**LINCOLN UNIVERSITY**
**PURCHASING DEPARTMENT**
**INVITATION FOR BID (IFB)**

**IFB NO.: B13-0928**
**TITLE: Surplus heating/cooling equipment**
**ISSUE DATE: March 26, 2013**

**REQ NO.: N/A**
**BUYER: Steven Yaple**
**PHONE NO.: (573) 681-5417**
**E-MAIL: yaples@lincolnu.edu**

**RETURN BID NO LATER THAN: April 16, 2013 AT 2:00 P.M. CENTRAL TIME per instructions below.**

**MAILING INSTRUCTIONS:** Print or type **IFB Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in the Lincoln University Purchasing Department (1002 Chestnut St, Room 101) by the return date and time.

(courier service)
**RETURN BID TO:** **LINCOLN UNIVERSITY**
**1002 CHESTNUT ST**
**SHIPPING & RECEIVING BLDG**
**JEFFERSON CITY MO 65101**

**CONTRACT PERIOD: N/A**

The bidder hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Invitation for Bids (Dated 04-23-2010). The bidder further agrees that the language of this IFB shall govern in the event of a conflict with his/her bid. The bidder further agrees that upon receipt of an authorized purchase order from Lincoln University or when this IFB is countersigned by an authorized official of Lincoln University, a binding contract shall exist between the bidder and Lincoln University.

## SIGNATURE REQUIRED

| | | |
|---|---|---|
| AUTHORIZED SIGNATURE | DATE | |
| PRINTED NAME | TITLE | |
| DOING BUSINESS AS (DBA) NAME | LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID # | |
| MAILING ADDRESS | IRS FORM 1099 MAILING ADDRESS | |
| CITY, STATE, ZIP CODE | CITY, STATE, ZIP CODE | |
| VENDOR NO. (IF KNOWN) | TAXPAYER ID NUMBER (TIN) | TAXPAYER ID (TIN) TYPE (CHECK ONE) ☐ FEIN or ☐ SSN |
| VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) ☐ Corporation ☐ Individual ☐ State/Local Government ☐ Partnership ☐ Sole Proprietor ☐ Other | | |
| CONTACT PERSON | E-MAIL ADDRESS | |
| PHONE NUM BER. | FAX NUMBER | |

**NOTICE OF AWARD (LINCOLN UNIVERSITY ONLY)**

| | | |
|---|---|---|
| ACCEPTED BY LINCOLN UNIVERSITY AS FOLLOWS: | | |
| CONTRACT NO. | CONTRACT PERIOD | |
| BUYER | DATE | PURCHASING DIRECTOR |

1. **Purpose:**

This document constitutes and invitation for sealed bids from prospective bidders for the establishment of a contract for removal of surplus heating and cooling equipment for Lincoln University (herein referred to as the University) located in Jefferson City MO in accordance with the requirements and provisions stated herein. The items will be removed from the campus of Lincoln University in accordance to the terms and conditions of this document.

2. **Background Information:**

Lincoln University of Missouri is a historically black, 1890 Land-grant, public, comprehensive institution that provides excellent educational opportunities including theoretical and applied learning experiences to a diverse population within a nurturing, student-centered environment.

3. **Contact:**

Any and all communications from bidders regarding specifications, requirements, competitive bid process, etc., related to the bid document must be referred to the Buyer of Record identified on the first page of this document. Such communications should be received at least ten (10) calendar days prior to the official bid opening date.

4. **Contractual Requirements:**

a. A binding contract shall consist of: (1) the Invitation for Bid, (IFB), and any attachments thereto, (2) the bidder's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) Lincoln University acceptance of the bid by "notice of award" or by "purchase order. All exhibits and attachments included in the IFB shall be incorporated into the contract by reference.

b. The notice of award does not constitute a directive to proceed. Before providing equipment, supplies and/or services, the contractor must receive an official letter or an official authorized, signed purchase order from the Director of Purchasing.

c. The contract expresses the complete agreement of the parties and performances shall be governed solely by the specifications and requirements contained therein.

d. Any changes to the contract, whether by modification and/or supplementation, must be accompanied by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the university or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence from the university, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

5. **Clarification of Requirements:**

It is the intent and purpose of the University that this request permits competitive bidding. It shall be the bidder's responsibility to advise the University, at the address noted on page one of this IFB, if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notification shall be submitted in writing and received by the University's Purchasing Department not later than five (5) days prior to the bid closing date.

**6. Submission of Bids:**

Bids are to be priced, signed and returned (with all necessary attachments) to the University by the date and time stated on page one. The bidder must respond to this IFB by submitting all data required herein in order for his/her response to be evaluated and considered for award. The bidder is cautioned that it is the bidder's sole responsibility to submit information related the evaluation categories and that the University is under no obligation to solicit such information if it is not included with the bid. The bidder's failure to submit such information may cause an adverse impact on the evaluation of the bid.

**7. Award of Contract:**

Awards will be made to the bidder whose bid (1) complies with all mandatory specifications and requirement of the IFB and (2) is the best bid, considering price, responsibility of the bidder and in the best interest of the University.

**8. Price:**

All prices shall be as indicated on the Pricing Page. The University shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

**9. Contractor Liability:**

a. The contractor agrees that Lincoln University shall not be liable for any damages or costs or injury incurred by the contractor of his/her employees arising of the ownership, selection, possession, leasing, rental, operation, control, use, maintenance, delivery, return, installation and/or removal of equipment provided by the contractor, except as otherwise provided in the contract.

b. The contractor shall be responsible for any and injury or damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions of the contract. In addition to the liability imposed upon the contractor on account of personal injury (including death), or property damage suffered as a result of the contractor's negligence , the contractor assumes the obligation to save Lincoln University, including its agents, employees, and assigns, from every expense (including attorney fees), liability, or payment arising out of such negligent act. The contractor also agrees to hold Lincoln University, including its agents, employees, and assigns, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract

and indemnifies Lincoln University for all costs, expenses (including attorney fees), damages and payment.

**10. Right to Terminate Contract**:

a. Lincoln University reserves the right to terminate the contract at any time for the convenience of Lincoln University, without penalty or recourse by giving the contractor a written notice of such termination at least thirty (30) calendar days prior to termination. The contractor shall be entitled to receive compensation according to the terms of the contract for that work completed pursuant to the contract prior to the effective date of termination.

b. Lincoln University reserves the right to officially modify or cancel an IFB after issuance. Such a modification shall be identified as an amendment.

c. In the event that only one bid is received in response to this IFB, Lincoln University reserves the right to negotiate the terms and conditions, including the price, as proposed in the sole bidder's bid. In addition, as part of such negotiations, the university reserves the right to require supporting cost, pricing and other data from the sole bidder in order to determine the reasonableness and acceptability of the bid.

d. Lincoln University reserves the right to accept or reject any and all bids without any statement or reason thereof. Final acceptance shall be subject to the parties entering into a written agreement including the terms thereof.

**11. Subcontractors:**

Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the university to ensure that the university is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the university and contractor. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein. The contractor must obtain acknowledgement from the university prior to establishing any new subcontracting arrangements and before changing any subcontractors.

**12. Assignment:**

a. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of Lincoln University.

b. The contractor shall agree and understand that, in the event Lincoln University consents to a financial assignment of the contract whole or in part to a third party, any payments made by Lincoln University pursuant to the contract, including all of those payments

assigned to the third party, shall be contingent upon the performance of the prime contractor in accordance with all terms, conditions, and provisions of the contract.

**13. Insurance:**

The contractor shall understand and agree that Lincoln University cannot save and hold harmless and/or indemnify the contractor or its employees against any liability incurred or arising as a result of any activity set out in the contract or any activity of the contractor's employees related to the contractor's performance under the contract. The contractor shall acquire and maintain adequate insurance in the form(s) and amount(s) sufficient to protect Lincoln University, its employees, and the general public against any such loss, injury, damage, and/or expense.

**14. Replacement of Damaged Product**:

The contractor shall be responsible for replacing any University items damaged as a result of removal of stated equipment condition at no cost to the university.

**15. Compliance with Terms and Conditions:**

The bidder is cautioned when submitting pre-printed terms and conditions or other type material to make such documents do not contain other terms and conditions which conflict with those of the IFB and its contractual requirements. The bidder agrees in the event of conflict between any of the bidder's terms and conditions and those contained in the IFB, the IFB shall govern. Taking exception to the university's terms and conditions may render a bidder's bid non-responsive and remove it from consideration for award.

**16. Licenses, Certifications, Accreditations:**

The bidder declares understanding, agreement and certification of compliance to provide the items and/or services at the price quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Invitation For Bid.

**17. Warranty**

a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by Lincoln University, (2) be fit and sufficient for the purpose expressed in the IFB, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

**b.** Such warranty shall survive delivery and shall not be deemed waived either by reason of Lincoln University's acceptance of or payment for said equipment, supplies, and/or services.

**Technical Specifications**:

Bidder may bid any service that meets or exceeds the specifications listed below. For all picture documentation, refer to corresponding numbered pictures in the lower portion of the technical specifications section.

1) Removal of two (2) Cleaver Brooks boilers, model number CB-200-500 (Pic 001) with Spraymaster Cleaver Brooks deaerator tank model SMP-45 and pumps (Pic 002).
   a) Bidder is responsible for all removal, construction and transportation cost associated with removal of stated items.
      i) University shall dis-connect all pipes, steam lines, flues, and electrical wiring so that boilers will be capable of removal from site by bidder.
      ii) It is expected that award of bids shall be no later than 05/01/13.
      iii) It is expected that University shall have units off line and fully disconnected for removal by 5/20/13.
         (1) Bidder shall have units removed no later than four (4) weeks after notification from the University that units are off line and fully disconnected.
   b) Access to items.
      i) Access wall
         (1) Wall is a 5 piece wall with the capability of removal for access to items. (Pic 003)
            (a) Wall is approximately 15’ X 15’
            (b) Wall has one steel cross member that is bolted directly to the side frame of building. Additional bolts spaced roughly 1’ apart that hold the 5 sections together and to building frame.
         (2) Wall may be removed by bidder but must be replaced in the same or better condition as to prior to removal of items.
         (3) Approximately 18” drop from wall level to the floor of the boiler room where items are sitting.
      ii) Access Drive (pic 004)
         (1) Area for removal is along Taylor Drive on the campus of the University
            (a) Directly in front of access wall is a parking lot that University shall have reserved spaces for removal of stated units.
         (2) It will be up to the bidder to determine the size and capabilities of equipment to be utilized for removal operation.
            (a) Equipment utilization shall be submitted to the University for Pre-approval prior to removal operations.

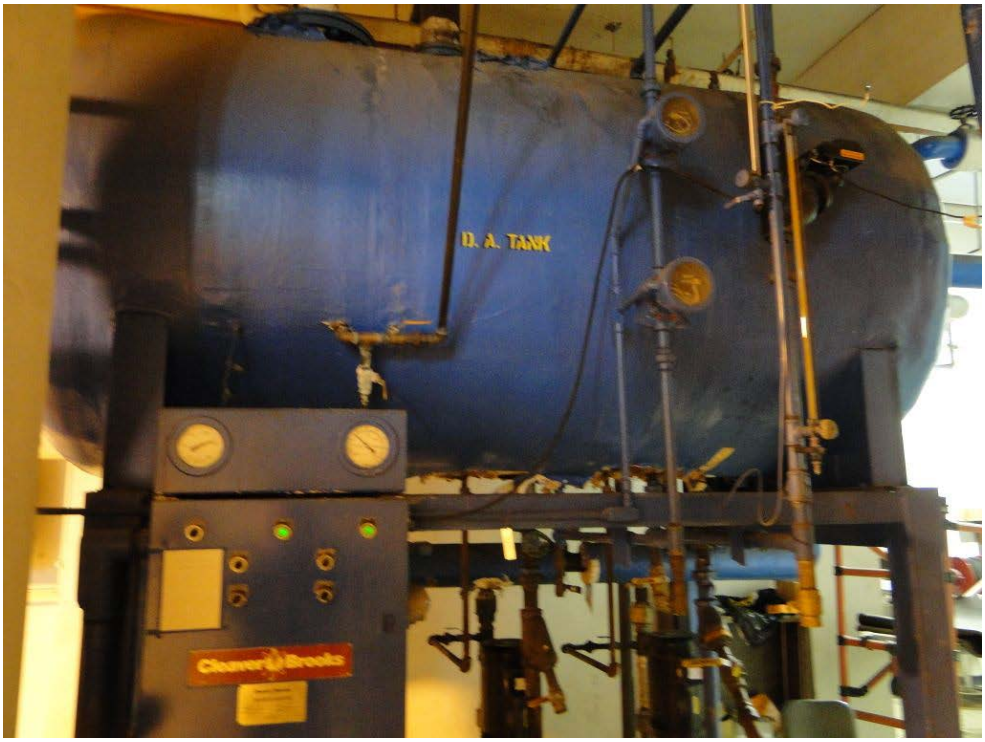
2) Removal of Condensate storage tank and pump
   a) Note picture number Pic 005 for item specifications.
      i) University shall unhook all connections so that units will be capable of removal from site by bidder.
      ii) Item can be viewed during the time noted below.
      iii) Bidder is responsible for all removal and transportation cost associated with removal of stated units.
         (1) It is expected that award of bids shall be no later than 05/01/13.
         (2) It is expected that University shall have units off line and fully disconnected for removal by 5/20/13.

(3) Bidder shall have units removed no later than four (4) weeks after notification from University that units are off line and fully disconnected.

3) Removal of condensate pump back units
   a) Note picture number 006 for item specifications.
      i) Pump back units are of various age and use, minimum number of units available at time of bid will be 9 units.
      ii) Items can be viewed during the time noted below.
      iii) All Condensate pump back units shall be sold together for one bid.
   b) Viewing of condensate pump back units shall be through various buildings throughout the campus of the University.
      i) University shall have units removed from buildings once the need of these units has been completed. Units shall be collected and stored at 823 Taylor drive for removal from the University.
      ii) Bidder is responsible for all transportation cost associated with removal of stated units.
         (1) Access to garage door for removal.
         (2) No loading dock available for removal.
         (3) It is expected that award of bids shall be no later than 05/01/13.
         (4) It is expected that units will be available for removal no later than 05/31/13.
            (a) Removal from university no more than four (4) weeks after notification from University that units are available for pick up.

4) Removal of generator (Pic 007)
   a) Onan Model 200.ODFP-SDR/18288K, Serial number H770256032
      i) Engine:
         (1) Cummins Model NT-855-G Serial number 10662679 built 7-1977
         (2) Current total hours: 129
   b) Bidder is responsible for all removal, construction and transportation cost associated with removal of stated generator.
      i) University shall unhook all connections from stated unit to make this capable of removal from site by bidder.
      ii) It is expected that award of bids shall be no later than 05/01/13.
      iii) It is expected that unit will be available for removal no later than 05/31/13.
         (1) Removal from university no more than four (4) weeks after notification from University that unit is available for pick up.
   c) Access to generator
      i) Access to garage door for removal.
      ii) No loading dock available for removal.
      iii) Generator is on steel frame.

Pic 001

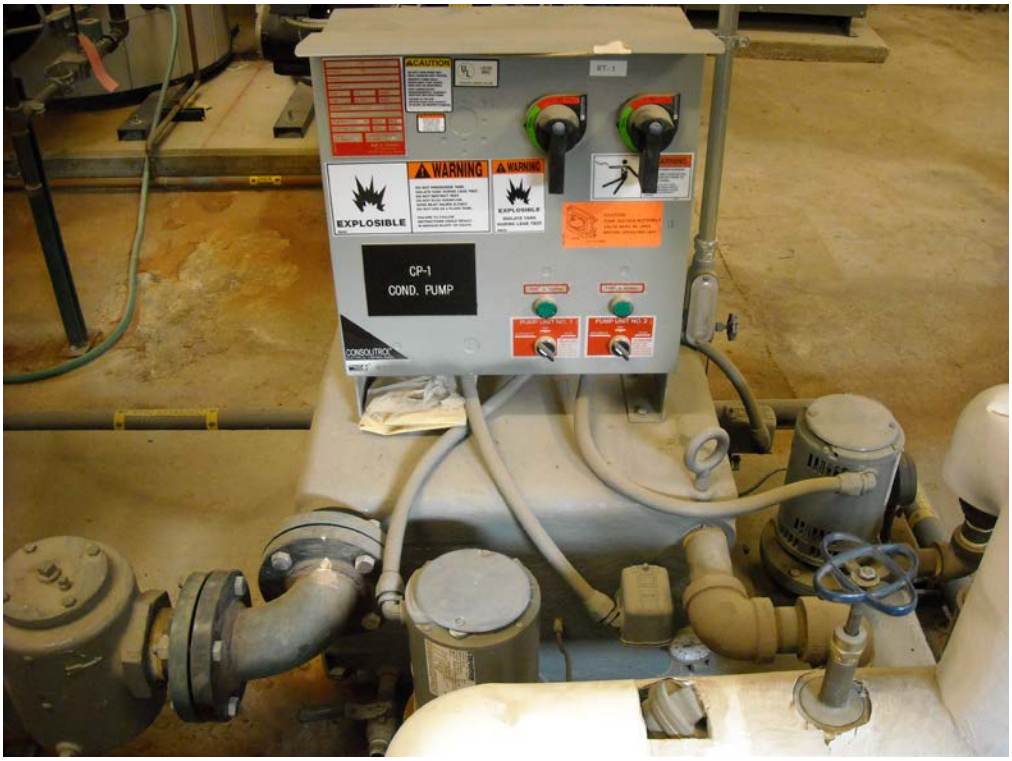


Pic 002

Pic 003

Pic 004

Pic 005




Pic 006

Pic 007

University shall have connections, ducting, pipes and valves clearly marked at time of walk through that will be included with each individual item noted above.

All expected removal operation schedules and equipment utilization to be presented by the awarded contractor/s to the University for approval prior to any removal of items.

It is the sole responsibility of the Bidder to carefully inspect any item that may be bid on, prior to bidding on it. **ALL ITEMS ARE SOLD "AS IS" WITH NO WARRANTY OR GUARANTEE.** No statement made in any advertising or informational materials for this bid, nor made orally before or during the bid process is intended to be a warranty or guarantee of the age, condition, quality, provenance or origin of any item offered for bid. **ALL SALES ARE FINAL, NO REFUNDS SHALL BE ISSUED**. Bidder accepts all responsibility for examining any item offered for bid, investigating its background and informing themselves of these matters necessary to evaluate the item as a potential purchase.

Bidders are strongly encouraged, but not required to attend a showing of the equipment conducted at 10:00 a.m. on 04/04/2013 at Lincoln University Power Plant Building, 823 Taylor Drive Jefferson City MO, 65101. The purpose of the showing is to provide potential bidders an opportunity to inspect the equipment prior to submitting a bid.

**Payment:** No items shall be removed by contractor unless University confirms full payment has been received at least five (5) business days prior to planned removal.

Pricing Page: The bidder shall conform to all mandatory specifications contained within this document.

| Item # | Description | Amount offered for total line |
|---|---|---|
| 1. | Boilers, deaerator tank and pumps | $_____ |
| 2. | Condensate storage tank and pump | $_____ |
| 3. | Condensate pump back units | $_____ |
| 4. | Onan Model 200 Generator | $_____ |

As stated in Section 8 "Evaluation/Award" of the Terms and Conditions:
Any award of a contract shall be made by notification from Lincoln University to the successful bidder. Lincoln University reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by Lincoln University based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of Lincoln University.

Note per the cover page that fax and e-mail submissions will not be accepted.
Must be sealed bid submittals per instructions.

# LINCOLN UNIVERSITY
# PURCHASING DEPARTMENT

## TERMS AND CONDITIONS -- INVITATION FOR BID

### 1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in an Invitation for Bid (IFB) document or any amendment thereto, the definition or meaning described below shall apply.

a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by **Lincoln University**. The agency is also responsible for payment.
b. **Amendment** means a written, official modification to an IFB or to a contract.
c. **Attachment** applies to all forms which are included with an IFB to incorporate any informational data or requirements related to the performance requirements and/or specifications.
d. **Bid Opening Date and Time** and similar expressions mean the exact deadline required by the IFB for the receipt of sealed bids.
e. **Bidder** means the person or organization that responds to an IFB by submitting a bid with prices to provide the equipment, supplies, and/or services as required in the IFB document.
f. **Buyer** means the procurement staff member of Lincoln University. The **Contact Person** as referenced herein is usually the Buyer.
g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
h. **Contractor** means a person or organization who is a successful bidder as a result of an IFB and who enters into a contract.
i. **Exhibit** applies to forms which are included with an IFB for the bidder to complete and submit with the sealed bid prior to the specified opening date and time.
j. **Invitation for Bid (IFB)** means the solicitation document issued by Lincoln University to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
k. **May** means that a certain feature, component, or action is permissible, but not required.
l. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive.
m. **Pricing Page(s)** applies to the form(s) on which the bidder must state the price(s) applicable for the equipment, supplies, and/or services required in the IFB. The pricing pages must be completed and submitted by the bidder with the sealed bid prior to the specified bid opening date and time.
n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of Lincoln University.
o. **Shall** has the same meaning as the word must.
p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

### 2. APPLICABLE LAWS AND REGULATIONS

a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and Lincoln University.
c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
e. The exclusive venue for any legal proceeding relating to or arising out of the IFB or resulting contract shall be in the Circuit Court of Cole County, Missouri.
f. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

### 3. OPEN COMPETITION/INVITATION FOR BID DOCUMENT

a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise Lincoln University if any language, specifications or requirements of an IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the IFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from Lincoln University, unless the IFB specifically refers the bidder to another contact. Such communication should be received at least ten calendar days prior to the official bid opening date.
b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than ten calendar days prior to the IFB opening date may not be answered.
c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by Lincoln University in the IFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
d. Lincoln University monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.

e. The IFB is available for viewing and downloading on Lincoln University's Purchasing Department webpage. E-mail notifications will be sent to the potential bidders at the current address maintained on the vendor registration file in Lincoln University's Purchasing Department . Any subsequent amendment to an IFB shall be e-mailed to the same address as the original IFB unless otherwise notified.
f. Lincoln University reserves the right to officially amend or cancel an IFB after issuance. Such a modification shall be identified as an amendment.

## 4. PREPARATION OF BIDS

a. Bidders **must** examine the entire IFB carefully. Failure to do so shall be at bidder's risk.
b. Unless otherwise specifically stated in the IFB, all specifications and requirements constitute minimum requirements. All bids must meet or exceed the stated specifications and requirements.
c. Unless otherwise specifically stated in the IFB, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the bid. In addition, the bidder shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Bids which do not comply with the requirements and specifications are subject to rejection without clarification.
d. Bids lacking any indication of intent to bid an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the IFB.
e. In the event that the bidder is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an IFB, such a bidder may submit a bid which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between Lincoln University and the bidder, if such bidder is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the IFB. Any such bidder needs to include in the bid, a complete list of statutory references and citations for each provision of the IFB which is affected by this paragraph.
f. All equipment and supplies offered in a bid must be new, of current production, and available for marketing by the manufacturer unless the IFB clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the IFB.
h. Bids, including all prices therein, shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, the entire bid, including all prices, shall be firm for the specified contract period.
i. Any foreign bidder not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their bid in order to be considered for award.

## 5. SUBMISSION OF BIDS

a. An IFB submitted by a bidder must (1) be signed by a duly authorized representative of the bidder's organization, (2) contain all information required by the IFB, (3) be priced as required, (4) be sealed in an envelope or container, and (5) be mailed or hand delivered (not faxed) to the Purchasing Department located, at Lincoln University at 1002 Chestnut St, and officially clocked in no later than the exact opening time and date specified in the IFB.
b. The sealed envelope or container containing a bid should be clearly marked on the outside with (1) the official IFB number and (2) the official opening date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
c. A bid which has been delivered to Lincoln University Purchasing Department may be modified by signed, written notice which has been received by Lincoln University Purchasing Department prior to the official opening date and time specified. A bid may also be modified in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a bid shall not be honored.
d. A bid which has been delivered to Lincoln University Purchasing Department may only be withdrawn by a signed, written notice or facsimile which has been received by Lincoln University Purchasing Department prior to the official opening date and time specified. A bid may also be withdrawn in person by the bidder or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone, e-mail, or telegraphic requests to withdraw a bid shall not be honored.
e. Bidders delivering a hard copy bid to Lincoln University Purchasing Department must sign and return the IFB cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the bidder of all IFB terms and conditions. Failure to do so may result in rejection of the bid unless the bidder's full compliance with those documents is indicated elsewhere within the bidder's response.
f. Electronic submission of bids shall not be accepted. Faxed bids shall not be accepted. However, faxed and e-mail no-bid notifications shall be accepted.

## 6. BID OPENING

a. Bid openings are public on the opening date and at the opening time specified on the IFB document. Names, locations, and prices of respondents shall be read at the bid opening. Lincoln University will not provide prices or other bid information via the telephone.
b. Bids which are not received in Lincoln University Purchasing Department prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late bids may only be opened under extraordinary circumstances.

## 7. PREFERENCES

a. In the evaluation of bids, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.

d. In the evaluation of bids, a service-disabled veteran business preference shall be applied in accordance with Section 34.074 RSMo.

## 8. EVALUATION/AWARD

a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the bidder and request clarification of the intended bid. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
b. Any pricing information submitted by a bidder shall be subject to evaluation if deemed by Lincoln University to be in the best interest of Lincoln University.
c. The bidder is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit Lincoln University. However, unless otherwise specified in the IFB, pricing shall be evaluated at the maximum potential financial liability to Lincoln University.
d. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the IFB and (2) is the lowest and best bid, considering price, responsibility of the bidder, and all other evaluation criteria specified in the IFB and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
e. In the event all bidders fail to meet the same mandatory requirement in an IFB, Lincoln University reserves the right, at its sole discretion, to waive that requirement for all bidders and to proceed with the evaluation. In addition, Lincoln University reserves the right to waive any minor irregularity or technicality found in any individual bid.
f. Lincoln University reserves the right to reject any and all bids. When all bids are non-responsive or otherwise unacceptable and circumstances do not permit a rebid, Lincoln University may negotiate for the required supplies.
g. When evaluating a bid, Lincoln University reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
h. Any information submitted with the bid, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a bid and the award of a contract.
i. Any award of a contract shall be made by notification from Lincoln University to the successful bidder. Lincoln University reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by Lincoln University based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of Lincoln University.
j. All bids and associated documentation which were submitted on or before the official opening date and time will be considered open records pursuant to Section 610.021 RSMo following the official opening of bids.
k. Lincoln University reserves the right to request clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
l. Any bid award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
m. The final determination of contract award(s) shall be made by Lincoln University.

## 9. CONTRACT/PURCHASE ORDER

a. By submitting a bid, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the IFB, at the prices quoted, pursuant to all requirements and specifications contained therein.
b. A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the contractor's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) Lincoln University's acceptance of the response (bid) by "notice of award" or by "purchase order." All Exhibits and Attachments included in the IFB shall be incorporated into the contract by reference.
c. A notice of award issued by Lincoln University does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for Lincoln University, the contractor must receive a properly authorized purchase order.
d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and Lincoln University or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

## 10. INVOICING AND PAYMENT

a. Lincoln University does not pay state or federal taxes unless otherwise required under law or regulation.
b. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of Lincoln University.
d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the IFB.
e. Lincoln University assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
f. All invoices for equipment, supplies, and/or services purchased by Lincoln University shall be subject to late payment charges as provided in Section 34.055 RSMo.
g. Lincoln University reserves the right to purchase goods and services using the Lincoln University purchasing card.

## 11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

## 12. INSPECTION AND ACCEPTANCE

a. No equipment, supplies, and/or services received by Lincoln University pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
c. Lincoln University reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
d. Lincoln University's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

## 13. WARRANTY

a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by Lincoln University, (2) be fit and sufficient for the purpose expressed in the IFB, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
b. Such warranty shall survive delivery and shall not be deemed waived either by reason of Lincoln University's acceptance of or payment for said equipment, supplies, and/or services.

## 14. CONFLICT OF INTEREST

a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
b. The contractor hereby covenants that at the time of the submission of the bid the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

## 15. REMEDIES AND RIGHTS

a. No provision in the contract shall be construed, expressly or implied, as a waiver by Lincoln University of any existing or future right and/or remedy available by law in the event of any claim by Lincoln University of the contractor's default or breach of contract.
b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to Lincoln University of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with Lincoln University.

## 16. CANCELLATION OF CONTRACT

a. In the event of material breach of the contractual obligations by the contractor, Lincoln University may cancel the contract. At its sole discretion, Lincoln University may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide Lincoln University within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
b. If the contractor fails to cure the breach or if circumstances demand immediate action, Lincoln University will issue a notice of cancellation terminating the contract immediately.
c. If Lincoln University cancels the contract for breach, Lincoln University reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as Lincoln University deems appropriate and charge the contractor for any additional costs incurred thereby.
d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon Lincoln University for any period in which funds have not been appropriated, and Lincoln University shall not be liable for any costs associated with termination caused by lack of appropriations.

## 17. COMMUNICATIONS AND NOTICES

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

## 18. BANKRUPTCY OR INSOLVENCY

a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify Lincoln University immediately.
b. Upon learning of any such actions, Lincoln University reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

## 19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless Lincoln University, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

## 20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status, unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
b. The identification of a person designated to handle affirmative action;
c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
d. The exclusion of discrimination from all collective bargaining agreements; and
e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, Lincoln University shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by Lincoln University until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

## 21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

## 22. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore bidder’s failure to maintain compliance with chapter 144, RSMo may eliminate their bid from consideration for award.

## 23. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.