

Contractor/Vendors

Current Requests for Proposals/Quotes

For additional information or questions regarding these terms and conditions:

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Small Business Concerns Diversity Policy Statement ([PDF](#))

Texas A&M Research Foundation at the International Ocean Discovery Program Standard Terms and Conditions Incorporated into all Purchase Orders

The following definitions shall apply to all Purchase Orders, attachments, appendices or other documents, whether incorporated by reference or in full text.

1. Seller/ Vendor may also be referred to and shall mean “Contractor”.
2. Purchase Order may also be referred to and shall mean “order” or “agreement”.
3. TAMRF’s Authorized Agent may also be referred to and shall mean “TAMRF’s Contract Administrator”, “Financial Management Supervisor” or “Buyer”.
4. Scope of Work may also be referred to as and shall mean “Statement of Work” or “Work”.
5. 2CFR200 means federal Uniform Guidance, Subpart D, Sections 200.318-200.326.
6. “TAMRF” or “Buyer” shall mean Texas A&M Research Foundation.

SECTION 1 — General Provisions

1. CONTRACTOR'S ACCEPTANCE

The items or services covered by this order shall be furnished by Contractor subject to all the terms and conditions set forth in this order including the following, which Contractor in accepting this order agrees to be bound by and to comply with in all particulars and no other terms or conditions shall be binding upon the parties unless hereafter accepted by them in writing. Written acceptance or shipment of all or any portion of the items or the performance of all or any portion of the services covered by this order shall constitute unqualified acceptance of all its terms and conditions. The terms of any proposal referred to in this order are included and made part of this order only to the extent of specifying the nature of the items or services ordered, the price thereof, and delivery date, and then only to the extent that such terms are consistent with the terms and conditions of this order.

2. WAIVER

The failure of Buyer to enforce at any time any of the provisions of this order, or to exercise any option provided, or to require, at any time, performance by the Contractor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way to affect the validity of this order or any part thereof, or the right of Buyer thereafter to enforce each and every such provision.

3. WARRANTIES

In addition to any express or specific warranties Contractor may make, Contractor warrants the items/services delivered to be free from defects in labor, material and manufacture, and to be in compliance with any drawings or specifications incorporated or referenced and with any samples furnished by the Contractor. All warranties shall run to Buyer, its successors and assignees.

4. INSPECTION

All work performed and all deliverable items/services are subject to final inspection and acceptance at destination notwithstanding any payments or inspection at source. Final inspection and acceptance shall be conclusive except as to latent defects, fraud, such gross mistakes, as amount to fraud, and the Contractor's warranty obligations. Supplies to be furnished hereunder shall be subject to inspection by Buyer and/or third party inspectors upon the premises of the Contractor.

5. ASSIGNMENT

This order is assignable by Buyer. Except as to any payment due, this order is not assignable by Contractor without written approval of Buyer. Any attempt to do so shall be void. If such consent is given, it shall not relieve Contractor from any of the obligations of this order and any transferee or lower-tier subcontractor shall be considered the agent of Contractor and, as between the parties hereto, Contractor shall be and remain liable as if no such transfer or subcontracting had been made.

6. CHANGES

Only Buyer's authorized agent may make changes within the general scope of this order by giving written notice to Contractor. If such changes affect the cost or the period of performance of this order, an equitable adjustment may be made if Contractor submits a written claim for adjustment within thirty (30) days of thereceipt of notification of such change. No change by Contractor shall be recognized without written approval of Buyer's authorized purchasing agent. Buyer's technical representative(s) are not authorized agents of Buyer.

7. SHIPPING INSTRUCTIONS

Shipments must be made as specified on the face of this order unless subsequently modified in writing by Buyer's authorized agent.

EXPORT COMPLIANCE

a) Licenses. The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in performing this Contract. Absent license exemptions/exceptions, the Contractor shall obtain the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

b) Identification of Export Controlled Items`. The Contractor shall notify the Buyer in writing prior to delivery if it will provide any items under this Purchase order controlled under the International Traffic in Arms Regulations (ITAR) (i.e., hardware, software, technology, components, accessories, etc.). Any such item(s) or its packaging shall be properly marked to alert the Buyer of any Institute of the ITAR restrictions upon delivery to the Buyer.

8. TERMINATION AND DELAYS

Buyer may, by written notice stating the extent and effective date, terminate this order for convenience at any time. Buyer shall pay Contractor as full compensation for performance prior to such termination (1) the unit or pro rata order price for the delivered and accepted portion and (2) a reasonable amount, not otherwise

recoverable from other sources by the Contractor with respect to the undelivered or unaccepted portion of this order provided compensation under this Section 8 shall in no event exceed the total order price. Buyer may, by written notice, terminate this order for Contractor's default, at any time, if Contractor refuses or fails to comply with the provisions of this order, or fails to make deliveries within the time specified or any written extension thereof. Time is of the essence in this order. If after giving notice of termination for default Buyer determines that failure to perform this order is due to causes beyond the control and without the fault or negligence of the Contractor, or if such delay is due to failure of Buyer, not caused or contributed to by Contractor, Buyer may extend the time for completion of this order or Buyer may terminate this order, such termination being deemed for the convenience of Buyer.

The rights and remedies of Buyer provided in this order shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order.

9. LIABILITY FOR BUYER FURNISHED PROPERTY

Contractor assumes complete liability for any damage to or loss of property, tooling, articles or material furnished by Buyer to Contractor in connection with this order and Contractor agrees to pay for all such property, tooling, articles or materials spoiled by Contractor, or not otherwise, returned to Buyer in the same condition as delivered to Contractor, reasonable wear and tear accepted. The furnishing to Contractor of any property, tooling, articles or material in connection with this order shall not, unless otherwise expressly provided for, be construed to vest title to Contractor. Any Buyer tooling, articles or materials furnished shall not be used for any purpose other than performance of the work under this order.

10. INDEMNIFICATION AND INSURANCE

In the event the Contractor, its employees, agents or subcontractors enter premises occupied by or under the control of the Buyer in the performance of this order, the Contractor agrees that it will be responsible to, defend, indemnify and hold harmless, the Buyer, its regents, officers and employees from any loss, cost, damage, expense or liability relating to property damages or personal injury of whatsoever kind or character, arising out of, resulting from, or in connection with the negligent or willful acts or omissions of the Contractor or Contractors agents, employees or subcontractors. The Contractor agrees that it and its subcontractors will maintain public liability, commercial general liability and property damage insurance in reasonable limits covering the obligations set forth above, and will maintain workers' compensation coverage (either by insurance or if qualified pursuant to law, through a self-insurance program) covering all employees performing this order on premises occupied by or under the control of the Buyer.

11. PATENT INDEMNITY

Contractor shall pay all necessary royalty and license fees relating to intellectual property embodied in the items or services covered herein. In the event any third party shall claim that the manufacture, use or sale of these items or services to be delivered under this purchase order, infringes any intellectual property rights of third parties such as, copyright, trademark, or patent, the Contractor shall indemnify Buyer and hold Buyer harmless from any cost, expenses, damage or lost incurred in any manner by Buyer on account of any such alleged infringement.

12. EMAIL

This Order may be executed and become effective by manually signing and delivering an electronic version of the signed agreement (for example, by signing the order, scanning the document and delivering the electronic file) or by affixing an electronic signature to the digital file associated with this Purchase Order (whether represented by an image object or alphanumeric values). Such electronic signature and document shall be deemed an original certifying to the party's intent to enter into this Purchase Order and to its authenticity, validity, and enforceability.

13. DELIVERY

Order delivery time as shown on the face of the purchase order reflects the number of days expected for delivery to the designated location under normal conditions. Failure of Contractor to state delivery time obligates Contractor to complete delivery in 14 calendar days from date of purchase order. If any unforeseen delay is incurred, Contractor shall give written notice to the Buyer 5 days prior to expected delivery. The Buyer may extend the delivery date if reasons appear valid. If the Contractor fails to deliver these items or services by the promised delivery date, without giving acceptable reasons for delay, or if any items or services are rejected for failure to meet specifications, Buyer reserves the right to purchase specified items or services elsewhere, and charge the full increase in price, cost of handling and rebidding, if any, to the Contractor and Contractor agrees to pay for same. Delivery shall be made during normal working hours only, unless prior approval for late delivery has been obtained from Buyer.

14. PAYMENT

Contractor shall submit one copy of an itemized invoice showing order number and Buyer purchase order number. If the invoice is not addressed as instructed, payment will be delayed. Buyer will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of items or services on an uncontested invoice.

15. INDEPENDENT CONTRACTOR

Contractor is an independent contractor and neither Contractor nor its employees are servants, agents or employees of Buyer, Buyer being interested only in the complete performance of the services or delivery of the items herein contemplated.

16. APPLICABLE LAW

Irrespective of the place of performance, this order will be construed and interpreted according to the federal common law pertaining to federal government contracts, grants and cooperative agreements as enumerated and applied by federal judicial bodies, boards of contract appeals and quasi-judicial agencies of the federal government. To the extent that the federal common law of government contracts, grants and cooperative agreements is not dispositive, the laws of the State of Texas shall apply, excluding any “conflict of laws” rules which would direct or refer to the laws of another jurisdiction.

17. OTHER APPLICABLE LAWS

Any provision required to be included in an order of this type by any applicable and valid federal, state or local statutes, act, executive order, law, ordinance, rule or regulation shall hereby be deemed to be incorporated by reference as if set forth in full text.

SECTION 2 — Federal Provisions

Buyer has entered into an agreement with the United States of America National Science Foundation. This order is entered into with the Contractor in furtherance of the performance of the work required in that agreement. When interpreting applicable Office of Management and Budget (OMB) Circular A-110 and Appendix A, (codified at 2 CFR Part 215) contract provisions, “Government” will refer to the Buyer. The term “Contractor” refers to the Contractor hereunder.

The applicable clauses listed below are incorporated into, and form a part of, the terms and conditions of this order. In the event of any conflict between the terms and conditions of this Section 2 and any other provisions of this order, the terms and conditions of this Section 2 shall prevail. The term 2CFR200 means the Uniform Guidance Regulations pertaining to procurement, including revisions in effect on the date of this order. As used in the clauses below, the terms “contract officer” and “Government” shall mean either Buyer or the Government or both. The term “Contractor” shall mean the entity referred to in this order as the “Contractor”.

To the extent they are applicable to this order, the following OMB Circular A-110 Appendix A, (codified at 2 CFR Part 215) provisions shall apply to this order and are incorporated by reference into this order:

1. Equal Employment Opportunity – Contractor must be in compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41

CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) – Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

3. Occupational Safety and Health Act

By accepting this order, Contractor certifies that the work performed in producing all items and services provided hereunder shall conform to current OSHA requirements.

4. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended – Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C.7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) if the total value of this order exceeds \$100,000.

5. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each subcontractor tier certifies to the subcontractor tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any federal agency, a member of the U.S. Congress, officer or employee of the U.S. Congress, or an employee of a member of the U.S. Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each subcontractor tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from subcontractor tier to subcontractor tier up to the Buyer.

6. Energy Policy and Conservation Act (42 U.S.C. 6201). Contractor shall comply with any mandatory standards and policies relating to energy efficiency contained in the applicable state energy conservation plan issued.

7. 4 CFR Part 650.4 NSF Patent Policy

8. Debarment and Suspension –A purchase order/agreement with an amount expected to equal or exceed \$25,000 (see 2 CFR 180.220 and E.O's 12549 and 12689)) shall apply.

9. 2 CFR 200.321 Contracting with small and minority businesses, women business enterprises and labor surplus area firms

10. P.L. 101-336, Americans with Disabilities Act, as amended in 2008.

The Contractor and its subcontractor(s) shall comply with the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination

against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

11. Procurement Standards

The requirements described in Appendix II of 2 CFR § 200 are made a part of this purchase order if the total amount stated in this order exceeds the simplified acquisition threshold (currently \$250,000).