

SECTION 00 11 16 - INVITATION & INSTRUCTIONS TO BID

ARTICLE 1 – INVITATION TO BID

1.1 PROJECT INFORMATION

- A. Qualified bidders are invited to submit a lump sum bid for a single prime general contract to complete the Project described herein.
 - 1. Project Identification: Chemical Vapor Deposition Laboratory Reactor Installation
 - 2. Project Number: PR02619
 - 3. Project Location: 700 Research Center Blvd., Fayetteville, AR 72701
 - 4. Project Description: New installation of a hydrogen generator and associated infrastructure to support an existing lab. Minor building modifications will occur to install the generator and additional equipment.
- B. This invitation is extended by the Board of Trustees of the University of Arkansas acting for and on behalf of the University of Arkansas at Fayetteville hereinafter termed Owner.
- C. Facilities Management (FAMA) Director of Engineering and Construction shall serve as the Owner's Representative for Capital Construction Projects. FAMA Engineering and Construction Department shall hereinafter be termed Owner Representative or Campus interchangeably.
- D. This invitation does not commit the Owner to pay any cost incurred in the preparation of bids.
- E. Copies of drawings, specifications, and other proposed contract documents may be examined at the following locations:
 - 1. Henderson Engineers, 805 S.Walton Blvd., Su 100 Bentonville, AR 72712. (479)-770-0021
 - 2. Southern Reprographics, Inc.

Southern Reprographics, Inc.
2905 Point Circle
Fayetteville, Arkansas 72704
(479) 582-4022
www.southernrepro.com

Southern Reprographics
901 W. 7th Street
Little Rock, Arkansas 72201
(501) 372-4011

- F. A complete set of Contract Documents may be obtained from Henderson Engineers, 805 S. Walton Blvd., Su. 100, Bentonville, AR 72712. Contact: Matt Swaback / (913)-742-5742 / Matt.Swaback@hendersonengineers.com

1.2 PRE-BID CONFERENCE

- A. There will be an optional, but strongly encouraged, Pre-Bid Conference held at Facilities Management, Conference Room A103 located at 521 S. Razorback Rd., Fayetteville, AR 72701, on April 4, 2023 at 10:00 AM, CST. Bidders and subcontractors are also invited to attend virtually by logging into a Teams call, login information to be provided to plan holders prior to this date.
- B. The Owner will not accept a bid from any Bidder failing to attend a mandatory meeting(s). The Owner reserves the right to schedule mandatory meetings as determined necessary.

1.3 BID OPENING

- A. **The Owner will receive sealed bids until 2:00 PM, CST, on April 18, 2023.** Bids submitted after this time will not be accepted. Bids may be mailed or delivered to the University of Arkansas, Facilities Management Engineering and Construction Department, attn. Kristen Knight, 521 S. Razorback Rd. Fayetteville, AR 72701.
- B. On the date and time fixed in this notice, the Owner's Representative, shall open, read aloud and tabulate the bids and thereafter award the contract to the lowest responsible bidder but only if it is the opinion of the authority that the best interests of the University would be served thereby.

- C. Interested parties are invited to attend the bid opening virtually by logging into a Teams call, login information to be provided to plan holders prior to this date.
- D. Submit the completed Bid Form and Bid Security in an opaque, sealed envelope. Identify the envelope with: project name and number, name of Bidder, and Arkansas Contractors License number.
- E. Each bid proposal shall include a bid security in the amount of five (5) percent of the total bid offered. ARTICLE 3 – BID PREPARATION, BID GUARANTEE AND BONDS
- F. Only one bid shall be submitted per State Contractor's license number. Bidders will be required to indicate the State Contractor's license number on the Bid Form beneath their signature.

1.4 MODIFICATION AND WITHDRAWAL OF BID

- A. Bidder may withdraw bid at any time before bid opening and may resubmit up to the date and time designated for receipt of bids.
- B. No bid may be withdrawn or modified after time has been called for the bid opening.
- C. Bidder may submit written modifications to bid by mail or delivery at any time prior to the Bid Opening and shall so word the modification(s) as to not reveal the amount of the original bid.
- D. Oral modifications to bids will not be considered.

ARTICLE 2 – NOTICE OF APPLICABLE LAWS & REGULATIONS

2.1 CONTRACT ADMINISTRATION

- C. The bidding, award and administration of the contract shall be made pursuant to Ark. Code Ann. §14-4-1401 et Seq., Ark. Code Ann. § 22-9-101 et seq., and Ark. Code Ann. § 22-2-101 et seq.
- D. The Owner, unless designated to another entity, supervises the bidding and awarding of all construction contracts, approves contracts, change orders, requests for payment and ensures that on-site inspections are accomplished.

2.2 HISTORIC SITE RENOVATION

Not Used

2.3 DISCLOSURE

- A. Potential Bidders are hereby notified that disclosure is required as a condition of any present or future Contract for which the total consideration is greater than twenty-five thousand dollars (\$25,000.00). Arkansas's Executive Order 98-04 requires all potential contractors disclose whether the individual or anyone who owns or controls the business is a member of the Arkansas General Assembly, constitutional officer, state board or commission member, state employee, or the spouse or family member of any of these.
- B. The Contractor shall require any present or future subcontractor, for which the subcontract amount is greater than \$25,000.00, to complete and sign the Contract and Disclosure and Certification.
- C. The contractor shall ensure that any agreement, current or future between the contractor and a subcontractor for which the total consideration is greater than \$25,000.00 shall contain the following language: "*Failure to make any disclosure required by Governor Executive Order 98-04, or any violation of any rule, regulation or adopted pursuant to that Order, shall be material breach of the term of this subcontract. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the contractor.*"
- D. The Contractor shall transmit a copy of the subcontractor's disclosure form to the agency and a statement containing the dollar amount of the subcontract within ten (10) days upon receipt of subcontractor's disclosure.

- E. A copy of the “Contract and Grant Disclosure and Certification Form” is included at the end of this division.

2.4 PREVAILING WAGE RATES

This project is funded in whole or in part by federal funds and the Contractor must comply with Davis-Bacon Wage Rates. The version/date of the Davis Bacon wage rate that applies at the time of contract award can be found [online](https://sam.gov) at <https://sam.gov>.

2.5 CONTRACTOR LICENSING LAWS & REGULATIONS

- A. Pursuant to Ark. Code Ann § 17-25-101 (and Ark. Code Ann. §17-25-315 where federal funds are involved) Bidders shall be properly licensed with the Contractors Licensing Board and shall indicate on his bid form his current license number as issued by the applicable licensing entity. Failure to do so will be cause for rejection.
- B. Any subcontractor to be used for mechanical, plumbing, electrical or roofing work, when the subcontractor’s portion of the project is \$50,000 or more, must be licensed pursuant to Ark. Code Ann. § 22-9-204. See ARTICLE 3 – BID PREPARATION, 3.7 SUBCONTRACTOR DISCLOSURE.
- C. Specialty contractors and subcontractors must be licensed in their respective fields where licensure is available. For example, asbestos abatement contractors and consultants must be licensed by the Arkansas Department of Energy and Environment.

2.6 MINORITY PARTICIPATION

Pursuant to Ark. Code Ann. § 22-9-203, the State encourages all small and minority business enterprises to submit bids for capital improvements. Encouragement is also made to all general contractors that in the event they subcontract portions of their work, consideration be given to the identified groups.

2.7 LABOR AND DISCRIMINATION

- A. Contractors employed upon the work will be required to conform to the labor laws of the State of Arkansas and the various acts amendatory and supplementary thereto, and to all the laws, regulations, and legal requirements applicable thereto.
- B. Pursuant to Ark. Code Ann. § 19-11-105 for contracts over \$25,000 the contractor is required to certify that it does not employ illegal immigrants by submitting the *TSS Illegal Immigrant Contractor Disclosure Certification Form* online through <https://www.ark.org/dfa/immigrant/index.php/disclosure/submit/new>. Successful bidder shall forward the receipt email to the FAMA Construction and Engineering.
- C. Bidder shall not discriminate against any employee, applicant for employment, or subcontractor based on race, color, creed, national origin or ancestry. Ark. Code Ann. § 25-17-101. Bidder shall be responsible for ensuring that all subcontractors comply with federal and state laws and regulations related to discrimination. Upon a final determination by a court or administrative body having proper jurisdiction that the Bidder has violated state or federal laws or regulations, the Owner may impose a range for appropriate remedies up to and including termination of the Contract.

2.8 TAXES

Bidder shall include in the bid all state sales tax, social security taxes, state unemployment insurance, and all other items of like nature. It is the intent that the bid shall represent the total cost to the Owner of all work included in the contract. There are no provisions for a contractor to

avoid taxes by using the tax-exempt number of a state agency, board, commission or institutions. Said taxes shall be included in the bid price.

2.9 TRENCHING

Not Used.

2.10 PROHIBITION AGAINST BOYCOTTING ISRAEL

In accordance with Ark. Code Ann. § 25-1-503, Respondent hereby certifies to UA that Respondent: (a) is not currently engaged in a boycott of Israel; and (b) agrees for the duration of any Contract not to engage in any boycott of Israel. A breach of this certification will be considered a material breach of contract. In the event that Respondent breaches this certification, UA may immediately terminate any Contract without penalty or further obligation and exercise any rights and remedies available to it by law or in equity.

2.11 FOREIGN AFFAIRS

- A. According to Ark. Code Ann. § 4-27-1501 and OSP Rule R4:19-11-217, A foreign corporation may not transact business in Arkansas until it obtains a certificate of authority from the Secretary of State.
- B. The University may make any decision or take any action that it, in its sole discretion, deems appropriate in order to comply with Act 1020 of 2021, the Transparency in Foreign Investment Act (Ark. Code Ann. § 6-60-1201 et seq.).

ARTICLE 3 – BID PREPARATION

3.1 EXAMINATION OF CONTRACT DOCUMENTS

- A. Complete sets of Bid Documents should be used in preparing bids. Neither the Owner nor the Architect or Engineer of Record assumes responsibility for errors in bidding or misinterpretations of Bid Documents resulting from the use of incomplete sets of Bid Documents. The documents obtained through the Architect or Engineer of Record are considered the official version and take precedence if any discrepancies occur. The use of incomplete or inaccurate Bid Documents does not relieve the bidder of the obligation to perform all work related to his bid as detailed in a complete set of Bid Documents.
- B. Bidder shall examine the drawings and specifications and is responsible for all work identified within the documents. The bidder may visit the project site on their own if there is public access to the site. Organized site visits will be arranged for projects where public access is not permitted. The bidder shall become familiar with all existing conditions and limitations under which the Work is to be performed, and shall base bid on items necessary to perform the Work as set forth in the Contract Documents. No allowance will be made to Bidder because of lack of such examination or knowledge. The submission of a Bid shall be construed as conclusive evidence that the Bidder has made such examination.

3.2 INTERPRETATION OF CONTRACT DOCUMENTS DURING BIDDING

- A. All communications and Requests for Information shall be submitted through the Engineer of Record.
- B. Request for Information (RFI) Deadline. If any person contemplating submitting a Bid is in doubt as to the true meaning of any part of the Contract Documents or finds discrepancies in or omissions from any part of the Contract Documents, they may submit to the Design Professional

a written request for an interpretation or correction thereof not later than 1:00 PM, CST on April 13, 2023.

- C. Interpretation or correction of the Contract Documents will be made only by Addendum posted on the FAMA procurement website (planning.uark.edu/capital_budgeting/RFQ_projects.html) with the original notice and emailed to known bidders by the Design Professional. In those instances where a Design Professional is not involved, the FAMA Engineering and Construction Department shall distribute Addenda in the above referenced manner.
- D. Addenda issued during the bidding period will be incorporated into the Contract Documents.
- E. The Owner will not be responsible for oral explanations or interpretation of the Contract Documents.

3.3 SUBSTITUTIONS.

- A. Materials, products, and equipment described in the Contract Documents establish a standard of required function and a minimum desired quality or performance level, or other minimum dimensions and capacities, to be met by any proposed substitution. Acceptability of substitutions will not be considered during bidding period.
- B. In some cases, prior approval of material or equipment, or both shall be obtained from Owner in order to obtain the desired color, size, visual appearance, and other features specified.

3.4 BID FORMAT

- A. The Bid for this Work shall be formatted as a stipulated sum. No segregated bids or assignments will be considered. Bids are to include all labor, materials, equipment, sales tax, social security tax, State Unemployment Insurance and all other like items necessary to complete this project.
- B. Bid shall be made on the unaltered Bid Form SECTION 00 41 13 - BID FORM. Fill in all blank spaces and submit one original copy, with wet signature and typed name below the signature. Where Bidder is a corporation, bids shall be signed with the legal name of the corporation followed by the name of the state of incorporation, contractor's license number issued by the Contractors Licensing Board, and the signature of an authorized officer of the corporation. All blanks on the form shall be filled out in ink or be typewritten. Erroneous entries, alterations, and erasures shall be lined out, initialed by the Bidder, and the corrected entry inserted on the Bid Form. Only those bids submitted on Owner supplied forms as found in these documents will be accepted.
- C. Proprietary Information. All bid information, proposals, forms, briefs, sales brochures, etc. will become property of the Owner when submitted with a bid. All bid documents submitted by the bidder shall be available for public inspection after the bid opening. Proprietary pages and documents required to be submitted with bid must be clearly marked as such.
- D. Joint Ventures. Bids submitted by a "Joint Venture/Joint Adventure" shall be signed by representatives of each component part of the Joint Venture. The licenses of each component part of the Joint Venture shall also be listed in the bid submittal. Therefore, joint venture bidders shall indicate at least two (2) signatures and two (2) license numbers on the Bid Form. Exception: Joint Ventures who have been properly licensed with the Arkansas Contractors Licensing Board as a "Joint Venture" need only to indicate the joint venture license number on the Bid Form. Joint Venture bidders shall indicate at least two (2) signatures on the Bid Form even if they are licensed as a joint venture.

3.5 BID GUARANTEE AND BONDS

- A. Bid amount shall be secured for sixty (60) days.
- B. Each bid proposal shall include a bid security in the amount of five (5) percent of the total bid offered. The bidder will be required to submit a bidder's deposit in the form of a cashier's check

payable to the order of the Owner, drawn upon a bank or trust company doing business in Arkansas or submit a corporate bid bond in an amount equal to five (5) percent of the bid.

- C. If a Bid Bond is provided, the Bond must be signed by an authorized agent of the Bonding Company and the agent's power of attorney must be submitted with the Bid Bond.
- D. The bidder shall include the bid bond amount in the bid amount so that the bid represents the total cost to the Owner of all work included in the contract.
- E. The bid bond shall indemnify the Owner against failure of the Contractor to execute and deliver the contract and necessary bond (Performance and Payment Bond) for faithful performance of the contract. The bid bond shall provide that the contractor or surety must pay the damage, loss, cost and expense subject to the amount of the bid security directly arising out of the Contractor's default in failing to execute and deliver the contract and bonds.
- F. Owner will have the right to retain the bid security of bidders to whom an award is being considered until the Contract has been executed and bonds if required, have been furnished, or until specified time has elapsed so that bids may be withdrawn, or all bids have been rejected.
- G. Should the successful Bidder fail to execute a contract and meet the conditions outlined in the Letter of Intent to Award within thirty (30) days of its issuance, the bid guarantee may be forfeited to the Owner as liquidated damages. A reduced timeframe may be stipulated if the project has been declared an emergency.

3.6 PERFORMANCE AND PAYMENT BOND

- A. Performance and Payment Bonds are not required for bids \$50,000.00 or under. For work exceeding \$50,000.00, the bidder shall furnish a Performance and Payment Bond in the amount equal to one hundred percent (100%) of contract price on the included form with the Contract Documents as security for faithful performance of the Contract and payment of all obligations arising thereunder within thirty (30) days after receipt of the Intent to Award.
- B. The bond shall be written by a surety company qualified and authorized to do business in the State of Arkansas. The bond shall be executed by a resident agent or a non-resident agent and shall be licensed by the Insurance Commissioner to represent the surety company executing the bond and filing with the bond the agent's Power of Attorney as authority. The bond shall be written in favor of the Owner. Contractor shall file the bond with the Circuit Clerk in the county where the Work is to be performed. Failure to deliver said bonds, as specified, shall be considered as having abandoned the Contract and the bid security will be retained as liquidated damages. The bidder shall include in the bid the Performance and Payment Bond amount so that the bid represents the total cost to the Owner of all work included in the contract.

3.7 SUBCONTRACTOR DISCLOSURE

- A. Subcontractors selected to perform the work associated with this project shall be named on the Bid Form in accordance with Ark. Code Ann. § 22-9-204 and the contract documents. It shall be mandatory that the successful bidder award the subcontracts to those listed on the Bid Form.
- B. In the event that one (1) or more of the subcontractors named by the prime contractor on the Bid Form, thereafter refuse to perform the offered contract, the prime contractor may substitute another subcontractor, after having obtained prior approval from the design professional, and the Owner.
- C. Pursuant to Ark. Code Ann. § 22-9-404 where the subcontractor's portion of the project is fifty thousand dollars (\$50,000) or more, the work shall be performed by a subcontractor licensed by the Contractors Licensing Board and qualified in; Mechanical, Plumbing, Electrical, and Roofing respectively. It shall be a violation for any prime contractor to submit a bid listing an unlicensed contractor or to use an unlicensed if the portion subcontractors' work is fifty thousand dollars (\$50,000) or more.

- D. In the event the prime contractor is qualified and licensed by the board, he or she may use his or her own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed provided they possess the license and qualifications to perform the work and disclose such on the bid form.
- E. No person shall perform electrical work in this state unless the person has first obtained a license to perform electrical work pursuant to the provisions of this chapter, or the individual is exempted from licensing pursuant to the provisions of this chapter. § 17-28-304. License requirements.
 - 1. All electricians shall have a copy of their license with them and shall be required to show it to an appropriate inspector upon request.
 - 2. One (1) master electrician or journeyman electrician may supervise up to three (3) apprentice electricians on a single electrical job.
- F. Failure to complete the form correctly shall cause the bid to be declared non-responsive, and the bid will not receive consideration.

3.8 TIMELY CONSTRUCTION

- A. A timely construction completion bonus will be provided for successfully completing the contract scope (Work) within the time stated on the Bid Form. See SECTION 00 41 13 - BID FORM.
- B. Liquidated Damages will not be assessed on this project.

ARTICLE 4 – BIDDER REPRESENTATION

4.1 GENERAL

- A. Each Bidder by submitting a bid, represents that Bidder has:
 - 1. Read and completely understands the Contract Documents.
 - 2. Based the bid upon the materials, equipment, conditions, and time described in the Contract Documents.
 - 3. The proper license under the laws and regulations governing their respective trade(s).
- B. As a condition of
- C. SECTION 00 73 00 - SUPPLEMENTARY CONDITIONS each Bidder by submitting a bid, represents that Bidder can provide acceptable documentation of firm's employee screening practices and background check procedures for firm's employees and subcontractors' employees.
- D. Each bidder by submitting a bid, represents that the firm is in good standing with the State Procurement Director and is not debarred from consideration for award of contracts, or facing a suspension from such consideration during an investigation, when there is probable cause for such a debarment. Reference § 19-11-245. Debarment or suspension

4.2 APPLICABLE EXPERIENCE

- A. Owner reserves the right to request qualification statements and/or resumes from the apparent low bidder and key individuals committed to the Project.
- B. For purposes of this bid submittal, reference to "key individuals" shall be understood to mean the principal in charge, the project manager(s), the project field superintendent(s), and the Mechanical, Plumbing and Electrical subcontractors committed by the Bidder to carry out the Work of this Project. Owner reserves the right to approve or reject subsequent reassignment of key individuals.
- C. Each Bidder by submitting a bid, represents that the firm in its current organization has successfully completed projects of similar type, quality, and scope. The Campus reserves the right to request detailed project information for the three (3) most recent examples of similar projects with contact information for the owner's representative.
- D. For the purposes of this bid submittal, a "similar project" shall be understood to mean work of comparable complexity, quality, scale and cost. The project complexity shall include familiarity with

specific types of equipment or the handling hazardous materials where indicated as part of the project scope by the Contract Documents.

- E. For purposes of this bid submittal, "successful completion" shall be understood to mean completion of project within project schedule and budget.

4.3 CAPACITY

- A. Each Bidder by submitting a bid, represents that the firm in its current organization has adequate financial resources, including ability to secure materials and labor necessary for completion of the Work and other work in hand, within the anticipated contract times, and reflecting the anticipated retainage from progress payments.
- B. Each Bidder by submitting a bid, represents that the firm in its current organization has work-in-hand capacity, such that the Prospective Bidder demonstrates adequate work under contract to continue its business operations at least at their current level, at the same time indicating the capability to carry out Owner's proposed work.
- C. Each Bidder by submitting a bid, represents that the firm in its current organization has adequate capacity to complete work of the scope anticipated, including firm management, project management, field superintendence, and field engineering and quality control.

ARTICLE 5 -- EVALUATION OF BIDS

5.1 GENERAL

- A. The Owner reserves the right to waive any formalities in, and shall have the right to disqualify bids (before or after opening), which includes but is not limited to, evidence of collusion with intent to defraud or other illegal practices upon the part of the Bidder, to reject a bid not accompanied by the required bid security or by other data required by the Contract Documents, or to reject a Bid which is in any way incomplete or irregular.
- B. For the purpose of this bid submittal a "responsible bidder" shall mean a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance.
- C. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted.
- D. The unreasonable failure of a bidder to promptly supply information supporting the representations outlined in ARTICLE 4 – BIDDER REPRESENTATION in connection with such an inquiry may be grounds for a determination of non-responsibility with respect to such bidder.
- E. For the purpose of this bid submittal a "Responsive bidder" means a person who has submitted a bid under § 19-11-229, which refers to competitive sealed bidding, which conforms in all material respects to the invitation for bids, including the specifications set forth in the invitation.
- F. The successful Bidder will be required to execute an Agreement with the Owner on a form identical to the Agreement Form included with the Contract Documents, the Performance and Payment Bond, and the Certification of Insurance within thirty (30) days after receipt of the Intent to Award. Failure to provide these documents may result in the Bidder being rejected and could result in disqualification and forfeiture of bid bond.
- G. Whenever it is obvious from examination of the bid document that it was the intent of a bidder to submit a responsive bid and that the bid, if accepted, would create a serious financial loss to the bidder because of scrivener error, such as the transposition of figures, the board, commission, officer, or other authority in which or in whom authority is vested has the authority to relieve the bidder from responsibility under the bond and may reject the bid.

5.2 LOWEST RESPONSIBLE BIDDER

- A. It is the intent of the Owner to award a Contract to the lowest responsible bidder if it is determined that the award would be in the University's best interest. (see Ark. Code Ann. § 19-4-1405 and 22-9-203(d)).

- B. In the event that all bids submitted exceed the amount appropriated for the award of the contract, the Campus shall have the authority to negotiate an award with the apparent responsible low bidder but only if the low bid is within twenty-five percent (25%) of the amount appropriated.
- C. In the event that all bids submitted exceed the amount appropriated for the award of the contract and if bidding on alternates was not required by the plans and specifications, the Campus shall have the authority to negotiate an award with the apparent responsible low bidder but only if the low bid is within twenty-five percent (25%) of the amount appropriated.
- D. In the event that all bids submitted exceed the amount appropriated for the award of the contract and if bidding on alternates was required by the plans and specifications, then the Campus may determine the apparent responsible low bidder by deducting the alternates in numerical order. After making the deductions, if the cost of the project is less than twenty-five percent (25%) above the amount appropriated, then and only in that event, the Campus may negotiate an award with the low bidder so determined.
- E. Tie Bids. If two or more sealed bids are equal in amount, meet Bidding Document requirements, and are the lowest received by the time of the bid opening, then the apparent low bidder will be determined by lot (placing the name of the tie bidders into a container and drawing one name). The drawing will be conducted by FAMA Engineering and Construction Department personnel, and another person so designated by the Owner in the presence of a witness and the tie bidders or representatives. The witness shall be an employee of the State of Arkansas. Documentation of the drawing shall be included on the bid tabulation and be signed by those present. Nothing in the above and foregoing will diminish the Owner's reserved right to reject any and all bids and to waive any formalities.

5.3 HISTORIC SITE RENOVATIONS

- A. Not Used.

5.4 EMERGENCY CONDITIONS

- A. Not Used.

END OF SECTION