

CONDITIONS AND INSTRUCTIONS

- 1. ADDITIONAL ORDERS:** Unless it is specifically stated to the contrary in the bid response, the College reserves the option to place additional orders against a contract awarded as a result of this solicitation at the same terms and conditions, if it is mutually agreeable.
- 2. APPLICABLE LAW:** This contract shall be construed and interpreted according to Maryland law.
- 3. ASSURANCE OF NON-CONVICTION OF BRIBERY:** The bidder hereby declares and affirms that, to its best knowledge, none of its officers, directors or partners and none of its employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery or conspiracy to bribe under the laws of any state or the Federal government.
- 4. AUDIT:** Bidder shall permit audit and fiscal and programmatic monitoring of the work performed under any contract issued from this solicitation. The College shall have access to and the right to examine and/or audit any records, books, documents and papers of bidder and any subcontractor involving transactions related to this Agreement during the term of this Agreement and for a period of three (3) years after final payment under this Agreement.
- 5. AWARD CONSIDERATIONS:** Awards of this bid will be made to the lowest responsible bidder conforming to specifications with consideration being given to quantities involved, time required for delivery, purpose for which required, responsibility of bidder and its ability to perform satisfactorily with consideration to any previous performance for Montgomery Community College. A bid may be awarded at the sole discretion of the College in the best interest of the College. Prompt payment discounts will not be considered in bid evaluation. All discounts other than prompt payment are to be included in bid price.
- 6. BID AND PERFORMANCE SECURITY:** If bid security is required, a bid bond or cashier's check in the amount indicated on the bid cover must accompany each bid and be made payable to Montgomery Community College. Corporate or certified checks are not acceptable. Bonds must be in a form satisfactory to the College and underwritten by a company licensed to issue bonds in the State of Maryland. If bid security fails to accompany the bid, it shall be deemed unresponsive, unless the Director of Procurement deems the failure to be nonsubstantial. Such bid bonds or checks will be returned to all except the three (3) lowest bidders within five (5) days after the opening of bids, and the remaining checks or bid bonds will be returned to all but successful bidder(s) within forty-eight (48) hours after award of contract. If a performance bond is required, the successful bidder must submit an acceptable performance bond in the designated amount of the bid award, prior to award of contract. All bid bonds will be returned to the successful bidder(s) within forty-eight (48) hours after receipt of the performance bond.
- 7. BRAND NAMES:** Brand name materials used in these specifications are known and acceptable. Bids including proposals to use alternate brands are invited as long as they are of equal type and equal or better quality. The burden of proof that alternate brands are in fact equal or better falls on the bidder, and proof must be to the College's satisfaction.
- 8. COMPLIANCE WITH LAWS:** Bidder agrees to comply, at no additional expense, with all applicable Executive orders, Federal, State, bi-county, regional and local laws, ordinances, rules and regulations in effect as of the date of this Agreement and as they may be amended from time to time, including but not limited to the equal employment opportunity clause set forth in 41 CFR 60-250.4.
- 9. CONTINGENT FEES:** Bidder hereby declares and affirms that neither it nor any of its representatives has employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the bidder, to solicit or secure a contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of a contract as a result of this solicitation.
- 10. DELIVERY AND PACKING:** All prices quoted must include delivery. All goods delivered under this contract shall be packed in accordance with accepted trade practices. No charges may be made over and above the bid price for packaging, or for deposits or containers unless specified in the bid. No charge will be allowed for cartage unless by prior written agreement. Complete deliveries must be made by the successful bidder to the designated location as indicated on the Montgomery Community College purchase order. A packing slip shall be included in each shipment. All deliveries must be prepaid and must be delivered to each location designated on purchase order at no additional cost. **DELIVERIES MUST BE MADE TO THE SPECIFIED LOCATION. NO COLLECT SHIPMENTS OR SIDEWALK DELIVERIES WILL BE ACCEPTED.**
- 11. DELIVERY OF BIDS:** Sealed bids must be received in the Procurement Office by the date and time specified in the bid in order to be considered. **NO LATE BIDS OR PROPOSALS WILL BE ACCEPTED.** Late bids will be returned to the bidder unopened. Bids submitted by mail must be addressed to the Procurement Office, Montgomery College, P.O. Box 1006, Rockville, Maryland 20850, and clearly marked to indicate the bid number, title and opening date. Hand delivered bids will be accepted only at the Procurement Office, Montgomery College Central Administrative Center, Room 110, 900 Hungerford Drive, Rockville, Maryland 20850.
- 12. DISPUTES:** Any dispute arising under a contract awarded as a result of this bid which is not disposed of by agreement shall be decided by the President of the College or designee. Pending the final decision of the dispute, contractor shall proceed with the contract performance. Nothing hereunder shall be interpreted to preclude the parties from seeking after completion of the contract any and all remedies provided by law.
- 13. ERRORS IN BIDS:** Bidders are assumed to be informed regarding conditions, requirements, and specifications prior to submitting bids. Failure to do so will be at the bidder's risk. Bids already submitted may be withdrawn without penalty prior to bid opening. Errors discovered after bid opening may not be corrected. In the case of an error in price extension, the unit price will govern. The intention of the bidder must be evident on the face of the bid.
- 14. HAZARDOUS AND TOXIC SUBSTANCES:** Bidder must comply with all applicable Federal, State, County and bi-county laws, ordinances and regulations relating to hazardous and toxic substances, including such laws, ordinances and regulations pertaining to access to information about hazardous and toxic substances, and as amended from time to time. Bidder shall provide the College with a "Material Safety Data Sheet" or in the case of a controlled hazardous waste substance, a hazardous waste manifest for all hazardous chemicals listed or subsequently added to the Chemical Information List in compliance with applicable laws, ordinances and regulations.
- 15. INSPECTION OF PREMISES:** If a site visit is recommended or required, each bidder is responsible to visit the site(s) prior to submitting a bid in order to observe the existing conditions affecting the work, and to obtain precise dimensions of the area(s) involved. No allowance will be made to the successful bidder, at a later date, for additional work required because of his or her failure to visit the site and/or to obtain the exact dimensions. Discrepancies, if any, must be reported to the College.
- 16. INSURANCE:** If a contract results from this bid, the contractor shall maintain such insurance as will indemnify and hold harmless the College from Workmen's Compensation and Public Liability claims for property damage and personal injury, including death, which may arise from the contractor's operations under this contract, or by anyone directly or indirectly employed by him/her.
- 17. MARYLAND PUBLIC INFORMATION ACT:** Bidder recognizes that the College is subject to the Maryland Public Information Act, Title 10 of the State Government Article of the Annotated Code of Maryland. Bidder agrees that it will provide any justification as to why any material, in whole or in part, is deemed to be confidential, proprietary information or trade secrets and provide any justification of why such materials should not be disclosed pursuant to the Maryland Public Information Act.
- 18. NON-ASSIGNMENT AND SUBCONTRACTING:** Bidder shall not assign any contract or any rights or obligations hereunder without obtaining prior written consent of the College. No contract shall be made by bidder with any other party for furnishing the services to be performed under a contract issued from this solicitation without the written approval of the College. These provisions will not be taken as requiring the approval of the contract of employment between bidder and its personnel.
- 19. NON-COLLUSION:** Bidder certifies that it has neither agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the bid or offer being submitted herewith; bidder also certifies that it has not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the bidder or offeror herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the within bid or offer is submitted.
- 20. NON-DISCRIMINATION:** Bidder assures the College that, in accordance with applicable law, it does not, and agrees that it will not discriminate in any manner on the basis of sex, race, age, color, creed, national origin, religious belief, handicap, marital status, or status as a disabled veteran or veteran of the Vietnam era. Bidder further agrees to post in conspicuous places notices setting forth the provisions of the non-discrimination clause and to take affirmative action to implement the provisions of this section. Bidder further assures the College that, in accordance with the Immigration Reform and Control Act of 1986, it does not and will not discriminate against an individual with respect to hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment because of such individual's national origin or in the case of a citizen or intending citizen, because of such individual's citizenship status.
- 21. PATENTS:** Bidder guarantees that the sale and/or use of the goods offered will not infringe upon any U.S. or foreign patent. Bidder will at his/her own expense, indemnify, protect and save harmless the College, its trustees, employees, agents and students with respect to any claim, action, cost or judgment for patent infringement, arising out of the purchase or use of these goods.
- 22. PREPARATION OF BID:** Bids submitted must be hand signed by an authorized agent of the company submitting the bid. Notification of award will be made by "Notice of Intent to Award" and/or purchase order. A bidder may attach a letter of explanation to the bid for clarification. Bidders will be required, if requested by Montgomery Community College, to furnish satisfactory evidence that they are, in fact, bona fide manufacturers of or dealers in the items listed, and have a regularly established place of business. The College reserves the right to inspect any bidder's place of business prior to award of contract to determine bidder responsibility.
- 23. PRODUCT TESTING DURING TERM OF CONTRACT:** Goods delivered under any contract resulting from this Request for Bid may be tested for compliance with specifications stipulated herein. Any shipment failing to meet or comply fully with the specification requirements will be rejected. The cost of testing a representative sample of an order or shipment for acceptance shall be borne by the College unless the order is rejected for failure to meet specifications or purchase description. In such cases of rejection, the cost of testing will be charged back to the vendor.
- 24. RECORD RETENTION:** If awarded a contract, vendor shall maintain books and records relating to the subject matter of this Agreement, including but not limited to all charges to the College, for a period of three (3) years from the date of final payment under this Agreement.
- 25. REJECTIONS AND CANCELLATIONS:** Montgomery Community College reserves the right to accept or reject any or all bids in whole or in part for any reason. The College reserves the right to waive any informalities and to make awards in the best interest of the College. The College also reserves the right to reject the bid of any bidder who has previously failed to perform adequately on a prior award for furnishing goods and/or services similar in nature to those requested in this bid. The College may cancel this solicitation in whole or in part, in its sole discretion.
- 26. RIDER PROVISION FOR MONTGOMERY COUNTY PUBLIC SCHOOLS AND MONTGOMERY COUNTY:** The bidder agrees when submitting the bid that it will make available to every office and department of the Montgomery County Public Schools and the Montgomery County Government the same bid prices, terms and conditions offered during the term of contract. Orders will be placed directly by these agencies. There will be no penalty if bidder notes exception to this provision in the bid offered.
- 27. SAMPLES AND CATALOG CUTS:** If samples are required, bidder shall be responsible for delivery of samples to location indicated. All sample packages shall be marked "Sample for Procurement Office, Bid No. _____" and each sample shall be tagged or marked. Failure of the bidder to clearly identify samples as indicated may result in rejection of bid. The College reserves the right to test any materials, equipment or supplies delivered to determine if the specifications have been met. Samples will not be returned.
- 28. SIGNATURE:** Each bid must show the full business address and telephone number of the bidder and be signed by the person or persons legally authorized to sign such contracts. All correspondence concerning the bid and contract, including the bid summary, copy of contract, and purchase order, will be mailed or delivered to the address shown on the bid. **NO BID WILL BE ACCEPTED WITHOUT ORIGINAL SIGNATURE.**
- 29. TAXES:** The College is exempt from Federal and Maryland taxes. Exemption Certificates are available upon request. Bidder shall be responsible for the payment of any and all applicable taxes resulting from any award and/or any activities hereunder, including but not limited to any applicable amusement and/or sales taxes.
- 30. TERMINATION BASED ON LACK OF FUNDING:** Any contract awarded as a result of this solicitation will be subject to funding and continued appropriation of sufficient funds for the contract. For purposes of this solicitation, the College's appropriating authority is deemed to be the Board of Trustees of Montgomery Community College. Insufficient funds shall be grounds for immediate termination of this solicitation.
- 31. TERMINATION FOR DEFAULT:** If an award results from this bid, and the contractor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of the College. Failure on the part of the contractor to fulfill contractual obligations shall be considered just cause for termination of the contract and the contractor is not entitled to recover any costs incurred by the contractor up to the date of termination.
- 32. TERMINATION FOR THE CONVENIENCE OF THE COLLEGE:** The performance of the work or services under a contract as a result of this solicitation may be terminated in whole or in part, whenever the President of Montgomery Community College shall deem that termination is in the best interest of the College. Such determination shall be in the sole discretion of the President. In such event, the College shall be liable only for payment in accordance with the payment provisions of the contract for work or services performed or furnished prior to the effective date of termination. Termination hereunder shall become effective by delivery to contractor of written notice of termination upon which date the termination shall become effective.
- 33. WARRANTY:** Bidder expressly warrants that all articles, material and work offered shall conform to each and every specification, drawing, sample or other description which is furnished to or adopted by the College and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall survive a contract and shall not be deemed waived either by the College's acceptance of said materials or goods, in whole or in part, or by payment for them, in whole or in part. The bidder further warrants all articles, material and work performed for a period of one year, unless otherwise stated, from date of acceptance of the items delivered and installed, or work completed. All repairs, replacements or adjustments during the warranty period shall be at bidder's sole expense.