

## **Standard Terms and Conditions for Request for Quote and Submission**

The following terms and conditions shall apply as to any Request for Quote ("RFQ") issued by The Pennsylvania State System of Higher Education, or its Universities ("the State System") and any quote submitted in response ("the Quote") by any person or entity ("the Offeror").

### **1. QUOTES NOT BINDING**

Neither issuance of the RFQ by the State System, nor the submission of the Quote, shall obligate the State System to purchase any goods or services, award any contract, or to do business with any person or entity. The State System expressly reserves the right to take no further action on the RFQ or the Quote, without further notice to any party, with no liability or recourse due to the Offeror or any other party.

### **2. PURCHASE OR AWARD**

The RFQ shall be considered an informal request for pricing information for the potential purchase of goods and/or services subject to the "Small Procurements" provision of the Commonwealth Procurement Code, 62 Pa.C.S.A. § 514. If it is determined, in the sole discretion of the State System, that competitive solicitation is either necessary or beneficial, all quotes will be rejected, and a more formal solicitation may be posted. No public opening of quotes shall occur, and no formal competitive selection process will be employed in evaluating submitted quotes. Quotes will be evaluated for a purchasing decision at the sole discretion of the State System, and award of a contract need not be made based on best value, lowest bid, or any other defined competitive criteria. Award of a contract may be made at the sole discretion of the State System. Award may be made to any entity, regardless of whether that entity received or responded to any RFQ. The decision to award or not award in response to this quote may be made in the sole discretion of the State System, without further notice to any party.

### **3. LIABILITY FOR COSTS OR EXPENSES**

The State System is not liable for any costs or expenses incurred by suppliers in the preparation or submission of their quotes or otherwise associated with responding to any RFQ.

### **4. CONTRACT FORMATION VIA PURCHASE ORDER**

- a. The Quote, when submitted by the Offeror, shall be regarded as an offer ("the Offer"), inviting acceptance by the State System's issuance of a Purchase Order ("P.O.") within the time frame specified on the quote, which shall in no event be less than sixty (60) days. The State System's issuance of a P.O. that: i) states additional terms and conditions; ii) modifies or amends any terms stated in the Offer; or iii) omits any terms stated in the Offer, shall be regarded as a counteroffer proposing modified or additional terms of the contract.
- b. A P.O., and its incorporated counteroffer, shall be deemed accepted by Offeror upon the earlier of i) a written acknowledgement by the Offeror that it has accepted the P.O.; or ii) commencement of any performance by the Offeror, including, but not limited to, the commencement of services or shipment of conforming goods.
- c. The terms and conditions stated by, or expressly incorporated into, the issued P.O. shall be the exclusive terms of agreement between the Offeror and the State System as to the subject matter of the P.O. Any other terms and conditions, including but not limited to, any terms and conditions stated by, incorporated into, or referenced by the Quote; invoices; business forms; or other documentation submitted by Quoter, shall not become part of the resulting contract. Said terms shall be null and void, unenforceable by Quoter, and not binding on the State System unless expressly included and incorporated on the P.O.

- d. For the avoidance of doubt, conduct by the parties that recognizes the existence of a contract after submission of a P.O. by the State System is sufficient to establish a contract upon the terms of the P.O. In such case, the terms of the particular contract shall consist of those terms expressly stated in the P.O. as provided pursuant to subparagraph (c) of this section.
- e. Unless prohibited by law, the Parties agree that these contract formation terms shall expressly prevail over any contrary provisions of any statute, regulation, or law, including, but not limited to i) the Pennsylvania Commercial Code; ii) the Uniform Commercial Code, as adopted by any other State or Federal jurisdiction; iii) the Statute of Frauds; and iii) the Common Law of contract formation.

**5. CONTRACT FORMATION BY MUTUALLY EXECUTED CONTRACT**

The Parties may, at any time, opt to mutually agree to one or more mutually executed written contracts setting forth the terms and conditions of an agreement between the Parties. Where a contract is executed by authorized signatories of the Parties and approved by all necessary Commonwealth officials ("Mutually Executed Contract"), the terms and conditions of the Mutually Executed Contract shall be the terms and conditions of the Contract, notwithstanding the provisions of Paragraph 4.