

## STANDARD TERMS AND CONDITIONS

1. **GENERAL:** Any special terms and conditions included in the invitation for bid or request for proposal override these standard terms and conditions. The standard terms and conditions and any special terms and conditions become part of any contract entered into if any or all parts of the bid are accepted by North Arkansas College.
2. **ACCEPTANCE AND REJECTION:** North Arkansas College reserves the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of North Arkansas College.
3. **BID SUBMISSION:** Bids must be submitted to North Arkansas College on this form, with attachments when appropriate, on or before the date and time specified for bid opening. If this form is not used, the bid may be rejected. The bid must be typed or printed in ink. The signature must be in ink. Unsigned bids will be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Each bid should be placed in a separate envelope completely and properly identified. Late bids will not be considered under any circumstances.
4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices shall govern. Prices are firm and not subject to escalation unless otherwise specified in the bid invitation or proposal. Unless otherwise specified, the bid must be firm for acceptance for ninety (90) days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the bid invitation or proposal.
5. **QUANTITIES:** Quantities stated in **term contracts** are estimates only, and are not guaranteed. Bid unit price on the estimated quantity and unit of measure specified. North Arkansas College may order more or less than the estimated quantity on term contracts. Quantities stated on **firm contracts** are actual requirements of the ordering agency.
6. **BRAND NAME REFERENCES:** Any catalog brand name or manufacturer's reference used in the bid invitation or proposal 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 on other than referenced specifications, the bid must show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. North Arkansas College reserves the right to determine whether a substitute offer is equivalent to and meets the standards of the item specified, and North Arkansas College may require the bidder to supply additional descriptive material. The bidder guarantees that the product offered will meet or exceed specifications identified in this bid invitation or proposal. If the bidder takes no exception to specifications or reference data in this bid he will be required to furnish the product according to brand names, numbers, etc., as specified in the invitation or proposal.
7. **GUARANTY:** All items bid 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 or proposal. 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 thereto 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 obligations under this paragraph shall survive for a period of one year from the date of delivery, unless otherwise specified herein.
8. **SAMPLES:** Samples or demonstrators, when requested, must be furnished free of expense to North Arkansas College. Each sample should be marked with the bidder's name and address, bid number and item number. If samples are not destroyed during reasonable examination they will be returned at bidder's expense, if requested, within ten days following the opening of bids. All demonstrators will be returned after reasonable examination.
9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used and the reasonable cost of the testing shall be borne by the bidder.
10. **AMENDMENTS:** The bid cannot be altered or amended after the bid opening except as permitted by regulation.
11. **TAXES AND TRADE DISCOUNTS:** Do not include sales or use tax for commodity item bids. Trade discounts should be deducted from the unit price, with the net price shown on the bid. Project bids should include any and all applicable taxes within the Total Project Bid Amount.
12. **AWARD:** **Term Contract:** 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. Shipment is authorized by the receipt of a purchase order from the ordering agency. **Firm Contract:** A written state purchase order authorizing shipment will be furnished to the successful bidder. **Project Award:** A project award shall be in the form of AIA Document

A101, Standard Form of Agreement Between Owner and Contractor and will be governed by AIA Document A201, 2007, General Conditions of the Contract for Construction.

- 13. LENGTH OF CONTRACT:** The invitation for bid or request for proposal will show the period of time the term contract will be in effect.
- 14. DELIVERY ON FIRM CONTRACTS:** The invitation for bid or request for proposal will show the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the bidder cannot meet North Arkansas College delivery, alternate delivery schedules may become a factor in an award. North Arkansas College has the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere and any additional cost will be borne by the vendor.
- 15. DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of North Arkansas College. Delivery shall be made during agency work hours only 8:00 a.m. to 4:30 p.m., unless prior approval for other delivery has been obtained from the agency. Packing memoranda shall be enclosed with each shipment.
- 16. STORAGE:** The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.
- 17. DEFAULT:** All commodities furnished will be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications authorize North Arkansas College to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor. The contractor must give written notice to North Arkansas College and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the bidders list or suspension of eligibility for award.
- 18. VARIATION IN QUANTITY:** North Arkansas College assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.
- 19. INVOICING:** The contractor shall be paid upon the completion of all of 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 for bid or request for proposal, (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 the "Invoice To" point shown on the purchase order.
- 20. 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 North Arkansas College, be kept confidential, be used only as expressly authorized and returned at the contractor's expense to the F.O.B. point properly identifying what is being returned.
- 21. PATENTS OR COPYRIGHTS:** The contractor agrees to indemnify and hold North Arkansas College harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
- 22. ASSIGNMENT:** Any contract entered into pursuant to this invitation for bid or request for proposal is not assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
- 23. OTHER REMEDIES:** In addition to the remedies outlined herein, the contractor and North Arkansas College have the right to pursue any other remedy permitted by law or in equity.
- 24. LACK OF FUNDS:** North Arkansas 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 North Arkansas College. If North Arkansas 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.
- 25. DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the bidder agrees that: (a) the bidder will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the bidder will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) 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; (d) failure of the bidder to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause shall be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the

bidder will include the provisions of items (a) through (d) in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

- 26. CONTINGENT FEE:** The bidder guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the bidder for the purpose of securing business.
- 27. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this invitation for bid or request for proposal, the bidder named on the front of this invitation for bid or request for proposal, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to North Arkansas 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 this state 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. 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 the purchase order.
- 29. MAJOR CAPITAL IMPROVEMENTS (over \$20,000).** A five (5) percent Bid Bond must be submitted with a 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.
- 30. EQUAL OPPORTUNITY POLICY:** Act 2157 of the 2005 Arkansas Regular Legislative Session requires that any business or person responding to a formal invitation for bid must submit a copy of their most current equal opportunity policy with their bid response. Although bidders are encouraged to have a viable equal opportunity policy, a written response stating the bidder does not have an equal opportunity policy will be considered compliance with the requirement.
- 31. ARKANSAS TECHNOLOGY ACCESS CLAUSE:** The vendor expressly acknowledges that state funds may not be expended in connection with the purchase of the information technology unless that system meets certain statutory requirements, in accordance with State of Arkansas technology policy standards relating to accessibility by persons with visual impairments. Accordingly, the Vendor represents and warrants to North Arkansas College that the technology provided to the College 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 (1) providing equivalent access for effective use of both visual and nonvisual means; (2) presenting information, including prompts used by interactive communications, in formats intended for nonvisual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, 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 assisting devices or services which would constitute reasonable accommodation under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. If requested, the Vendor must provide a detailed plan for making this purchase accessible and/or a validation of concept demonstration.
- 32. ILLEGAL IMMIGRANT CERTIFICATION:** Pursuant to Act 157 of the 2007 Arkansas Regular Legislative Session, any prospective contractor for goods or services totaling twenty-five thousand dollars (\$25,000) or more, must certify in a manner that does not violate federal law in existence on January 1, 2007, that the contractor, at the time of the certification, does not employ or contract with an illegal immigrant. Respondents are to certify online at: [http://www.arkansas.gov/dfa/procurement/pro\\_immigrant.html](http://www.arkansas.gov/dfa/procurement/pro_immigrant.html)
- 33. PROJECT BID AMOUNT:** The submitted Bid Amount must remain valid for ninety (90) days or be subject to forfeiture of the Bid Bond.
- 34. CONTRACT & GRANT DISCLOSURE & CERTIFICATE:** Any contract or amendment to any contract executed by the College that **exceeds \$25,000** shall require the contractor to disclose information as required under the terms of Executive Order 98-04 and the regulations pursuant thereto. Failure of any person or entity to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be in material breach of terms on this contract. Any contractor, whether an individual or entity, who

fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the College under existing law.

If required, the Contract & Grant Disclosure and Certificate form, shall be used for the disclosure purpose. No contract or amendment to any existing contract will be approved until the contractor completes and returns the disclosure form.

**35. GENERAL INFORMATION:** North Arkansas College shall not:

- A. Lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by Northark upon a 30 day written notice to the vendor/lessor in the event funds are not appropriated.
- B. Contract with another party to indemnify and defend that party for any liability and damages.
- C. Pay damages, legal expenses or other costs and expenses of any other party.
- D. Continue a contract once any equipment has been repossessed.
- E. Agree to any litigation location other than within the State of Arkansas.
- F. Agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
- G. Enter a contract which grants to another party any remedies other than the following:
  - The right to possession
  - The right to accrued payments
  - The right to expenses of de-installation
  - The right of expenses of repair to return the equipment to normal working order, normal wear and tear excluded
- H. Agree to a contract unless the laws of the State of Arkansas shall govern such contract.
- I. Agree to any contract or contract agreement prior to an Award Notification by North Arkansas College.

**36. BOYCOTT OF ISRAEL:** Pursuant to Arkansas Code Annotated § 25-1-503, a public entity shall not enter into a contract with a company unless the contract includes a written certification that the person or company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel. Vendor hereby certifies that they do not boycott Israel and will not boycott Israel during the aggregate term of the contract.

**CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SUBCONTRACTOR: \_\_\_\_\_ SUBCONTRACTOR NAME: \_\_\_\_\_

Yes  No

TAXPAYER ID NAME: \_\_\_\_\_ IS THIS FOR:  Goods?  Services?  Both?

YOUR LAST NAME: \_\_\_\_\_ FIRST NAME: \_\_\_\_\_ M.I.: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_ COUNTRY: \_\_\_\_\_

**AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:**

**FOR INDIVIDUALS \***

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (√)		Name of Position of Job Held [senator, representative, name of board/ commission, data entry, etc.]	For How Long?		What is the person(s) name and how are they related to you? [i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]	
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Relation
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

**FOR AN ENTITY (BUSINESS) \***

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (√)		Name of Position of Job Held [senator, representative, name of board/commission, data entry, etc.]	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?		
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Ownership Interest (%)	Position of Control
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

**Contract and Grant Disclosure and Certification Form**

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

**As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:**

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

*Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.*

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

**I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.**

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Vendor Contact Person \_\_\_\_\_ Title \_\_\_\_\_ Phone No. \_\_\_\_\_

Agency use only

Agency Number \_\_\_\_\_ Agency Name \_\_\_\_\_ Agency Contact Person \_\_\_\_\_ Contact Phone No. \_\_\_\_\_ Contract or Grant No. \_\_\_\_\_