REQUEST FOR BID

METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM

For

The University of Texas Health Science Center at San Antonio

RFB No.: 745-15-9894

Bid Submittal Deadline: Thursday, September 24, 2015; 3:00 PM, Central Prevailing Time (CPT)

Prepared by: Andrea Parks Stahl

Date: Tuesday, August 18, 2015
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SECTION 1
NOTICE TO BIDDERS

RETURN SEALED BIDS TO: BIDDER MUST COMPLETE AND SIGN BELOW

The University of Texas Health Science Center at San Antonio
Research Administration Building
Room 4.110
North Campus
8403 Floyd Curl Drive
San Antonio, TX 78229-3388

Federal Tax I.D. No.: ______________________________
Company Name: ______________________________
Address: _________________________________________

______________________________________________
Phone No.: _______________ FAX No.: ___________

______________________________________________
(Authorized Signature) (Date)

______________________________________________
(Printed Name) (Title)

1.1 General

The University of Texas Health Science Center at San Antonio ("UTHSCSA") is accepting competitive sealed bids for a METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM in accordance with the terms, conditions and requirements set forth per Request for Bid, RFB No.: 745-15-9894. This Request for Bid (RFB) provides sufficient information for interested parties to prepare and submit bids for consideration by UTHSCSA.

Applicability of educational, state and local government, and any other available discounts should be strongly considered.

THIS RFB IS A SOLICITATION FOR BID AND IS NOT A CONTRACT OR AN OFFER TO CONTRACT.

BIDDERS ARE_CAUTIONED TO_READ THE_INFORMATION_CONTAINED_IN_THIS_RFB CAREFULLY AND TO_SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

1.2 Submittal Deadline

UTHSCSA will accept bids until 3:00 PM (CPT), September , 2015.

1.3 MANDATORY Pre-Submittal Conference and Site Inspection

All Bidders interested in submitting a bid are advised to attend a Mandatory Pre-Submittal Conference and Site Inspection to be held at UTHSCSA. The conference and site inspection will began at 10:00 AM (CPT), August 26, 2015 in the Department of Facilities Management, Conference Room #262, located at 7703 Floyd Curl Dr., San Antonio, Texas, 78229.

**NOTE: ATTENDANCE IS REQUIRED IN ORDER FOR BID TO BE CONSIDERED.
1.4 UTHSCSA Contacts

Any questions or concerns regarding this Request for Bid shall be directed to:

Andrea Parks Stahl, Sr. Buyer  
The University of Texas Health Science Center at San Antonio  
Facilities Mgt. Dept.  
7703 Floyd Curl Drive, San Antonio, Texas  78229  
Ph.:  210-567-2901  
Fax: 210-567-2897  
e-mail: parksa@UTHSCSA.edu

University specifically instructs all interested parties to restrict all contact and questions regarding this RFB to written communications forwarded to University Contact. University Contact must receive all questions or concerns no later than 3:00 PM (CPT), Friday, September 11, 2015. University will have a reasonable amount of time to respond to questions or concerns. It is University’s intent to respond to all appropriate questions and concerns; however, University reserves the right to decline to respond to any question or concern.

1.5 Contract Term and Liquidated Damages

The Contract Time shall be for a period beginning with the issuance of the PO and/or Notice to Proceed and continuing through the date of substantial completion. In the event Contractor fails to substantially complete the work within the contract time or fails to achieve final completion as required, the UTHSCSA shall collect liquidated damages in the amount of $1,000 per day.

1.6 Inquiries and Interpretations

Responses to inquiries which directly effect an interpretation or change to this RFB will be issued in writing by addendum (amendment) and mailed to all parties recorded by UTHSCSA as having received a copy of the RFB. All such addenda issued by UTHSCSA prior to the time that bids are received shall be considered part of the RFB, and the Bidder shall be required to consider and acknowledge receipt of such in his bid.

Only those UTHSCSA replies to inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect. Bidder must acknowledge receipt of all addenda in Section 6 of this RFB (Pricing and Delivery Schedule).

1.7 Criteria for Selection

The Bidder selected for an award will be the Bidder whose bid, as presented in the response to this RFB, is the most advantageous to UTHSCSA. UTHSCSA is not bound to accept the lowest priced bid if that bid is not in the best interest of UTHSCSA as determined by UTHSCSA.

Bids will be evaluated by UTHSCSA personnel. The selection of the Seller for this award will be based on several factors to include, but not limited to, the following:

1. Cost  
2. Litigation  
3. References  
4. Country of Origin  
5. Schedule
1.8 Bidder's Acceptance of Evaluation Methodology

Submission of a bid indicates Bidder's acceptance of the evaluation methodology and Bidder's recognition that some subjective judgments must be made by UTHSCSA.

1.9 Contract Award Process

An award for the products/services specified herein will not be made until the necessary reviews have been completed. UTHSCSA reserves the right to reject any bid which fails to meet the requirements as stated. UTHSCSA reserves the right to contract for all or any portion of the products/services proposed by reason of this Request, award multiple Contracts, or to reject any and all bids if deemed to be in the best interests of UTHSCSA and to re-solicit for bids.

1.10 Commitment

Bidder understands and agrees that this Contract is issued predicated on an anticipated requirement for a METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM, and that UTHSCSA has made no representation, guarantee or commitment with respect to any specific quantity of Supervision, Labor, Material, Equipment to be furnished under this Contract. Further Seller recognizes and understands that any cost borne by the Seller which arises from Seller's performance hereunder shall be at the sole risk and responsibility of Seller.

1.11 Acquisition from Other Sources

UTHSCSA reserves the right and may from time to time as required by UTHSCSA operational needs acquire Supervision, Labor, Material and Equipment of equal type and kind from other sources during the term of this Contract without invalidating in whole or in part this Contract or any rights or remedies UTHSCSA may have hereunder.

1.12 Historically Underutilized Businesses

UTHSCSA encourages and supports the participation of Historically Underutilized Businesses (HUBs) in responding to this RFB.

In accordance with Texas Government Code 2161, each state agency, including UTHSCSA, is required to make a good faith effort to assist HUBs in competing for, and receiving, contracts awarded by the agency.

UTHSCSA has reviewed this RFB in accordance with Chapter 1, Texas Administrative Code, Section 111.14 (a) and has determined that subcontracting opportunities are probable under this solicitation. Accordingly, a HUB Subcontracting Plan (HSP) is required as a part of your proposal. The HSP shall be developed and administered in accordance with the UTSCSA Policy on Utilization of Historically Underutilized Businesses (HUBs). The HSP Package, including the required forms and instructions, can be accessed via the following link:

http://comptroller.texas.gov/procurement/prog/hub/hub-forms/

Respondent must complete and submit the HSP Documents as part of your Proposal. Failure to do so will result in your Proposal being disqualified.

If you have any questions or need assistance please contact UTHSCSA’s HUB Program Coordinator at (210) 562-6300.
1.13 **Key Events Schedule**

- **Issue Request for Bid:** Tuesday, August 18, 2015
- **Mandatory:** Pre-Submittal Conf./Site Visit: **10:00 AM (CPT), Wednesday, August 26, 2015**
- **Question Submittal Deadline:** 3:00 PM (CPT), Friday, September 11, 2015
- **Bid Submittal Deadline:** 3:00 PM (CPT), Thursday, September 24, 2015
- **Estimated Award Date:** September 2015

1.14 **Group Purchase Authority**

Texas law authorizes institutions of higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Bidder under this RFB.
SECTION 2

BIDDING REQUIREMENTS

2.1 General Instructions

A. Bidders should carefully read the information contained herein and submit a complete response to all requirements as directed.

B. Bids and any other information submitted by Bidders in response to this Request for Bid shall become the property of UTHSCSA.

C. UTHSCSA will not provide compensation to Bidders for any expenses incurred by the Bidder(s) for bid preparation, product evaluations or demonstrations that may be made, unless otherwise expressly indicated.

D. Bids which are qualified with conditional clauses, alterations, items not called for in the RFB documents, or irregularities of any kind are subject to disqualification by UTHSCSA at its option.

E. Each Bid should be prepared simply and economically, providing a straight-forward and concise description of Bidder's ability to meet the requirements of this RFB. Emphasis should be on completeness, clarity of content and responsiveness to the bid requirements.

F. No bid may be changed, amended, modified by telegram or otherwise, after the same has been submitted or filed in response to this notice, except for obvious errors in extension. However, a bid may be withdrawn and resubmitted any time prior to the time set for receipt of bids. No bid may be withdrawn after the bid opening without approval by UTHSCSA which shall be based on Bidder's submittal, in writing, of a reason acceptable to UTHSCSA.

G. UTHSCSA reserves the right to accept or reject any or all bids, waive any formalities, or minor technical inconsistencies, delete any item/requirement from this UTHSCSA or resulting Purchase Order when deemed to be in UTHSCSA best interest. UTHSCSA reserves the right to accept all, or any part of the Bidder's bid at the quoted prices. Representations made within the bid will be binding on responding Bidders. UTHSCSA will not be bound to act by any previous communication or bid submitted by Bidders other than this RFB.

H. Any changes or interpretations made in the form of an Addendum to this RFB will be forwarded to all known Bidders.

I. Bids are to be valid for UTHSCSA acceptance for a minimum of 180 days from the submittal deadline date to allow time for evaluation, selection, and any unforeseen delays.

J. Bidders wishing to submit a “No-Bid” are requested to return the first (1) page of the Request for Bid Form, (Notice to Bidders, Section 1). The returned form should indicate Bidder's name and include the words “No-Bid”.

K. Failure to comply with the requirements contained in this Request for Bid may result in the rejection of the bid. Repeated failure to respond completely to bid requirements may result in removal from the UTHSCSA Bidder's List.

L. Questions should be directed to the UTHSCSA Purchasing official identified on the cover page of this Request for Bid.
2.2 Submittal Instructions

A. Only bids submitted on the Notice to Bidders form (Section 1) and the exhibits attached thereto will be accepted, unless otherwise permitted herein.

B. Bid must be signed by Bidder’s company official(s) authorized to commit such bids. Failure to sign and return the Notice to Bidders form (Section 1), the Bidders Affirmation (Section 5), and the HUB Subcontracting Plan Package will subject your proposal to disqualification.

C. Responses to this RFB should consist of answers to required questions in Section 7, Bidder Questionnaire. It is not necessary to repeat the question in your response; however, it is essential that you reference the question number with your response corresponding accordingly. In cases where a question does not apply or if unable to respond, reference the question number and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Briefly explain your reason when responding N/R.

D. Submit a total of ONE (1) original and SIX (6) complete identical copies of the entire Bid, An original signature must appear on the Notice to Bidders form (Section 1) and the Bidders Affirmation (Section 5) on at least one (1) copy submitted.

E. ONE (1) original and SIX (6) complete identical copies of the entire Bid, including any supplemental printed material referenced with the RFB, must be submitted and received in the UTHSCSA Purchasing Department on or before the time and date specified, per the Notice to Bidders (ref. Subsection 1.2) and delivered to:

Vikki Ross
Purchasing Director
The University of Texas Health Science Center at San Antonio
Research Administration Building, Room 4.110
North Campus
8403 Floyd Curl Drive
San Antonio, Texas 78229

NOTE: Show the Request for Bid number and submittal date in the lower left-hand corner of your sealed proposal envelope (box/container).

F. Late bids properly identified will be returned to Bidder unopened. Late bids will not be considered under any circumstances.

G. Telephone Bids are not acceptable in response to this Request for Bid.

H. Facsimile (“FAX”) Bids are not acceptable when in response to this Request for Bid.

2.3 Specifications

A. Any catalog, brand name or manufacturer’s references used in this RFB is descriptive only (not restrictive) and is to indicate type and quality desired. Bids of like nature and quality will be considered unless advertised under a proprietary justification.

B. If bidding on other than referenced brand(s) specified, Bidder must submit as part of their bid the following:

1. An exception list to indicate where the alternate product(s) quoted differs from that specified.

2. Descriptive literature, illustrations, and/or specifications of quoted product(s).
NOTE: If no exception is taken to reference data or specifications, Bidder will be required to furnish the exact brand name(s)/product(s) as specified.

C. All items must be new, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated in the RFB documents.

2.4 Alternate Proposals

UTHSCSA will consider alternate proposals submitted by responsive Bidders. Alternate proposals shall be clearly marked with the proposed alternates and/or exceptions to the Special Conditions or Specifications delineated, and include all pricing/cost advantages, included, if applicable.

2.5 Pricing and Delivery Schedule

A. Bidder must complete Pricing and Delivery Schedule, Section 6.

B. UTHSCSA is an institution of higher education, a government entity and a hospital, and as such, should be offered any and all applicable discounts associated with such activities or facilities. Such discounts, as applicable, must be identified and clearly noted in your bid response.

C. Pricing reflects the full Scope of Work defined herein; inclusive of all associated cost for delivery, labor, insurance, taxes, overhead, and profit.

D. UTHSCSA will not recognize or accept any charges or fees to perform this work that are not specifically stated in the Bidder's bid.

E. Cash or prompt payment discounts will not be considered in determining the low bid. All payment discounts offered will be taken, if earned and deemed in UTHSCSA best interest.

2.6 Terms and Conditions

The General Terms and Conditions (ref. Section 3) shall govern any Contract issued as a result of this solicitation (RFB).

A. All Bidders must comply with the requirements listed on any Notice to Bidders, Bid Requirements, Specifications/Service Requirements, and General Terms and Conditions herein. In the event there is a conflict expressed in this document, interpretation will be in the following order of precedence:

1. Specifications
2. General Terms and Conditions
3. Bid Requirements
4. Notice to Bidders

B. Bidders may offer for UTHSCSA consideration alternate provisions to the Terms and Conditions. Alternates proposed must refer to the specific article(s) or section(s) concerned. General exceptions such as “company standard sales terms apply” or “will negotiate” are not acceptable. Bidder's silence as to the terms and conditions shall be construed as an indication of complete acceptance of these conditions as written.

Such additional or attached terms and conditions which are determined to be unacceptable to UTHSCSA may result in disqualification of your bid. Examples include, but are not limited to, liability for payment of taxes, subjugation to the laws of another State, and limitations on remedies.
2.7 Submittal Checklist

Firms are instructed to complete, sign and return the following documents as a part of their bid submittal. Failure to return these documents may subject your bid to disqualification.

- Signed and Completed Notice to Bidders (ref. Section 1)
- Signed and Completed Bidder's Affirmation (ref. Section 5)
- Signed and Completed Pricing and Delivery Schedule (ref. Section 6)
- Signed and Completed Addenda Checklist (ref. Section 6.4)
- Responses to Bidder's Questionnaire (ref. Section 7)
- Responses to Questions asked in Section 4 Specifications
- ONE (1) Signed and Completed HUB Subcontracting Plan Package in a separate envelope
- ONE (1) Original and SIX (6) complete identical copies of the Bid Package
- ONE (1) Bid Security Bond (5% of the total bid amount)
- Detailed Project Plan and Work Schedule (ie; Gantt Chart)
- Detailed Safety Plan meeting all safety guidelines as established by City, County, State and Federal Agencies
- Detailed Schedule for the Design Phase (Ref. Specifications, pg.16, Par. 22.0)
- Detailed Schedule for the Manufacturing Phase (Ref. Specifications, pg.16, Par. 22.0)
- Detailed Schedule for the Delivery and Installation Phase (Ref. Specifications, pg.16, Par. 22.0)

**REMINDER:**

1. Bidder has used the UTHSCSA bid form, RFB 745-15-9894, and has not split apart nor used any other form, and has initialed any erasures or corrections that has been made;

2. Bidder has made all entries in either typed or black ink, and has submitted ONE (1) original bid labeled as "ORIGINAL" and SIX (6) identical copies labeled as "COPY";

3. If applicable, bidder has included the costs but, not limited to: freight, packing, shipping, express charges, hauling, unpacking, setup and assembly, net cost, labor, installation, insurance, bonds and overhead, profit, etc., and is correctly reflected in the unit prices included in the bid.
SECTION 3

GENERAL TERMS AND CONDITIONS

3.1 General

These General Terms and Conditions shall be made a part of and govern any Purchase Order and/or Contract (hereafter referred to as “Contract”), if any, resulting from this Request for Bid.

3.2 Definitions

Whenever the following terms are used in these General Terms and Conditions or in the other documents the intent and meaning shall be interpreted as follows:

**Contract** shall mean the documents that form the Contract between UTHSCSA and the Seller. The Contract consists of the Conditions of the Contract (General and Special Conditions), Specifications, Pricing and Delivery Schedule, Bidder's Affirmation, Bidder's Questionnaire, and all Addenda issued prior to and after the execution of the Contract.

**UTHSCSA** shall mean The University of Texas Health Science Center at San Antonio, a component institution of The University of Texas System.

**Bidder** shall mean the individual, partnership, corporation, or other entity responding to this RFB.

**Seller** shall mean the individual, partnership, corporation, or other entity awarded a Contract to **Fabricate and Install Signage** under this RFB, in accordance with the terms, conditions, and requirements herein.

3.3 Entire Agreement

This Contract, for all intents and purposes, is intended as the complete and exclusive statement of the agreement between UTHSCSA and the Seller and supersede all prior or contemporaneous agreements, negotiations, course of prior dealings, or oral representations relating to the subject matter hereof.

The terms and conditions of any purchase order, agreements, amendments, modifications, or other documents submitted by either party which conflict with, or in any way purport to amend or add to any of the terms and conditions of this Contract are specifically objected to by the other party and shall be of no force or effect, nor shall govern in any way the subject matter hereof, unless set forth in writing and signed by both parties.

3.4 Time of Performance

Time is of the essence in the rendering of services hereunder. Seller agrees to perform all obligations and render services set forth per this Contract in accordance with the schedules herein and as mutually agreed upon between UTHSCSA and Seller during the term of this Contract.

**Work Hours:**

All work required hereunder shall be performed during standard business hours, 8:00 a.m. to 5:00 p.m. (CT), Monday through Friday, excluding UTHSCSA observed holidays.
Mobilization:

If applicable, Contractor shall mobilize material and equipment after 5:00 pm, Monday through Friday, anytime on Saturday and Sunday, or at the discretion of the UTHSCSA. Crane lifts may require weekend work if the UTHSCSA is unable to clear an area during standard working hours.

3.5 Default

In the event that the Seller fails to carry out or comply with any of the terms and conditions of this Contract with UTHSCSA, UTHSCSA may notify the Seller of such failure or default in writing and demand that the failure or default be remedied within ten (10) days; and in the event that the Seller fails to remedy such failure or default within the ten (10) day period, UTHSCSA shall have the right to cancel this Contract upon thirty (30) days written notice.

Without limiting the foregoing, the following shall constitute a material breach by the Seller, upon the occurrence of which the Seller shall immediately notify UTHSCSA; the Seller ceases its business operation, makes a general assignment for the benefit of creditors, is adjudged bankrupt, or becomes insolvent.

The cancellation of this Contract, under any circumstances whatsoever, shall not effect or relieve Seller from any obligation or liability that may have been incurred or will be incurred pursuant to this Contract and such cancellation by UTHSCSA shall not limit any other right or remedy available to UTHSCSA at law or in equity.

3.6 Termination

A. For Convenience:

This Contract may be terminated, without penalty, by UTHSCSA without cause by giving thirty (30) days written notice of such termination to the Seller.

B. In no event shall such termination by UTHSCSA as provided for under this Section give rise to any liability on the part of UTHSCSA including, but not limited to, any claims of Seller for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. UTHSCSA sole obligation hereunder is to pay Seller for products and/or services ordered and received prior to the date of termination.

C. Performance by UTHSCSA under this Contract may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UTHSCSA shall issue written notice to Seller and UTHSCSA may terminate this Contract without further duty or obligation hereunder. Seller acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UTHSCSA.

3.7 Warranties

In addition to all warranties established by law, Seller hereby warrants and agrees that:

A. All goods and services covered by this Contract shall conform to the specifications, drawings, samples or other descriptions set forth in this Contract or otherwise furnished or adopted by UTHSCSA, and shall be merchantable fit for the purpose intended, of best quality and workmanship, and free from all defects. UTHSCSA shall have the right of inspection and approval, and may, at Seller’s expense, reject and return nonconforming goods or require re-performance of services which are not in compliance with the
requirements of this Contract. Defects shall not be deemed waived by UTHSCSA failure to notify Seller upon receipt of goods or completion of services, or by payment of invoice.

B. All goods and/or services provided under this Contract shall meet or exceed the Safety Standards established and promulgated under the Federal Occupational Safety and Health Administration (Public Law 91-596) and its regulations in effect or proposed as of the date of this Contract.

C. All goods delivered pursuant to this Contract shall conform to standards established for such goods in accordance with any applicable federal, state or local laws and regulations, unless otherwise indicated in this Contract.

D. The use or sale of any goods delivered under this Contract, or any part thereof, except goods produced to UTHSCSA specifications, drawings, samples, or other descriptions, does not infringe any existing patent, trademark, copyright, or other intellectual property right of third parties.

3.8 Payment

Seller shall submit on a monthly basis, in triplicate (3 copies), progress payment applications to include the following:

1. Application and Certificate for Payment (ie; AIA Documents G702, G703);
2. Schedule of Values;
3. Weekly Certified Payroll;
4. HSP, Progress Assessment Reports.

The UTHSCSA shall withhold from each progress payment, as Retainage, FIVE (5%) PERCENT of the total earned amount.

All charges for expenses which are permitted by this Contract must be supported with itemized receipts. Invoices must reference the UTHSCSA Purchase Order Number and must agree in every detail with the purchase order. Following receipt of a properly submitted invoice, payment will be remitted within thirty (30) days. In order to receive prompt payment within thirty (30) days of receipt of an invoice, please submit an invoice that includes, at a minimum, the following information:

- Seller’s mailing and e-mail (if applicable) address
- Seller’s telephone number
- Name and telephone number of a person designated to answer questions regarding the invoice
- UTHSCSA Purchase Order number
- UTHSCSA full name; “The University of Texas Health Science Center at San Antonio”
- A valid Texas identification number (TIN) issued by the Comptroller of Public Accounts
- A description of goods and services, in sufficient detail to identify the order which relates to the invoice
- Invoices must agree in all respects with the Purchase Order, (i.e., quantity, price, catalog number, etc.)
- Other relevant information supporting and explaining the payment requested, if necessary.

Failure to submit invoices in accordance with the requirements herein may delay payment. All cash discounts offered will be taken if earned. Cash discount will be calculated from date of receipt of properly submitted invoice. UTHSCSA suggested payment terms are 2%/10 NET 30. UTHSCSA as an Agency of the State of Texas qualifies for exemption from State and Local Sales and Use Taxes. Seller may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. The State of Texas is exempt from all Federal Excise Taxes.
To the extent that Chapter 2251 of the Texas Government Code, as it may be amended from time to time (“Chapter 2251”), is applicable to Seller’s invoice and is not preempted by other applicable law, the Seller may suspend performance under a contract for goods, services or construction, if UTHSCSA as a State entity fails to pay undisputed amounts due under the contract within the time period specified in Chapter 2251.

Seller must give UTHSCSA at least 10 days prior written notice to suspend (the “Suspension Notice”). Notwithstanding any other requirements for notices given by a Seller under this Purchase Order, if Seller intends to deliver written notice to UTHSCSA pursuant to Section 2251.054, Texas Government Code, then Seller shall send that notice to UTHSCSA to the address listed in Subsection 3.34.

3.9 **Contract Amendments**

This Contract may be amended within the Contract period by mutual consent of the parties. No modification or amendment to this Contract shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to this Contract must be forwarded to the UTHSCSA Purchasing Department for prior review and approval. The UTHSCSA reserves the right to add additional signage.

3.10 **Independent Contractor Status**

Seller agrees that Seller and Seller’s employees and agents have no employer-employee relationship with UTHSCSA. UTHSCSA shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation Insurance payments, or any other insurance payments, nor will UTHSCSA furnish any medical or retirement benefits or any paid vacation or sick leave.

3.11 **Compliance with Law**

Seller is aware of, is fully informed about, and in full compliance with its obligations under existing applicable law and regulations, including Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60-250), Rehabilitation Act of 1973, as amended (41 CFR 60-741), Age Discrimination Act of 1975 (42 USC 6101 et seq.), Non-segregated Facilities (41 CFR 60-1), Omnibus Budget Reconciliation Provision, Section 952, Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, Immigration Reform and Control Act of 1986, and Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 96-507), the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), the Civil Rights Act of 1991 and all laws and regulations and executive orders as are applicable.

3.12 **UTHSCSA Right to Audit**

At any time during the term of this Contract and for a period of four (4) years thereafter UTHSCSA or a duly authorized audit representative of UTHSCSA, The University of Texas System, or the State of Texas, at its expense and at reasonable times, reserves the Right to Audit Seller’s records and books relevant to all services provided under this Contract. In the event such an audit by UTHSCSA reveals any errors/overpayments by UTHSCSA, Seller shall refund UTHSCSA the full amount of such overpayments within thirty (30) days of such audit findings, or UTHSCSA, at its option, reserves the right to deduct such amounts owing UTHSCSA from any payments due Seller.
3.13 **Access to Documents**

Seller agrees to allow, during and for a period of not less than four (4) years after the Contract term, access to this Contract and its books, documents, and records; and contracts between Seller and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives.

3.14 **Title and Risk of Loss**

The title and risk of loss of the goods shall not pass to UTHSCSA until UTHSCSA actually receives, takes possession and accepts the goods at the point or points of delivery.

3.15 **Acceptance of Products and Services**

All products furnished and all services performed under this Contract shall be to the satisfaction of UTHSCSA and in accordance with the specifications, terms, and conditions of this Contract. UTHSCSA reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.

3.16 **Sales and Use Tax**

UTHSCSA, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The Seller may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

3.17 **Certificate of Insurance**

Seller shall, prior to commencement of work, provide UTHSCSA with Certificates of Insurance in the below amounts and shall maintain such coverage in effect for the full duration of this Contract.

**General Liability:**
- $1,000,000 Each Occurrence Limit
- $2,000,000 General Aggregate Limit
- $2,000,000 Products/Completed Operations Aggregate Limit
- $1,000,000 Personal & Advertising Injury Limit
- $10,000 Medical Expense (Any One Person)

**Auto Liability:**
- $1,000,000 Combined Single Limit (Each Accident) With Any Autos, Scheduled Autos, Hired Autos and Non-Owned Autos checked.

**Workers' Compensation:**
- Statutory Limits (These are the scheduled benefits paid by the State of Texas)

**Employers' Liability:** (Written on a guaranteed cost insurance policy)
- $1,000,000 Each Accident
- $1,000,000 Disease – Each Employee
- $1,000,000 Disease – Policy Limit

**Errors & Omission Liability Insurance:**
Amount no less than the total value of this Contract; only required when the total value exceeds $500,000.00
Certificates evidencing such coverage must be furnished to UTHSCSA prior to the start of service. The Certificates shall be provided by the Insurance Carrier and name UTHSCSA as holder and additionally insured. Certificates shall not be cancelable without thirty (30) days prior written notice.

For more information regarding insurance requirements, please visit: http://www.utsystem.edu/ogc/docs/constlaw/UGC-SGC.pdf

3.18 Indemnification.

A. To the fullest extent permitted by law, Seller shall and does hereby agree to indemnify, protect, defend with counsel approved by UTHSCSA, and hold harmless UTHSCSA and The University of Texas System, and their respective affiliated enterprises, regents, officers, directors, attorneys, employees, representatives and agents (collectively “Indemnitees”) from and against all damages, losses, liens, causes of action, suits, judgments, expenses (including reasonable attorneys' fees), and other claims of any nature, kind, or description (collectively “Claims”) by any person or entity, arising out of, caused by, or resulting from Seller's performance under this Contract and which are caused in whole or in part by any negligent act, negligent omission or willful misconduct of Seller, anyone directly or indirectly employed by Seller or anyone for whose acts Seller may be liable. The provisions of this Section shall not be construed to eliminate or reduce any other indemnification or right which any Indemnitee has by law.

B. In addition, Seller shall and does hereby agree to indemnify, protect, defend with counsel approved by UTHSCSA, and hold harmless Indemnitees from and against all claims arising from infringement or alleged infringement of any patent, copyright, trademark or other proprietary interest arising by or out of the performance of services or the provision of goods by Seller pursuant to this Contract, or the use by Seller, or by Indemnitees at the direction of Seller, of any article or material; provided, that, upon becoming aware of a suit or threat of suit for such infringement, UTHSCSA shall promptly notify Seller and Seller shall be given full opportunity to negotiate a settlement. Seller does not warrant against infringement by reason of UTHSCSA design of articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, UTHSCSA agrees to cooperate reasonably with Seller and all parties shall be entitled, in connection with any such litigation, to be represented by counsel at their own expense.

C. The indemnities contained herein shall survive the termination of this Contract for any reason whatsoever.

3.19 Force Majeure

Neither UTHSCSA nor the Seller shall be required to perform any term, condition, or covenant of this Contract so long as such performance is delayed or prevented by acts of God, material or labor restriction by any governmental authority, civil riot, floods, hurricanes, or other natural disasters, or any other cause not reasonably within the control of UTHSCSA or Seller, and which by the exercise of due diligence UTHSCSA or the Seller is unable, wholly or in part, to prevent or overcome.

3.20 Other Benefits

It is understood and agreed that no benefits, payments or considerations received by Seller for the performance of services associated with and pertinent to this Contract shall accrue, directly or indirectly, to any employees, elected or appointed officers or representatives, or any other person identified as agents of, or who are by definition an employee of, the State.
3.21 Non-Disclosure

Seller and UTHSCSA acknowledge that they or their employees may, in the performance of this Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, whether or not directly or indirectly affiliated with Seller or UTHSCSA, unless required by law. Each party shall also sign any non-disclosure agreements reasonably required by the other party and obtain such agreements from their representatives and/or employees as necessary.

3.22 Publicity

Seller agrees that it shall not publicize this Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of UTHSCSA employees or patients or use UTHSCSA name in connection with any sales promotion or publicity event without the prior express written approval of UTHSCSA.

3.23 Severability

If one or more provisions of this Contract, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

3.24 Non-Waiver of Defaults

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

3.25 Assignment

Neither this Contract, nor any rights, obligations of moneys due hereunder are assignable or transferable (as security for advances or otherwise) unless agreed to in writing by UTHSCSA. Seller shall not subcontract any portion of services encompassed by this Contract without UTHSCSA prior written approval. UTHSCSA shall not be required to recognize any assignment or subcontract made without its prior written approval, and any such assignment by Seller shall be wholly void and ineffective for all purposes unless made in conformity with this Section.

3.26 Assignment of Overcharge Claims

Seller hereby assigns to UTHSCSA any and all claims for overcharges associated with this Contract arising under the antitrust laws of the United States, 15 U.S.C.A., Sec. 1 et seq. (1973), or arising under the antitrust laws of the State of Texas, Texas Business and Commerce Code Annotated, Sec. 15.01, et seq. (1967).

3.27 Public Information

University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act ("TPIA"), Chapter 552, Texas Government Code. In accordance with Section 552.002 of TPIA and Section 2252.907, Texas Government Code, and at no additional charge to University, Contractor will make any information created or exchanged with University pursuant to the Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by University that is accessible by the public.
3.28 Freedom of Access and Use of Facilities

Seller's employees shall have reasonable and free access to use only those facilities of UTHSCSA that are necessary to perform services under this Contract and shall have no right of access to any other facilities of UTHSCSA.

A. If Seller's employees, agents, and/or subcontractors are performing work on UTHSCSA premises for a period longer than three (3) days or twenty (20) hours, Seller will be subject to UTHSCSA Security Requirements, which will require Seller to perform a security clearance check on each individual.

B. If Seller's employees, agents, and/or subcontractors are performing work on UTHSCSA premises for a period shorter than three (3) days or twenty (20) hours, they must be escorted by a UTHSCSA employee at all times.

3.29 Observance of UTHSCSA Rules and Regulations

Seller agrees that at all times its employees will observe and comply with all regulations of the facilities, including but not limited to, no smoking, consideration for patients and their families, and parking and security regulations.

3.30 Recall Notice

Seller shall, immediately upon discovery of same, advise UTHSCSA of any or all required replacement/modifications to equipment or component part thereof or withdrawal of product by reason of safety hazard or recall regardless of the nature of same. Any verbal notification must be confirmed in writing within twenty-four (24) hours of such verbal notification. All such formal notices will be submitted to the following addresses:

The University of Texas Health Science Center at San Antonio
Attn: Vikki Ross
Senior Director Supply Chain Management
Purchasing Department
Research Administration Building, Room 4.110
North Campus
8403 Floyd Curl Drive
San Antonio, Texas 78229
Tel.: (210) 562-6200 Fax: (210) 562-6290

The University of Texas Health Science Center at San Antonio
Attn: Mike Charlton
Assistant Vice President for Risk Management and Safety
Environmental Health & Safety
7703 Floyd Curl Drive
San Antonio, TX 78229-3900
Tel.: (210) 567-2955 Fax: (210) 567-2965

3.31 Other Liabilities

The individuals signing on behalf of UTHSCSA and the Seller shall not be personally liable for the performance of any of the terms of this Contract, provided however, that they warrant their authority to sign on behalf of UTHSCSA and the Seller. No member, individually or collectively, of UTHSCSA or the Board of Regents of the University of Texas System (“the State”), and no officer or director of the Seller incurs or assumes any individual or personal liability by the execution of this Contract or by reason of default in the performance of any of the terms hereof. All such liability of the employees of the State and officers and directors of the Seller, as such, is released as a condition of and in consideration of the execution of this Contract.
3.32 Section Headings

All section headings are for convenience of reference only and are not intended to define or limit the scope of any provisions of this Contract.

3.33 Execution

This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Contract. It is also agreed that separate counterparts of this Contract may separately be executed by the parties all with the same force and effect as if the same counterpart had been executed by all parties.

3.34 Notices

Any notices required or permitted to be given shall be in writing and effective upon receipt and shall be sent by certified mail, return receipt requested, postage pre-paid, addressed as follows:

- If to Seller, to the Seller's last known mailing address.
- If to UTHSCSA:

  The University of Texas Health Science Center at San Antonio  
  Attn: Vikki Ross  
  Senior Director Supply Chain Management  
  Purchasing Department  
  Research Administration Building, Room 4.110  
  North Campus  
  8403 Floyd Curl Drive  
  San Antonio, Texas 78229  
  Tel.: (210) 562-6200  Fax: (210) 562-6290  

  cc: The University of Texas Health Science Center at San Antonio  
  Attn.: Jack Park  
  Senior Legal Officer  
  7703 Floyd Curl Drive  
  San Antonio, TX 78229-3900

3.35 Governing Law

Bexar County, Texas, shall be the proper place of venue for suit on or in respect of this Contract. This Contract and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by the laws of the State of Texas.

3.36 Dispute Resolution

To the extent that Chapter 2260 of the Texas Government Code, as it may be amended from time to time (“Chapter 2260”), is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by UTHSCSA and Seller to attempt to resolve any claim for breach of contract made by Seller:

- Seller's claims for breach of this Contract that the parties cannot resolve pursuant to other provisions of this Contract or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Seller shall submit written notice, as required by subchapter B of Chapter 2260, to UTHSCSA in accordance with the notice provisions in this Contract. Seller's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific Contract provision that UTHSCSA allegedly breached, the amount of damages Seller seeks, and the method used to calculate the damages. Compliance by Seller with subchapter B of Chapter 2260 is required prerequisite to
Seller’s filing of a contested case proceeding under subchapter C of Chapter 2260. UTHSCSA Vice President for Business and Administration, or such other officer of UTHSCSA as may be designated from time to time by UTHSCSA by written notice thereof to Seller in accordance with the notice provisions in this Contract, shall examine Seller’s claim and any counterclaim and negotiate with Seller in an effort to resolve such claims.

- If the parties are unable to resolve their disputes under subparagraph (A) of this section, the contested case process provided in subchapter C of Chapter 2260 is Seller’s sole and exclusive process for seeking a remedy for any and all of Seller’s claims for breach of this Contract by UTHSCSA.
- Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Contract by UTHSCSA nor any other conduct, action, or inaction of any representative of UTHSCSA relating to this Contract constitutes or is intended to constitute a waiver of UTHSCSA or the state’s sovereign immunity to suit and (ii) UTHSCSA has not waived its right to seek redress in the courts.

The submission, processing, and resolution of Seller’s claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

UTHSCSA and Seller agree that any periods set forth in this Contract for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.

3.37 Access by Individuals with Disabilities

Seller represents and warrants (“EIR Accessibility Warranty”) that the electronic and information resources and all associated information, documentation, and support that it provides to UTHSCSA under this Contract (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, Rule 206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code.) To the extent Seller becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Seller represents and warrants that it will, at no cost to UTHSCSA, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy their Accessibility Warranty. In the event that Seller is unable to do so, then UTHSCSA may terminate this Contract and Seller will refund to UTHSCSA all amounts UTHSCSA has paid under this Contract within thirty (30) days after the termination date.

3.38 Acknowledgment of HIPAA Obligation and Other Regulations Implementing the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320(d) (“HIPAA”)

To the extent Seller comes into contact with information considered Individually Identifiable Health Information as defined by 42 U.S.C. §1320(d), Protected Health Information or Electronic Protected Health Information (collectively known as “Protected Information”) as regulated by the Department of Health and Human Services (DHHS) through the adoption of standards, 45 CFR Parts 160 and 164 (Privacy Rule) and 45 CFR Parts 160, 162 and 164 (Security Rule), collectively referred to as “the HIPAA Rules,” Seller agrees to keep private and to secure any information considered Protected Information in accordance with federal law.

A. Seller agrees to only use and disclose Protected Information as required to perform the services outlined in this Agreement. Seller may use and disclose Protected Information for the proper management and administration of the Seller’s operations and for data aggregation services to the extent permitted by the HIPAA Rules.

B. Seller will not use or further disclose Protected Information other than as permitted or required under this Agreement or as required by law.
C. Seller will use appropriate safeguards to prevent the use or disclosure of Protected Information for any reason other than as provided by this Agreement. Seller shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Information that it creates, receives, maintains or transmits on behalf of UTHSCSA.

D. Seller agrees to promptly notify UTHSCSA of any use or disclosure of Protected Information not provided for in this Agreement of which it becomes aware. Contactor shall report to UTHSCSA any instances, including security incidents, of which it is aware in which Protected Information is used or disclosed for a purpose that is not otherwise provided for in this Agreement or for a purpose not expressly permitted by the HIPAA Rules.

E. Seller shall require any agents or subcontractors who receive Protected Information to be bound by the same restrictions and conditions outlined in this Agreement. Additionally, Seller shall ensure that any agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity and availability of electronic Protected Information that Seller creates, receives, maintains, or transmits on behalf of UTHSCSA.

F. To the extent it is determined Seller maintains a Designated Record Set, Seller agrees to follow 45 CFR §164.524 (Access of Individuals to PHI), 164.526 (Amendment of PHI) and 164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Rules.

G. Seller agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from UTHSCSA available to the Secretary of Health and Human Services or the Secretary’s designee for purposes of determining UTHSCSA compliance with the HIPAA Privacy Regulations.

H. After completion and/or termination of this Contract, Seller agrees to return or destroy all Protected Information, if feasible, and, if not feasible, Seller agrees to continue to protect the Protected Information from wrongful uses and disclosures.

I. Seller understands that UTHSCSA may terminate this Contract immediately if UTHSCSA determines Seller violated a material term of this Contract and Seller’s actions are not successful in remedying the breach. If termination is not feasible UTHSCSA may report the problem to the Secretary of Health and Human Services.

J. Seller may use and disclose de-identified Protected Information if UTHSCSA approves of the use of de-identified Protected Information and the Protected Information is de-identified in compliance with the HIPAA Rules.

K. Seller shall ensure that all uses and disclosures of Protected Information are subject to the principle of "minimum necessary use and disclosure," i.e., that only Protected Information that is the minimum necessary to accomplish the intended purpose of the use, or disclosure is used or disclosed.
3.39 EEOC and Veterans.

This contractor and subcontractor shall abide by 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.
SECTION 4
SPECIFICATIONS

4.1 General

Bidder shall provide all Supervision, Labor, Material and Equipment for a METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM, as per the drawings and specifications by UTHSCSA dated, 07/10/2015.

4.2 Minimum Requirements

EXPERIENCE: Bidder shall have a minimum of FIVE (5) YEARS EXPERIENCE in projects of similar size and scope.

SECURITY (Bid Bond): Each Bid shall be accompanied by a certified check, cashier’s check or Bid bond, issued by a surety company authorized to do business in Texas, in the amount of 5% of the total amount of Proposal. Said check or Bid bond shall be made payable to and shall revert to the University of Texas Health Science Center at San Antonio in the event the successful contractor shall fail to execute the contract within ten (10) days after receipt of the contract for execution. The Owner reserves the right to retain the Bid Security of the "best value" Contractor until the "best value" Contractor enters into the Contract. The second "best value" Contractors Bid Security may also be held until the first "best value" Contractor enters into a contract or until 60 days after Proposals opening, whichever is shorter. All other Bid Security will be returned as soon as practicable. If a Contractor refuses to enter into a Contract, Owner will retain his Bid Security as Liquidated Damages but, not as a penalty. Enclose Bid Security in the same envelope as the RFB.

PAYMENT BOND: The successful contractor shall furnish a payment bond in the amount of one hundred percent (100%) of the project price. The bond must be issued by one or more corporate sureties qualified to do business in the State of Texas and acceptable to the Owner.

PERFORMANCE BOND: The successful contractor shall furnish a performance bond in the amount of one hundred percent (100%) of the project price condition upon the faithful performance of the contract. The bond must be issued by one or more corporate sureties qualified to do business in the State of Texas and acceptable to the Owner. Said bond shall be solely for the protection of the State of Texas.

Contractor shall be responsible for FIELD VERIFICATIONS as required, prior to ordering material.

Contractor & employees thereof, shall take any applicable SAFETY TRAINING prior to performing all work. Safety Training is conducted free of charge by UTHSCSA.

If applicable, Materials and Equipment shall be mobilized after 5:00 pm, Monday through Friday, on Saturday and Sunday, or at the discretion of UTHSCSA. Crane lifts may require weekend work if the UTHSCSA is unable to clear an area during standard working hours.

Contractor shall complete all work per the latest revision of the following:

1. Drawings and Specifications as referenced in this RFB 745-15-9894;
2. 2013 Uniform General and Supplementary General Conditions for the University of Texas System: [http://www.utsystem.edu/ogc/docs/constlaw/UGC-SGC.pdf](http://www.utsystem.edu/ogc/docs/constlaw/UGC-SGC.pdf)
4. UTHSCSA Facilities Management General Conditions; [www.uthscsa.edu/facilities/purch-bids.asp](http://www.uthscsa.edu/facilities/purch-bids.asp)
4.3 Specifications / Scope of Work

Contractor shall provide a **METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM**, as per drawings and specifications by UTHSCSA, dated 07/10/2015.

4.4 Delivery

A. All products shall be delivered F.O.B. Destination, Full Freight Allowed and not invoiced, Title passes upon delivery. Seller is responsible for all freight costs.

B. In no event shall product substitutions or changes be permitted without the express written authorization of the UTHSCSA Purchasing Department. All such authorization shall be in the form of a Purchase Order Change Order.

C. Failure of the Seller to notify UTHSCSA sufficiently in advance of inability to complete shipment within the delivery schedule, shall grant UTHSCSA the option of canceling the order, purchasing from the best available source, and charging the Seller the difference between the Contract price and actual purchase, if any, plus cost of handling.

4.5 Warranty

In addition to the warranties set forth per the attached UTHSCSA Standard Terms and Conditions, Seller warrants all items against defects in materials, workmanship and quality.

A. Seller agrees to repair or replace all defective equipment, or component thereof, promptly without any additional cost to UTHSCSA, excepting those failures attributable due to accident, fire, or negligence on the part of UTHSCSA.

B. For purchased equipment, all components and accessories shall carry, at the minimum, a one (1) year on-site warranty.

C. UTHSCSA requires that warranty coverage shall not commence until thirty (30) calendar days from the acceptance of goods.

D. Warranty service will be performed on a on-site basis at UTHSCSA's campus during the work hours stated in Subsection 4.2.

4.6 Miscellaneous Provisions

A. Authorized Dealers

Seller must be authorized by an agreement signed between the Seller and the Manufacturer, qualified and have the authority to:

- Sell "new" equipment per Contract Law
- Pass the Manufacturer's warranty through the Dealer to UTHSCSA
- Sell the Manufacturer's extended warranty contracts

B. Personnel

Seller shall maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Contract. In addition to other duties imposed by these Specifications, the Project Superintendent shall meet the following requirements: Show evidence of completion of at least five (5) previously completed jobs of similar size, complexity and construction cost in the Proposal.
Show proficiency prior to the start of the Work that the Superintendent is fluent in the English language, or if not, provide a competent and approved interpreter for such purposes. The purpose of this clause is to assure adequate communications with all parties involved in the work.

The Contractor's Project Superintendent may not be the superintendent of a subcontractor.

The Project Superintendent shall be present at the project site at all times that any work of this contract is underway. In the case that the Project Superintendent must be away from the project site the Contractor shall first file written documentation of the absence with the ODR at least 48-hours in advance of the new replacement. The replacement, or acting Project Superintendent, shall meet the minimum requirements defined above and elsewhere in the Specifications for the Project Superintendent. The only exception to this shall be when the Contractor, defined as an officer of the company, shall be permitted to act as the Project Superintendent. A majority owner of the contracting company may act as the Project Superintendent for the entirety or any part of the project.

Work shall not be performed, and no subcontractors shall be permitted to Work, at any time when the Project Superintendent is not present.

The Contractor’s Superintendent may not be a “working” superintendent. It is the position of the Owner that the Project Superintendent must be a supervising person, present at the site at all times, and dedicating his full attention to supervision of the Work and Contractor’s forces. Performing actual installation tasks takes away from such attention and leads to more problems than are necessary.

The Project Superintendent shall furnish proof of attendance to a ten (10 hour OSHA Safety training class.

University of Texas Uniform General Conditions, Supplementary General Conditions, and Special Conditions apply with equal force to the General Contractor, Subcontractors, Work, extra Work, and the like, as may be specified herein or performed in or about the building or site under this Contract.

Contractor shall be responsible for furnishing trash dumpsters, recycling bins, portable potty’s, temporary security fencing, temporary air-tight partitions temporary fire protection, etc., as may be required to carry out demolition and roofing operations.

Construction-related access to the site shall be via the designated entrance at each location. It shall be the responsibility of the Contractor to prevent damage to the existing paving and building systems and to repair any and all damages. Any loss or damage to the Owner’s property caused by the Contractor or his forces shall be repaired or replaced at no cost to the Owner. Grounds shall be restored to their original condition at the completion of the Project. Remove all fences, barricades, etc. Replace all vegetation damaged by demolition operations, including grass, shrubs, and trees, to the satisfaction of the Owner.

The Contractor shall remove trash and rubbish from the Owner’s premises at the end of each work day. This shall mean that these materials shall be cleaned from the grounds and shall not be left in areas or locations other than containers specified for this purpose. Burning of combustibles or trash is not allowed.

The Contractor agrees to cooperate and Work with the Owner to protect and limit exposure of students and employees from exposure to construction traffic, noise, and other elements which may prove disruptive or dangerous.
All Contractor personnel are required to undergo a security check and receive an identification badge by UTHSCSA Police. Any worker that does not pass the security check will not be allowed on the campus. A nominal fee of $10.00 per person shall be paid by the Contractor to Campus Police for the security check and badge.
SECTION 5
BIDDER’S AFFIRMATION
RFB NO.: 745-15-9894

THIS SHEET MUST BE COMPLETED, SIGNED, AND RETURNED WITH BIDDER’S BID. FAILURE TO SIGN AND RETURN THIS SHEET WILL RESULT IN THE REJECTION OF YOUR BID.

5.0 BIDDER AFFIRMATIONS:

5.1 By signature hereon, Bidder represents and warrants the following:

5.1.1 Bidder acknowledges and agrees that (1) this RFB is a solicitation for a bid and is not a contract or an offer to contract; (2) the submission of a bid by Bidder in response to this RFB will not create a contract between University and Bidder; (3) University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFB; and (4) Bidder will bear, as its sole risk and responsibility, any cost arising from Bidder’s preparation of a response to this RFB.

5.1.2 Bidder is a reputable company that is lawfully and regularly engaged in providing the Services.

5.1.3 Bidder has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.

5.1.4 Bidder is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.

5.1.5 Bidder understands (i) the requirements and specifications set forth in this RFB and (ii) the terms and conditions set forth in Section 4 of this RFB, under which Bidder will be required to operate.

5.1.6 If selected by University, Bidder will not delegate any of its duties or responsibilities under this RFB or the Agreement to any sub-contractor, except as expressly provided in the Agreement.

5.1.7 If selected by University, Bidder will maintain any insurance coverage as required by the Agreement during the term thereof.

5.1.8 All statements, information and representations prepared and submitted in response to this RFB are current, complete, true and accurate. Bidder acknowledges that University will rely on such statements, information and representations in selecting Contractor. If selected by University, Bidder will notify University immediately of any material change in any matters with regard to which Bidder has made a statement or representation or provided information.

5.1.9 Bidder will defend with counsel approved by University, indemnify, and hold harmless University, the University of Texas System, the State of Texas, and all of their regents, officers, agents and employees, from and against all actions, suits, demands, costs, damages, liabilities and other claims of any nature, kind or description, including reasonable attorneys' fees incurred in investigating, defending or settling any of the foregoing, arising out of, connected with, or resulting from any negligent acts or omissions or willful misconduct of Bidder or any agent, employee, subcontractor, or supplier of Bidder in the execution or performance of any contract or agreement resulting from this RFB.

5.1.10 Pursuant to Sections 2107.008 and 2252.903, Government Code, any payments owing to Bidder under any contract or agreement resulting from this RFB may be applied directly to any debt or delinquency that Bidder owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

5.2 By signature hereon, Bidder offers and agrees to furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFB.

5.3 By signature hereon, Bidder affirms that it has not given or offered to give, nor does Bidder intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted bid. Failure to sign this Bidder Affirmation, or signing with a false statement, may void the submitted bid or any resulting contracts, and the Bidder may be removed from all bid lists at University.

5.4 By signature hereon, Bidder certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, Tax Code, or that Bidder is exempt from the payment of those taxes, or that Bidder is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University’s option, may result in termination of any resulting contract or agreement.
5.5 By signature hereon, Bidder hereby certifies that neither Bidder nor any firm, corporation, partnership or institution represented by Bidder, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

5.6 By signature hereon, Bidder certifies that the individual signing this document and the documents made a part of this RFB, is authorized to sign such documents on behalf of Bidder and to bind Bidder under any agreements and other contractual arrangements that may result from the submission of Bidder’s bid.

5.7 By signature hereon, Bidder certifies as follows:

"Under Section 231.006, Family Code, relating to child support, Bidder certifies that the individual or business entity named in the Bidder’s bid is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFB may be terminated if this certification is inaccurate.”

5.8 By signature hereon, Bidder certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Bidder that is a sole proprietorship, the officers or directors of any Bidder that is a corporation, the partners of any Bidder that is a partnership, the joint venturers of any Bidder that is a joint venture or the members or managers of any Bidder that is a limited liability company, on one hand, and an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to University in writing; (ii) Bidder has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Bidder's bid or any contract resulting from this RFB (ref. Section 669.003, Government Code). All disclosures by Bidder in connection with this certification will be subject to administrative review and approval before University enters into a contract or agreement with Bidder.

5.9 By signature hereon, Bidder certifies that in accordance with Section 2155.004, Government Code, no compensation has been received for its participation in the preparation of the requirements or specifications for this RFB. In addition, Bidder certifies that an award of a contract to Bidder will not violate Section 2155.006, Government Code, prohibiting University from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, Government Code, Bidder certifies that Bidder is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.

5.10 By signature hereon, Bidder certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

5.11 By signature hereon, Bidder represents and warrants that all products and services offered to University in response to this RFB meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the Texas Hazard Communication Act, Chapter 502, Health and Safety Code, and all related regulations in effect or proposed as of the date of this RFB.

5.12 Bidder will and has disclosed, as part of its bid, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time University makes an award or enters into any contract or agreement with Bidder.

5.13 If Bidder will sell or lease computer equipment to the University under any agreements or other contractual arrangements that may result from the submission of Bidder’s bid then, pursuant to Section 361.952(2), Health & Safety Code, Bidder certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, Health & Safety Code and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, Texas Administrative Code. Section 361.952(2), Health & Safety Code states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term “computer equipment” means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

5.14 Bidder should complete the following information:

If Bidder is a Corporation, then State of Incorporation: ____________________________

If Bidder is a Corporation then Bidder’s Corporate Charter Number: ______

RFB No.: 745-15-9894
NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submitted and Certified By:

(Bidder Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Bidder's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)
SECTION 6

PRICING AND DELIVERY SCHEDULE

Bid of: ______________________________

(Company Name)

To: The University of Texas Health Science Center at San Antonio

Ref.: METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM

RFB No.: 745-15-9842

Gentleman:

Having carefully examined all the specifications and requirements of this RFB and any attachments thereto, the undersigned proposes to furnish a METAL CLAD SWITCHGEAR AND POWER CONTROL ROOM as required per the aforementioned documents at the below quoted terms.

6.1 Pricing Schedule

Bidder shall quote the following Pricing Schedule in accordance with the Specification, reference Section 4.

$_____________________________________________________________Lump Sum

6.2 Delivery Schedule

Bidder agrees to mobilize with _________ calendar days after Notice to Proceed.

Bidder agrees to deliver a complete project within _________ calendar days after Notice to Proceed.

6.3 Payment Terms and Invoicing

UTHSCSA suggested payment terms are NET 30.

Bidder may offer additional payment term options and discounts for UTHSCSA to consider.
6.4 Addenda Checklist

Receipt is hereby acknowledged of the following addenda to this RFB. (initial if applicable)

No. 1 _____  No. 2 _____  No. 3 _____  No. 4 _____

Respectfully submitted,

By: _____________________________
   (Authorized Signature)

Date: ___________________________
SECTION 7
BIDDER’S QUESTIONNAIRE

Bidders are requested to submit a complete response to each of the below listed items. Responses requiring additional space should be brief and submitted as an attachment to your bid package. Please reference each response by its item number indicated below, reference Subsection 2.2, Paragraph C.

**Company Profile**

1. Number of years in Business: __________
   Number of Employees: __________
   Annual Sales Volume: __________

2. State that you will provide a copy of your company's financial statements for the past two (2) years, if requested by UTHSCSA.

3. Provide a Financial rating of your company and any documentation (such as a Dunn and Bradstreet analysis) which indicates the financial stability of your company.

4. Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.

5. Provide any details of all past or pending litigation or claims filed against your company that would affect your company's performance under a Contract with UTHSCSA.

6. Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If yes, specify date(s), details, circumstances, and prospects for resolution.

7. Provide a customer reference list of no less than three (3) organizations with whom Bidder currently has contracts with and/or has previously fabricated and installed signage of equal type and scope within the past five (5) years. Reference list to include, company name, contact person, and telephone number, description of products and services provided, and length of business relationship.

8. Does any relationship exist whether by relative, business associate, capital funding agreement or any other such kinship exist between your company and any UTHSCSA employee?, if yes, please explain.

**General Requirements**

9. What difficulties do you anticipate in serving UTHSCSA and how do you plan to manage these? What assistance will you require from UTHSCSA?

**Service Support and Warranty**

10. Describe your company’s service support service philosophy, how is it carried out, and how success in keeping this philosophy is measured.

11. Provide a list, description, and scope of all extended manufacturer’s warranties and their annual cost beyond the one year on-site warranty required herein.
12. Provide a schedule of your on-site service hours and the response time, both verbally and physically.

13. Does your company's products/services require any preventative maintenance? If so, please describe the frequency, scope and cost.

Quality Assurance

14. Describe your company's quality assurance program, what is your company's requirements, and how are they measured.

Added Value

15. Provide a list of any services not specified in the RFB that your company will provide to UTHSCSA.

16. Provide details regarding any special services/benefits offered or advantages in UTHSCSA selecting your company.

Schedule

17. Provide a detailed schedule for the Design Phase.

18. Provide a detailed schedule for the Manufacturing Phase.

19. Provide a detailed schedule for the Delivery and Installation Phase.