous service, delivery time, or other elements.

4. RESERVED.

5. DETERMINATION OF RESPONSIBILITY: The University reserves the right to make reasonable inquiry about or from the submitting Vendor or from third parties to determine the responsibility of a submitting Vendor. Such inquiry may include, but not be limited to, inquiry regarding financial statements, credit ratings, references, potential subcontractors, and past performance. The unreasonable failure of a submitting Vendor to promptly supply any requested information may result in a finding on non-responsibility.

6. SOLICITATION AMENDMENTS: It will be the Vendors’ responsibility to check for any amendments to the solicitation document(s) prior to submitting a Bid, Proposal, or Quotation on the University website found at <https://www.isu.edu/purchasing/vendor-resources/solicitation-process/solicitation-opportunities/> Information given to one Vendor will be available to all other Vendors if such information is necessary for purposes of submitting a Bid, Proposal or Quotation, or if failure to give such information would be prejudicial to uninformed Vendors.

7. NOTICE OF EFFECTIVENESS: No agreement is effective until the authorized University official has signed the Agreement, and the effective or award date has passed. The Contractor shall not provide any goods or render services until the Agreement has been signed by the University official and the Agreement has become effective. Furthermore, the University is in no way responsible for reimbursing the Contractor for goods provided or services rendered prior to the signature by the authorized University official and the effective date of the Agreement.

8. ECONOMY OF PREPARATION: If submitting a response to a solicitation, responses should be prepared simply and economically, provide a clear, complete and concise description of the Offeror’s capabilities to satisfy the University’s requirements.

9. SPECIFICATIONS: Specifications describe the Property the University wants to acquire. Vendors are encouraged to review the specifications closely and present written questions within the time prescribed in the Solicitation to the designated Purchasing official. See also Paragraph 12 on Administrative Appeals. The University is prohibited from accepting Property that does not meet the minimum specifications pursuant to Idaho Code Section 67-9230(6).

10. LAWS: The laws governing the University’s purchases of goods and services are found in Idaho Code Section 67-9201 through Section 67-9234, available on the internet at https://purchasing.idaho.gov/rules_and_policies.html

11. PREFERENCE FOR IDAHO SUPPLIERS FOR PURCHASES: Idaho preferences are governed by Idaho Code Section 67-2349 (Reciprocal Preference) and Idaho Code Section 30-101-103 (Printing).

12. ADMINISTRATIVE APPEALS: The procedure applicable to administrative appeals is set forth at <https://www.isu.edu/purchasing>

13. SUBMISSION METHODS:

A. Manual Submissions – For manually sealed and submitted Bids or Proposals, a submitting Vendor must use the University’s supplied signature page (or other binding document as specified) when submitting its’ Bid or Proposal. The signature page must be manually signed in ink by an authorized agent of the submitting Vendor and returned with the submission package. Manually submitted Bids or Proposal submitted without the signature page will be found non-responsive and will not be considered. An incomplete, unsigned, or modified signature page will be cause for a finding of non-responsiveness. The signature page must contain an **ORIGINAL HANDWRITTEN** signature executed in **INK** and be returned as part of the submitting Vendor’s Bid, Proposal, or Quote. **PHOTOCOPIED SIGNATURES** or **FACSIMILE SIGNATURES** are not acceptable. Submissions must be completed either in ink or typewritten. Forms or figures written in pencil are not acceptable. Mistakes should not be erased but may be crossed out and corrections inserted next to the errors and initialed **IN INK** by the person signing.

B. Submission Methods – Manual Quotations – For manually submitted Quotations, the submitting Vendor may use any response and submission method authorized by the Request for Quotation, including oral, telephonic, facsimile, email, or regular mail.

C. Submission Methods – Manual or Electronic – Regardless of Submission method, Vendor warrants by submitting a Bid, Proposal or Quotation that it accepts the Idaho State University Standard Contract Terms and Conditions and the Solicitation Instructions to Vendors, and any Special Terms and Conditions identified in the Solicitation. Additionally, one or more of the following may be applicable:

1. If the Vendor is a corporation, partnership, proprietorship, sole proprietorship or other legal entity, and employs individual persons, by submitting its Bid, Proposal or Quotation, vendor warrants that any Agreement resulting from this Solicitation is subject to Executive Order 2009-10 [https://gov.idaho.gov/mediacenter/execorders/eo09/eo_2009_10.html] it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for the imposition of monetary penalties up to five percent (5%) of the Agreement price, per violation, and/or termination of its Agreement; or

2. If Vendor is a natural person eighteen (18) years of age or older,

a. by submitting its Bid, Proposal or Quotation, warrants that its Bid, Proposal or Quotation is subject to Idaho Code section 67-7903 and, pursuant thereto, by submitting its Bid, Proposal or Quotation, attests, under penalty of perjury, that it is a United States Citizen or legal permanent resident or that it is otherwise lawfully present in the United States pursuant to federal law; and

b. prior to being issued an Agreement, Vendor will be required to submit proof of lawful presence in the United States in accordance with Idaho Code Section 67-7903.

14. BID AND REQUEST FOR PROPOSAL SUBMISSIONS:

A. Manual Submissions – Unless otherwise stated elsewhere in the Solicitation, the submission package or envelope must be **SEALED** and plainly marked in the **LOWER** left corner with the following: (i) the name of the item or service being sought; (ii) opening date and time; and (iii) the Solicitation number. This information is found in the Solicitation document. The submitting Vendor’s return address must appear on the envelope or package. Any Bid sheets and the signature page containing an original authorized signature must be submitted in a sealed envelope or package. **(Do not respond to more than one Solicitation in the same envelope!)** A submission made using “Express/Overnight” services must be shipped in a separate sealed inner envelope/package identified as stated above, and enclosed inside the “Express/Overnight” shipping container or package. No responsibility will attach to the University, or to any official or employee thereof, for the pre-opening of, post-opening of, or the failure to open a submission not properly addressed and identified. **DO NOT FAX YOUR BID OR PROPOSAL.** No oral, telephone, facsimile or late submissions will be considered. All submissions must be received at the physical address designated for courier service and time/date stamped by the purchasing activity prior to the closing date and time. It is the submitting Vendor’s responsibility to timely submit its Bid or Proposal in a properly marked envelope, prior to the scheduled closing, for receipt in sufficient time to allow the submission to be on time and date stamped prior to the closing time.

B. Electronic Submissions – Complete your response in accordance with the instructions in the Solicitation. E-mail your response in PDF format to buyers@isu.edu . Submissions must be received prior to the closing date and time. The date/time on the email received at buyers@isu.edu will be the date/time used to determine on time receipt of the response. No responsibility will be assumed by the University for the delay or failure of any computer or electronic equipment.

C. Late Submissions – It is the submitting Vendor’s responsibility to ensure that its Bid, Quotation, or Proposal is delivered or electronically submitted to the place designated for receipt prior to the specified closing time. Late submissions will not be considered under any circumstances. The official time used in the receipt of manual submissions is the prevailing local time as evidenced by the automatic time/date stamp located at the physical address designated for receipt of Bids, Proposals, or Quotes. No responsibility will be assumed for delays in the delivery of mail by the U.S. Post Office, private couriers, the intra-State mail system, or for the failure of any computer or electronic equipment. Submitting Vendors should be advised the intra-State mail system may increase delivery time from Central Postal to the place designated for receipt and should plan accordingly. **LATE SUBMISSIONS WILL BE DECLARED REJECTED AS NON-RESPONSIVE AND RETURNED TO THE SUBMITTING VENDOR. NO DEVIATIONS WILL BE ALLOWED.**

15. TABULATION INFORMATION:

Manual/Electronic Opening – Electronic and manually-distributed Solicitations will contain detailed information regarding closing/opening dates and times. Vendors may attend openings of manually-submitted Solicitations at the place, date, and time specified in the Solicitation. At the time for Bids and Proposals only the names of the Offerors will be announced. No other information will be disclosed at that time. Persons may request tabulation information when it becomes available. Depending upon the complexity of the Solicitation, tabulations may take as long as thirty (30) calendar days. No tabulation information will be given over the phone.

16. TERMS AND CONDITIONS OF ENSUING AGREEMENT: Any ensuing Agreement will be governed by the *Idaho State University Standard Contract Terms and Conditions*, any applicable Software Terms and Conditions, and if applicable, any negotiated provisions, all as specified in the Solicitation. Unless otherwise identified in the Solicitation, no additional or supplemental terms and conditions submitted by the submitting Vendor as part of its response shall be evaluated or considered. Any and all such additional terms and conditions shall have no force and effect and shall be inapplicable to this Solicitation and any ensuing Agreement. If additional or supplemental terms and conditions, either intentionally or inadvertently appear separately in transmittal letters, specifications, literature, price lists or warranties, it is understood and

agreed that the *Idaho State University Standard Contract Terms and Conditions* and any Software Terms and Conditions in the Solicitation are the only conditions applicable to the Solicitation and any ensuing Agreement and the submitting Vendor's authorized signature affixed to the signature page form attests to this. If you condition your Bid or Proposal on such additional terms and conditions, your Bid, Proposal, or Quote may be deemed non-responsive. **IF YOU HAVE QUESTIONS OR CONCERNS REGARDING THE UNIVERSITY'S TERMS AND CONDITIONS, ADDRESS THEM IN WRITING TO THE DESIGNATED PURCHASING OFFICIAL WITHIN THE TIME PERIOD PRESCRIBED PRIOR TO THE SOLICITATIONS CLOSING DATE.**

17. PRE-OPENING SOLICITATION WITHDRAWALS OR MODIFICATION:

A. Manual – Manual submissions may be withdrawn or modified only as follows: Bids or Proposals may be withdrawn or modified prior to the closing date/time by written communication signed in ink by the submitting Vendor. Bids or proposals may be withdrawn prior to closing date/time in person upon presentation of satisfactory evidence establishing the individual's authority to act on behalf of the submitting Vendor. Any withdrawing or modifying communication must clearly identify the Solicitation. A modifying letter should be worded so as **NOT** to reveal the amount.

18. REJECTION OF BIDS AND PROPOSALS AND CANCELLATION OF SOLICITATION:

A. Prior to the issuance of a Contract, the University shall have the right to accept or reject all or any part of a Bid, Proposal, or Quotation, or any and all Bids, Proposals, and Quotations when: (i) it is in the best interest of the University; (ii) the Bid, Proposal, or Quotation does not meet the minimum specifications; (iii) the Bid, Proposal, or Quotation is not the lowest responsible Bid, Proposal, or Quotation; (iv) a finding is made based upon available evidence that a submitting Vendor is not responsible or is otherwise incapable of meeting specifications or providing an assurance of ability to fulfill Agreement requirements; or (v) the item offered deviates to a major degree from the specifications, as determined by the University (minor deviations, as determined by the University, may be accepted as substantially meeting the Solicitation requirements). Deviations will be considered major when such deviations appear to frustrate the competitive Solicitation process or provide a submitting Vendor an unfair advantage.

B. Prior to the issuance of an Agreement, the University shall have the right to reject all Bids, Proposals, or Quotations or to cancel a Solicitation. Cancellation may be for reasons that include, but are not limited to: (i) inadequate or ambiguous specifications; (ii) specifications have been revised; (iii) Property is no longer required; (iv) there is a change in requirements; (v) all submissions are deemed unreasonable or sufficient funds are not available; (vi) Bids, Proposals, or Quotations were not independently arrived at or were submitted in bad faith; (vii) it is determined that all requirements of the Solicitation process were not met; (viii) insufficient competition; or (ix) it is in the best interest of the University.

19. BURDEN OF PROOF: It shall be the responsibility and burden of the submitting Vendor to furnish, with its original submission, unless otherwise provided in the Solicitation, sufficient data for the University to determine whether the property offered conforms to the specifications.

20. ALTERNATE BIDS: Multiple bids submitted by a single submitting Vendor, or submitting Vendor's alternate bids, **WILL NOT BE ACCEPTED UNLESS SO STATED IN THE SPECIFICATIONS.**

21. DISCOUNTS: Discounts, when applicable, shall be shown in a single net percentage figure (e.g. 57-1/4% instead of 50, 10, and 5 percent). **DISCOUNTS FOR PROMPT PAYMENT WILL BE ACCEPTED BUT CANNOT BE USED IN DETERMINING THE LOWEST BID.**

22. UNIT PRICES GOVERN: Unit prices shall govern. **IMPORTANT:** Prices must be given in the "unit of measure" required in the Solicitation. Example: If the Solicitation requires an item by the "piece," submit pricing by the "piece." If the Solicitation requires an item by the "foot," submit pricing by the "foot."

23. FIRM PRICES: The submitting Vendor agrees that its Bid, Quotation, or Proposal shall be good and may not be withdrawn for a period of ninety (90) days after the scheduled closing date, unless otherwise identified in the Solicitation. No Bid, Quotation, or Proposal will be accepted if the marked “price prevailing at time of delivery,” “estimated prices,” “actual costs to be billed,” or similar phrases. After the date and time of closing, no price change will be allowed, unless otherwise stated in the Solicitation. All Bids, Quotations, and Proposals must be in U.S. Dollars.

24. ORAL INFORMATION: Questions concerning a Solicitation must be directed in writing to the designated purchasing official in the period of time prescribed in the Solicitation. Bids, Proposals, or Quotations deviating from the specifications by any means other than that which is allowed by an amendment to the Solicitation written and issued by the University will be subject to rejection. The University will not be responsible for any verbal or oral information given to Vendors by anyone. Information will be provided by the authorized Purchasing official in writing. Reliance on any oral representation is the Vendor’s sole risk.

25. GOVERNMENTAL USE ONLY: Unless otherwise noted in the Solicitation, all purchases made pursuant to the Solicitation are for the internal use of government only and will not be resold to the general public at retail. Upon request, the University will issue a certification that all purchases made pursuant to the Solicitation are intended for the internal use of government and will not be resold to the general public at retail.

26. PUBLIC RECORDS:

A. The Idaho Public Records Law, Idaho Code Title 74, Chapter 1, as amended, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public’s business prepared, owned, used, or retained by a State Agency or a local agency (political subdivision of the State of Idaho) regardless of the physical form or character. All, or most, of the information contained in your response to the University’s Solicitation will be a public record subject to disclosure under the Public Records Law. The Public Records Law contains certain exemptions. One exemption potentially applicable to part of your response may be for trade secrets. Trade secrets include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy. If you consider any material that you provide in your Bid, Proposal, or Quotation to be a trade secret, or otherwise protected from disclosure, you **MUST** so indicate by marking as “exempt” **EACH PAGE** containing such information. Marking your entire Bid, Proposal, or Quotation as exempt is not acceptable or in accordance with the Solicitation or the Public Records Law and **WILL NOT BE HONORED**. In addition, a legend or state on one (1) page that all, or substantially all, of the response is exempt from disclosure is not acceptable or in accordance with the Public Records Law and **WILL NOT BE HONORED**. Prices that you provide in your Bid, Proposal, or Quotation are not a trade secret. The University, to the extent allowed by law and in accordance with these Solicitation Instructions, will honor a designation of nondisclosure. Any questions regarding the applicability of the Public Records Law should be addressed to your own legal counsel **PRIOR TO SUBMISSION** of your Bid, Proposal, or Quotation.

B. If your Bid, Proposal, or Quotation contains information that you consider to be exempt, you must also submit an electronic redacted copy of the Bid, Proposal, or Quotation with all exempt information removed or blacked out. The University will provide the redacted Bid, Proposal, or Quotation to requestors under Idaho Code Sections 74-101 through 74-126. Submitting Vendors must also:

1. Identify with particularity the precise text, illustration, or other information contained within each page marked “exempt” (it is not sufficient to simply mark the entire page). The specific information you deem “exempt” within each noted page must

be highlighted, italicized, identified by asterisks, contained within a text border, or otherwise be clearly distinguished from other text or other information and be specifically identified as “exempt.”

2. Provide a separate document with your Bid, Proposal, or Quotation entitled “List of Redacted Exempt Information,” which provides a succinct list of all exempt material noted in your Bid, Proposal, or Quotation. The list must be in the order in which the material appears in your Bid, Proposal, or Quotation, identified by Page#, Section#/Paragraph#, Title of Section/Paragraph, specific portions of text or other information, or in a manner otherwise sufficient to allow the University to determine the precise material subject to the notation. Additionally, this list must identify with each notation the specific basis for your position that the material be treated as exempt from disclosure.

C. Vendor shall indemnify and defend the University and State of Idaho against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring a designation of exempt or for the Vendor’s failure to designate individual documents as exempt. The Vendor’s failure to designate as exempt any document or portion of a document that is released by the University shall constitute a complete waiver of any all claims for damages caused by any such release. If the University receives a request for materials claimed exempt by the Vendor, the Vendor shall provide the legal defense for such claim.

27. LENGTH OF AGREEMENTS: Pursuant to Idaho Code Section 67-9205(10), the University may enter into Agreements, including leases and rentals, for periods of time exceeding one (1) year provided that such Agreements contain no penalty to or restriction upon the University in the event cancellation is necessitated by a lack of financing for any such Agreement or Agreements.

28. LEASE-PURCHASE OPTIONS: Idaho Code Section 67-9222 reads, in part, as follows: “Any exercise of an option to acquire (goods, services, parts, supplies and equipment), or any other procedure which shall serve to pass title to the state where no passage of title existed before, shall be deemed to be a new acquisition and prior to execution all applicable provisions and procedures of the chapter [67-5714 through 67-5744] shall be exercised.” (**NOTE:** This provision is **NOT** applicable to time purchase or installment-purchase Agreements).