

## CAMERON COUNTY

Dear Vendor:

Welcome to the Purchasing Department of Cameron County. Like any other governmental entity, the County must abide by internal procedures as well as statutory regulations. The procedures found in this handbook are based on State laws. We strive for open and fair competition, while maintaining good will with all suppliers interested in doing business with the County.

Attached to this Cameron County Guide for Suppliers is a Bidders' List Application Form. Returning the form is all you need do to receive bid invitations. Please review this Guide for Suppliers, as it will answer questions you may have about County purchasing procedures. It includes instructions for preparing bids, explanations of bid evaluation procedures, bid security and bonding considerations, as well as other information you will find useful.

In completing the Bidders' List Application Form, be sure all requested information is complete and accurate. Updated changes to your products, firm's name, address, phone numbers, etc., must be submitted in writing to Purchasing for update. Be sure that current information about your firm is on file for full benefits of the solicitation process.

Return the completed form to:

Cameron County Purchasing  
1100 East Monroe Street,  
Brownsville, Tx. 78523

If you have any questions, please contact the Purchasing Department at 956 / 544-0871.

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Mike Forbes, CPM  
Cameron County Purchasing Department

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## **PURPOSE AND ORGANIZATION**

This guide is intended to give a brief insight into the County's procurement process. The County's basic procurement philosophy is that competitive participation of the business community is vital to our mutual welfare. While this guide does not encompass every detail of all regulations, practices, and statutes governing purchasing, it does provide the basic principles of our procurement practices.

The County's Purchasing Division is responsible for buying all the supplies, materials, and equipment necessary for the delivery of municipal services, as well as for contracting minor construction and professional or personal services. Consequently, the Purchasing Division is the only entity within the County government authorized to issue bid invitations over \$15,000, discuss price and delivery commitments, and to release purchase orders and term contracts. The Purchasing Division is located at: Cameron County Courthouse, 1100 E. Monroe Street, Brownsville, Texas 78520.

**NOTE: Cameron County's Purchasing Division is separate from, and in no way related to, the Purchasing Divisions for the Brownsville Independent School District, Texas Southmost College, and the City of Brownsville. Each of these entities maintains separate Purchasing Divisions. Cameron County has executed Interlocal Purchasing Agreements with several local entities that do allow for cooperative purchasing of selected items.**

## **POLICY STATEMENT**

The Purchasing Division attempts, at all times, to maintain good will between the County government and the business community. Toward this end, we strive to:

- 1) Give all suppliers full, fair, prompt, and courteous consideration.
- 2) Keep competition open and fair.
- 3) Solicit supplier suggestions in the determination of clear and adequate specifications and standards.
- 4) Cooperate with suppliers and consider possible difficulties they may encounter.
- 5) Observe strict truthfulness and highest ethics in all transactions and correspondence.

## ETHICS

### GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:

Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the County, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, than the member is not required to abstain from further participation. Attached and included is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of Cameron County or County entities (if any such relationships exists) must be attached and included with Bid submitted. The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of Cameron County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities. Consistent and continued tie bidding could cause rejection of bids by the County and/or investigation for Anti-Trust violations. Bidder guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

## LOCAL PREFERENCE

**LOCAL PROPOSER'S PRINCIPAL PLACE OF BUSINESS - 3% PREFERENCE:** (consideration of location) The County Commissioner's Court may award to the lowest Proposer or the Proposer whose principal place of business is within Cameron County if the Commissioner's Court determines, in writing, that the local Proposer offers the County the best combination of contract price and additional economic development opportunities for Cameron County created by the contract award, including the employment of residents of Cameron County and increased tax revenues to Cameron County. This option exists only within 3% pricing of the lowest RFP/RFQ price. In order to provide the County Commissioner's Court adequate information for assisting in considering this option, the RFP/RFQder should submit with each RFP/RFQ the following information for Commissioner's Court review with all information requested to be detailed and \$\$\$ current quantifiable numeric data. 1. Where is your principal place of business (ie: Corporate Headquarters) City, County, State, Signature of Proposer, Title, Date? Along with this information, submit information with responses to the following questions. 2. Why and how Proposer believes that the local Proposer offers the County additional economic development opportunities for Cameron County created by the contract award? 3. How will award to local Proposer benefit the employment of residents of Cameron County? 4. How many employees does Proposer employ within Cameron County and how many employees are affected financially by award/purchase? 5. How will award to local Proposer increased tax revenues to Cameron County? This information should be provided and updated with each RFP/RFQ submitted to the County. If Proposer is local and within 3% of the lowest RFP/RFQ, this information will be submitted to Commissioner's Court along with tabulation sheet. There has been no mandatory requirement or Policy established by Commissioners Court which requires submitting answers to these questions or attending Commissioners Court meetings for the awarding of bids relative to 3% local preference, however individual Commissioners may or may not have preferences (relative to these issues) when making their decision. This paragraph will be revised upon policy change made by Commissioners Court.

## H.U.B. VENDORS

**Minority or Women-Owned Business:** Must be on the Historically Under-utilized (HUB) List. For more information contact:

Texas Department of Commerce,  
General Services Commission,  
Small Business Programs,  
P. O. Box 13047,  
Austin, Tx. 78711-3047  
Telephone: (512) 463-3419

## **REQUEST FOR SUPPLIER INFORMATION**

In order to be placed on the correct bid lists, simply complete a Bidder's List Application Form indicating which commodities or services your firm can supply. A detailed listing of the goods or services that the County might purchase is available in the Purchasing Office. Return the form:

In Person:

Cameron County Purchasing  
Purchasing Department  
1100 East Monroe St.  
Brownsville, Tx. 78520

By Mail:

Cameron County Purchasing  
P. O. Box 3846  
Brownsville, Tx. 78523

Your firm will then receive a bid request when a need for your product or service exists.

The County reserves the right to remove a supplier from our vendor list for (1) failure to respond to bid requests, (2) failure to deliver merchandise within promised time, and (3) delivery of substandard merchandise or services.

### **BUSINESS CERTIFICATION**

As part of the application process to do business with the County, vendors are to certify if their firm meets one or more of the categories of business below.

**Small Business:** A concern, which is independently owned and operated, and which is not dominant in its field of operation. The business employees fewer than fifty (50) employees and/or does less than \$3 Million in annual business volume from this local operation. This business status requires only a self-declaration on the vendor's application form.

## **SUPPLIER PERFORMANCE**

Purchasing will establish Vendor Performance files for all vendors doing business with the County. Suppliers should keep Purchasing advised of any changes to their marketing or remittance addresses, as well as additions or deletions in goods or services offered. Doing so will ensure that your firm receives appropriate bid requests or requests for proposals, as well as ensuring that payments are made to proper addresses.

**Delivery Dates.** Failure to meet a specified delivery date reflects on your performance and could be a factor in subsequent award determinations. It is the supplier's responsibility to notify the Purchasing Division when a delay in the delivery schedule is anticipated or occurs. At that time, the supplier should indicate the new anticipated delivery date and the reason for the delay. It should be noted that failure to deliver within contractual delivery schedules may result in the supplier being declared in default. In that event, termination action will be taken by the County under the provisions of the Uniform Commercial Code as adopted by the State of Texas.

**Quality and Service.** Unsatisfactory product quality or service performance also reflects on a supplier, and could be a factor in subsequent award determinations as well as removal from our vendor list. Such performance can increase the County's operating costs and must be taken into consideration when awards should be made to the "lowest responsible bidder".

## **PRESENTING YOUR PRODUCT**

You will find the Purchasing Division ready and willing to assist you in competing for the County's business. If you have a product to sell, please feel free to stop by and talk to us. Please call (956) 544-0871.

## **PROCUREMENT METHODS**

Cameron County employs the following methods to procure goods and services:

**Purchases in Amounts of \$1 - \$499** may be made on the basis of one (1) quotation.

**Purchases in Amounts of \$ 500 - \$14,999** may be made by the Purchasing Department on the basis of three (3) written quotations.

**Purchases in Amounts of \$15,000 - \$24,999** may be made by the Purchasing Department on the basis of three (3) written quotations only with Commissioners Court specific approval.

**Purchases in Amounts of \$25,000 or greater** are subject to requirements of the competitive bid process unless specifically exempted by State law.

**Emergency Purchases** occur after normal working hours or on weekends when it is necessary to satisfy operational needs of an immediate nature. The Department making the emergency purchase will notify the Purchasing Division on the next workday, and a confirming purchase order will be assigned.

**Confirming Purchase Orders** are verbal authorizations from the Purchasing Department to authorize personnel in the requesting department to place orders on behalf of the County when goods or services are required to satisfy immediate operational needs. **Purchase Orders are required prior to any Vendors releasing from Vendor's location, shipping, delivering: Equipment, Materials, Supplies, or rendering Services.**

**Service Agreements** are contracts for service and repair of equipment generally established annually or at the acquisition of the equipment. The Purchasing Department will coordinate service agreements. Departments will contact authorized vendors when service/repair of equipment is needed.

## **BIDDING METHODS**

Cameron County utilizes competitive bidding for the contracting of goods and services over \$15,000 unless exempted by State law or approved by Commissioner's Court over \$15,000 but less than \$25,000. Since competitive bidding is the foundation of all purchases, we make every effort to continually seek sources that have the capability to meet the needs of the County at competitive prices.

**Public Advertising.** Purchases and contracts involving the expenditure of more than \$25,000 require public notice of the time and place where sealed bids or proposals will be received. All public notices will be advertised in the "official newspaper" for County notices as determined by the Commissioners Court, as well as various other advertising methods. For the name of the current "official newspaper", and other advertising methods being utilized, contact the County's Purchasing Department by telephoning (956) 544-0871.

**Public Accessibility to Bids and Proposals.** Subject to the following conditions, copies of competitive bids are available to interested parties. Copies will be made so as not to disrupt the normal operation of the Purchasing Department. Copies of data and information submitted in competitive sealed proposals/bids are not available prior to the time the contract is being considered for approval by Commissioners Court or awarded by the County. The cost of copies is subject to the County's standard charges of public records. Vendor proprietary information and data which is clearly marked as such by vendors is not considered public information (Chapter 552, Government Code, V.T.C.A., the Open Records Act). The County will assume that vendor information is not proprietary unless it is clearly marked by the vendor.

**Request for Proposal.** The County utilizes the Request for Proposal (RFP) Method in the procuring of goods, services, or professional services. This method is used when the competitive bidding process is not suitable, as in certain professional services under the State of Texas Statutes. The RFP provides to the potential vendor information such as work statement, time frame, specifications, and specific criteria to be used in evaluating a proposal. We request the vendor to provide information such as an understanding of the work to be done, the approach to be used, and pricing data, which may include a price breakdown or cost schedule, so the cost to the County can be adequately considered.

**Request for Sealed Bids.** Unless exempted by State law, municipal purchases of goods or services exceeding \$25,000 must first submit such contract to the sealed bid process. This process shall include the advertisement for bids, receipt of sealed bids in accordance with plans and specifications, public opening of bids, and award of contract by the Commissioners Court. In high technology acquisitions, bids are opened so as to avoid disclosure of contents to other vendors during review. Discussions may be conducted by an evaluation committee with responsible vendors who submit competitive sealed proposals determined to be reasonably suitable of being selected for award. The purpose is to clarify and assure full understanding of, and responsiveness to, the requirements. On occasion, these vendors are requested to submit the best and final offer.

## **BID SECURITY-BONDING**

In order to protect the interests of Cameron County taxpayers, the County may require bonding security on bids and contracts, depending on the dollar amount involved.

**Bid Security.** Bid security, in the form of a cashier's check, certified check, or bid bond is mandatory for bid submission for all bids of \$100,000 or greater in value. Although usually five (5%) of the bid value, the amount of the security may vary depending on the specifics of the bid. Bids for amounts less than \$100,000 may require security, depending on the specifics of the bid.

**Performance and Payment Bonds.** (in connection with a contract for the construction, alteration, or repair of any public building or completion of any public work) In accordance with State statutes covering governmental purchases, performance bonds are required on any contract exceeding \$100,000. Payment bonds are required on any contract exceeding \$25,000. The County may also elect to require performance and payment bonds for contracts other than public works contracts.

## **INSURANCE**

The County requires that all contracts contain certain insurance coverage to be provided by the contractor, lessee, etc.. The requirements set forth below should be considered minimal. Any exceptions to this coverage shall be reviewed and approved by the County prior to award of contract. Contractors who engage subcontractors shall be responsible to see that subcontractors procure and maintain the same insurances required of the contractor.

An original copy of all applicable insurance certificates should be provided to the County in accordance with the bid documents prior to the start of any work. The certificate(s) of insurance shall contain the following information:

1. Name of insurance company.
2. Policy number.
3. Inception/expiration date.
4. Description of coverage.
5. Limits of insurer's liability.
6. County as additional insured (property and liability policies).
7. Notice of cancellation condition (i.e. notice to the County at least ten (10) days prior to policy cancellation or substantial change).
8. A waiver of subrogation in favor of the County on Worker's Compensation Insurance.
9. Policies shall be written by companies authorized to do business in the State of Texas and rated "A-6" or better by *A. M. Best*, or "A" or better by *Standard and Poor's*.

**NOTE:** The contract insurance requirements are subject to modification as may be published in the bid documents.

## **CONTRACT INSURANCE REQUIREMENTS**

Specific insurance requirements are incorporated into the bid documents and specifications of each bid. Insurance requirements for Cameron County are constantly under review to determine the appropriateness of both coverage and values.

## **SUBMISSION OF BIDS**

Sealed bids must be received in the Purchasing Division prior to the due date and time, or they will be considered to be non-responsive. Bids received after the due date/time or "FAXED" bids will not be accepted.

Sealed bids are opened, in the County Purchasing Department, on Tuesdays at 10:01 A.M. on Bid deadline date, as specified in the bid request. Bid openings are open to the public. At RFP/RFQ opening only the Proposer's names are read out but proposal content are not open for public review at that time. Your firm's representative is welcome to attend, whether or not engaged in the bidding.

**Modification or Withdrawal of Bids.** Bids may be modified by written notice or in person by the bidder or authorized representative, provided proper identification is provided. However, the modification may only be made prior to the hour and date set for the receipt of bids. To maintain the integrity of the bidding process, a bid that has been opened by the County is not subject to alteration for the purpose of correcting an error in the bid price, unless the mistake is clearly evident from examining the bid document (e.g. extension of the unit prices or errors in addition). This policy does not revoke the right of a bidder to withdraw a bid due to material mistakes prior to bid opening by the County. Bids for contracts over \$25,000 may be withdrawn before bid opening or after with permission from the Commissioners Court.

## **BID EVALUATION AND AWARD**

It is the policy of the County to purchase from suppliers who have adequate financial strength, management, and service capabilities, high ethical standards and integrity, the ability to provide materials which consistently meet the County's requirements and are otherwise qualified and eligible to receive an award under applicable laws and regulations.

**Texas Resident Bidders.** Except for a contract involving federal funds, a contract may not be awarded to non-resident bidder, unless a non-resident's bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that the Texas resident bidder would be required to underbid a non-resident bidder to obtain a comparable contract in the state in which the non-resident's principle place of business is located. This does not apply in circumstances where non-resident bidder is owned by a majority owner or a parent company with its principle place of business in Texas (Article 601G, V.A.C.S. An Act relating to bids by non-resident bidders).

## **RFP / RFQ EVALUATION & AWARD**

**Evaluation:** Evaluation shall be used as a determinant as to which RFP/RFQ items or services are the most efficient and/or most economical for the County. It shall be based on all factors which have a bearing on price and performance of the items/services in the user environment. All RFP/RFQ's are subject to tabulation by the Cameron County Purchasing Department and Evaluation Committee's recommendation to Cameron County Commissioners Court. Compliance with all RFP/RFQ requirements, delivery and needs of the using department are considerations in evaluating RFP/RFQ's. **Pricing is NOT the only criteria for making a recommendation (see criteria).** The Cameron County Purchasing Department reserves the right to contact any offeror, at any time, to clarify, verify or request information with regard to any RFP/RFQ.

**Award:** Cameron County may hold all Rfp/Rfq's for a period of sixty (60) days. Cameron County reserves the right to delete any item it considers too expensive. Rfp/Rfq prices are to be F.O.B. Cameron County. All discounts will be considered in determining the lowest, responsible Proposer. Cameron County reserves the right to award this contract on the basis of EVALUATION CRITERIA (AS STATED IN RFP/RFQ) in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one offeror, to reject any or all Rfp/Rfq's. A written purchase order or notice of award mailed or otherwise furnished to the successful Proposer within the time of acceptance specified in this package results in a binding contract without further action by either party.

**Identical Bids.** When two (2) or more responsible bidders submit the lowest responsible bids, and these bids are identical in both amount and nature, the County will enter into a contract with only one of the responsible bidders, as selected by casting of lots by the County. It should be noted that this does not prohibit multiple and progressive awards, if specified in the bid request.

**Specifications:** By law, the County must accept the "lowest responsible bid" in any given bid situation. To accomplish this, the County uses a two-step approach when evaluating bid responses. The first, and primary, step is to determine which responses "mirror" our specifications. It is incumbent upon the County to develop specifications that promote competition, while at the same time ensure our operating needs are met. To promote fair competition, it is paramount that vendors are competing on a level playing field. County policy, coupled with recent case law interpretation, states that before a bid passes through to the next stage of the evaluation process, the vendor response must "mirror" our specifications, that is, it must take no exceptions. After we have established which bids were responsive to our specifications, we then go to the lowest bid and ask ourselves, "is this a responsible vendor?". (Have we ever had documented problems with failure to deliver as promised, lost orders, receipt of equipment not adhering to specifications, etc.? Does the bidder have the necessary manpower, experience, equipment and economic stability to perform the contract?) If we determine that the lowest bid to meet specifications was from a "responsible" vendor, that is the bid we are required by law to accept.

**BIDS THAT TAKE ANY EXCEPTIONS TO OUR SPECIFICATIONS WILL NOT BE FURTHER CONSIDERED.**

**Insurance/Bonding Requirements:** Many bids Cameron County is involved in have insurance and bonding requirements as part of the specifications, or sample contract, mailed with the bid. **THE BONDING AND INSURANCE REQUIREMENTS IN A BID CANNOT BE WAIVED.** You are expected, if awarded the contract, to furnish us with an insurance certificate satisfying ALL requirements. Please consult your insurance agents prior to submitting a bid to determine whether or not you will be able to secure the necessary insurance. If you determine you will not be able to meet our requirements, please save yourself a considerable amount of time by no-bidding the project.

**Partial Awards.** Unless the bid document specifies otherwise, the Purchasing Department may award a contract for any item or group of items shown on the bid request.

**Reservations** The County expressly reserves the right to: (1) waive any informality; (2) waive any defect, irregularity or informality in any offer of solicitation procedures; (3) reject any or all bids, or portion of a bid; (4) re-issue a bid request; (5) extend the bid opening time and date; (6) procure any item by other means; and (7) increase or decrease the quantity specified in the bid invitation, unless the bid specifies otherwise.

**Award Notification.** Official notification of a purchase award can only be made by the Purchasing Department. Notice of award given by any other agency of the County may be premature and inaccurate. Award of an open market purchase is made by issuing a Cameron County Purchase Order. The successful bidder(s) of a price agreement is notified of award by letter from the County's Purchasing Division. Included will be a summary of prices and commitments made in the bid.

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to vendors responding to this Bid requesting a debriefing conference.

**Debriefing Conference** – A debriefing conference must be requested in writing to the Purchasing Dept. within five (5) business days from the date of the Bid award by Cameron County Commissioners' Court.

**Protests are made** - 1. To the Purchasing Department after the debriefing conference. Vendor protests shall be received, in writing, by the Purchasing Department within five (5) business days after the vendor debriefing conference. 2. To County Auditor only after protesting first to the Purchasing Department and its resolution is not satisfactory to the protesting party. Protests to County Auditor shall be received, in writing, within five business days after the vendor has received notification of a decision on the protest from the Purchasing Department. 3. To the Commissioners Court for acquisitions approved by the Commissioners Court, only after protesting first to County Auditor and Purchasing Dept. resolution is not satisfactory to either party. Protests to the Commissioners Court shall be made within five business days after the vendor has received notification of the County Auditor's decision.

**Grounds for protest** – 1. Errors were made in computing the score. 2. The County failed to follow procedures established in the Bid, the Purchasing policy: Acquisition or applicable state or federal laws or regulations. 3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.

**Format and Content** - Protesting vendors shall include, in their written protest to the Cameron County Purchasing Department, all facts and arguments upon which they rely. Vendors shall, at a minimum, provide: 1. Information about the protesting vendor; name of firm, mailing address, phone number and name of individual responsible for submission of the protest. 2. Information about the acquisition and the acquisition method. 3. Specific and complete statement of the County's action(s) protested. 4. Specific reference to the grounds for the protest. 5. Description of the relief or corrective action requested. 6. For protests to County Auditor or the Commissioners Court, a copy of the Purchasing Department's written decision on the protest.

**Review Process** – 1. Upon receipt of a vendor protest, the Purchasing Department shall postpone further steps in the acquisition process until the vendor protest has been resolved. 2. The Department's internal protest review procedures consist of the following: a) The Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the vendor. b) A written decision will be delivered to the vendor within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary.

**County Auditor Review Process** - 1. The vendor may protest to County Auditor in writing within five business days after the vendor has received notification of the agency decision. 2. County Auditor shall consider all the available facts and issue a decision in writing within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary. The County Auditor's decision constitutes the final step of the protest process, except protests which may be reviewed by the Commissioner's Court. County Auditor may choose to convene a Protest Review Board

(Board). The Board shall be advisory to the County Auditor and its scope of review shall be limited to procedural issues raised by the protesting vendor.

Final Determination - The final determination shall 1. Find the protest lacking in merit and uphold the agency's action; or 2. Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include a) Correct its errors and reevaluate all proposals, and/or b) Reissue the vendor solicitation document; or c) Make other findings and determine other courses of action as appropriate.

Commissioners Court Review Process - Protests to the Commissioners Court may be made only for Commissioners Court approved acquisitions, and only after review by County Auditor. Protests of the decisions of County Auditor shall be made by letter to the County Judge, Commissioners Court, who may establish procedures to resolve the protest. Protests shall be received by the County Judge, Commissioners Court, within five business days after the decision of County Auditor in order to be considered. The resulting decision is final, with no further administrative appeal available.

### **TAX EXEMPTION**

The County is exempt from payment of federal excise and transportation taxes, as well as Texas State of local sales and use taxes. If it is determined that the prices quoted and recorded on any order or invoice rendered include any such taxes, the amount of the taxes will be deducted from the total of the invoice.

## **INVOICING AND PAYMENT REQUIREMENTS**

Please submit all invoices to:       Cameron County  
  Attn: Accounts Payable  
  P. O. Box 3846  
  Brownsville, Tx. 78523

**To avoid any delay in payment, always reference the Purchase Order Number of one (1) of the following numbers on the invoice:**

- (1) Department Number
- (2) Service Contract/Agreement Number
- (3) Emergency Purchases (Requestor's Name)

### **Payment Terms & Inquiries**

Normal County payment terms are net 30 days. Any discount available to the County for prompt payment should be noted. Unless otherwise noted, discounts will be calculated from the date of delivery, or date of invoice, whichever is more recent.

Invoices with terms "Payment upon receipt" or "Payment upon completion" are paid same as net 30 days.

Cameron County pays vendors ONCE each week. All checks are MAILED on Wednesday of each week. Please direct any payment questions to the mailing address noted, or you may call (956) 544-0822.

## **TERMS AND CONDITIONS**

**ADDENDA:** When specifications are revised, the Cameron County Purchasing Department will issue an addendum addressing the nature of the change. Offerors must **sign and include it in the returned bid package**.

**ADVERTISING:** Seller shall not advertise or publish, without Buyer's Prior consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative of the federal, state or local government.

**AWARD:** Cameron County may hold all bids for a period of forty five (45) days. Cameron County reserves the right to delete any item it considers too expensive. Bid prices are to be F.O.B. Cameron County. All discounts will be considered in determining the lowest, responsible bidder. Cameron County reserves the right to award this contract on the basis of **LOWEST AND BEST BID** in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one offeror, to reject any or all bids. In the event the lowest dollar offeror meeting specifications is not awarded a contract, the offeror may appear before the Commissioners Court and present evidence concerning bidders responsibility after officially notifying the office of the Purchasing Agent of his intent to appear

**BONDS:** If this bid requires submission of bid guarantee and performance bond, there will be a separate page explaining those requirements. Bids submitted without the required bid bond or cashier's check are not acceptable.

**CANCELLATION AND TERMINATION:** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof, including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which Buyer may have in law or equity.

**TERMINATION:** The performance of work under this order may be terminated in whole, or in part, by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to, and not in lieu of, rights of Buyer set forth.

Cameron County reserves the right to terminate the contract for default if offeror breaches any of the terms therein, including warranties of offeror or if the offeror becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which Cameron County may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to Cameron County's satisfaction and/or to meet all other obligations and requirements. Cameron County may terminate the contract without cause upon thirty (30) days written notice.

**COLOR SELECTION:** Determination of colors of materials is a right reserved by using department unless otherwise specified in bid. Unspecified colors shall be quoted as standard colors, **NOT** colors which require up-charges or special handling. Unspecified fabrics or vinyls should be construed as medium grade. If offeror fails to get color/material approvals prior to delivery of merchandise, the using department may refuse to accept items and demand correct shipment without penalty, subject to other legal remedies.

**CONTRACT RENEWALS:** Renewals may be made **ONLY** by written agreement between Cameron County and the offeror. Any price escalations are limited to those stated by the offeror in the original bid. Annual bid renewal – Price Increases: All Annual Bids with a one (1) year renewal option requires that the awarded bidder must notify Cameron County of any anticipated price increases to the current Annual Bid (in writing) at least two months prior to the annual renewal award date unless otherwise specified within the specific provisions of the Bid. This allows the County sufficient time to plan for re-bidding due to a vendor required price increase. If Vendor fails to notify the County it shall be assumed that there will be no price increase for the following year's award period if renewed. This procedure does not apply to any Annual Bids which allow for Open Market Price increases or Cost allowance increases during the bid award period (as so specified in the Bid documents).

**DISCRIMINATION:** In order to comply with the provisions of fair employment practices, the contractor agrees as follows: 1.) the contractor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; 2) in all solicitations or advertisements for employees, the contractor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap or national origin; 3) the contractor will furnish such relevant information and reports as requested by the County for the purpose of determining compliance with these regulations; and 4) failure of the contractor to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part.

**DISQUALIFICATION OF OFFEROR:** Upon signing this bid document, an offeror offering to sell supplies, materials, services, or equipment to Cameron County certifies that the offeror has not violated the antitrust laws of this state codified in Texas Business and Commerce Code §15.01, et seq., as amended, or the federal antitrust laws, and has not communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. Any or all bids may be rejected if the County believes that collusion exists among the offerors. Bids in which the prices are obviously unbalanced may be rejected. If multiple bids are submitted by an offeror and after the bids are opened, one of the bids is withdrawn, the result will be that all of the bids submitted by that offeror will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple bids for different products or services.

**EVALUATION:** Evaluation shall be used as a determinant as to which bid items or services are the most efficient and/or most economical for the County. It shall be based on all factors which have a bearing on price and performance of the items in the user environment. All bids are subject to tabulation by the Cameron County Purchasing Department and recommendation to Cameron County Commissioners Court. Compliance with all bid requirements, delivery and needs of the using department are considerations in evaluating bids. **Pricing is NOT the only criteria for making a recommendation.** The Cameron County Purchasing Department reserves the right to contact any offeror, at any time, to clarify, verify or request information with regard to any bid.

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to vendors responding to this Bid requesting a debriefing conference.

Debriefing Conference – A debriefing conference must be requested in writing to the Purchasing Department within five (5) business days from the date of the Bid award by the Cameron County Commissioners' Court.

Protests are made - 1. To the Purchasing Department after the debriefing conference. Vendor protests shall be received, in writing, by the Purchasing Department within five (5) business days after the vendor debriefing conference. 2. To County Auditor only after protesting first to the Purchasing Department and its resolution is not satisfactory to the protesting party. Protests to County Auditor shall be received, in writing, within five (5) business days after the vendor has received notification of a decision on the protest from the Purchasing Department. 3. To the Commissioners Court, only after the protest to the County Auditor and Purchasing Department was not resolved satisfactory to the protestor. Protests to the Commissioners Court shall be made within five (5) business days after the vendor has received notification of the County Auditor's decision.

Grounds for protest – 1. Errors were made in computing the score. 2. The County failed to follow procedures established in the Bid, the Purchasing policy: Acquisition or applicable state or federal laws or regulations. 3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.

Format and Content - Protesting vendors shall include, in their written protest to the Cameron County Purchasing Department, all facts and arguments upon which they rely. Vendors shall, at a minimum, provide: 1. Information about the protesting vendor; name of firm, mailing address, phone number and name of individual responsible for submission of the protest. 2. Information about the acquisition and the acquisition method. 3. Specific and complete statement of the County's action(s) protested. 4. Specific reference to the grounds for the protest. 5. Description of the relief or corrective action requested. 6. For protests to County Auditor or the Commissioners Court, a copy of the Purchasing Department's written decision on the protest.

Review Process – 1. Upon receipt of a vendor protest, the Purchasing Department shall postpone further steps in the acquisition process until the vendor protest has been resolved. 2. The Department's internal protest review procedures consist of the following: a) The Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the vendor. b) A written decision will be delivered to the vendor within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary.

County Auditor Review Process - 1. The vendor may protest to County Auditor in writing within five business days after the vendor has received notification of the agency decision. 2. County Auditor shall consider all the available facts and issue a decision in writing within five business days after receipt of the protest, unless more time is needed. The protesting vendor shall be notified if additional time is necessary. The County Auditor's decision constitutes the final step of the protest process, except protests which may be reviewed by the Commissioner's Court. County Auditor may choose to convene a Protest Review Board (Board). The Board shall be advisory to the County Auditor and its scope of review shall be limited to procedural issues raised by the protesting vendor.

Final Determination - The final determination shall 1. Find the protest lacking in merit and uphold the agency's action; or 2. Find only technical or harmless errors in the agency's acquisition process conduct, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include a) Correct its errors and reevaluate all proposals, and/or b) Reissue the vendor solicitation document; or c) Make other findings and determine other courses of action as appropriate.

Commissioners Court Review Process - Protests to the Commissioners Court may be made only for Commissioners Court approved acquisitions, and only after review by County Auditor. Protests of the decisions of County Auditor shall be made by letter to the County Judge, Commissioners Court, who may establish procedures to resolve the protest. Protests shall be received by the County Judge, Commissioners Court, within five business days after the decision of County Auditor in order to be considered. The resulting decision is final, with no further administrative appeal available.

**FISCAL FUNDING:** A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the offeror from the using department

without penalty of any kind or form to Cameron County. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the offeror.

**GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the County, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, than the member is not required to abstain from further participation. Attached and included is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of Cameron County or County entities (if any such relationships exists) must be attached and included with Bid submitted. The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of Cameron County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities. Consistent and continued tie bidding could cause rejection of bids by the County and/or investigation for Anti-Trust violations. Bidder guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION :** If Bidder is a Certified Historically Underutilized Business (HUB), please include a copy of your HUB Certificate with your Bid. This information will assist Cameron County in the percentage tracking of HUB utilization.

**LOCAL BIDDER'S PRINCIPAL PLACE OF BUSINESS - 3% PREFERENCE:** (consideration of location) The County Commissioner's Court may award to the lowest bidder or the bidder whose principal place of business is within Cameron County if the Commissioner's Court determines, in writing, that the local bidder offers the County the best combination of contract price and additional economic development opportunities for Cameron County created by the contract award, including the employment of residents of Cameron County and increased tax revenues to Cameron County. This option exists only within 3% pricing of the lowest bid price. In order to provide the County Commissioner's Court adequate information for assisting in considering this option, the bidder should submit with each bid the following information for Commissioner's Court review with all information requested to be detailed and \$\$\$ current quantifiable numeric data. 1. Where is your principal place of business (ie: Corporate Headquarters) City, County, State, Signature of Bidder, Title, Date? Along with this information, submit information with responses to the following questions. 2. Why and how bidder believes that the local bidder offers the County additional economic development opportunities for Cameron County created by the contract award? 3. How will award to local bidder benefit the employment of residents of Cameron County? 4. How many employees does bidder employ within Cameron County and how many employees are affected financially by award/purchase? 5. How will award to local bidder increased tax revenues to Cameron County? This information should be provided and updated with each bid submitted to the County. If bidder is local and within 3% of the lowest bid, this information will be submitted to Commissioner's Court along with tabulation sheet. **There has been no mandatory requirement or Policy established by Commissioners Court which requires submitting answers to these questions or attending Commissioners Court meetings for the awarding of bids relative to 3% local preference, however individual Commissioners may or may not have preferences (relative to these issues) when making their decision. This paragraph will be revised upon policy change made by Commissioners Court.**

**MAINTENANCE:** Maintenance required for equipment bid should be available in Cameron County by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If Cameron County opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**MATERIAL SAFETY DATA SHEETS:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", an offeror must provide to the County with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the offeror to furnish this documentation will be cause to reject any bid applying thereto.

**NAME BRANDS:** Specifications may reference name brands and model numbers. It is not the intent of Cameron County to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Offerors may offer items of equal stature and the burden of proof of such stature rests with offerors. Cameron County shall act as sole judge in determining equality and acceptability of products offered.

**PRICING:** Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. **Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the course of the contract .** All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the bid prices. If there are any additional charges of any

kind, other than those mentioned above, specified or unspecified, offeror MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

**RECYCLED MATERIALS:** Cameron County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. County will be the sole judge in determining product preference application.

**SCANNED RE-TYPED RESPONSE – FLOPPY DISK:** If in its bid response, offeror either electronically scans, re-types, or in some way reproduces the County's published bid package, then in event of any conflict between the terms and provisions of the County's published bid specifications, or any portion thereof, and the terms and provisions of the bid response made by offeror, the County's bid specifications **as published** shall control. Furthermore, if an alteration of any kind to the County's published bid specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.

**FLOPPY DISK:** If offeror obtained the bid specifications on a floppy disk in order to prepare a response, **the bid must be submitted in hard copy** according to the instructions contained in this bid package. If, in its bid response, offeror makes any changes whatsoever to the County's published bid specifications, the County's bid specifications **as published** shall control. Furthermore, if an alteration of any kind to the County's published bid specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.

**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid. **Substitute items will not be accepted unless approved (in advance) .**

**SUPPLEMENTAL MATERIALS:** Offerors are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the offeror wishes to include as a condition of the bid, must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.

**TITLE TRANSFER:** Title and Risk of Loss of goods shall not pass to Cameron Count until Cameron County actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Offerors are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirements/Instructions" section of this bid package and/or on the Purchase Order as a "Deliver To:" address.

**USAGE REPORTS:** Cameron County reserves the right to request, and receive at no additional cost, up to two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this ITB. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by Cameron County department, description of each item purchased, including manufacturer, quantity of each item purchased, per unit and extended price of each item purchased, and total amount and price of all items purchased.

**WARRANTY PRICE:** (a) The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense. (b) The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee. Offerors shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Offerors may not limit or exclude any implied warranties. Offeror warrants that product sold to the County shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, Cameron County may return the product for correction or replacement at the offeror's expense. If offeror fails to make the appropriate correction within a reasonable time, Cameron County may correct at the offeror's expense.

**WARRANTY PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the bid invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

**SAFETY WARRANTY:** Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by Buyer will be at Seller's expense. Have you attached the required warranty information to the bid (if applicable)?  Yes,  No.

**YEAR 2000 COMPLIANCE:** All Products and/or services furnished as part of this contract must be year 2000 compliant. This applies to all computers including hardware and software as well as all other commodities with date sensitive embedded chips.

#### **APPLICABLE LAW**

This agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning "the Uniform Commercial Code" as adopted in the State of Texas as effective and in force on the date of this agreement.

**ASSIGNMENT DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph. Any contract entered into pursuant to this request is not assignable, nor the duties thereunder, by either party, without the written consent of the other party in the contract County Judge and County Auditor.

**CONTRACT OBLIGATION:** Cameron County Commissioners Court must award the contract and the County Judge or other person authorized by the Cameron County must sign the contract before it becomes binding on Cameron County or the offerors. Department heads are NOT authorized to sign agreements for Cameron County. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

**ERRORS AND OMISSIONS:** Errors and Omissions in the Bid of any provision herein described will not be construed as to relieve the Vendor of any responsibility or obligation, requisite to the complete and satisfactory implementation, operation, and support of any and all equipment, systems or services.

**FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this agreement, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely with the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgement of the party having the difficulty.

**HOLD HARMLESS AGREEMENT:** Contractor, the successful offeror, shall indemnify and hold Cameron County harmless from all claims for personal injury, death and/or property damage resulting directly or indirectly from contractor's performance. Contractor shall procure and maintain, with respect to the subject matter of this bid, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover contractor's liability as may arise directly or indirectly from work performed under terms of this bid. Certification of such coverage must be provided to the County upon request.

**INFRINGEMENTS:** There will be no warranty by buyer against infringements. As part of this contract for sales, Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. Buyer makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall Buyer be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If Seller is of the opinion that an infringement or the like will result, he will

notify Buyer to this effect in writing within two (2) weeks after the signing of this agreement. If Buyer does not receive notice and is subsequently held liable for the infringement or the like, Seller will hold Buyer harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void, except that Buyer will pay Seller the reasonable cost of his/her search as to infringement. The contractor agrees to protect the County from claims involving infringement of patents or copyrights.

**INTERPRETATION PAROLE EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement, even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to Control.

**MODIFICATIONS:** This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

**O.S.H.A.:** Offeror must meet all Federal and State OSHA requirements.

**RIGHT TO ASSURANCE:** Whenever one (1) party to this contract in good faith has reason to question the other party's intent to perform, he/she may demand that the other party give written assurance of their intent to perform. In the event that a demand is made, and no assurance is given within five (5) days the demanding party may treat this failure as an anticipatory repudiation of the contract.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Cameron County, Texas.

**WAIVER OF SUBROGATION:** Offeror and offeror's insurance carrier waive any and all rights whatsoever with regard to subrogation against Cameron County as an indirect party to any suit arising out of personal or property damages resulting from offeror's performance under this agreement. No claim or right arising out of a breach of this contract can be discharged in whole, or in part, by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing, signed by the aggrieved.

**PURCHASING DEPT. WEB SITE INSTRUCTIONS**  
<http://www.co.cameron.tx.us/purchasing/index.htm>

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