

Canutillo Independent School District General Terms & Conditions

The following are the General Terms and Conditions for all requests for bids, requests for proposals, requests for qualifications, requests for competitive sealed proposals and other purchasing requirements of the Canutillo Independent School District. Certain provisions of these General Terms and Conditions may not be applicable to every request for bids, requests for competitive sealed proposals or requests for proposals. To the extent these General Terms and Conditions are applicable, the General Terms and Conditions shall be deemed a part of the School District's purchasing documents. If any clarification is needed regarding whether a particular provision contained in the General Terms and Conditions is applicable, the bidder, proposer or vendor shall contact the Canutillo ISD Purchasing Department at (915) 877-7426.

1. **Acceptance of Bid/Proposal Content** - These general conditions governs the relationship between the District and Vendor, and is hereby made part of the agreement between the parties. Submission of a response shall be considered as the representation that the Offeror has carefully investigated all past, present and required conditions of the service being offered in the solicitation. Failure of an Offeror to accept these conditions in a final contract shall result in cancellation of award.
2. **Responsiveness** - It is the Offeror's responsibility to read and comply with the information provided. Failure to complete and submit the bid/proposal to include bid amendments according to the information and instructions may result in disqualification.
3. **Bid/Proposal Form Submission** - Return signed original sealed bid/proposal in a sealed envelope, plainly marked with vendor's name, bid/proposal number, opening date and time. Return bids/proposals to the Purchasing Agent, 7965 Artcraft Rd.; El Paso, TX 79932. Additional copies of the bid/proposal may be requested.
4. **Late Submission** - Bids/proposals received after the time and date specified will **not** be accepted.
5. **Signature Block** - Bids/proposals received without proper signature will **not** be accepted.
6. **Instructions to Bidder/Proposer** - Facsimile (fax) bids/proposals will **not** be accepted.
7. **Instructions to Bidder/Proposer** - All Bids/proposals must be typed or written. Bids/proposals written in pencil will **not** be accepted. Mistakes may be crossed out, and corrections inserted and initialed by Bidder/Proposer (not white-out).
8. **Acknowledgement of Amendments** - Changes to the bid/proposal, prior to award, may be made in the form of an addendum. Each addendum must be returned with the signed "Sealed Bid/Proposal" form and with any other addendum at the time and date of bid/proposal opening or prior to that time. If the addendum **is not returned**, the bid/proposal **will be** disqualified.

9. **Instructions to Bidder/Proposer** - Awarded vendors are solely responsible for notifying the Purchasing Agent, of any changes, in writing, to the company's name, address and telephone number. If a vendor fails to notify the District of any changes in their contact information the company will be suspended from transacting business with the District until the changes have been made. The District shall not be responsible for lost or misdirected bids/proposals or modifications.
10. **Tax Exemption** – Tax Exemption–The School District is exempt from Texas state and local sales tax and federal excise tax. See Section 151.309, Texas Tax Code, as it currently exists or may hereafter be amended. **DO NOT INCLUDE TAX IN YOUR BIDDER PROPOSAL.**
11. **Informalities and Irregularities** - The District reserves the right to waive minor irregularities and/or informalities and to accept or reject any and all bids/proposals in whole or in part, or to discuss/negotiate separately in any manner necessary and/or to terminate the procurement solicitation process in its entirety provided that action will serve the best interest of the District. The Purchasing Agent shall reject the bid/proposal of the Bidder/Proposer who is deemed non-responsive. The unreasonable failure of a Bidder/Proposer to promptly provide information with respect to responsibility may be grounds for a determination of non-responsibility.
12. **Employee Discrimination** - During the performance of this contract, the Bidder/Proposer agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, disability, political belief, religion, marital and/or veteran status.
13. **Bid/Proposal Withdrawal** - A Bidder/Proposer may withdraw bid/proposal upon written request at anytime prior to the bid/proposal opening date & time. Bids/Proposals cannot be amended or altered after the opening date and time.
14. **Evaluation Criteria** – Pursuant to the Texas Education Code 44.031(b), the District shall evaluate and consider: the reputation of the vendor and of the vendor's goods and services, the quality of the vendor's goods or services, the extent to which the goods or services meet the District's needs, the vendor's past relationship with the District, the impact on the ability of the District to comply with laws relating to historically underutilized businesses, the total long-term cost to the District to acquire the goods or services, and vendor's references, record for fiscal and contracting responsibility, knowledge of the product/service and any other relevant factor specifically listed in the request for bids or proposals. Quality and suitability of the product/service bid and/or proposed shall be considered in the acceptance of bids/proposals. The District will award a contract based upon best value as determined by a combination of the above stated evaluation factors.
15. **Recovery of Money** - If the Bidder/Proposer fails to deliver both the quality and quantity of service on which the award was made in the manner specified in the contract, CISD reserves the

right to purchase the specified goods/services on the open market and vendor agrees to allow CISD to deduct the difference in price and cost of handling, if any, from pending invoices. If there are no outstanding invoices the vendor will be billed accordingly.

16. **Taxes** - Because fiscal responsibility is a criterion, in the event that a vendor is or subsequently becomes delinquent in the payment of school advalorem taxes, such fact may be grounds for rejection of the bid/proposal, or if awarded the bid/proposal, for cancellation of the contract.
17. **Assignment Delegation** - No assignment or transfer of this bid/proposal, in whole or in part, to any other party will be allowed unless the vendor to whom this bid is awarded formally notifies the District in writing and written approval from the Purchasing Agent or designee is received prior to the transfer. Written approval must be requested and received prior to any assignment or transfer. Vendor notification must be sent via certified mail return receipt to 7965 Artcraft Rd.; El Paso, TX 79932. In the event the vendor fails to comply with this provision, the school district may take action to require compliance or take any other measures deemed appropriate, including contract cancellation.
18. **Termination** - The award or agreement resulting from this bid/proposal may be terminated or cancelled under the following circumstances.
 - District may cancel or terminate the award or agreement for convenience upon 60 day written notice.
 - During the term of the agreement, District may terminate the agreement at the expiration of each District budget period if funds are not appropriated for payment under the agreement.
 - Work under the agreement may be terminated in whole or in part by the District upon delivery to vendor of a notice of termination specifying the extent to which performance of work under the agreement is terminated and the date upon which termination becomes effective. This right of termination is in addition to and not in lieu of District rights to cancel undelivered goods or services under the agreement.
 - District may cancel all or any part of the undelivered goods or services of the agreement if vendor breaches any of the terms of the agreement, including, but not limited to, warranties of vendor, or if vendor becomes insolvent or begins bankruptcy or reorganization proceedings.
 - The District shall not pay for services or supplies that are deemed by CISD to be unsatisfactory. Contractors will be given reasonable opportunity, before termination, to correct any deficiencies; however, this in no way may be construed as negating the basis for cancellation. The School District reserves the right to cancel the contract upon thirty (30) days' written notice.

- District's rights of termination or cancellation are in addition to other remedies District may have in law or equity.
19. **Force Majeure** - The District shall not be liable for defaults or delays due to acts of God or the public enemy, acts or demands of any governmental agency, strikes, fires, floods, accidents, or other unforeseeable causes beyond its control and not due to its fault or negligence.
 20. **Indemnification** - Vendor agrees to indemnify, defend, and hold District harmless from any patent, copyright, trademark, or trade secret infringement claim or cause of action, or any similar intellectual or proprietary rights infringement claim or cause of action, which are based on or related on goods or services sold or used by the vendor in connection with this agreement. Vendor shall defend any such claims or causes of action at its own expense, and the District shall have the right to have such litigation monitored by its own counsel at District expense.
 21. **Applicable Law and Venue** – The validity, construction and effect of this contract and any and all extensions and/or modifications shall be governed by the laws of the State of Texas. Texas law shall govern regardless of any language in any attachment or other document that the Offeror may provide. Both parties agree that the venue for any litigation arising from this contract shall occur in El Paso, El Paso County, Texas.
 22. **Place of Delivery** - The place of delivery shall be that set forth in the purchase order. All deliveries must be inside deliveries, unless other arrangements are made.
 23. **Proprietary Information** – Bidder/Proposers must attach a detailed listing of any/all restrictions on the dissemination, public disclosure, or use of any data contained in their response and be informed that any declared proprietary information will be addressed as required by applicable law, regulation and School District policy.
 24. **Out of State Vendors** - The “Reciprocity Rule” applies. Vendors whose principal place of business is located in a state which gives preference to residents are subject to the same restrictions when submitting an offer with an entity of the State of Texas.
 25. **Gratuities** - The District may, by written notice to the Offeror, cancel this contract without liability to Offeror if it is determined by the District that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Offeror, or any agent, or representative of the Offeror, to any officer or employee of the District with a view toward securing a contract or securing special 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 canceled by the District pursuant to this revision, the District shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Seller in providing such gratuities.

26. **Oral Statement** - This contract may be modified only by written amendment executed by all parties and their authorized signatories hereto. The contract will not be offered by any oral statement made by any School District employee.
27. **Remedies for Non-Performance** - If at any time, the contractor fails to fulfill or abide by the terms, conditions, or specifications of the contract, the District reserves the right to purchase on the open market and charge the contractor the difference between contract and actual purchase price or cancel the contract within sixty (60) days written notification of intent.
28. **Right to Assurance** - Whenever one 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 his/her business 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.
29. **Waiver** – No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or enunciation of the claim or right unless the waiver or renunciation is supported by consideration and in writing signed by the aggrieved party.
30. **Prevailing Party** - The resulting award from this bid/proposal constitutes a contract between the CISD and the awarded vendor. The prevailing party in an action, in state or federal court, to enforce or interpret this contract is entitled to recover its reasonable attorneys' fees and court costs from the other party. Without waiving any rights available to the District for recovery, if the District is the prevailing party, vendor hereby agrees and authorizes the District to deduct the reasonable attorneys' fees and court costs from amounts, if any, owed to vendor under the contract.
31. **Invoices and Payments** - Payment terms will be net thirty (30) days after acceptance of delivery or receipt of **correct** invoice, whichever comes later. All invoices must be mailed to: Canutillo Independent School District, Attn: Accounts Payable, P.O. Box 440; Canutillo, TX 79835
32. **Non-Payments**- If the performance requirements are not met, or the Contractor is in default of its obligations, the District reserves the right to withhold payment until Contractor diminishes such default and reimburses the District for any damages suffered by the District as a result of the Contractor's default.
33. **Contract Modification** - Amendments may be made for additions, deletions and or modifications of goods or services under the same terms and conditions of this order. Such amendments must be in writing and approved by an authorized representative for the vendor and the District.

38. **Ethics in Public Contracting** – School District employees are prohibited from receiving any gifts, soliciting any gifts, inducement or kickbacks.
42. **Debarment/Suspension** – A Bidder/Proposer may be suspended or debarred for failing to comply with the terms and conditions of the contract. Suspensions/Debarment will occur for reasons including, but not limited to, rescinding an accepted bid/proposal, canceling a contract, poor quality of work and non-performance. The length of the suspension will be determined by the Canutillo Independent School District’s Superintendent and a notice will be sent to the Bidder/Proposer citing the reason.
43. **Right to Audit** - The Bidder/Proposer’s activities conducted and records maintained pursuant to the Contract shall be subject to monitoring and evaluation by CISD, the Division of Business Services/Internal Auditor, or their duly appointed representatives. The Owner, the Texas Education Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract, for the purpose of audits and examinations, and for making excerpts and transcriptions.
44. **Expenses Incurred in Bid/Proposal Preparation** – CISD will not be liable in any way for any costs incurred by any Proposer in the preparation of its bids/proposals, nor for the presentation of its bids/proposals and/or participation in any discussions and/or negotiations.
45. **Requirement for Interpretation** – Requests by the Purchasing Agent for clarification of proposals shall be in writing. Applicable requests shall not alter the Bidder/Proposer’s pricing information contained in its cost proposal.
46. **Official Correspondence** – All official Contract related correspondence must be mailed to the Canutillo Independent School District, P.O. Box 100 Canutillo, TX 79835, attention Purchasing Agent.
47. **Disclosure of Independence of Relationship** - No Officer, Board member or CISD participating member’s employee shall have a financial interest, direct or indirect, in any contract with CISD participating members, or shall be financially interested, directly or indirectly, in the sale to any CISD participating members of any land, materials, supplies, or services, except on behalf of CISD participating members as an officer, board member or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer, board member or employee guilty thereof shall be subject to removal from his office or position. Any violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with any CISD participating members shall render the contract null and void.
48. **Non-Conforming Terms & Conditions** – Proposer’s submitting a non-conforming response that include corporate forms, brochures, or sample contract forms that do not conform to the

solicitation document will be requested to withdraw non-conforming terms and conditions that do not affect the quality, or delivery of goods/services. If quality or delivery is affected, the bid/proposal will be deemed “non-responsive”. The District’s General and Special Terms and Conditions and Statement of Work (SOW) will take precedence, the Bidder/Proposer’s boilerplate conditions. The Offeror’s “binder”, cover letter, and/or standard statement of work, template, etc. may become a part of the Contract Documents, but the Terms and Conditions (General and Special) and Statement of Work (SOW) of the District’s solicitation document (CSP, IFB, RFO, RFP, etc.) take precedence unless Offeror’s deviations/exceptions are specifically identified in a separate document (substantially titled “Exceptions to Terms, Conditions, and/or (SOW)”) that is executed by Offeror and the District’s Purchasing Agent and included as an attachment/addendum to the Contract.

49. **Use of Terms “Bid,” “Bidding, or “Bidder”** - Any use of the terms “Bid” or “Bidding” contained in any of the Proposal or Contract Documents, and referring to the submission of a proposal by the Proposer for the intent of securing an award of the Contract, shall be understood to refer to the submission of a Sealed Proposal as set forth herein. Any use of the term “Bidder” contained in the Proposal or Contract Documents shall be understood to refer to the Proposer making the proposal.

50. **Acceptance by Board of Trustees** – No award of Contract shall be valid, and no contract is created or binding, until the bid/proposal has been accepted by the Board of Trustees.

51. **Open Records Act** – Bidder/Proposer agrees and acknowledges that any and all documents submitted in response to and all bids/proposals are subject to disclosure under the State of Texas Open Records Act. Bidder/Proposer must contact the CISD Public Information Office at (915) 877-7482 to submit a formal request for the information.

56. **Payment of Taxes** – All Contractors located or owning property in El Paso County shall assure that all real and personal property taxes are paid. Material Management will verify payment of all real and personal property taxes due by the Contractor prior to award of any contract award or renewal.

57. **Safety** – All Contractors and Subcontractors performing services for the School District are required and shall comply with all Occupational Safety and Health Administration (OSHA) State and County Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all Contractors and Subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any person or property within and around the work site area under this contract. Additionally, Contractors and Subcontractors must ensure that their employees refrain from carrying firearms, illegal drugs and or alcoholic beverages while performing duties in accordance with this contract.

58. **Subcontractors** - Offeror's shall include a list of all subcontractors in their proposal. Proposal shall also include a statement of the Subcontractor's qualifications. The District reserves the right to reject the successful Offeror's selection of any or all Subcontractors.
59. **Prohibition as Subcontractors** – No Offeror who is permitted to withdraw a proposal shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn proposal was submitted.
60. **Deviations from Scope of Work** – If there is any deviation from that prescribed in the scope of work/services, the appropriate line in the scope of work/services shall be ruled out and the substitution clearly stated. The District reserves the right to determine the responsiveness of any such deviation.
61. **Debarment** – By submitting a proposal, the Contractor certifies that the company is not currently debarred by the Texas Building and Procurement Commission or the School District. Debarment verification will also be completed through System for Award Management at <https://www.sam.gov>
64. **Responsibility for Actions** - Bidder/Proposer is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Bidder/Proposer nor any of the foregoing has any authority to act or speak on behalf of the District.
65. **Criminal Background Check** - Contractor will obtain criminal history record information that relates to an employee, applicant for employment, agent of the Contractor, if the employee, applicant, agent or subcontractor has or will have continuing duties related to the contracted services; and the duties are or will be performed on CISD property or at another location where students are regularly present. The Contractor shall certify to the District before beginning work and at no less than an annual basis thereafter that criminal history record information has been obtained. Contractor shall assume all expense associated with the background checks, and shall immediately remove any employee, agent, or subcontractor who was convicted of a felony, or misdemeanor involving moral turpitude, or any crime involving harm to a child, as defined by Texas law, from District property or other location where are students are regularly present. District shall be the final arbiter of what constitutes a “location where students are regularly present.” Further, unless otherwise specified in the contract, Contractor's and its employee(s), agents or subcontractors, while on CISD property, shall not have direct contact with any student. If the Contractor is the owner or sole operator of the business entity, that individual may not self-certify regarding the criminal history record information and its review. Contractor must submit original evidence of criminal history record information acceptable to the District with this Agreement showing compliance.

66. **Unauthorized Purchases** - By submitting this competitive bid and/or proposal the vendor understands and acknowledges that during the term of the contract any shipment or delivery of goods and services made to CISD campuses and departments without a properly approved purchase order constitutes an unauthorized purchase and financial obligation. The District does not assume any responsibility for these goods and services, condition of goods, and/or unreturned goods. Vendor understands and accepts full responsibility and will not seek payment for unauthorized purchases. Vendor further understands and acknowledges that the District's Finance Division will not issue payment for goods and services delivered without an official purchase order.

67. **Insurance**

1. a. The Contractor shall not commence work under this contract until all insurance required under this section has been obtained and evidence of insurance has been submitted to and verified by the School District. Required insurance coverage must be written by an insurance company licensed to conduct business in the State of Texas, or listed as an eligible surplus lines carrier, as determined by the State Board of Insurance. In addition, the School District may consider the A.M. Best rating of the insurance company to determine the company's acceptability to the School District.
- b. An original certificate of insurance confirming coverage must be submitted to the School District within ten (10) working days from date of Notice of Award. "The District reserves the right to automatically revoke Board Award if the vendor does not provide an original certificate of insurance within ten (10) working days from date of Notice of Award."
- c. Contractor shall obtain and maintain insurance, with the exception of Worker's Compensation and Employer's Liability coverage, with the Canutillo Independent School District named as an additional insured. For Worker's Compensation and Employer's Liability the Contractor will provide and maintain this coverage, and waive subrogation in favor of the Canutillo Independent School District. The certificate(s) of insurance provided to the Canutillo Independent School District by the Contractor must reflect the above-stated requirements.
- d. Certification of Insurance will be required of the successful Vendor prior to commencement of work, with limits as set forth below. The Board of Trustees of the Canutillo Independent School District shall be the Certificate Holder. The CSP number and description must be referenced on the face of the Certificate.
- e. Vendor's Liability Insurance. The contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Vendor's operations under the contract/purchase order, whether such operations be by himself or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- f. Claims under workmen’s compensation, disability benefit and other similar employee benefit acts;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of any person other than his employees;
 3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
 4. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Vendor, or (2) by any other person; and claims for damages because of injury to or destruction of tangible property, including loss of use resulting thereof.
 5. Amounts, types, and limitations of Vendor’s insurance shall be such as appears reasonable and satisfactory to the Canutillo Independent School District and our counsel, but not less than the following amount:

b. Worker’s Compensation	\$100,000,000
c. General Liability	\$500,000
d. Property Damage	\$500,000 each occurrence
e. Automobile Liability	\$100,000/\$300,000
f. Or Combined Single Limit	\$100,000,000
 6. Professional Liability Insurance: During the entire term that the Agreement shall remain in effect and for a period of two (2) years after final completion of the PROJECT, CONSULTANT, at CONSULTANT’s sole cost and expense, shall obtain and maintain a policy or policies of professional liability insurance with limits of \$1,000,000.00 for each claim and covering CONSULTANT’s Services relating to the PROJECT. Such insurance shall contain a provision that includes limited contractual liability, including bodily injury or wrongful death or property damage, for negligent acts, and errors and omissions arising out of the performance of CONSULTANT’s professional services under the terms of the Agreement. In the event that this coverage is provided on a “Claims Made” basis, such coverage shall be continued for a period of not less than three (3) years from the date that professional services or the PROJECT is completed, whichever is later so long as such coverage is commercially available at a reasonable cost, which means that subsequent annual increases have not exceeded twenty-five percent (25%) of the cost of such policy on an annual compounded basis.
 7. Vendor must furnish the Canutillo Independent School District with certificates of insurance with the scope of work documents for the CSP. Additionally, these documents will be required with the contract/purchase order documents prior to commencement of work.
 8. “Provide proof of professional liability/errors omissions in the amount of \$500,000 for the past year and history of all claims. Note any and all allegations and convictions of felonies related to the firm’s owners or operators, and include a general description of the conduct resulting in the allegation or conviction of each felony.
71. **Instructions to Bidder/Proposer** - All proposals must be complete and convey all of the information requested in order to be considered responsive. If the proposal fails to conform to the essential requirements of the CSP, the District alone will determine whether the variance is significant enough to consider the proposal susceptible to being made acceptable and therefore a

candidate for further consideration, or not susceptible to being made acceptable and therefore not considered for award.

72. **Warranty** – The supplies or services furnished under this contract shall be covered by the most favorable commercial warranties available to any customer for same or similar supplies or services.

73. **Instructions to Bidder/Proposer** - CISD is a tobacco-free, drug-free, weapon-free and alcohol-free environment. It is the responsibility of the Bidder to assure CISD that Bidder's employees are not under the influence and/or possession of drugs, tobacco, alcohol or weapons. If an employee of Bidder is found to be under the influence and/or in possession of drugs/tobacco and/or alcohol and/or weapons at the time of service, the Bidder will be notified at once by CISD that the employee must be immediately restricted from all CISD campuses. Repeated offenses by employees of Bidder could result in cancellation of the contract with CISD.

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