

East Arkansas Community College
Standard Terms & Conditions

1. **General.** Any special terms and conditions included in the Invitation to Bid override these standard terms and conditions. The standard terms and conditions and any special terms and conditions become part of the contract entered into if any or all parts of the bid are accepted by East Arkansas Community College, hereafter called EACC or the College.
2. **Acceptance and Rejection.** The College reserves the right to accept or reject all or any part of a bid or any and all bids, to waive any informalities and minor technicalities, and to award the bid to best serve the interest of the College and State of Arkansas. This Invitation to Bid does not in any way commit the College to contract for the commodities or services listed herein.
3. **Bid Submission.** Bids must be submitted to the College on the attached bid form, when appropriate, on or before the date and time specified for bid opening. If this form is not used, the bid may be rejected. Each bid should be placed in a separate envelope completely and properly identified with bid number, time, and opening date. The bid should be typed or printed in ink. Late bids will not be considered under any circumstances.
4. **Signature:** Failure to sign the bid will disqualify it. The person signing the bid should show title or authority to bind his firm in a contract. The signature must be in blue ink.
5. **Prices.** Quote FOB destination. Bid the unit prices. In case of errors in extension, unit prices shall govern. Prices are firm and not subject to escalation unless otherwise specified in the Invitation to Bid. Unless otherwise specified, the bid must be firm for acceptance for thirty days from the bid opening date. "Discount from List" bids are not acceptable unless requested in the Invitation to Bid.
6. **Quantities.** The quantities stated in term contracts are estimates only and are not guaranteed. Bid unit price on the estimated quantity and unit of measure specified. The College may order more or less than the estimated quantity on any term contract. Quantities stated on firm contracts are actual requirements of the College.
7. **Brand Name References.** Any catalog brand name or manufacturer's reference used in the bid invitation is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding other than referenced specifications, the bid must show the manufacturer, brand or trade name, and other description and should include the manufacturer's illustration and complete description of the product(s) offered. The College reserves the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the College may require the bidder to supply additional descriptive material. The bidder guarantees that the product offered will meet or exceed specifications identified in the bid invitation. If the bidder takes no exception to specifications or reference data in this bid, he will be required to furnish the product according to the name brands, numbers, etc., as specified in the invitation.
8. **Guaranty.** All items shall be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the bid invitation. The bidder hereby guarantees that everything furnished hereunder will be free from defects in design, workmanship, and material; that if sold by drawing, sample, or specification, it will conform hereto and will serve the function for which it was furnished. The bidder further guarantees that if the items furnished hereunder are to be installed by the bidder, such items will function properly when installed. The bidder also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling, and registration. The bidder's obligation under this paragraph shall survive for a minimum of one year from the date of delivery, unless otherwise specified herein.
9. **Samples.** Samples, or demonstrators, when requested, must be furnished free of expense to the College. If samples are not destroyed during reasonable examination, they will be returned to the bidder, if requested, within ten days following the opening of bids, at the bidder's expense. All demonstrators will be returned after reasonable examination. Each sample should be marked with the bidder's name and address, bid number, and item number.
10. **Testing Procedures for Specifications Compliance.** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specification, the cost of the sample used and the reasonable cost of the testing shall be borne by the bidder.
11. **Amendments.** The bid cannot be altered or amended after the opening, except as permitted by regulation.
12. **Taxes and Trade Discounts.** Do not include sales or use tax in your response. Trade discounts should be deducted from the unit price, with the net price shown on the bid.
13. **Award.** The College reserves the right to award items all or none or by line item, whichever is determined to be in the best interest of the State. Conditional bids will not be considered. Term Contracts: A Contract Award will be issued to the successful bidder. It results in a binding obligation without further action by either party. This award does not authorize shipment. The receipt of a Purchase Order from the University authorizes shipment against a term contract. Firm Contracts: A written Purchase

Order mailed or otherwise furnished to the successful bidder within the time of acceptance specified in the Invitation to Bid results in a binding contract without further action by either party.

- 14. Length of Contract.** The Invitation to Bid, contract award or purchase order will show the period of time the term contract will be in effect.
- 15. Delivery on Contracts.** The Invitation to Bid will state the number of days to place a commodity or service in the designated location under normal conditions. If the bidder cannot meet the stated delivery, alternate delivery schedules may become a factor in the award. The College has the right to extend delivery if reasons appear valid. If the delivery date is not acceptable, the College reserves the right to procure elsewhere, and any additional cost will be borne by the supplier/contractor.
- 16. Delivery Requirements.** No substitutions or cancellations are permitted without prior written approval of the College. Delivery shall be made during College working hours only, 8 a.m. to 4:00 pm, unless prior approval for other delivery time(s) has been obtained. Packing memoranda shall be enclosed with each shipment. Storage: The College is responsible for storage if the contractor delivers within the time required and the College cannot accept delivery at that time.
- 17. Default.** All commodities furnished will be subject to inspection and acceptance of the College after delivery. Backorders, default in promised delivery or failure to meet specifications authorize the College to cancel this contract or any portion of it and reasonably procure commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor. The contractor must give written notice to the College of the reason for default and the expected delivery date. Consistent failure to meet delivery requirements without valid reason may cause removal from the bidder's list or suspend eligibility for award.
- 18. Variation in Quantity.** The College assumes no liability for commodities produced, processed, or shipped in excess of the amount specified on the College's purchase order.
- 19. Invoicing.** The contractor shall be paid upon completion of all the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the Invitation to Bid, (2) delivery and acceptance of the commodities, and (3) proper and legal processing of the invoice by all necessary state agencies. Invoices must be sent to "Invoice to" point shown on the purchase order.
- 20. East Arkansas Community College (State) Property.** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data, or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for use hereunder shall remain property of the College/State, be kept confidential, be used only as expressly authorized, and returned at the contractor's expense to the FOB point, properly identifying what is being returned.
- 21. Patents or Copyrights.** The contractor agrees to indemnify and hold the College harmless from all claims, damages, and costs, including legal fees, arising from infringement of patents or copyrights.
- 22. Assignment.** Any contract entered into pursuant to this Invitation to Bid is not assignable nor the dues hereunder delegable by either party, without the written consent of both parties of the original contract.
- 23. Other Remedies.** In addition to the remedies outlined herein, the contractor and the College have the right to pursue any other remedy permitted by law or in equity.
- 24. Lack of Funds.** The College may cancel this contract to the extent funds are no longer legally available for expenditures under this contract. Any delivered but unpaid for goods will be returned in normal condition to the contractor by the College. If the College is unable to return the commodities in normal condition, and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim for the actual expense.
- 25. Discrimination.** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the bidder agrees to the following: (1) the bidder will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin. (2) In all solicitations or advertisements for employees, the bidder will state that all qualified applicants will receive consideration without regard to race, sex, color, age, religion, handicap, or national origin. (3) The bidder will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute. (4) Failure of the bidder to comply with the statute, the rules and regulations promulgated hereunder, and this nondiscrimination clause shall be deemed a breach of contract, and it may be canceled, terminated, or suspended in whole or in part. (5) The bidder will include the provisions of items 1 through 4 in every contract so that such provisions will be binding upon such subcontractor or vendor.
- 26. Contingent Fee/Ethical Standards.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for the retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

- 27. Antitrust Assignment.** As part of the consideration for entering into any contract pursuant to this Invitation to Bid, the bidder named on the front of this Invitation to Bid, acting herein by the authorized individual, its duly authorized agent, hereby assigns, sells, and transfers to East Arkansas Community College all rights, title, and interest in and to all causes of action it may have under the antitrust laws of the United States or the State of Arkansas for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this state pursuant to this contract.
- 28. Sovereign Immunity:** Nothing in this agreement shall be construed to waive the sovereign immunity of the State of Arkansas or any entity thereof, including East Arkansas Community College.
- 29. Minor Capital Improvements (\$5,000.01 to \$19,999.99).** A Certificate of Insurance is required from the successful bidder prior to the issuance of a purchase order.
- 30. Major Capital Improvements (over \$20,000).** A five (5) percent Bid Bond must be submitted with the sealed bid. A Certificate of Insurance, one hundred (100) percent Performance Bond, and a Contractor's License are required from the successful bidder prior to the issuance of a purchase order. Contractor will be required to complete the Contract and Grant Disclosure and Certification Form (EO 98-04) for bids over \$25,000.
- 31. Technology Access:** When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

- Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;
- Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;
- After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
- Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
- Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
- Integrating into networks used to share communications among employees, program participants, and the public; and
- Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

State agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product.

For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.