

**STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA  
GENERAL INSTRUCTIONS TO BIDDERS**

**1. PennBid Program Website**

Millersville University of Pennsylvania of the State System of Higher Education Commonwealth of Pennsylvania uses the PennBid Bonfire website for public notice for Invitations for Bids (IFBs). Specific instructions related to the PennBid Bonfire website are posted online. The bid documents take precedence over any online instruction.

Detailed information about submission and acceptance of bids is addressed in Section 7 below.

**2. Responsibility of the Bidder**

It is the responsibility of the bidders by careful examination of the Contract Documents to satisfy themselves as to the nature and location of the Work, as well as all environmental conditions that may affect performance of the Work. All bidders should visit the site to thoroughly familiarize themselves with the existing conditions. If any discrepancies should be found between existing conditions and the Contract Documents, prospective bidders shall report these discrepancies to the System for clarification prior to submitting a bid. Requests for interpretation of the Work to be performed shall be submitted in writing to the System or the System's designated representative. Failure of the bidder to visit the site, recognize and take into account in their bid site conditions that affect the Work, shall not be considered sufficient cause for any increase in the agreed-upon contracted amount. If subsurface drilling or other exploration has been performed at the Project site, information resulting from such drilling and/or exploration and provided to the System in forms and/or subsurface drilling reports is included in the Technical Plans and Specifications.

**3. Incurring Costs**

The System is not liable for any cost or expenses incurred by bidders or prospective bidders in the preparation of their bids or for attendance at any conferences, meetings, or site visits related to this IFB.

**4. Restriction of Contact**

From the issue date of this IFB until a final contract award has been made, all contacts with Commonwealth personnel concerning this IFB must be made only through the Issuing Office or other specific representatives identified for the IFB on PennBid Bonfire website.

**5. Addenda to the IFB**

If it becomes necessary to revise any part of this IFB, Addenda will be issued. If Addenda are issued, all terms and conditions that are not changed remain. Bidders shall acknowledge on the Bid Form all Addenda, identified by the numbers and dates of those Addenda. Bidders are responsible for ensuring they are aware of all Addenda prior to submitting their bid.

**6. Questions and Answers to the IFB**

The PennBid Bonfire website provides a message board for on-line questions and answers. The System will post answers to questions, as applicable. If there are a significant number of questions and/or complex questions/answers, the answers may be consolidated and provided in an Addendum. Posted answers shall

be considered official, as if included in an Addendum. Answers will be posted in a timely-enough manner for bidders to be able to adequately consider them. Bidders are responsible for ensuring they are aware of all posted answers prior to submitting their bid.

## **7. Submission and Acceptance of Bids**

Bids shall be entered on the Bid Form provided elsewhere in this IFB. The completed Bid Form shall be PDF format, and uploaded to the PennBid Program website not later than the bid due date and time to be considered as responsive to the bid requirements. **Bidders submitting bids for more than one separate prime contract shall prepare and upload separate Bid Forms.**

All other items required to be submitted with the bid shall be PDF format and uploaded in the same manner and at the same time as the Bid Form. Items may be separate PDF files, or combined into one PDF file; or may be combined into one PDF file with the Bid Form. If separate PDF files are used, however, they must be gathered into a Zip file for uploading. Bidders submitting bids for more than one separate prime contract shall prepare, scan, and upload separate items for each separate prime contract.

The apparent low bidder may be asked to submit one (1) original hard copy of their Bid Form, and one (1) original hard copy of their bid security, if required for the IFB, with all entries in ink or typewritten and with original signatures, within 48 hours of bid opening date and time. Other items required to be submitted with the bid may also be required to be submitted as original hard copies.

The System will not be responsible if the bidder is not able to upload their scanned PDF Bid Form if the problem is not associated with a failure of PennBid Program website. Uploaded Bid Forms and other documents which are not readable when accessed by the System will be rejected as non-responsive.

To be considered, bids must be a complete response to the IFB, and must contain all elements required to be submitted with the bid. An omission of prices requested on the Bid Form may be sufficient cause for rejection of the entire bid as non-responsive.

Bidders may submit modifications to their bids at any time before the bid due date and time. Modifications to bids shall be accomplished by withdrawing their bid form and uploading a new bid form. Otherwise, all bids shall be unconditionally accepted without alteration or modification except as authorized in this IFB.

Bids may be withdrawn up to the time of bid opening.

Requests for withdrawal of bids after bid opening based on an erroneous bid and/or a mistake in the bid, in accordance with the Commonwealth Procurement Code 62 P.S. 512(f), must be made within two (2) working days after the date of bid opening.

## **8. Bid Security**

If a bid security is required, each bid must be accompanied by a Bid Bond. Specific bid security required, and the type, for the solicitation is identified on the Instructions to Bidders. Failure to submit bid security, if required, will result in the rejection of the bid as non-responsive. The Bid Bond must be submitted on the System-furnished Bid Bond form, complete with all signatures, seals, and certificate of power of attorney. Failure to use the System Bid Bond form for a bid bond will result in the rejection of the bid as non-responsive. The Bid Bond form is located elsewhere in this IFB.

The bid security will be forfeited if a bid or any part thereof is accepted by the System and the bidder fails to furnish approved performance and payment bonds, if required, and execute the contract within the time frame stated in the Notice of Award.

All bid security not forfeited, except for the two lowest responsive, responsible bidders, shall be released on or before the thirtieth (30th) day after the bid opening. The bid security of the two lowest responsive, responsible bidders, except where forfeiture is involved, will be returned, or released, as appropriate, upon execution of the performance and payment bonds and the contract by the lowest responsive, responsible bidder. In the event no contract is awarded by the System, the bid security of the two lowest responsive,

responsible bidders will be returned, or released, as appropriate, on or about sixty (60) days after the bid opening, unless an extension is agreed upon.

## **9. Business Certification**

The Bid Form contains a Bidder Business Certification section that bidders must complete.

If the bidder is incorporated or organized in a state other than Pennsylvania, the bidder must be registered to do business in Pennsylvania. If the bidder is operating under an assumed or fictitious name, the bidder must have registered that name in Pennsylvania. No contract will be awarded to a foreign (non-Pennsylvania) corporation, LLC, LLP, or LP, or to an assumed or fictitious name, unless the bidder has complied with the registration requirements of Pennsylvania statutes.

Information on business registration in the Commonwealth of Pennsylvania is available from the Pennsylvania Department of State, Bureau of Corporations and Charitable Organizations, 206 North Office Building, Commonwealth Avenue & North Street, Harrisburg, PA 17120.

## **10. Submission of Small Diverse Business (SDB) Participation Information**

If applicable, bidders must submit with their bid the required SDB participation information. The SDB Requirements Instructions, and the required SDB Solicitation Form, are located elsewhere in this IFB.

## **11. Selection for Award**

The System intends to award a contract or contracts resulting from this IFB to the responsible bidder(s) who submitted a responsive bid(s) which represents the lowest price to the System based on the bid evaluation plan.

If unit-priced bid items are included on the Bid Form, the System reserves the right to make an award on any item for a quantity less than the estimated quantity offered.

If the Bid Form includes multiple Bid Items, the System reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the System's best interest to do so.

## **12. Tie Bids**

When two or more low bids are equal in all respects, a recognized simple "game of chance" will be used to determine which equally-eligible bidder is to be awarded the contract. For two equally-eligible bidders, a coin flip or a drawing of straws or lots may be used. For three or more equally-eligible bidders, a drawing of straws or lots will be used. Equally-eligible bidders will have the opportunity to witness the process, if applicable.

## **13. Unbalanced Bids**

The System may reject a bid as nonresponsive if it is materially unbalanced as to prices for the basic requirement, any unit prices, and/or any options. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more Bid Form line items is significantly overstated or understated. A bid may be rejected if the System determines that the lack of balance poses an unacceptable risk to the System.

## **14. Apparent Clerical and Other Mistakes on the Bid Form**

For the purpose of initial evaluation of bids, the following will be utilized in resolving arithmetic discrepancies found on the face of the Bid Form as submitted by the bidder:

- a. Obviously misplaced decimal points will be corrected.
- b. For a discrepancy between a unit price and its extended price, the unit price will govern.
- c. Apparent errors in extension of unit prices will be corrected.
- d. Apparent errors in addition of lump-sum and extended prices will be corrected.

In the case of a discrepancy between written words and numbers, the written words will govern.

## 15. System's Right to Reject Bids

The System reserves the right to reject any bid if it shows any omission, alteration, addition, or deduction not called for; if it contains substitutions or exceptions; if it is conditional or represents an uninvited alternate bid; or if it contains irregularities of any kind. The System reserves the right, however, to waive technical defects or minor irregularities. Additionally, in the event a bidder fails, refuses, or neglects to provide any requested information or documents within the time stated in this IFB or upon the System's request, the System will have the right to reject their bid as non-responsive.

The System reserves the right to reject at any time all bids received.

## 16. Anti-Bid-Rigging

The bids of any bidder or bidders who engage in collusive bidding shall be rejected. Any bidder who submits more than one bid in such manner as to make it appear that the bids submitted are on a competitive basis from different parties shall be considered a collusive bidder. The System may reject the bids of any collusive bidder upon bid openings of future projects. By submitting a bid, a bidder is certifying that they are not engaged in collusive bidding or bid rigging relative to this bid. Nothing in this section shall prevent a bidder from superseding a bid by a subsequent bid delivered prior to bid opening which expressly revokes the previous bid.

## 17. Reciprocal Limitations Act Requirements

The Reciprocal Limitations Act (62 P.S. 107) is applicable to contracts of \$10,000 and greater.

The Reciprocal Limitations Act requires the System to give bidders a preference against a nonresident bidder from any state that gives or requires a preference to bidders from that state. The amount of the preference shall be equal to the amount of the preference applied by the state of the nonresident bidder.

The following is a list of the states which have been found by the Commonwealth of Pennsylvania to have applied a preference for in-state bidders and the amount of the preference:

Arizona	5% (construction materials from Arizona resident dealers only)
Montana	3%
West Virginia	2.5% (for the construction, repair, or improvement of any buildings)
Wyoming	5%

The Reciprocal Limitations Act also requires the System to give preference to those bidders offering supplies produced, manufactured, mined, or grown in Pennsylvania against those bidders offering supplies produced, manufactured, mined, or grown in any state that gives or requires a preference to supplies produced, manufactured, mined, or grown in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular supply. The following is a list of states which have been found by the Commonwealth of Pennsylvania to have applied a preference for in-state supplies and the amount of the preference:

Alaska	7% (applies only to timber, lumber, and manufactured lumber products originating in the state)
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Arizona	5% (construction materials produced or manufactured in the state only)
Hawaii	10%
Louisiana	10% (steel rolled in Louisiana) 7% (all other products)
Montana	5% (for residents offering in-state goods, supplies, equipment, and materials) 3% (for non-residents offering in-state goods, supplies, equipment, and materials)
New Mexico	5%
Oklahoma	5%
Washington	5% (fuels mined or produced in the state only)
Wyoming	5%

The Reciprocal Limitations Act also requires the System to not specify, use, or purchase supplies which are produced, manufactured, mined, grown, or performed in any state that prohibits the specification for, use of, or procurement of such supplies in or on its public buildings or other works when such supplies are not produced, manufactured, mined, or grown, or performed in that state. The following is a list of the states which have been found by the Commonwealth of Pennsylvania to have prohibited the use of certain out-of-state supplies:

Georgia	forest products only
Indiana	coal
New Jersey	various products, to include but not limited to: chain link fence, portable sanitation units, glass, glazier supplies, carpet and cushion, shades, upholstery materials and supplies, room air conditioning, electrical supplies, plumbing supplies, hardware supplies, fasteners, lumber, building supplies, audio/visual equipment, fire extinguishers, fire hose, motor oils, fuel oil, Venetian blinds, and drapes
New Mexico	construction

The above lists and amounts of preferences are those related to construction contracts only. The complete list of preferences for all contracts, supplies, and services is available from the Commonwealth of Pennsylvania Department of General Services.

## 18. Nondiscrimination

The System is an equal opportunity employment agency with nondiscrimination/sexual harassment requirements, as contained in the General Conditions for the Construction Contract. It is the policy of the System to award and administer contracts for goods and services in a nondiscriminatory manner, to promote the affirmative participation of minority-owned and women-owned businesses in procurement activities and awards, and to integrate into procurement processes the necessary practices and procedures for the procurement of all goods and services for the System to effectively implement the policy.

## 19. Debarred Contractors

Contractors currently under suspension or debarment by the Commonwealth, any other state, or the Federal government, are not eligible for award of any contract for this Project. By submitting a bid, a bidder is certifying that they are not currently under suspension or debarment by the Commonwealth, any other state, or the Federal government. Additionally, contractors shall not contract with or employ any subcontractors, suppliers, or individuals that are currently under suspension or debarment. A current list of suspended or debarred contractors is available by contacting the Department of General Services, Office of General Counsel, North Office Building Room 603, Harrisburg, Pennsylvania 17125.

## **20. Delinquent Payments**

By submitting a bid, a bidder is certifying that, to the best of their knowledge, they are not delinquent in the payment of taxes or other levies to the Pennsylvania Department of Revenue, the Pennsylvania Department of Labor & Industry, or any other Commonwealth Agency or entity.

## **21. Submission of Contractor Qualification and/or Financial Information**

Upon request, or if specifically required by the terms of this IFB, the apparent low bidder may be requested to submit a contractor's qualification and/or financial statement within ten (10) calendar days of the bid date, with financial information current within twelve (12) months prior to the bid date, of which statements shall be certified to be true and correct by an affidavit sworn to or affirmed before a notary public or other officer empowered to administer oaths or affirmations.

## **22. Financial Requirements**

To be deemed a responsible bidder, the bidder may be required to demonstrate, in relation to the bid price, adequate financial and other resources in order to be able to successfully prosecute the work. Additional information may be requested by the System whenever, in its judgment, such information is necessary to determine the responsibility of the bidder.

## **23. Contractor Performance Evaluation Systems**

The System may utilize a contractor performance evaluation system or tool established by the Department of General Services or by another Commonwealth agency, entity, or instrumentality to obtain past performance information on the bidder. Such information may be used in a determination of the bidder's responsibility.

## **24. Commonwealth of Pennsylvania Contractor Responsibility Program (CRP)**

The System may utilize the Commonwealth of Pennsylvania CRP System, as provided for under the Governor's Office's Management Directive 215.9 Amended, Contractor Responsibility Program, dated October 25, 2010, to ensure that the System contracts only with responsible contractors.

## **25. References and Past Performance**

The System reserves the right to contact any and all references provided by the bidder, as well as any of the bidder's past or current clients and/or customers, to glean information on the bidder's past performance and experience. Such information may be used in a determination of the bidder's responsibility.

## **26. Award of Contract**

The System may, solely at its own discretion, award a contract within sixty (60) days from the date of bid opening. A time extension may be made by written consent of the lowest responsive responsible bidder. Award will be consummated by a Notice of Award letter mailed to the Contractor.

The System contemplates award of a firm fixed price contract resulting from this IFB. The contract into which the parties are anticipated entering is the System's Standard Form of Contract for Construction, located elsewhere in this IFB.

The System will provide to the contractor the completed Contract for signature with the Notice of Award letter. The Contract will not become effective until executed by all necessary Commonwealth officials as provided by law.

## **27. Notice to Proceed (NTP)**

The System will endeavor to issue the NTP within 120 days of the bid opening. Any delays caused by the contractor's failure to provide any required documents within the specified time will cause an equivalent number of days to be added to this 120-day time frame.

## **28. Performance, Payment, and Maintenance Bonds**

Should Performance, Payment, and/or Maintenance Bonds be required, the System will provide to the Contractor with the Notice of Award letter the blank System Contract Bond form. The Contractor's surety company must be authorized to do business in the Commonwealth of Pennsylvania and must successfully demonstrate in writing prior to award that the amount of bond or reinsurance or other security has been obtained in conformance with the Pennsylvania Insurance Company law of 1921, 40 P.S. 832. If specifically required by the terms of this IFB, as indicated in the Special Instructions to Bidders, the Contractor's surety company may be required to be rated at a specific level or better by A.M. Best and Company. Failure of the Bidder to execute the required Performance, Payment, and/or Maintenance Bonds within the time specified may result in payment to the System their bid security, in the amount of the difference between their bid and the next lowest responsive responsible bid, or the bid security amount, whichever is less. The System shall have the right to award the contract to the next lowest responsive responsible bidder.

## **29. PA E-Verify**

The Commonwealth of Pennsylvania enacted Act 127 of 2012, known as the Public Works Employment Verification Act ('the Act'), which requires all public work contractors and subcontractors to utilize the Federal Government's E-Verify system (EVP) to ensure that all employees performing work on public work projects are authorized to work in the United States. The Department of General Services' (DGS) Public Works Employment Verification Compliance Program is responsible for the administration, education, and enforcement of the Act. Information on the Act and DGS' program are available on DGS' web site.

Contracts resulting from this solicitation will fall under the Act and the associated DGS compliance program. Contractors will be required to sign and submit to the university, as a pre-condition of being awarded a contract, the Commonwealth of Pennsylvania Public Works Employment Verification Form (the Form). The Form is available on DGS' web site and/or through the university.

## **30. Investment Activities in Iran**

The Commonwealth of Pennsylvania enacted Act 149 of 2014, which prohibits entities which engage in certain investment activities in Iran from entering into a contract with the Commonwealth. Contractors may be required to sign and submit to the university, as a pre-condition of being awarded a contract, a certification stating that they are not on the Department of General Services' list of entities whom the Department determined are engaged in investment activities in Iran, as described in Act 149.

## **31. News Releases**

News releases and media contacts regarding this Contract and Project will be made by the System only, unless the System directs otherwise in specific instances. In such instances, the System shall receive prior review and approval of such releases. In any case, Contractors shall not use the name of the System or any University for promotional or marketing purposes without the System's prior written approval.

### **32. Pennsylvania Right-to-Know Law**

Effective January 1, 2009, all responses to this procurement opportunity are subject to the Pennsylvania Right-to-Know Law, 65 P.S. §67.101 et seq., (Act 3 of 2008). The Right-to-Know Law permits any requestor to inspect and/or copy any record prepared and maintained or received in the course of the operation of a public office or agency that is not subject to the enumerated exceptions under the law. If a bidder's/proposer's response to the procurement opportunity contains a trade secret or confidential proprietary information, the bidder/proposer should include with their response a separate signed written statement to that effect. Should the response become the subject of a Pennsylvania Right-to-Know Law request, the bidder/proposer will be notified by the procurement office to identify all trade secrets or confidential and proprietary information that is included in your response. The agency will then determine whether the claimed trade secret or confidential and proprietary information is subject to disclosure.

### **33. Right to Protest**

A bidder or prospective bidder or prospective contractor who is aggrieved concerning the solicitation or award of a contract may protest, as provided for in the Commonwealth Procurement Code, 62 Pa C.S. 1711.1. Protests shall be made in writing by submitting the protest to the Office of the Chancellor, State System of Higher Education, 2986 North Second Street, Harrisburg PA 17110. A copy of the protest shall be mailed simultaneously to the Contracting Officer identified for the solicitation on the PennBid Program website. All protests must be received within seven (7) calendar days after the protestant knew, or should have known of the facts giving rise to the protest. If a protest is submitted by a prospective bidder, the protest must be received prior to the bid opening date/time. If a protestant fails to file a protest or files an untimely protest, the protestant shall be deemed to have waived its right to protest the solicitation or award of the contract in any forum. Untimely filed protests will be disregarded. A protest must state all grounds upon which the protestant asserts the solicitation or award of the contract was improper. The protestant may submit with the protest any documents or information it deems relevant to the protest. Upon receipt and evaluation of the protest, the Office of the Chancellor will render a written decision, in accordance with the procedures outlined within the Commonwealth Procurement Code.