

**University of Arkansas Fayetteville**

**Request for Proposal (RFP)**

**RFP No. 200323**

**Energy Savings Performance Contract Financing**

**PROPOSAL RELEASE DATE: March 26, 2020**

**PROPOSAL DUE DATE: April 22, 2020**

**PROPOSAL DUE TIME: 2:30 p.m.**

**SUBMIT ALL PROPOSALS TO: University of Arkansas**

**Business Services**

**Administration Bldg., Rm 321**

**1125 W. Maple St.**

**Fayetteville, AR 72701**

**Signature Required For Response**

Respondent complies with all articles of the Standard Terms and Conditions documents as counterpart to this RFP document, and with all articles within the RFP document. If Respondent receives the University’s purchase order, Respondent agrees to furnish the items and/or services listed herein at the prices and/or under the conditions as indicated in the RFP.

|  |  |
| --- | --- |
| **Vendor Name:** |  |
| **Mailing Address:** |  |
| **City, State, Zip:** |  |
| **Telephone:** |  |
| **Email:** |  |

**Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Typed/Printed Name of Signor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Under no circumstances will late bids be accepted. Failure to deliver by overnight carriers or other such methods shall not be taken into consideration. Bids MUST arrive and be time-stamped by the Procurement Office, located at 1125 West Maple Street, Administration Building 321, Fayetteville, AR 72701 prior to the time and date specified in the Request for Proposal. VENDOR NAME, BID NUMBER, AND BID OPENING DATE MUST BE CLEARLY NOTED ON OUTSIDE OF PACKAGE IN ORDER FOR BID TO BE ACCEPTED.**

**COVID-19 TEMPORARY CONSIDERATIONS:**

* Under current circumstances and restrictions with COVID-19, UPS, FedEx, and DHL will be delivering packages directly to UA Mailing Services for delivery to Business Services.
* In the event the University is closed to the public during a scheduled bid opening event, virtual access will be provided. Information on joining a virtual bid opening will be posted on [HogBid](https://hogbid.uark.edu/) prior to the bid opening date.
* This specific bid opening event is scheduled for access via Webex:

Wednesday, Apr 22, 2020 2:30 pm | 1 hour | (UTC-05:00) Central Time (US & Canada)

Meeting number: 809 103 155

Password: Hudson

<https://uark.webex.com/uark/j.php?MTID=m08963e6c16bf8b1de245f612f45cf6d1>

Join by phone

+1-415-655-0001 US Toll

Access code: 809 103 155

**INTERGOVERNMENTAL/COOPERATIVE USE OF COMPETITIVELY BID PROPOSALS AND CONTRACTS:**

In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in any contract resulting from this solicitation with a participating addendum signed by the contractor and approved by the chief procurement officer of the procurement agency issuing this solicitation.

**MINORITY AND WOMEN-OWNED BUSINESS POLICY:**

1. A minority-owned business is defined by Arkansas Code Annotated § 15-4-303 as a business owned by a lawful permanent resident of this State who is:

African American Pacific Islander American

American Indian A Service-Disabled Veteran as designated by the

Asian American United States Department of Veterans Affairs

Hispanic American

1. A women-owned business is defined by Act 1080 of the 91st General Assembly Regular Session 2017 as a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this State.
2. The Arkansas Economic Development Commission conducts a certification process for minority-owned and women-owned businesses. If certified, the Prospective Contractor’s Certification Number should be included on the Proposal Signature Page.
3. The AEDC encourages the employment of small business and minority business enterprise pursuant to the provisions of Part 19 of the Federal Acquisition Regulations.

**General Campus Background for University of Arkansas**

Founded in 1871 as a land-grant institution, the University of Arkansas, Fayetteville Arkansas (UofA), is the flagship campus of the University of Arkansas System. Our students represent all 50 states and more than 120 countries. The UofA has 10 colleges and schools offering more than 200 academic programs. As of Fall 2019, student enrollment totaled approximately 27,559. The faculty count totaled 1,401 and the staff count totaled 3,227. The UofA is one of the nation’s top public research universities and the state’s foremost partner and resource for education and economic development. Its public service activities reach every county in Arkansas, throughout the nation, and around the world. The Carnegie Foundation classifies the UofA as having "the highest possible level of research," placing us among the top three percent (3%) of colleges and universities nationwide.

1. **DESCRIPTION AND OVERVIEW OF RFP**

The Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas Fayetteville (the UA) is seeking proposals from qualified financial institutions for a tax-exempt loan or lease (the “Loan”) pursuant to the specifications, terms and conditions stated in this RFP (“Proposal”).

The University of Arkansas will use the proceeds from the Loan issuance to assist in financing the implementation costs of Energy Conservation Measures (ECMs) to be provided by a qualified Energy Savings Performance Contractor (ESCO).

The UA is seeking to award financing to the firm that can provide the best overall value. This value will be determined by the UA based on the overall competence, compliance, pricing, format and presentation of each RFP response.

The data, specifications, and administrative requirements outlined herein are intended to serve as a general guideline for each proposal. Each firm is expected to submit a fully detailed proposal which adequately describes the advantages and benefits which the UA would realize by accepting its proposal.

**2.** **SCOPE OF WORK**

The UA is issuing this Request for Proposal (“RFP”) to solicit proposals for a total principal amount of approximately $13 million over a ten-year term provided by a qualified firm to assist the UA in the financing of our ECM implementation.

**3. COSTS/PRICING**

Please provide a description of the interest rate structure and any fees on the Official Bid Price Sheet provided within this RFP document **(see Appendix I).**

Any additional pricing lists should remain attached to the Official Price Sheet for purposes of accurate evaluation. Pricing must be valid for 60 days following the bid response due date and time. The UA will not be obligated to pay any costs not identified on the Official Price Sheet. The respondent must certify that any costs not identified by the respondent, but subsequently incurred in order to achieve successful operation of the service, will be borne by the respondent. Failure to do so may result in rejection of the bid.

**4. RESPONDENT REFERENCES**

Respondents must provide a minimum of three (3) references, preferably in higher education, (including the organization’s name, address, persons to contact, telephone numbers, and email addresses) located in the continental United States currently served by respondent. References are to be parties who can attest to the qualifications relevant to providing services requested. The UA reserves the right to contact any references provided to evaluate the level of performance and customer satisfaction. **See Appendix II for format.**

**5. RESPONDENTS RESPONSIBILITY TO READ RFP**

It is the Respondent's responsibility to thoroughly examine and read the entire RFP document, including any and all appendices. Failure of Respondents to fully acquaint themselves with existing conditions or the amount of work involved will not be a basis for requesting extra compensation after the award of a Contract.

**6. PROJECTED TIMETABLE OF ACTIVITIES**

The following schedule will apply to this RFP, but may change in accordance with the UA's needs:

03/26/2020: RFP released to prospective respondents

04/02/2020: 5:00 PM CDT - Last date/time the UA will accept questions

04/09/2020: Last date the UA will issue an addendum

04/22/2020: Proposal submission deadline 2:30 PM CDT

**Note:** Attendance at RFP opening is not required. No award will be made. Only names of respondents, and a preliminary determination of proposal responsiveness, will be made at this time.

04/29/2020: Notice of Intent to Award

Upon Intent To Award TBD**\***: Contract Negotiations Begin

Upon Contract Approval: Service to Commence (upon final legislative approval, if applicable)

**\***UA places a value on all elements of this RFP. As such, after evaluation of Proposals and selection of Contractor(s), the UA reserves the right to further negotiate with the selected respondent on any or all elements, and to award accordingly.

**7. CONTRACT TERM AND TERMINATION**

The term (“Term”) of any resulting contract will be for a period beginning from the date of Contract award. Term will be as described in Section 2.

**a)** If at any time the services become unsatisfactory, UA will give thirty (30) days written notice to the Contractor. If at the end of the thirty (30) day period the services are still deemed unsatisfactory, the Contract shall be cancelled by UA, Office of Business Affairs. Additionally, the Contract may be terminated, without penalty, by UA without cause by giving thirty (30) days written notice of such termination to Contractor.

**b)** Upon award, the agreement is subject to cancellation, without penalty, either in whole or in part, if funds necessary to fulfill the terms and conditions of this Contract during any biennium period of the Term (including any renewal periods) are not appropriated.

**c)** In no event shall such termination by UA as provided for under this section give rise to any liability on the part of UA, its trustees, officers, employees or agents including, but not limited to, claims related to compensation for anticipated profits, lost business opportunities, unabsorbed overhead, misrepresentation, or borrowing. UA’s sole obligation hereunder is to pay Contractor for services ordered and received prior to the date of termination.

The terms, conditions, representations, and warranties contained in the agreement shall survive the termination of this contract.

**8. GENERAL INFORMATION FOR RESPONDENTS**

**8.1 Distributing Organization**

This Request for Proposal (RFP) is issued by the University of Arkansas through the Office of Business Affairs, University of Arkansas, Fayetteville. The UA Purchasing Official is the sole point of contact during this process. Only written communication is considered formal and can be supported throughout this process.

**Bidder Questions and Addenda:** Bidder questions concerning all matters of this RFP should be sent via email to:

Ellen Ferguson, Sr. Procurement Coordinator

Office of Business Affairs

[ellenf@uark.edu](mailto:ellenf@uark.edu)

Questions received via email will be directly addressed via email, and compilation of *all* questions and answers (Q&A), as well as any revision, update and/or addenda specific to this RFP solicitation will be made available on HogBid, the University of Arkansas, Fayetteville bid solicitation website: <http://hogbid/>. During the time between the bid opening and contract award(s), with the exception of bidder questions during this process, any contact concerning this RFP will be initiated by the issuing agency and not the respondent. Specifically, the persons named herein will initiate all contact.

Respondents shall not rely on any other interpretations, changes, or corrections. It is the Respondent's responsibility to thoroughly examine and read the entire RFP document and any Q&A or addenda to this RFP. Failure of Respondents to fully acquaint themselves with existing conditions or information provided will not be a basis for requesting extra compensation after the award of a Contract.

**8.2 Agency Employees and Agents**

The Company shall be responsible for the acts of its employees and agents while performing services pursuant to the Agreement. Accordingly, the Company agrees to take all necessary measures to prevent injury and loss to persons or property while on the UA’s premises. The Company shall be responsible for all damages to persons or property on and off campus caused solely or partially by the Company or any of its agents or employees. Company employees shall conduct themselves in a professional manner and shall not use the UA’s facilities for any activity or operation other than the operation and performance of services as herein stated. The UA reserves the right to deny access to any individual. The following conduct is unacceptable for the Company’s employees and agents: foul language, offensive or distasteful comments related to age, race, ethnic background or sex, evidence of alcohol influence or influence of drugs, refusal to provide services requested, refusal to make arrangements for additional services needed and general rudeness. The Company shall require standard criminal background checks on all employees of the Company in advance of the performance of any on-campus duties. Employees whose background checks reveal felony convictions of any type are to be either removed from all support activities on the UA’s campus or reported to the UA for review and approval in advance of the performance of any on-campus duties.

**8.3 Tobacco Free Campus**

Smoking and the use of tobacco products (including cigarettes, cigars, pipes, smokeless tobacco, and other tobacco products), as well as the use of electronic cigarettes, by students, faculty, staff, contractors, and visitors, are prohibited at all times on and within all property, including buildings, grounds, and Athletic facilities, owned or operated by the UA and on and within all vehicles on UA property, and on and within all UA vehicles at any location.

**8.4 Disputes**

Contractor and UA agree that they will attempt to resolve any disputes in good faith. The Contractor and the UA agree that the State of Arkansas shall be the sole and exclusive venue for any litigation or proceeding that may arise out of or in connection with this contract. The Contractor acknowledges, understands and agrees that any actions for damages against the UA may only be initiated and pursued in the Arkansas Claims Commission. Under no circumstances does the UA agree to binding arbitration of any disputes or to the payment of attorney fees, court costs or litigation expenses.

**8.5 Conditions of Contract**

Contractor shall at all times observe and comply with federal and Arkansas State laws, local laws, ordinances, orders, and regulations existing at the time of or enacted subsequent to the execution of the Contract which in any manner affect the completion of work. Contractor shall indemnify and save harmless UA and all its trustees, officers, employees and agents against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor of the Contractor. Contractor shall also obtain a full and properly executed release, indemnification, and hold harmless agreement of UA, its trustees, officers, employees, agents and volunteers, in a form acceptable to University, from each customer. Contractor shall retain the release from each customer for a minimum period of three (3) years, and furnish copies of any and all releases to UA upon its request.

To the extent Contractor shall have access to, store or receive student education records, Contractor agrees to abide by the limitations on use and re-disclosure of such **records** set forth in **the Family Educational Rights and Privacy Act** (FERPA), 20 U.S.C. § 1232g, and 34 CFR Part 99. Contractor agrees to hold student record information in strict confidence andshall not use or disclose such information except as authorized in writing by UA or as required by law. Contractor agrees not to use the information for any purpose other than the purpose for which the disclosure was made. Upon termination, Contractor shall return or destroy all student education record information within thirty (30) days.

When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25‐26‐201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. Instructure expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (web‐based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

**ACCORDINGLY, CONTRACTOR SHALL EXPRESSLY REPRESENT AND WARRANT** to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (“VPAT”) or similar documentation to demonstrate compliance with 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (web‐based intranet and internet information and applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

‐ Providing, to the extent required by Arkansas Code Annotated § 25‐26‐201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non‐visual means;

‐ Presenting information, including prompts used for interactive communications, in formats intended for non‐visual use;

‐ After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;

‐ Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;

‐ Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;

‐ Integrating into networks used to share communications among employees, program participants, and the public; and

‐ Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

If the information technology product or system being offered does not completely meet these standards, the Respondent must provide an explanation within the VPAT detailing the deviation from these standards.

State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. If products are reasonably available that meet some but not all of the standards, the agency must procure the product that best meets the standards or provide written documentation supporting selection of a different product, including any required reasonable accommodations.

For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired **shall** be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2019.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

**8.6 Contract Information**

Respondents should note the following regarding the State’s contracting authority and amend any documents accordingly. Failure to conform to these standards may result in rejection of Respondent’s bid:

A. The State of Arkansas may not contract with another party:

1. To pay any penalties or charges for late payment or any penalties or charges which in fact are penalties for any reason.

2. To indemnify and defend that party for liability and damages. Under Arkansas law UA may not enter into a covenant or agreement to hold a party harmless or to indemnify a party from prospective damages.

3. Pay all sums that become due under a contract upon default.

4. To pay damages, legal expenses, or other costs and expenses of any party.

5. To conduct litigation in a place other than the State of Arkansas.

6. To agree to any provision of a contract that violates the laws or constitution of the State of Arkansas.

B. A party wishing to contract with the UA should:

1. Remove any language from its contract which grants to it any remedies other than:

* The right to possession.
* The right to accrued payment.
* The right to expenses of de-installation.

2. Include in its contract that the laws of the State of Arkansas govern the contract.

3. Acknowledge in its contract that contracts become effective when awarded by the UA Purchasing Official.

**8.7 Reservation**

This RFP does not commit the UA to award a contract, to pay costs incurred in the preparation of a response to this request, or to procure or contract for services or supplies. The UA reserves the right to accept or reject (in its entirety), any response received as a result of this RFP, if it is in the best interest of the UA to do so. In responding to this RFP, respondents recognize that the UA may make an award to a primary Contractor; however, the UA reserves the right to purchase like and similar services from other agencies as necessary to meet operation requirements.

**8.8 Qualifications of Respondent**

The UA may make such investigations as it deems necessary to determine the ability of the bidder to meet all requirements as stated within this bid request, and the bidder shall furnish to the UA all such information and data for this purpose that the UA may request. The UA reserves the right to reject any bid if the evidence submitted by, or investigations of, such bidder fails to satisfy the UA that such bidder is properly qualified to carry out the obligations of the Contract.

**8.9 Non Waiver of Defaults**

Any failure of the UA at any time, to enforce or require the strict keeping and performance of any of the terms and conditions of this agreement shall not constitute a waiver of such terms, conditions, or rights, and shall not affect or impair same, or the right of the UA at any time to avail itself of same.

**8.10 Independent Parties**

Contractor acknowledges that under this contract it is an independent Contractor and is not operating in any fashion as the agent of the UA. The relationship of the Contractor and UA is that of independent contractors, and nothing in this contract should be construed to create any agency, joint venture, or partnership relationship between the parties.

**8.11 Governing Law**

This RFP, any resulting Contract and all performance thereunder, transactions and subsequent amendments thereto between Respondent(s) or Contractor(s) and UA shall be governed and construed in all aspects in accordance with the laws of the State of Arkansas without regard to its choice of law principles (including without limitation any and all disputes, claims, counterclaims, causes of action, suits, rights, remedies, promises, obligations, demands, and/or defenses related thereto that may be asserted by either party). The parties agree that the State of Arkansas shall be the sole and exclusive venue and jurisdiction for any litigation or proceeding that may arise out of or in connection with this RFP or any Contract with UA. The parties waive any objection to the laying of jurisdiction and venue of any claim, action, suit or proceeding arising out of the Contract or any transaction contemplated hereby, in the State of Arkansas, and hereby further waive and agree not to plead or assert that any claim, action, suit or proceeding has been brought in an inconvenient forum. Nothing contained herein shall be deemed or construed as a waiver of any immunities to suit available to UA or its trustees, officials, employees and representatives. In no event shall UA or any of its current and former trustees, officials, representatives and employees (in their official or individual capacities) be liable to Respondent(s) or Contractor(s) for special, indirect, punitive, or consequential damages, attorneys’ fees or costs or any damages constituting lost profits or lost business opportunities.

**8.12 Proprietary Information**

Proprietary information submitted in response to this bid will be processed in accordance with applicable UA of Arkansas procurement procedures. All material submitted in response to this bid becomes the public property of the State of Arkansas and will be a matter of public record and open to public inspection subsequent to bid opening as defined by the Arkansas Freedom of Information Act. The Respondent is hereby cautioned that any part of its bid that is considered confidential, proprietary, or trade secret, must be labeled as such and submitted in a separate envelope along with the bid, and can only be protected to the extent permitted by Arkansas law.

**Note of Caution**:  Respondents should not attempt to mark the entire proposal as "proprietary" or submit letterhead or similarly customized paper within the proposal to reference the page(s) as "Confidential" unless the information is sealed separately and identified as proprietary.  Acceptable proprietary items may include references, resumes, and financials or system/software/hardware manuals. **Costs and pricing terms are not considered as proprietary**

**8.13 Disclosure**

1. **Contract and Grant Disclosure**

Disclosure is a condition of this contract and the University of Arkansas cannot enter into any contract for which disclosure is not made. Arkansas’s Executive Order 98-04 requires all potential contractors disclose whether the individual or anyone who owns or controls the business is a member of the Arkansas General Assembly, constitutional officer, state board or commission member, state employee, or the spouse or family member of any of these. If this applies to Respondent’s business, Respondent must state so in writing.

1. **Respondent Conflict of Interest Form**

Only when applicable, for any RFP that requires the disclosure of existing conflict of interest circumstances, Respondent should complete the *Bidder Conflict of Interest Form* and submit with bid Proposal. It is the responsibility of Respondent desiring to be considered for a bid award to complete and return this form, along with the *Contract and Grant Disclosure and Certification Form*. The purpose of these forms is to give Respondent an opportunity to disclose any actual or perceived conflicts of interest. The determination of UA regarding any questions of conflict of interest shall be final.

**8.14 Proposal Modification**

Proposals submitted prior to the Proposal opening date may be modified or withdrawn only by written notice to the University of Arkansas. Such notice must be received by the UA Purchasing Official prior to the time designated for opening of the Proposal. Respondent may change or withdraw the Proposal at any time prior to Proposal opening; however, no oral modifications will be allowed. Only letters or other formal written requests for modifications or corrections of a previously submitted Proposal that are addressed in the same manner as the Proposal and that are received prior to the scheduled Proposal opening time will be accepted. The Proposal, when opened, will then be corrected in accordance with such written requests, provided that the written request is contained in a sealed envelope that is clearly marked with the RFP number and “Modification of Proposal”. No modifications of the Proposal will be accepted at any time after the Proposal due date and time.

**8.15 Prime Contractor Responsibility**

Single and joint vendor bids and multiple bids by vendors are acceptable. However, the selected Respondent(s) will be required to assume prime contractor responsibility for the contract and will be the sole point of contact with regard to the award of this RFP.

**8.16 Period of Firm Proposal**

Prices for the proposed services must be kept firm for **at least 60 days** after the Proposal Due Date specified on the cover sheet of this RFP. Firm Proposals for periods of less than this number of days may be considered non-responsive. The Respondent may specify a longer period of firm price than indicated here. If no period is indicated by the Respondent in the Proposal, the price will be firm for 60 days or until written notice to the contrary is received from the Respondent, whichever is longer.

**8.17 Errors and Omissions**

The Respondent is expected to comply with the true intent of this RFP taken as a whole and shall not avail itself of any errors or omissions to the detriment of the services. Should the Respondent suspect any error, omission, or discrepancy in the specifications or instructions, the Respondent shall immediately notify the UA Purchasing Official, in writing, and the University of Arkansas shall issue written instructions to be followed. The Respondent is responsible for the contents of its Proposal and for satisfying the requirements set forth in the RFP.

**8.18 Award Responsibility**

The UA Purchasing Official will be responsible for award and administration of any resulting contract(s). The UA reserves the right to reject any or all bids, or any portion thereof, to re-advertise if deemed necessary, and to investigate any or all bids and request additional information as necessary in order to substantiate the professional, financial and/or technical qualifications of the Respondents.

Contract(s) will be awarded to the Respondent(s) whose proposal adheres to the conditions set forth in the RFP, and in the sole judgment of the UA, best meets the overall goals and financial objectives of the UA. A resultant contract will not be assignable without prior written consent of both parties.

**8.19 Confidentiality and Publicity**

From the date of issuance of the RFP until the opening date, the Respondent must not make available or discuss its Proposal, or any part thereof, with any employee or agent of the UA. The Respondent is hereby warned that any part of its Proposal or any other material marked as confidential, proprietary, or trade secret, can only be protected to the extent permitted by law. All material submitted in response to this RFP becomes the property of the UA.

News release(s) by a Respondent pertaining to this RFP or any portion of the project shall not be made without prior written approval of the UA Purchasing Official. Failure to comply with this requirement is deemed to be a valid reason for disqualification of the respondent's bid. The UA Purchasing Official will not initiate any publicity relating to this procurement action before the contract award is completed.

Employees of the Contractor may have access to records and information about UA processes, employees, including proprietary information, trade secrets, and intellectual property to which the UA holds rights. The company agrees to keep all such information strictly confidential and to refrain from discussing this information with anyone else without written authorization from an authorized official of UA.

**8.20 Respondent Presentations**

The UA reserves the right to, but is not obligated to, request and require that final contenders determined by the Evaluation Committee provide a formal presentation of their Proposal at a date and time to be determined by the Evaluation Committee. Respondents are required to participate in such a request if the UA chooses to engage such opportunity.

**8.21 Excused Performance**

In the event that the performance of any terms or provisions of this agreement shall be delayed or

prevented because of compliance with any law, decree, or order of any governmental agency or authority, either local, state, or federal, or because of riots, war, acts of terrorism, public disturbances, unavailability of materials meeting the required standards, strikes, lockouts, differences with workmen, fires, floods, Acts of God, or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, such party is unable to prevent (the foregoing collectively referred to as "Excused Performance"), the party so interfered with may at its option suspend, without liability, the performance of its obligations during the period such cause continues, and extend any due date or deadline for performance by the period of such delay, but in no event shall such delay exceed six (6) months.

**8.22 Funding Out Clause**

If, in the sole discretion of the UA, funds are not allocated to continue this agreement, or any activities related herewith, in any future period, then the UA will not be obligated to pay any further charges for services, beyond the end of the then current period. The Company will be notified of such non-allocation at the earliest possible time. No penalty shall accrue in the event this section is exercised. This section shall not be construed so as to permit the UA to terminate the agreement in order to acquire similar service from a third party.

**8.23 Indicia**

The respondents and the Company acknowledges and agrees that the UA owns the rights to its name and its other names, symbols, designs, and colors, including without limitation, the trademarks, service marks, designs, team names, nicknames, abbreviations, city/state names in the appropriate context, slogans, logo graphics, mascots, seals, color schemes, trade dress, and other symbols associated with or referring to the University of Arkansas that are adopted and used or approved for use by the UA (collectively the “Indicia”) and that each of the Indicia is valid. Neither any respondent nor Company shall have any right to use any of the Indicia or any similar mark as, or a part of, a trademark, service mark, trade name, fictitious name, domain name, company or corporate name, a commercial or business activity, or advertising or endorsements anywhere in the world without the express prior written consent of the UA. Any domain name, trademark or service mark registration obtained or applied for that contains the Indicia or any similar mark upon request shall be assigned or transferred to the UA without compensation.

**8.24 RFP Interpretation**

Interpretation of the wording of this document shall be the responsibility of the UA and that interpretation shall be final.

**8.25 Time is of the Essence**

Contractor and the UA agree that time is of the essence in all respects concerning this contract and performance herein.

**8.26 Formation of the Agreement/Contract**

The UA will take the following action in order to create the agreement between the UA and the selected Respondent:

1. Accept a Proposal as written by issuing a written notice to the selected Respondent, which refers to the Request for Proposal and accept the Proposal submitted in response to it.
2. Enter negotiations with one or more Respondents in an effort to reach a mutually satisfactory written agreement, which will be executed by all parties and will be based upon this Request for Proposal, the Proposal submitted by one or more Respondents and any negotiations concerning these documents.

Because UA may use alternative (A) above, each Respondent shall accept the contents of this RFP which will be incorporated into any final Contract documents and will include standard UA terms and conditions.

If the Respondent submits standard terms and conditions with the bid, and if any section of those terms is in conflict with the laws of the State of Arkansas, the State laws shall govern. Standard terms and conditions submitted may need to be altered to adequately reflect all the conditions of this RFP, the Respondent’s Proposals and Arkansas State law.

Notwithstanding any terms or conditions to the contrary, nothing within the Contractor’s proposal shall constitute a waiver of any immunities to suit legally available to UA, its trustees, officers, employees or agents, including, but not limited state and federal constitutional and statutory sovereign immunity of the State of Arkansas and its officials.

**NOTE:** The successful bidder may be required to enter into a Professional Services or Technical/General Services Contract that will require approval prior to any work conducted. See the following link for reference: <http://procurement.uark.edu/_resources/documents/TGSForm.pdf>. (Additional processing time must be allotted if subsequent contract is subject to this requirement).

**8.27 Permits/Licenses and Compliance**

Contractor covenants and agrees that it shall, at its sole expense, procure and keep in effect all necessary permits and licenses required for its performance of obligations under this RFP, and shall post or display in a prominent place such permits and/or notices as required by law. Contractor is responsible for compliance with all applicable laws and regulations, including but not limited to, OSHA requirements as well as any Fair Labor Standards Act requirements pertaining to compensation of Contractors employees or subcontractor (if any) working on the project; further, upon request, Contractor shall provide copies of all such permits or licenses to UA.

**8.28 Web Site Accessibility**

Respondent represents that web-based services substantially comply with the accessibility guidelines of Section 508 of the Rehabilitation Act of 1973 and with Web Content Accessibility Guidelines (“WCAG”) Version 2.0 Level AA, and agrees to promptly respond to and resolve any accessibility complaints received from UA.

**8.29 Prohibition Against Boycotting Israel**

In accordance with Ark. Code Ann. § 25-1-503, Respondent hereby certifies to UA that Respondent: (a) is not currently engaged in a boycott of Israel; and (b) agrees for the duration of any Contract not to engage in any boycott of Israel. A breach of this certification will be considered a material breach of contract. In the event that Respondent breaches this certification, UA may immediately terminate any Contract without penalty or further obligation and exercise any rights and remedies available to it by law or in equity.

**8.30** **Campus Restrictions**

Contractor shall not permit tobacco, electronic cigarettes, alcohol, or illegal drugs to be used by any of its officers, agents, representatives, employees, subcontractors, licensees, partner organizations, guests or invitees while on the campus of UA. Respondents further agrees that it will not permit any of its officers, directors, agents, employees, contractors, subcontractors, licensees, partner organizations, guests or invitees to bring any explosives, firearms or other weapons onto the campus of UA, except to the extent expressly permitted by UA policies and the Arkansas enhanced concealed carry laws. Respondent shall not allow any of its officers, directors, agents, employees, contractors, subcontractors, licensees, partner organizations, guests or invitees that are registered sex offenders to enter the campus of the University. Respondent agrees that it will not permit any of its officers, directors, agents, employees, contractors, subcontractors, licensees, partner organizations, guests or invitees who have been convicted of a felony involving force, violence, or possession or use of illegal drugs to work on this campus. Respondent will fully comply with all applicable UA policies, and federal, state and local laws, ordinances, and regulations.

**8.31 Performance Standards**

Contractor acknowledges that the use of performance based standards on any resultant Contract by UA are required pursuant to Arkansas Code Annotated § 19-11-267. Contractor shall provide prompt, responsive, courteous and high-quality products, services and customer service in the performance of its obligations under this RFP and any resulting Contract with UA. Contractor shall warrant that the equipment placed on the UA campus shall be of good quality, safe and suitable for their intended use by customers and properly installed. Contractor acknowledges that all products and services provided to UA or tailgate customers on the UA campus are to be of high quality and rendered in a timely and professional manner.  Contractor represents and warrants that it will provide all products and services related to any resulting Contract in a manner consistent with industry standards. In addition, Contractor shall respond to all production, service, maintenance and customer service and support requests by in a polite and timely manner. Further, Contractor recognizes that failure to perform hereunder may cause UA financial or reputational harm or damages or require it to acquire replacement services on short notice.  Therefore, any failure to provide the agreed upon products or services to UA or customers at the quality, times or in the manner specified, or for the duration required hereunder shall constitute a breach of any Contract between Contractor and UA subject to termination.

**8.32 Background Checks**

Contractor shall be responsible to obtain and to pay for background checks (including, but not limited to, checks for registered sex offenders) for *all* individuals performing any services related to this RFP on the UA campus, whether on a paid or volunteer basis, in a manner requested by UA and consistent with procedures established by UA for its background checks. No person may perform any duties or services for Contractor on the UA campus under any circumstances whatsoever until a satisfactory background check has been completed for each individual and copies furnished to UA.

**8.33 Service Expectations**

Contractor and its officers, employees, agents, volunteers, subcontractors and invitees understand that they are working at an institution of higher learning, and are required to conduct themselves in a manner that is commensurate with that environment. Contractor, its officers, employees, agents, volunteers, subcontractors and invitees shall do all things reasonably necessary or required by UA to maintain the high standard of quality and management for the products and services outlined in this RFP and any resulting Contract. Contractor agrees that it shall hire, train, supervise and regulate all persons employed by it in the conduct of the related services so that they are aware of, and practice, standards of cleanliness, courtesy and service required and customarily followed in the conduct of similar operations. Contractor shall not employ any current student-athletes. Contractor shall be responsible for the conduct of its officers, employees, agents, volunteers, subcontractors, vendors, guests and other representatives including, without limitation, training and informing them that violations of UA policy, theft, violence, profanity, unlawful discrimination, boisterous or rude conduct, intoxication, mishandling funds, and offensive or disrespectful behavior toward spectators, customers and UA trustees, officials, employees, agents, licensees, contractors, subcontractors, vendors, students, alumni and guests is impermissible, will not be tolerated and could result in their removal from UA’s campus.

**8.34 No Assignment and Sublicensing**

Respondents may not assign or sublicense any resulting Contract without the prior written consent of an authorized representative of UA as provided by UA’s Board of Trustee Policy.

**8.35** **PCI DSS Compliance**

Any third-party service provider utilized by the Contactor that engages in electronic commerce on behalf of the UA or other services contemplated under this RFP or any resulting Contract with UA, shall protect all card holder data (“CHD”) and sensitive authentication data (“SAD”) in accordance with the Payment Card Industry Data Security Standard (“PCI DSS”), if applicable, or using secure standard financial industry practices, if PCI DSS standards are not applicable. UA reserves the right at any time to request either proof of PCI DSS compliance or a certification (from a recognized third-party security auditing firm) verifying that the Contactor (and/or any third party service provider utilized by the Contactor) uses secure standard financial industry practices in its financial transactions, and maintains ongoing compliance under PCI DSS standards and/or secure financial industry practices as they change over time. The Contactor will comply with all laws, rules and regulations relating to the access, transfer, storage, processing, collection, use, protection and breach of all CHD and SAD. The Contactor shall not share with the University or grant the University access to any CHD or SAD accessed, transferred, stored, processed, collected, used or transacted by the Contactor or any third party provider utilized by the Contactor related to the purchase, sale, resale, offer to resell, return, credit, or reserving the rights to any services contemplated under the RFP or any resulting Contract with UA. The Contactor further acknowledges that neither it nor any third-party service provider utilized by the Contactor shall be granted access to UA’s system in connection with any financial transaction under the Contract, and will not access, transfer, store, process, collect, use or otherwise transmit CHD or SAD using UA’s systems. The Contactor will provide their Attestation of PCI Compliance and network scans to UA on an annual basis. The Contactor will give immediate notice to UA of any actual or suspected unauthorized disclosure of, access to or other breach of the CHD or SAD. The Contactor will indemnify UA for any third-party claim brought against UA arising from a breach by the Contactor of the representations or obligations of this section. This section and its indemnity will survive the termination of this RFP and any resulting Contract between Contractor and UA.

**8.37 NCAA AND SEC**

The Contractor shall at all times comply with all NCAA and SEC rules and regulations, and the rules of any other conference or association to which UA’s athletic teams may belong. Any resulting Contract may be terminated for any such violations by the Contractor, its official, employees, representatives, agents, subcontractors or guests. This provision applies to those engagements involving the function of athletics and/or athletics activities and affairs.

**9. INSTRUCTION TO RESPONDENTS**

**9.1** Respondents must comply with all articles of the Standard Terms and Conditions documents posted on our Hogbid website as counterpart to the RFP document, and any associated appendices, as well as all articles within the RFP document. The University of Arkansas is not responsible for any misinterpretation or misunderstanding of these instructions on the part of the Respondents.

**9.2** Respondents must address each section of the RFP. An interactive version of the RFP document will be posted on our Hogbid website. Respondents can insert responses into the document provided, or create their own response document making sure to remain consistent with the numbering and chronological order as listed in our RFP document. Ultimately, Respondents must ‘acknowledge’ each section of our document in their bid proposal.

In the event that a detailed proposal is not necessary, the respondent shall state ACKNOWLEDGED as the response to indicate that the respondent acknowledges, understands, and fully complies with the specification. If a description is requested, please insert a detailed response accordingly. Respondent’s required proposal should contain sufficient information and detail for the UA to further evaluate the merit of the Respondent’s proposal. Failure to respond in this format may result in bid disqualification.

**9.3**Any exceptions to any of the terms, conditions, specifications, protocols, and/or other requirements listed in this RFP must be clearly noted by reference to the page number, section, or other identifying reference in this RFP. All information regarding such exceptions to content or requirements must be noted in the same sequence as its appearance in this RFP.

**9.4** Proposals will be publicly opened in the Purchasing Office, Room 321 Administration Building, The University of Arkansas, Fayetteville, Arkansas, 72701, at the date and time as listed on the coversheet of this RFP (proposal due date). All Proposals must be submitted in a sealed envelope with the Proposal number clearly visible on the OUTSIDE of the envelope/package. No responsibility will be attached to any person for the premature opening of a Proposal not properly identified.

**Respondents must submit one (1) signed original, one (1) signed copy, and two (2) soft copies of their Proposal (i.e. USB Flash drive)** labeled with the Respondent’s name and the Bid Number, readable by the UA, with the documents in Microsoft Windows versions of Microsoft Word, Microsoft Excel, Microsoft Visio, Microsoft PowerPoint, or Adobe PDF formats; other formats are acceptable as long as that format’s viewer is also included or a pointer is provided for downloading it from the Internet. Responses must be received at the following location prior to the time and date specified within the timeline of this RFP:

University of Arkansas

Business Services

Administration Building, Room 321

1125 W. Maple St.

Fayetteville, Arkansas 72701

**NOTE:** No award will be made at bid opening. Only names of respondents and a preliminary determination of proposal responsiveness will be made at this time.

**Additional Redacted Copy REQUIRED**

Proprietary information submitted in response to this RFP will be processed in accordance with applicable State of Arkansas procurement law. Documents pertaining to the RFP become the property of the UA and shall be open to public inspection **after** a notice of intent to award is formally announced.

It is the responsibility of the Respondent to identify all proprietary information included in their bid Proposal. The Respondent shall submit one (1) separate electronic copy of the proposal from which any proprietary information has been removed, i.e., a redacted copy (marked “REDACTED COPY”).  The redacted copy should reflect the same pagination as the original, show the empty space from which information was redacted, and should be submitted on a CD or flash drive, preferably in a PDF format. Except for the redacted information, the redacted copy must be identical to the original hard copy submitted for the bid Proposal to be considered.  The Respondent is responsible for ensuring the redacted copy on CD/flash drive is protected against restoration of redacted data.  The redacted copy may be open to public inspection under the Freedom of Information Act (“FOIA”) without further notice to the Respondent **after** a notice of intent to award is formally announced. If during a subsequent review process the University determines that specific information redacted by the respondent is subject to disclosure under FOIA, the respondent will be contacted prior to release of the information.

Respondents may deliver their responses either by hand or through U.S. Mail or other available courier services to the address shown above.  **Include the RFP name and number on the outside of each package and/or correspondence related to this RFP.** No call-in, emailed, or faxed Proposals will be accepted. The Respondent remains solely responsible for insuring that its Proposal is received at the time, date, and location specified. UA assumes no responsibility for any proposal not so received, regardless of whether the delay is caused by the U.S. Postal Service, University Postal Delivery System, or some other act or circumstance. Proposals received after the time specified in this RFP will not be considered. **All Proposals received after the specified time will be returned unopened**.

**9.5** For a Proposal to be considered, an official authorized to bind the Respondent to a resultant Contract must include signature in the blank provided on the RFP cover sheet. Failure to sign the Proposal as required will eliminate it from consideration.

**9.6** All official documents, including responses to this RFP, and correspondence shall be included as part of the resultant contract.

**9.7** The UA Purchasing Official reserves the right to award a contract or reject a bid for any or all line items of a bid received as a result of this RFP, if it is in the best interest of the UA to do so. Bids may be rejected for one or more reasons not limited to the following:

* + - * 1. Failure of the Respondent to submit the bid Proposal(s) and bid Proposal copies as required in this RFP on or before the deadline established by UA.
        2. Failure of the Respondent to respond to a requirement for oral/written clarification, presentation, or demonstration in the Proposal.
        3. Failure to provide the bid security or performance security if required.
        4. Failure to supply Respondent references if required.
        5. Failure to sign an Official Bid Proposal Document.
        6. Failure to complete the Official Bid Price Sheet.
        7. Any wording by the Respondent in their Proposal or any response to this RFP, or in subsequent correspondence, which conflicts with or takes exception to a bid requirement in this RFP.

If the Respondent submits standard terms and conditions with the bid, and if any section of those terms is in conflict with the laws of the State of Arkansas, the State laws shall govern. Standard terms and conditions submitted may need to be altered to adequately reflect all of the conditions of this RFP, the bidder's responses and Arkansas State law.

**10. INDEMNIFICATION AND INSURANCE**

The successful Respondent or Contractor shall indemnify, defend, and hold harmless the UA, its trustees, officers, directors, employees, agents and volunteers from and against any and all losses, costs, expenses, damages, and liabilities resulting from or relating to: (a) any breach by Contractor or Contractor’s members, officers, employees, subcontractors, vendors, and agents of any representation, warranty, or other provision of this RFP, any resulting Contract or any document delivered by Contractor in connection with the products and services contemplated by this RFP; (b) any damage to property or bodily injury, including, but not limited to illness, paralysis, dismemberment and death, arising from or relating to any products or services provided by the Contractor or uses of the UA campus by Contractor, its officers, employees, agents, volunteers, customers, subcontractors or guests under this RFP or any resulting Contract, or any other activities conducted on the UA campus (whether such activity is authorized or unauthorized by UA); (c) any use of or damage to UA property and any defect in any building and improvement thereon, including, but not limited to, any damage to any parking lots arising from or relating to any permitted uses under this RFP or any resulting Contract; (d) any act or omission of Contractor or any of its officers, agents, employees, invitees, or subcontractor’s employees and invitees; and (e) any violation by Contractor of any applicable state, federal or local laws.

The obligation to indemnify the UA shall include, but shall not be limited to, the obligation to pay any and all losses, costs, expenses, attorneys' fees, damages, and liabilities incurred, as well as any attorneys’ fees and court costs (including, but not limited to, any appellate or appellate-related proceedings). At no cost or expense to the UA, UA’s in-house counsel may participate in any proceedings. The indemnification obligations under this RFP or any resulting Contract shall survive the expiration or termination of such RFP or resulting Contract.

The successful bidder shall purchase and maintain at bidder’s expense, the following minimum insurance coverage for the period of the contract. Certificates evidencing the effective dates and amounts of such insurance must be provided to the UA.

* Workers Compensation: As required by the State of Arkansas.
* Comprehensive General Liability, with no less than $1,000,000 each occurrence/$2,000,000 aggregate for bodily injury, products liability, contractual liability, and property damage liability.
* Comprehensive Automobile Liability, with no less than combined coverage for bodily injury and property damage of $1,000,000 each occurrence. Policies shall be issued by an insurance company authorized to do business in the State of Arkansas and shall provide that policy may not be canceled except upon thirty (30) days prior written notice to the UA.

Any policy shall cover any vehicle being used in the management, operation, or delivery deriving from Contractor’s operations on the UA’s campus. Contractor shall also be responsible for payment of workers’ compensation insurance for all Contractor’s employees as required by the State of Arkansas.

Contractor shall furnish UA with a certificate(s) of insurance effecting coverage required herein. Failure to file certificates or acceptance by UA of certificates which do not indicate the specific required coverages shall in no way relieve the Contractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with the obligations of Contractor concerning indemnification. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to UA, its trustees, officials, employees, agents or volunteers. Proof of Insurance must be included in bid Proposal.

Contractor shall, at their sole expense, procure and keep in effect all necessary permits and licenses required for its performance under the Contract, and shall post or display in a prominent place such permits and/or notices as are required by law.

**11.** **CONTRACTOR OVERVIEW**

The Contractor shall provide a general overview of its business including the following information:

* Foundation date
* Description of core activities
* Major company and distributor locations
* Total number of clients
* Total number of clients in higher education
* Current financial status and revenues – overview only

**12. BEST AND FINAL OFFER**

The UA reserves the right to request an official “Best and Final Offer” from bid Respondents if it deems such an approach in the best interest of the institution.  In general, the “Best and Final Offer” will consist of an updated cost proposal in addition to an opportunity for the vendor to submit a final response to specific questions or opportunities identified in subsequent discussions related to the original proposal response submitted to the UA. If the UA chooses to invoke a “Best and Final Offer” option, all responses will be re-evaluated by incorporating the information as requested in the official “Best and Final Offer” document, including costs and answers to specific questions presented in the document. The specific format for the official “Best and Final Offer” request will be determined during evaluation discussions.  The official request for a “Best and Final Offer” will be issued by the UA Procurement Department.

**13. SPECIFICATIONS / GOALS AND DELIVERABLES**

Each Proposal should contain the following information at a minimum:

1. **BACKGROUND/OVERVIEW**

The University of Arkansas System is comprised of eighteen campuses and related units, organized under various laws of the State of Arkansas and governed by the University’s ten-member Board of Trustees.

In the Moody’s Investors Service, Inc. report dated June 26, 2019 certain debt issued by the University of Arkansas was rated Aa2/Stable.

Certain financial information on the University of Arkansas System can be found on emma.msrb.org. In addition, to assist you in the preparation of your proposal, we have enclosed the following with this Request for Proposals (“RFP”) as EXHIBIT A:

1. University of Arkansas System consolidated financial statements for Fiscal 2019 and 2018.
2. University of Arkansas Fayetteville financial statements for Fiscal 2019 and 2018.

Each respondent is responsible for conducting its own credit review of the System. The University will use its best efforts to answer any questions and to provide additional information requested in connection with your credit analysis. The information provided by the University in this RFP or in connection with it should be considered confidential and should be appropriately controlled.

1. **DESCRIPTION OF NEW MONEY PROJECTS**

**Background**

The Guaranteed Energy Cost Savings Act, ACA §19-11-1201, (the “Act”) gives the University a methodology to contract for energy efficiency assessments and implementation of qualifying improvements through a pool of providers prequalified by the Arkansas Energy Office (“AEO”). Utility savings, operations and maintenance cost reductions and avoided capital expenses realized from the improvements are allowed under the Act to be used to pay for the work. By contract, the qualified Energy Savings Performance Contractor (ESCO) agrees to guarantee the savings against a contractual baseline, and is required to pay the campus the savings shortfall, if in any year, the savings do not exceed the combined cost of the improvements and the cost of financing as specified in the contract pro forma.

In June 2018 the U of A-Fayetteville (UAF) requested approval to begin the process to select a qualified ESCO for the UA Fayetteville Energy Conservation and Facility Improvements (ESPC 4) project. As noted by the reference, this will be the fourth ESPC project executed at the Fayetteville campus. President Bobbitt granted approval to proceed on July 2, 2018.

On September 18, 2018, all 14 of the state prequalified ESCO firms were invited to submit a Statement of Interest to the University for the project. Of those 14 firms, seven responded as interested and five of the firms were invited to participate in the formal selection process. As required by the Act, the UAF ESPC 4 Project Committee and AEO jointly conducted interviews, reviewed specific written project responses, evaluated project cost criteria and checked references for previous similar work. The evaluation process was very analytical and objective in nature.

1. **DESIRED FINANCING STRUCTURE**

The details of the desired financing structure are provided below.

* Tax-exempt, direct placement (loan) or master lease agreement.
* *Amount* – up to $13 million loan amount, which could be structured as a single disbursement or with draws periodically over the first year.
* *Interest Rate Mode* - Fixed rate.
* *Term/Amortization* - 10-year final maturity; level debt service (mortgage style) amortization.

1. **REQUESTED INFORMATION**

Each interested firm must submit a proposal that responds to the requirements/questions provided in **Appendix III** of this RFP. The UA reserves the right to request and consider additional information from submitters and to reject any and all submissions.

**Proposals must be submitted in accordance with instructions in Section 9. Instructions to Respondents.**

**Any questions regarding this request for proposals should be submitted in writing via email to:**

**Ellen Ferguson, Sr. Procurement Coordinator**

**Office of Business Affairs**

[**ellenf@uark.edu**](mailto:ellenf@uark.edu)

**The UA’s management team and Board must not be contacted in connection with this RFP.**

**14. EVALUATION AND SELECTION PROCESS**

It is the intent of the UA to award to the respondent(s) deemed to be the most qualified and responsible firm(s), who submits the best overall proposal based on an evaluation of all responses. Selection shall be based on the assessment of the agency’s ability to provide adequate service, as determined by the evaluation committee selected to evaluate proposals. The UA reserves the right to reject any or all Proposals or any part thereof, to waive informalities, and to accept the Proposal or Proposals deemed most favorable to the UA. Where contract negotiations with a respondent do not proceed to an executed contract within a time deemed reasonable by the UA (for whatever reasons), the UA may reconsider the proposals of other respondents and, if appropriate, enter into contract negotiations with one or more of the other respondents. Proposals shall remain valid and current for the period of 60 days after the due date and time for submission of proposals. Each response will receive a complete evaluation and will be assigned a score of up to 100 points possible based on the following items:

1. **Ability to Provide Full Range of Services as Indicated in the RFP Above (40 Points)**

Respondent with the highest rating shall receive fifty (40) points.

1. **Vendor History and Past Performance (30 Points)**

Respondent with highest rating shall receive thirty (30) points.

1. **Cost (30 Points)**

Points shall be assigned for the cost of the bid with the lowest estimated cost of the overall financing receiving the maximum points possible for this section. The remaining bids will receive points in accordance with the following formula:

**(a/b)(c) = d**

a = lowest cost bid in dollars

b = second (third, fourth, etc.) lowest cost bid

c = maximum points for Cost category (30)

d = number of points allocated to bid

Failure of the Respondent to provide in his/her proposal any information requested in this RFP may result in disqualification of his/her proposal and shall be the responsibility of the respondent.

**15. SERVICE PERFORMANCE STANDARDS**

|  |  |  |
| --- | --- | --- |
| **Service Criteria** | **Acceptable Performance** | **Compensation / Damages** |
| Adherence to University Requirements | Reference standard terms, conditions and all articles of RFP | **Termination of Contract:** Reference section 7 of RFP. This termination clause will apply for insufficient performance of services by vendor at the sole discretion of the University of Arkansas, Fayetteville. |
| Scope of Services | Reference Sections 1 & 2 of RFP: Description, Overview and Scope | **Termination of Contract:** Reference section 7 of RFP. This termination clause will apply for insufficient performance of services by vendor at the sole discretion of the University of Arkansas, Fayetteville. |
| Specifications, Goals and Deliverables | Reference section 13 of RFP: Specifications/Goals and Deliverables | **Termination of Contract:** Reference section 7 of RFP. This termination clause will apply for insufficient performance of services by vendor at the sole discretion of the University of Arkansas, Fayetteville. |

**APPENDIX I: Official Price Sheet**

**BID NAME: Energy Savings Performance Contract Financing**

**BID NUMBER: 200323**

**BID DUE DATE: Month Day, Year 2:30 PM CDT**

**BIDDER INFORMATION CONTACT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PHONE/EMAIL:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Reference Section 3-Costs / Pricing** for further instruction, and the corresponding Bid Price Sheet provided below. Please complete the Price Sheet as provided and submit within your proposal. If pricing is dependent on any assumptions that are not specifically stated on the Official Price Sheet, please list those assumptions accordingly on a separate spreadsheet and show detailed pricing. Any additional pricing lists should remain attached to the Official Price Sheet for purposes of accurate evaluation. **Pricing must be valid for sixty (60) days following the bid Proposal due date and time.**

UA will not be obligated to pay any costs not identified accordingly. The Respondent must certify that any costs not identified by the Respondent, but subsequently incurred in order to achieve successful operation of the service, will be borne by the Respondent. Failure to do so may result in rejection of the bid.

**NOTE:** Bids must be submitted on this official bid form to be considered. Vendors must use this Official Bid Price Sheet when submitting bids in response to this RFP. Provide pricing and/or discount where applicable next to the item listed below, per minimum specifications as listed within this bid document. Pricing must include shipping and handling charges.

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **\*Description** | **Discount**  **($ or %)** | **Total Price** |
| **1.** | **Interest Rate Structure** |  | **$** |
| **2.** | **Additional Fees (if applicable)** |  | **$** |
| **3.** |  |  | **$** |
| **4.** |  |  | **$** |
| **5.** |  |  | **$** |
| **GRAND TOTAL** |  |  | **$** |

**APPENDIX II: Bidder Information/Reference**

Bidder must provide the following information as part of this proposal:

1. Respondent Representative

Contact Name

Telephone

Email Address

Address

2. References of your current customer(s) as specified in **Section 4** of this RFP document:

a. Company/Organization Name:

Contact Name

Telephone

Email Address

Address

b. Company/Organization Name:

Contact Name

Telephone

Email Address

Address

c. Company/Organization Name:

Contact Name

Telephone

Email Address

Address

**APPENDIX III. RFP Requirements/Questions (Reference Section 13.d.):**

Respondents are to submit a comprehensive proposal describing your qualifications, outlining all anticipated costs and detailing the material terms and conditions of the principal legal documents. **Outlined below are the requirements/questions that should be specifically addressed in your firm’s response.**

1. **Name of Bank:** Provide the name of the entity that will be providing the proposed loan or lease. Please describe the lender and the businesses in which it is engaged.
2. **Credit Rating:** Provide the short-term and long-term credit ratings (including the rating outlooks) from all rating agencies currently rating the lender. Indicate if any of your ratings are currently under review by a credit rating agency.
3. **Personnel:** Provide the contact information (email, address, and phone) of the individuals who will be working on this engagement.
4. **Maximum Commitment Amount (up to):** Provide a maximum commitment amount for the proposed transaction. Would you have any additional lending capacity for the UA over time?
5. **Mandatory Tender or Put Provisions:** If applicable, please describe the mechanics of any mandatory tender or put provisions including timing and notice. In addition, please describe the terms under which your firm would agree to waive the mandatory tender or put provisions and extend the term of the loan.
6. **Security/Collateral:** Security/Collateral can be established via the equipment and assets for the project. Information pertaining to the equipment and assets being installed for the project can be provided upon request.
7. **Financial Covenants:** The UA prefers no financial covenants. However, if RFP respondents require certain financial covenants, please clearly describe all proposed financial covenants in your proposal. Provide a definition of key terms, testing frequency, as well as an example calculation of each of the financial covenants based on the most recent audited financial statements. Also, describe any proposed limitations on additional debt.
8. **Reporting Requirements:** Describe the requirements for ongoing financial reporting.
9. **Prepayment Provisions:** Describe the proposed prepayment provisions. Explain the terms and calculation methodology for any proposed pre-payment penalties. Provide definitions of key terms, as necessary.
10. **Other Conditions:**
11. Detail any other conditions that would be required as part of your proposal. Define any terms necessary to understand these conditions.
12. *Increased costs* - Explain if any adverse changes reserve requirements for the bank or other events (e.g. change in tax rates) would result in a change in the interest rate on the proposed loan. **Provide proposed language.**
13. The University prefers no Material Adverse Change clause and no Most Favored Nation clause.
14. **Fees & Legal Counsel:** 
    1. Provide any upfront/commitment fee required by the bank (if any).
    2. Provide a not-to-exceed figure for legal fees. In addition, provide the name of the legal firm you would use and the person from that firm that would serve as the primary contact.

1. **Syndication:** Will the loan be syndicated to other banks? If so, who would be in the banking syndicate and at what level?
2. **Timing:** Describe your timing to receive internal credit approval upon award of the transaction.
3. **Conflicts of Interest:** Describe any conflicts of interests that could impact the contemplated transaction.