

NORTHERN KENTUCKY UNIVERSITY INSTRUCTIONS TO BIDDERS

SECTION 1 – DEFINITIONS

1. **Addenda** – are written or graphic instructions issued by Northern Kentucky University (NKU) prior to the execution of the contract which modify or interpret the bidding documents by addition, deletions, clarification, or corrections.
2. **Alternate** – is an amount stated in the Bid Proposal to be added to or deducted from the amount of the base Bid if the corresponding change in project scope or materials or methods of construction described in the Bidding Documents is accepted. If the University designated Alternates are considered in the award, the Alternate(s) will be accepted in the sequence listed on the Bid form, and the lowest bid sum will be computed on the basis of the sum of the base bid and any Alternated accepted, within the budgeted amount.
3. **Bid** – is the sum stated in the Bid Proposal for which the bidder offers to perform the work described in the specifications and detailed on the drawn plans.
4. **Bidder** – is one who submits a bid directly to the Purchasing Agency for the work described in the Bidding Documents.
5. **Bidding Documents** – include the Notice of Advertisement, Invitation for Bid, Instructions to Bidders, Bid Proposal forms, other sample bidding and contract forms and the proposed Contract Documents including General Conditions, Special Conditions, Plans and Specifications, any Addenda issued prior to receipt of Bids.
6. **Bid Proposal** – is a complete and properly signed document, proposing to do the work or designated portion thereof for the sums stipulated therein supported by data called for by the Bidding Documents.
7. **Construction Manager** – means the person or entity employed by the owner under a separate contract, to provide professional and managerial services to the project.
8. **Consultant** – means the person or the entity, either Architect, Engineer or other Consultant, who is identified as such in the Contract Documents.
9. **Foreign Corporation** – refers to a corporation for profit, organized under the laws other than the laws of the Commonwealth of Kentucky.
10. **K.A.R.** – Kentucky Administrative Regulations; regulations that are promulgated by state agencies to enhance and clarify procedures that are authorized by a specific statute. After public review and acceptance by the agency, the regulations effectively become law until rescinded or revised by the agency.
11. **KRS References**- means the “Kentucky Revised Statutes” adopted by the Commonwealth of Kentucky including all laws and related regulatory that may have been revised, amended, supplemented or new laws enacted.
12. **NKU** – Northern Kentucky University
13. **Lump Sum** - Single total amount for Work; not consisting of several smaller amounts
14. **Notice of Intent to Award** – is a written letter issued to the apparent successful contractor after acceptance of bid price, unit prices, subcontractors and equipment and materials to inform them of such acceptance and request the required additional documentation to initiate the Contract. This is **not** an authorization to proceed.
15. **Owner** – is Northern Kentucky University, a statutory body corporate existing pursuant to Sections 164.100 et seq. of the Kentucky Revised Statutes.
16. **Prime Contract** - Contractor will have [full responsibility](#) for the Work.
17. **Project** – The total Construction, of which the Work performed under the Contract Documents, may be the whole or a part, and which may include Construction by the Owner or by separate Contractors.
18. **Project Manager** – The person designated by the University to oversee the design and construction processes associated with a Capital Construction Project.
19. **Purchasing Agency** – is Northern Kentucky University (NKU) – Procurement Services, Lucas Administrative Center, Suite 617, 1 Nunn Drive, Highland Heights, Greater Cincinnati, 41099

20. **Purchasing Official** – is the University’s authorized representative.
21. **Responsible Bidder** – shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance. See KRS 45A.070(6).
22. **Responsive Bidder** – shall mean a person who has submitted a Bid which conforms in all material respects to the Invitation for Bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract. See KRS 45A.070(7).
23. **Schedule of Values** – A zero-dollar Certification of Payment (i.e., invoices), completed shortly after the beginning of a Construction Contract, which outlines the labor and material components of the Contract amount, usually by specification division. When approved by the Contractor, Architect-Engineer and the Division of Contracting and Administration, this document becomes the basis for all Applications for Payment.
24. **Unit Price** – is an amount stated in the Bid as a price per unit of measurement for materials or services as described in the bidding documents.
25. **Work** – Includes the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, supervision, materials, equipment, services, and things provided or to be provided by the Contractor to fulfill the Contractor’s obligations.

SECTION 2 – BIDDER’S REPRESENTATIONS

The Bidder by submitting a Bid, represents and warrants that:

1. The Bidding Documents have been read and understood and the Bid is made in accordance therewith.
2. The site of the proposed work has been visited and carefully examined and the Bidder is aware of and understands the local conditions under which the work is to be performed. Failure to make this required inspection before submitting a Bid will be taken as acceptance by the contractor of the conditions as they exist in the field, whether shown on the drawings or noted in the specifications, and as shown on NKU’s drawings and noted in the specifications. No subsequent claims for extra compensation arising from existence of discrepancies between actual conditions and those shown on drawings and/or noted in specifications will be considered.
3. The Bid submitted is premised upon furnishing the work required by the bidding documents without exception.
4. That the plans and specifications contained in the Bid Documents have been carefully examined and determined by the Bidder to be accurate as well as adequate and sufficient from which to submit a Bid and from which to perform the Work.

SECTION 3 – BIDDING DOCUMENTS

1. Availability of Bidding Documents
 - A. Bidders, Sub-bidders, Subcontractors, and others may obtain Bidding Documents from Lynn Imaging @ www.nkupanroom.com or www.lynnimaging.com
 - B. Complete sets of Bidding Documents shall be used in preparing Bids. The Purchasing Official assumes no responsibility for misinterpretations resulting from the use of incomplete sets of bidding documents.
 - C. The Purchasing Official, in making copies of the Biding Documents available on the above terms, does so only for the purpose of obtaining Bids on the work and does not confer a license or grant for any other use.
2. Accuracy of Bid Documents
 - A. The Bidding Documents are complementary and are issued for the convenience of the Bidders. NKU assumes no responsibility for the correctness of said documents. Each Bidder should review the documents for errors or inaccuracies that may affect the scope of work implied.
 - B. All Bidders shall, upon examination of Bidding Documents promptly notify the University’s Purchasing Official of any ambiguity, inconsistency or error that they may discover upon examination of the Bidding Documents and/or of the site and local conditions.
3. Questions, Interpretations

- A. All questions regarding the meaning or interpretation of the Bidding Documents shall be directed in writing to the Purchasing Official. Questions received less than ten (10) calendar days prior to the date for receipt of Bids may not be answered.
 - B. Questions will be accepted from prospective Bidders and should be submitted in a timely manner to the Procurement Officer only. E-mail submission of questions is preferable, but questions will also be accepted by mail or facsimile to the Procurement Officer. The Procurement Officer will decide whether an answer can be given before the closing date, based on the availability of time to research and communicate an answer. Answers to all substantive questions that have not previously been answered. And are not clearly specific only to the requestor, will be distributed to all vendors who are known to have received a copy of this IFB.
 - C. Any interpretation, correction or change of the Bidding Documents will be made by Addendum, issued by the Purchasing Official. Interpretations, corrections or changes of the Bidding Documents made in any other manner will not be binding and Bidders shall not rely upon such interpretations, corrections and changes.
4. Materials, Equipment
- A. The materials, products and equipment detailed, described or referenced to manufacturers' or vendors' names, trade names, catalogue numbers, etc., are intended to establish a standard of required function, dimension, appearance and quality.
 - B. Material, article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed is, in the sole opinion and judgment of the Consultant, of equal substance and function and approved by the Purchasing Official.
5. Addenda
- A. Addenda will be mailed or delivered to all who are known by NKU Procurement Services to have requested and were furnished Bidding Documents.
 - B. Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose
 - C. No Addenda of a material nature will be issued later than five (5) working days prior to the date for receipt of bids, except for postponing the date for receipt of bids or withdrawing the invitation for Bid.
 - D. Each Bidder shall ascertain, prior to submitting his Bid, that he has received all Addenda issued by Procurement Service for the particular bid invitation. The Bidder shall acknowledge receipt of all Addenda in the Form of Proposal, or by separate letter to the Purchasing Official which is received at or prior to the hour and date specified for receipt for Bids.
 - E. It shall be the sole responsibility of the Bidder who received the Addendum, to insure that all of the appropriate Sub-bidders and Sub-contractors are notified in respect to the information contained in the Addendum.

SECTION 4 – PRE-BID CONFERENCE AND SITE VISIT

1. A pre-bid conference and tour of the project area will be held approximately ten (10) days prior to receipt of bids. (Actual date of Pre-Bid Conference will be stated in the Invitation for Bid.) All Contractors wishing to bid on this project should have a representative attend this conference. Items discussed at the Pre-Bid Conference may become part of the contract, and any questions asked at a pre-bid meeting must also be submitted in writing.
2. Bidders, before submitting proposals should visit and examine the site to satisfy themselves as to the nature and scope of the project and any difficulties attending the completion of the project.
3. The submission of a proposal will be construed as evidence that a visit and examination has been made. Later claims for labor, equipment, or materials required or difficulties encountered which could have been foreseen had such an examination been made, will not be recognized.
4. Alternate site visits may be arranged at the discretion of NKU, Procurement Services.

SECTION 5 – BIDDING PROCEDURES

1. Form of Proposal. Bids shall be submitted by Bidders who have received Bidding Documents from American Reprographics Inc. and thereby listed on the Official Planholder's list and shall be made on the proposal form (Form of Proposal) provided.
 - A. Blanks. All blanks on the Form of Proposal shall be completed and all required support data shall be furnished.
 - B. Sums. Where so indicated by the makeup of the Form of Proposal, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount indicated by words shall govern.
 - C. Modifications. Any interlineation, alteration, or erasure must be initialed in ink by the signer of the Bid or by an official designee of the signer of the Bid.
 - D. Alternates. All alternates specifically called for by the Form of Proposal shall be bid. Voluntary alternate proposals or an alternate to a lump sum proposal will not be considered unless specifically permitted by the conditions of the Notice of Advertisement or the Invitation for Bid.
 - E. Qualifications. The Bidder shall make no additional stipulations on the Bid Proposal form or qualify the Bid in any other manner.
 - F. Signatures. The Form of Proposal shall be signed by a person or persons legally authorized to bind the Bidder to a contract. The Form of Proposal shall include the legal name of Bidder and a statement indicating whether the Bidder is a sole proprietorship, a partnership, a corporation, or any other legal entity. A Bid by a corporation shall identify the state of incorporation including Federal I.D. number. A Bid submitted by an agent shall have a current signing authority attached certifying agent's authority to bind the Prime Bidder.
2. Bid Security. Where specified in the Notice of Advertisement or Invitation for Bid, the Bidder shall furnish a Bid guarantee in the required form of not less than five percent (5%) of the Bid amount. This Bid security secures the Bidder's promise (i) to enter into a contract on the terms stated in the Bid proposal, and (ii) if required, to furnish bonds covering the faithful performance of the contract and payment of all obligations thereunder. Should the Bidder refuse to enter into a contract or fail to furnish the required performance and payment bonds, the amount of the Bid security shall be forfeited to the Owner as liquidated damages, not as a penalty.
 - A. The Purchasing Official will retain the Bid security of Bidders until either (i) the contract has been executed and bonds have been furnished, or (ii) the specified time has elapsed so that Bids may be withdrawn, or (iii) all Bids have been rejected.
3. The completed University Official Bid Document, the Bid Security, and any support data required to be submitted with the Bid shall be enclosed in a sealed envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Bidder's name and address, the sealed Bid invitation number, closing date and hour. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "BID ENCLOSED" on the face thereof. NOTE: USPS Zip Code is 41099, other carriers should use Newport, 41076.
4. Timeliness of Bids. Bids shall be delivered to Suite 617, Lucas Administrative Center prior to the official time and date for receipt of Bids indicated in the advertisement of Invitation for Bid, or any extension thereof made by Addendum. The "official time" refers to the time as indicated by the time date clock located in the reception area of Suite 617.
5. Late Bids. Bids received after the official closing time and date for receipt of Bids may be considered for evaluation and award only if: (i) no other Bids were received within the legal advertisement period; and (ii) the re-advertisement time delay would seriously affect the operations of the Owner; and (iii) in the judgment of the Purchasing Official, the Bid was finalized prior to the official closing time and date for receipt of bids. The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of bids.
6. Bids Not In Writing. Oral, e-mailed, telephonic, or telegraphic Bids or changes in Bids by such methods are not permitted and will not receive consideration.
7. Bids Withdrawn. Bids may be withdrawn prior to the closing time and date for receipt of Bids by: (i) a properly identified representative of the Bidder whose name appears on the Bid envelope, or (ii) by written request by an authorized representative of the Bidder, received by Procurement Services prior to the Bid closing date and time. Withdrawn Bids may be resubmitted up to the closing time designated for the receipt of Bids.
8. Bids Remain Open. During the stipulated time period following the time and date designated for the receipt of Bids a Bid shall remain open for the Owner's acceptance. During this period the Bid may not be modified, withdrawn or canceled by the Bidder, without the Bid security being subject to forfeiture and the suspension of the Bidder's future

bidding privileges.

SECTION 6 – CONSIDERATION OF BIDS

1. Bid Opening. Unless stated otherwise in the Notice of Advertisement or Invitation for Bid, all properly identified timely Bids will be publicly opened, reviewed (for conformance with Bid submittal requirements) and if properly executed and complete, read aloud. All Bids opened and read will be listed on the official Bid tabulation which will be made available to all Bidders on the Procurement Services website.
2. Waiver of Irregularities/Rejection of Bids. The right to cancel the Invitation for Bid, to reject any and all Bids, and to waive technicalities and minor irregularities in Bids is maintained and preserved in all Invitations for Bids issued by NKU when such action is determined to be in the best interest of NKU.
3. Grounds for Rejection. Grounds for the rejection of Bids include, but shall not be limited to:
 - A. Failure of a Bid to conform to the essential requirements of the Invitation for Bid;
 - B. Any bid which does not conform to the specifications contained or referenced in any Invitation for Bids shall be rejected unless the invitation authorized the submission of alternate Bids and the items offered as alternates meet the requirements specified in the invitation;
 - C. Any Bid which fails to conform to the delivery or completion schedule established in the Bidding Documents;
 - D. A Bid imposing conditions or qualifications which would modify the terms and conditions of the Invitation for Bids, or limit the Bidder's liability to the Owner in a manner inconsistent with the provisions of the Bidding Documents;
 - E. Any Bid determined by Procurement Services in excess of funds available.
 - F. Failure to furnish a Bid security in accordance with the requirements of the Notice of Bid Opportunity or Invitation for Bid.
 - G. For other cause as documented by the Purchasing Official pursuant to a written determination and finding.
 - H. Bids received from Bidders determined by the Purchasing Official to be non-responsive bidders.
4. Minor Irregularities. Minor irregularities or technicalities in a Bid may be waived by the Purchasing Official on behalf of the University when all of the following circumstances are present:
 - A. The Purchasing Official determines that it will be in the University's best interest to do so; and the technicalities or irregularities are mere matters of form not affecting the material substance of a Bid;
 - B. Represent an immaterial deviation from, or variation in the precise requirements of the advertisement for Bids or Invitation for Bid, and have no effect on price, quality, quantity or delivery of supplies or performance of services being procured; and, the correction or waiver of the technicality or irregularity will not affect the relative standing of, or prejudice, other Bidders. If the University does not waive technical deficiencies and irregularities, the deficient Bid shall be rejected.
5. Competitive Negotiation. The University reserves the right to exercise the provisions of KRS 45A.090 regarding competitive negotiation when it is considered to be in the best interest of the University.

It is the intent of the Purchasing Official to award a contract in due course and after a reasonable Bid evaluation period to the Responsive and Responsible Bidder offering the best value to the University, provided the acceptable Bid sum is within budgeted funds. In the event that all bids submitted result in prices in excess of funds available, NKU may enter into competitive negotiations subject to the guidelines and restrictions of KRS 45A.090.

Rejection of Alternate Bids. The University reserves the right to accept or reject any or all alternate Bids if provided for in the Bid Documents. If alternates designated by the University are considered in the award, the alternate(s) will be accepted in the sequence in which they are listed on the Bid proposal form and the lowest Bid sum will be computed on the basis of the sum of the base Bid plus and/or minus any alternates accepted.

SECTION 7 – QUALIFICATION OF BIDDING CONTRACTOR

1. Bidder Responsibility. All bidders may be required to supply the information requested on the Contractor/Bidder Determination of Responsibility Questionnaire. The apparent low Bidder will be supplied this document at the post Bid review of the Bid submittal document. The information required by this document must be completed by the Bidder and

returned to the University Purchasing Official within a reasonable time as determined by the University. In most cases the information should be completed and returned in no more than five (5) working days after the Bid submittal. The information provided will be used to determine whether the Bidder is “responsible” as defined by KRS 45A.070(6), and verify that the Bidder has the experience, qualifications and resources required to provide the quality workmanship, materials and services necessary to complete the project being Bid. In addition to the information required by the Questionnaire, the Bidder agrees to provide any additional information that may be necessary for determination of contractor responsibility, as defined by the Kentucky Model Procurement Code. The determination of contractor responsibility will not be made until the Bidder has provided a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign laws of the Commonwealth and that the award of a contract to a Bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. The sworn statement required is included in the Form of Proposal.

2. **Inquiries.** The Purchasing Official shall have the right to make any inquiry deemed necessary to determine the ability of the Bidder to perform the work in a prompt and efficient manner and in accordance with the contract Documents. The failure of a Bidder to promptly supply information in connection with the Purchasing Official’s inquiry may be grounds for a determination that such Bidder is nonresponsive.
3. **Rejection.** The right is reserved to reject any Bid where an investigation and evaluation of the Bidder’s qualifications would give reasonable doubt that the Bidder could perform prompt and efficient completion of the work in accordance with the requirements with the Contract Documents.

SECTION 8 – SUBCONTRACTOR AND MATERIAL LISTING

1. **List of Subcontractors.** The Bidder will list the names of subcontractors proposed for each of the principal portions of the work (including those persons or entities who are to furnish material or equipment fabricated to a special design) in the designated place on the Form Of Proposal. The Bidder will be responsible for establishing to the satisfaction of the Purchasing Official, the reliability and responsibility of the listed subcontractors. The Bidder may be required by the Purchasing Official to provide additional information regarding listed subcontractors.
2. **Objection and Required Substitution.** If, after due investigation, there is reasonable objection to the qualifications of a listed subcontractor the Bidder shall, upon written direction from the Purchasing Official, submit the name of an acceptable substitute subcontractor with no change in Bid price. The failure of the Bidder to promptly comply with this requirement may be grounds for rejection of the bid.
3. **No Objection Prior to Notice of Award.** Any listed subcontractor to whom the Purchasing Official does not make written objection prior to the giving of the Notice of Award shall be deemed acceptable to the University.
4. **Bidder Self Performed Work.** The Bidder shall not list himself as a subcontractor on the Form of Proposal Subcontractors List unless it can be demonstrated that Bidder actively participates in the trades required and has the expertise to complete that portion of the work.
5. **Substitutions Not Optional.** The Bidder shall not substitute a subcontractor named on the Form of Proposal without prior notification and approval of the Purchasing Official. Any notification for a substitution of a listed subcontractor shall be in writing and the reason fully set forth therein. The reason shall demonstrate real cause and evidence good faith by the Bidder. This shall not be construed to waive the Bidder’s rights to later substitute a subcontractor for the failure of that proposed subcontractor to accept a contract from the Bidder, failure to perform in a satisfactory manner per the requirements of the contract or any other legal rights of the Bidder to manage and coordinate subcontractors.
6. **Bid Documents Not a Contract.** Nothing contained in the Bidding Documents shall be deemed to create a contractual relationship between the University and any subcontractor. However, it is the Bidder’s responsibility to assure that the subcontractor listed has the required expertise and financial stability to complete that portion of the work.
7. **List of Materials and Equipment.** The Bidder shall submit a list of major materials and equipment by the manufacturer’s name, brand and/or catalog number in the form and manner specified in the Bidding Documents.
8. **Preliminary Acceptance of Materials and Equipment.** Prior to the acceptance of a Bid, the Purchasing Official will make a preliminary review of the list of materials and equipment included with the Bid Proposal and advise the Bidder of the acceptance thereof, subject to satisfactory completion and approval of shop drawings, or direct other such action as may be necessary in order to meet the requirements of the Contract Documents. If any of the material or equipment named in the list are determined not to meet the requirements and standards of the specifications, the Bidder shall be required to furnish other material or equipment meeting the specifications at no change in Bid price. Preliminary review

and acceptance of the submitted material and equipment list shall not relieve the Bidder from furnishing equipment and materials in complete accordance with the specifications, drawings, and Contract Documents.

SECTION 9 – UNIT PRICES

The Bidder shall submit with the Bid a list of Unit Prices as designated on Form of Proposal. Unit Prices are for the pricing of changes in the quantity from that indicated by the Contract drawings and specifications, where such changes have been authorized in writing by the University. The Unit Prices submitted shall include all necessary labor, materials, equipment, appliances, supplies, overhead and profit. Only a single Unit Price shall be quoted for each designated item of work. The Unit Price shall be used to calculate price adjustments for either increasing or decreasing the amount of Work. Unit Prices shall apply to all phases of the Work whether the Work be performed by the Bidder or by the Bidder's (contractor) Subcontractor. The University reserves the right, prior to an award of Contract, to evaluate the Unit Prices submitted and adjust and/or reject any Unit Price that is determined by the Purchasing Official to be unreasonable in amount.

SECTION 10 – PERFORMANCE BOND, LABOR & MATERIAL PAYMENT BOND

1. The successful Contractor shall furnish security bonds (form to be furnished) in an amount equal to one hundred percent (100%) of the Contract Price as security for the performance of the Contract established and for payment of all persons performing labor, including payment of all unemployment contributions which become due and payable under Kentucky Unemployment Insurance Law, and furnishing materials, equipment, supplies, taxes, and other proper charges and expenses incurred or to be incurred in the performance of the contract. All bonds shall be executed by a surety company authorized to do business in the Commonwealth of Kentucky. The bonds shall be valid after the final payment has been made on the Contract during the guaranty period and other periods limited only by statutes of limitation. If the furnishing of performance and payment bonds is required by the Bidding Documents, the bond premiums shall be paid by the Bidder. If the furnishing of bonds is not required by the Bid Documents, but required by the Purchasing Officer subsequent to the award of Contract, the successful Bidder shall procure the bonds and the University will reimburse the Bidder for the premium cost. The University reserves the right to require all bonds be provided by a surety company with a rating of "A" or better as listed in the A. M. Best-Key Rating Guide for Property and Casualty (current edition).
2. The Bidder shall execute the required performance and payment bonds for the University on the date of execution of the Contract Documents between the Owner and the Contractor, or, with the approval of the Purchasing Official, within ten (10) calendar days after that date. Unless otherwise specified in the Bidding Documents, the bonds shall be written on the bond form bound in the bidding documents and in the number of counterparts specified by the Purchasing Official.
3. Bonds shall be issued by a surety company authorized to underwrite bonds in the Commonwealth of Kentucky. The Bidder shall require the Attorney-in-Fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of their Power of Attorney. The date of the Power of Attorney shall not precede the date of the bonds.

SECTION 11 – AWARD OF CONTRACT

1. The issuance of an award of the Contract is contingent upon (i) securing an acceptable Bid that is responsive and from a responsible Bidder and is within the amount of budgeted funds and (ii) determining that the award of Contract will be in the best interest of Northern Kentucky University.
2. Unless otherwise provided in the Bidding Documents, the resulting contract will consist of the Invitation for Bid with any issued addenda, drawings, specifications, the Bidder's submitted Form of Proposal and the Notice of Award letter.
3. The Contract between Northern Kentucky University and the Contractor will be final and binding when the parties have executed the Agreement between the Owner and Contractor.
4. Final award of Contract will be made on the basis of the lowest, responsive and responsible bid which offers the best value.
5. The University reserves the right to negotiate and award Contracts as allowed under KRS 45A.090 should all responsive Bids exceed available funds.
6. Reciprocal Preference to be given by Public Agencies to Resident Bidders

In accordance with KRS 45A.494, a resident Offeror of the Commonwealth of Kentucky shall be given a preference against a nonresident Bidder. In evaluating bids, the University will apply a reciprocal preference against a Bidder

submitting a bid from a state that grants residency preference equal to the preference given by the state of the nonresident Bidder. Residency and non-residency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively. Any Bidder claiming Kentucky residency status shall submit with its bid a notarized affidavit affirming that it meets the criteria as set for in the above referenced statute.

SECTION 12 – PUBLIC WORKS ACT

1. Wage and Hour Acts. In performing the work, the Contractor and Subcontractors are required to comply with the wage and hour requirements prescribed by KRS 337.505-337.550, except where the contract meets exemption requirements as set forth under KRS 337.010.
2. Payment. On projects not exempted under KRS 337.010, the Contractor and Subcontractor shall pay all laborers, workmen and mechanics performing work under this contract not less than the wages set fourth in the prevailing wage schedule, incorporated as part of the Bid and Contract Documents, as determined by the Kentucky Department of Labor in accordance with provisions of KRS 337.505 through KRS 337.550. On covered contracts, the Contractor and subcontractor shall pay all workers employed on the site not less than the minimum hourly rates set fourth in the Department of Labor Wage Determination, Incorporated in the Bidding Documents. The designated wage rates represent minimum allowable rates of pay and shall not be construed to mean that higher rates may not have to be paid in order to secure labor. Thus, differences between designated wage rates and actual wage rates shall not be an appropriate basis for adjustment of the contract sum.
3. Prevailing Wage Rates. The prevailing wage rates, set forth in the wage determination, are determined by the Kentucky Department of Labor in accordance with provisions contained in KRS 337.505 through KRS 337. 550. Any Contractor or Subcontractor found to be in violation of any provisions of KRS 337.505 to 337.550 by the Commissioner of the Department of Labor and upon notification to the Senior Vice President for Administration and the Secretary of the Finance and Administration Cabinet, the Secretary of the Finance and Administration Cabinet shall declare the offending Contractor ineligible to bid on public works until such time the Contractor is in substantial compliance as determined by the Commissioner of Labor.

SECTION 13 – BASIC LEGAL REQUIREMENTS

1. Forms Required. An Authentication of Bid, Statement of Noncollusion and Nonconflict of Interest documents are bound with and included as part of the Form of Proposal. The Bidder is required to sign that document and submit it as part of the Bid. Failure to comply with these requirements shall invalidate the Bid.
2. Foreign Corporations.
 - A. Foreign Corporations are defined as corporations that are organized under the laws other than the laws of the Commonwealth of Kentucky. Foreign Corporations doing business within the Commonwealth of Kentucky are required to be registered with the Secretary of State, New Capitol Building, Frankfort, Kentucky and must be in good standing.
 - B. The Foreign Corporate Bidder, if not registered with the Secretary of State at the time of the Bid submittal, shall be required to become registered and be declared in good standing prior to the issuance or receipt of a contract.
 - C. Domestic Corporations. Domestic corporations are required to be in good standing with the requirements and provisions of the Office of the Secretary of State.

SECTION 14 – TAXES

1. Not Tax-Exempt.
 - A. Bidders are informed that construction contracts for Northern Kentucky University are not exempt from the provisions of the Kentucky Sales and/or Use Tax. The Bidder shall include in the lump sum bid and the Contractor shall pay sales, consumer, use and similar taxes for materials, equipment and supplies incorporated into the Work unless otherwise specified in the Bid Documents.
 - B. Northern Kentucky University, through the Commonwealth of Kentucky, is entitled to exemption from Federal Excise Tax. All Prime Bidders or Sub-bidders shall take this into consideration in their Bid.
2. Liability for Employee-Related Taxes. The Bidder and Subcontractors will be required to accept liability for payment of all payroll taxes or deductions required by local, state and federal law, including but not limited to old age pension,

social security or annuities. Worker's Compensation Insurance shall be carried to the full amount as required by Kentucky Statutes. The Bidder shall be in full compliance with KRS Chapters 341 and 342.

Note: Northern Kentucky University was annexed by the City of Highland Heights in 2008. All contractors performing work for NKU must possess a Campbell County Occupational License and a City of Highland Heights Occupational License (administered by Campbell County) and must also pay applicable payroll taxes. For further information call 859.292.3884 or log onto: www.campbellcountyky.org/occllic.htm

SECTION 15 - PLANHOLDERS

1. Intent to Submit a Bid. A request for Bid Proposal and Bid Documents by a General Contractor will be considered as intent to submit a Bid. The Bidder's name will appear on the planholder's list showing all planholders and will be forwarded all Addenda issued. In the event the planholder elects not to submit a Bid, it is requested that notification of such fact be furnished to Northern Kentucky University Procurement Services prior to the closing date for receipt of Bids.
2. Planholder and Addenda Listing. The published planholder and Addenda listing is for general information purposes and the exclusion or inclusion of any firm in no way constitutes and/or implies approval or disapproval of the qualifications of any Bidder, Subcontractor, material or equipment supplier. If the Bidder or planholder notes non-receipt of any of the listed Addenda, it shall be their responsibility to obtain missing copies from Procurement Services or review same at any of the designated reporting agencies offering the Bid Documents for review.

SECTION 16 – POST BID REVIEW AND MATERIAL SUBMITTAL

The Bidder should have a responsible authorized representative at the bid opening. The Bidder's representative shall have the authority and be qualified to respond to questions that may arise about the Bidder's Bid submittal. The representative of the apparent low Bidder may be required to participate in the post Bid review of the apparent low Bid proposal, and if required by the Bid proposal, the completion and submittal of the material and equipment listing, Schedule of Values, EEO-1:Employer Information Report and the subcontractor report form. The post Bid review may include representatives of the Consultant, representative of the apparent low Bidder and required University personnel. Preliminary review will be directed toward Subcontractor, material listing, Unit Prices, and qualifications of the Bidder.

SECTION 17 – EQUAL EMPLOYMENT

1. Equal Employment Opportunity.
 - A. Bidders and subcontractors are required to comply with Federal Executive Order 11246 entitled "Equal Employment Opportunity" as amended.
 - B. The provisions of KRS 45.560 through 45.640, known as the Kentucky Equal Employment Act of 1978, hereinafter referred to as the Act, shall be binding upon the declared successful Bidder and any subsequent contract awarded to the Bidder, except that a Contractor or subcontractor otherwise subject to the provisions of KRS 45.570 is exempt as to any affirmative action or reporting requirements if:
 - 1) The contract or subcontract awarded is in the amount of \$500,000.00 or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of this Act.
 - 2) The contractor or subcontractor utilizes the services of fewer than eight (8) employees during the course of the contract.
 - 3) The contractor or subcontractor employs only family members or relatives.
 - 4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of this Act.
 - C. All compliance reporting shall be directed to the University's representative a.k.a. project manager. It shall be the responsibility of the Contractor or subcontractor to comply with the provisions of KRS 45.560 through 45.640 unless exempted through the compliance officer.
2. Affirmative Action.
 - A. The Bidder not otherwise exempted from the affirmative action or reporting requirements of the Act, shall within five (5) calendar days after being declared the successful low Bidder, submit to the University Official:

- 1) Form EEO-1
 - 2) Employee Data Sheet
 - 3) Subcontractor Reporting Form
- B. The above reporting shall be on forms provided in the Project Manual Appendix and submitted in the manner prescribed on the forms.
3. Equal Opportunity Compliance.
- A. Within ten (10) days after the receipt of this report, the Office of EEO and Contract Compliance will determine whether the Bidder's work force is reflective of the percentage of available minorities in the areas from which the Bidder's employees are drawn. If a determination is made that the Bidder's work force is reflective of the percentage of available minorities in this drawn area, the Bidder shall be "certified" and be thereby qualified for the contract and to Bid on any contract covered by this Act without filing additional data for a period of six (6) months.
 - B. If it is determined by the Official that the Bidder's work force reflects an under utilization of minorities, the Bidder shall be so notified and no certification be granted. The Bidder shall then have the option of filing with the Office of EEO and Contract Compliance an affirmative action plan, indicating goals and timetables for recruiting and hiring minorities throughout the contractor's work force. The Official shall be available, upon request of any contractor, to furnish technical assistance in fulfilling the requirements of the Act.
 - C. If the Bidder is subsequently awarded the Contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under the Act and shall constitute a material breach of contract.
 - D. If the Official determines that the submitted affirmative action program does not fulfill the provisions of the Act, the Bidder shall be so notified and no certification shall be granted.
 - E. If the Bidder's work force is not reflective of the percentage of minorities in the drawing area and he has complied with all other affirmative action requirements in the Act, he may certify by verified affidavit that he has made every reasonable effort to comply with said percentage requirements and he shall thereafter be entitled to all benefits of the Act.
 - F. Failure to comply with the requirements of the Act after contract award may result in payments being withheld pending satisfactory fulfillment of contractual obligations.

SECTION 18 – ANTI-KICK BACK

All Bidders shall comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Bidder, subcontractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled.

SECTION 19 – COMPLIANCE WITH KENTUCKY'S COMPENSATION AND UNEMPLOYMENT INSURANCE LAWS KRS 45A.480

The successful contractor will be required to assure, by affidavit, that all contractors and subcontractors employed, or will be employed, under the provisions of the contract shall be in compliance with Kentucky requirements for Worker's Compensation Insurance according to KRS Chapter 342 and Unemployment Insurance according to KRS Chapter 341.

SECTION 20 – PROTESTS

Any Bidder who wishes to protest or object to any award made or other decisions Pursuant to this IFB may do so only in writing to the Director of Procurement Services.

SECTION 21 – WEAPONS-FREE ZONE

The possession of, use or storage of any firearm, ammunition, explosive device (including fireworks), or other deadly weapon in any form is prohibited on any Northern Kentucky University property or in any facility or on any property owned, leased, or operated by the University, except as permitted by law (K.R.S. 527.020).

"Weapons" include, but are not limited to, martial arts weapons, knives (other than those necessary for cooking or approved university activities, including ROTC), bows and arrows, air guns, shot guns, BB guns, and "deadly weapons"

as defined by KRS 500.080(4).

SECTION 22 - NKU Clean Air Act

For the purpose of this policy:

“smoking” is defined as burning any type of tobacco product including, but not limited to, cigarettes, cigars, cigarillos, bidis, and pipes; and “facility” is defined as any structure(s), building(s), area, site, place or property under the supervision and/or control of Northern Kentucky University.

The Northern Kentucky University Highland Heights campus shall be designated as non-smoking within all common pedestrian areas, such as the Loch Norse area, Norse Commons, University Plaza and other highly populated areas, unless otherwise stipulated in this policy. Further, the campus shall be designated as nonsmoking within a thirty-foot (30) perimeter of all campus facilities, unless otherwise stipulated as a smoking area in this policy. Smoking shall be prohibited in all campus buildings and outside in areas of the campus where non-smokers cannot avoid exposure to smoke.

The six designated smoking areas are: 1) the south entrance of the lower level of Landrum Hall; 2) the north entrance of the Applied Science & Technology Building; 3) the east entrance of the University Center on the ground floor; 4) near the Sun Dial in the University Plaza; 5) the Herman Science Center plaza; 6) the south side of Health Center.

Effective January 1st, 2014, NKU will be a tobacco free campus. The use of all tobacco products shall be prohibited in all campus buildings and outside areas on campus.

SECTION 23- ENTIRE AGREEMENT

This Agreement is the entire agreement between the University (including University employees and other end users) and Contractor. In the event Contractor enters into terms of use, end user agreements, or other agreements or understandings, whether electronic, online, click-through, or shrink-wrap, and whether verbal or written, with University employees or other end users, such agreements are null, void, and without effect, and the terms of this Agreement will apply.

End - Instructions to Bidders