

## ROWAN UNIVERSITY TERMS AND CONDITIONS

The following terms and conditions apply to all contracts or purchase agreements made with Rowan University unless specifically deleted on the University's proposal form. Vendors submitting offers to the University must cross out any paragraphs with terms they do not agree to meet. Any cross-out or change in the University's terms and conditions will be a determining factor in the award of a contract or purchase agreement. Bidders are notified by this statement that all terms and conditions will become a part of any contract(s) or orders(s) awarded, as a result of the request for proposal, whether stated in part, in summary or by reference. In the event of a conflict between the vendor's and the University's terms and conditions, the University's terms and conditions shall prevail.

### 1. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL VENDORS

**1.1 CORPORATE AUTHORITY** It is required that all corporations be authorized to do business in the State of New Jersey. Corporations incorporated out of the State must file a Certificate of Authority with the Secretary of State, Department of State, State House, Trenton, New Jersey. Refer to N.J.S.A. Title 14A, Chapter 13.3

**1.2 ANTI-DISCRIMINATION** All parties to any contract with Rowan University agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained with N.J.S.A. 10:2.1 through 10:2-4, N.J.S.A. 10:5-31 through 10:5.38, and all rules and regulations issued including any amendments to these laws.

**1.3 PREVAILING WAGE ACT** The New Jersey Prevailing Wage Act P.L. 1963, Chapter 150 is hereby made a part of every contract entered into on behalf of Rowan University, except those contracts which are not within the contemplation of the Act. **The Bidder's signature on this proposal is his guarantee that neither he nor any subcontractors he might employ to perform the work covered by this proposal are listed or are on record in the Office of the Commissioner of the Department of Labor and Industry as one who has failed to pay prevailing wages in accordance with the provisions of this Act.**

**1.4 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT** (P.L. 1983, c.315; N.J.S.A. 34:a-1 et seq.) required employers to label all containers of hazardous substances by March 29, 1985. By August 29, 1986, employers must have labeled all containers on their premises. Proper compliance shall be deemed a term and condition of any University purchasing contract.

**1.5 OWNERSHIP DISCLOSURE** Contracts for any work, goods or services cannot be issued to any firm unless prior to or at the time of bid submission the firm has disclosed the names and addresses of all its owners holding 10 percent or more of the firm's stock or interest. Refer to N.J.P.L. 1977, Chapter 33.

**1.6 COMPLIANCE-STATE LAWS** It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.

**1.7 COMPLIANCE LAWS** The vendor must comply with all local, state and federal rules and regulations applicable to this contract and to the work to be done hereunder.

## **2. LIABILITIES**

**2.1 LIABILITY COPYRIGHT** The Contractor shall hold and save Rowan University and its officers, agents, students, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or non copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of his contract.

**2.2 INDEMNIFICATION** The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless Rowan University, its officers, agents, students, servants, and employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith on account of the loss of life, property, injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this agreement.

**2.3 INSURANCE** The successful bidder shall secure and maintain in force for the term of the contract liability insurance as provided herein. The successful bidder shall provide Rowan University with current certificates of insurance for all coverage and renewals thereof which must contain the provision that the insurance provided in the certificate shall not be cancelled for any reason except after thirty days written notice to the Purchasing Department of Rowan University.

The insurance to be provided by the successful bidder shall be as follows:

1. Current State of New Jersey standard comprehensive General Liability policy, not to be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include an endorsement (broad form) for contractual liability and products liability (completed operations). Limits of liability shall not be less than \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage liability.

2. Comprehensive General Automobile Liability policy covering owned, non-owned, and hired vehicles with minimum limits of \$1,000,000 combined single limits.

3. Worker's Compensation Insurance applicable to laws of the State of New Jersey and Employers' Liability Insurance with a limit of not less than \$1,000,000.

**Upon request, the successful contractor will provide certificates of such insurance to the Purchasing Department of Rowan University, prior to the start of the contract and periodically during the course of a multi-year contract.**

## **3. TERMS GOVERNING ALL PROPOSALS TO ROWAN UNIVERSITY PURCHASING DEPARTMENT**

**(Unless Otherwise Specified in Bid Specifications)**

**3.1 CONTRACT AMOUNT** The estimated amount of the contract(s), as stated in Rowan University's Advertised Bid Proposal Form, shall not be construed as either the maximum or the minimum amount which the University shall be obligated to order as the result of this proposal or any contract entered into as a result of this proposal.

**3.2 CONTRACT PERIOD AND EXTENSION OPTION** If, in the opinion of the University's Purchasing Director, it is in the best interest of the University to extend any contracts entered into as a result of this proposal for a period of all or any part of a year, the contractor will be so

notified of the University's Purchasing Director intent at **least 30 days prior to the expiration date of the existing contract**. If the extension is acceptable to the contractor, at the original prices and on the original terms, notice will be given the contractor by the University's Purchasing Director in writing. In such cases a net Performance Bond must be submitted by the contractor on a pro rata basis of the original Performance Bond to cover the period of the extension, at the sole discretion of the University.

**3.3 UNIVERSITY RIGHT TO REJECT ALL BIDS** The University reserves the right to reject any or all bids, or to award in whole or in part if deemed to be in the best interest of the University. In the case of tie bids orders shall be awarded to the vendor or vendors best meeting all specifications and conditions.

**3.4 VENDOR RIGHT TO PROTEST-INTENT TO AWARD** Except in cases of emergency, bidders have the right to protest the University's proposed award of the contract as announced in the notice of intent to award. Unless otherwise stated, a bidder's protest must be received no later than 48 hours after the date on the notice of intent to award. In cases of emergency, the University may eliminate the right to protest. Bidder's protest must be in writing and delivered to the University's Purchasing Director. The protests must include the specific grounds for challenging the award. Within one week of receipt of the written protest, the University's Purchasing Director shall give written notification of the University's acceptance or rejection of the protest. In cases of rejection, the Bidder has the right to request a hearing. Such request must be made within 48 hours of the date of notice of rejection. If a hearing is requested, the University's Purchasing Director will schedule it and send written notice to the Bidder no later than one week prior to the date scheduled for the hearing. The University's approved hearing officer will preside at the hearing and may call any person he/she deems necessary to testify. Should the Bidder fail to attend, it shall be considered a retraction of his protest. The University's hearing officer shall render the University's decision within one week of the end of the hearing and give a written copy to the Bidder.

### **3.5 TERMINATION OF CONTRACT**

- a. Change of Circumstances - Where circumstances and/or the needs of the University significantly change, or the contract is otherwise deemed no longer to be in the public interest, the University's Purchasing Director may terminate a contract entered into as a result of this bid, upon no less than 30 days notice to the vendor and an opportunity to respond.
  - b. For cause:
    1. Where a vendor fails to perform or comply with a contract, and fails to respond or comply with the written complaint of the University Purchasing Director, the University Purchasing Director may terminate the contract upon 10 days notice to the vendor with an opportunity to respond.
    2. Where a vendor continues to perform a contract poorly as demonstrated by formal complaints, late delivery, poor performance of service, short-shipping, etc. so that the University Purchasing Director is repeatedly required to issue written complaints, the University Purchasing Director may terminate the contract upon 10 days notice to the vendor with an opportunity to respond. In cases of emergency the University Purchasing Director may shorten the time periods of notification and may dispense with an opportunity to respond.

**3.6 SUBCONTRACTING OR ASSIGNMENT** The contract may not be sub-contracted or assigned by the contractor, in whole or in part, without the prior written consent of the Rowan University Purchasing Director. Such consent, if granted, shall not relieve the contractor of any of his responsibilities under the contract.

In the event that bidder proposes to subcontract the services to be performed under the terms of the contract award, he shall state so in his bid and attach for approval a list of said subcontractors and an itemization of the services to be supplied by them.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the University.

**3.7 PERFORMANCE GUARANTEE OF BIDDER** The bidder hereby certifies that: The equipment offered is standard new equipment, and is the **manufacturer's latest model in production with parts regularly used for the type of equipment offered, that such parts are all in production and not likely to be discontinued; also, that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.**

All equipment supplied to the University and operated by electrical current is UL listed.

**All new machines are to be guaranteed for a period of one year from time of delivery and/or installation and prompt service rendered without charge, regardless of geographic location.**

Sufficient quantities of parts necessary for proper service to equipment will be maintained at distribution points and service headquarters.

Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within 48-hour period or within the time accepted as industry practice.

**The contractor shall immediately replace any material, which is rejected for failure to meet the requirements of the University.**

All services rendered to the University shall be performed in strict and full accordance with the specifications as agreed to in the contract. A service contract shall not be considered complete until final approval by the University is rendered. Payment to vendors for services rendered may not be made until final University approval is given.

**3.8 DELIVERY GUARANTEES** Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the proposal.

The vendor shall be responsible for the delivery of material in first class condition to the University in accordance with good commercial practice.

**Items delivered must be strictly in accordance with bid specifications.**

In the event delivery of goods or services is not made within the number of days stipulated under the schedule defined in the specifications, the University may at its option obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor failing to meet his commitments.

**3.9 BID ACCEPTANCES AND REJECTIONS** Bids shall be automatically rejected for any of the following causes: (1) No signature in the bid document;(2) Bids received after date and time specified on bid request form;(3) Bid fails to provide price information;(4) Failure to provide required security;(5) **Failure to attend a mandatory Bidder's conference or site inspection;**(6) **Failure to initial any alteration of essential information such as price;**(7) Essential information such as price and product description submitted only in pencil;(8) Failure to

comply with State of New Jersey Affirmative Action Guidelines promulgated pursuant to Chapter 127.P.L. 1975.

**3.10 UNIVERSITY'S RIGHT TO INSPECT BIDDER'S FACILITIES** The University reserves the right to inspect the bidder's establishment before making an award.

**3.11 MAINTENANCE OF RECORDS** The contractor shall maintain records for products and/or services delivered against the contract for a period of three (3) years from the date of final payment. Such records shall be made available to the University upon request.

#### **4. TERMS RELATING TO PRICE QUOTATION**

**4.1 PRICE FLUCTUATIONS DURING CONTRACT** All prices quoted shall be firm and not subject to increase during the period of the contract unless agreed to in writing by the University.

In the event of a manufacturer's price decrease during the contract period, the University shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The University must be notified in writing of any price reduction within five (5) days of the effective date.

**4.2 DELIVERY COSTS** Unless noted otherwise in the specification, all prices for items in bid proposals are to be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the vendors shall assume all liability and responsibility for the delivery of merchandise in good condition to the University unless otherwise specified.

Unless otherwise specified, F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the University or the designated receiving points indicated on the Purchase Order. No additional charges will be allowed for any transportation costs resulting from partial shipments made at vendor's convenience when a single shipment is ordered. The weights and measures of the University shall govern.

**4.3 C.O.D. TERMS** Unless otherwise stated in the Request for Proposal, C.O.D. Terms are not acceptable as part of a bid proposal and are cause for automatic rejection of a bid.

**4.4 TAX CHARGES** The University is exempt from State sales or use taxes and Federal excise taxes. They must not be included in the vendor's price quotations.

**4.5 PAYMENT TO VENDORS** Payments for goods and/or services purchased by the University will be made only against the Contractor's Invoice. The contractor's Invoice in duplicate together with original Bill of Lading, express receipt and other related papers must be sent to the University on the date of each delivery.

#### **5. CASH DISCOUNTS**

Cash discounts for periods of less than 10 days **will not be considered** as factors in the award of contracts for purposes of determining the University's compliance with any discount offered.

1. A discount period shall commence on the day the University receives a properly executed Contractor's Invoice for products and services that have been duly accepted by the University in accordance with the terms, conditions and specifications of the Contract/Purchase Order. If the invoice is received prior to delivery of the goods and services, the discount period begins with the acceptance of the goods or services.

2. The date on the check issued by the University in payment of that invoice shall be deemed the date of the University's payment of that invoice.

#### **6. HAZARDOUS MATERIALS**

**REFERENCES: 29 CFR 1910, SUBPART H AND PART .1200**

## **NJAC TITLE 9, Chapter 59 et. al.**

1. All hazardous materials used on the campus by any contractor are required to have a Material Safety Data Sheet (MSDA) filed with the Safety Office.
2. All hazardous materials left on-site and not consumed or used by the end of the daily work shift by a contractor's crew must be labeled and marked in accordance with the appropriate sections of the New Jersey Worker and Community Right-to-Know Act.

In summary, this act required labels identifying the top five constituents of a product, hazardous or non-hazardous, by common chemical name and Chemical Abstract Service (CAS) Number. Most products manufactured or packaged outside of New Jersey do not meet this requirement without additional action on the part of the end item user or consumer.

All requirements of the United States Environmental Protection Agency (US EPA) as outlined in 40 CFR must also be complied with.

**STORAGE ON SITE/CAMPUS:** All hazardous materials stored on site or on campus must be secured to prevent unauthorized use or contact with campus affiliates or the general public.

In addition, all stoppage must meet the technical requirements of the NJ DEP or DCA, or the University; whichever is more stringent.

**DISPOSAL:** All contractor owned or furnished residue or surplus hazardous materials must be removed from the campus immediately after being classified as "waste", or when they are no longer usable for the project they were brought on to the campus to support.

The University will not accept any hazardous materials for disposal or storage for any reason at any time from any contractor.

For additional information contact the University Safety Office.