

Terms and Conditions of NLHBA Group Purchasing Request For Quotation (Revised June 2007)

The following Standard Terms and Conditions apply to Request for Quotation (RFQ) invitations for goods and services issued by the Newfoundland and Labrador Health Boards Association (NLHBA), unless otherwise specified in the RFQ documents. Specific terms and conditions in the RFQ documents shall take precedence over these standard Terms and Conditions. Failure to abide by these Terms and Conditions may result in disqualification of a bid or cancellation of a contract. NLHBA will be the judge as to whether a bid complies with these Terms and Conditions and a decision to reject a bid for non-compliance will be final.

1. ACCEPTANCE

1. Any tender may be rejected or accepted in whole or in part and the NLHBA reserves the right to accept any part of any bid as deemed to be in the best interests of its members.
2. The lowest or any tender will not necessarily be accepted.
3. Offers shall remain open for acceptance for a period of not less than 90 days from closing date of tender.
4. Bids received after the closing date and time will not be accepted.
5. All required information must be provided in the appropriate space(s).
6. Any bid that contains qualifications or conditions that are contrary to, or inconsistent with, the tender documents may be rejected at the discretion of the NLHBA.
7. The NLHBA is subject to the Public Tender Act and cannot guarantee the confidentiality of the contents of any bid after opening.
8. The NLHBA will be the only official source of information regarding this tender and information from any other source shall be considered unofficial and may not be correct. Information, offers or commitments from any other source shall not be binding on the NLHBA.

2. PRICES

1. Bidders must submit only one (1) price per item per tender. Other prices may be submitted for alternate products on separate bids, however, only one (1) price per item.
2. The bid price(s) must be fixed for the duration of the contract period. Failure to fulfill a contract on the part of a vendor may result in that vendor being prevented the opportunity to re-bid that contract for a period of one (1) year.
3. Prices quoted must be FOB participating member organizations and include packing, cartage, and loading charges. All levies and other duties must be included in bid price.
4. Prices quoted must be HST/GST exempt and in Canadian funds.
5. Prices quoted should be net of all rebates, discounts or promotions. Any rebates discounts or promotions offered will not be considered when comparing pricing for the purpose of awarding tenders, and will only be taken into consideration for tie-breaking purposes. Bids containing clauses additional to the invitation that are "qualified" or "conditional" may be rejected.

3. PRODUCTS

1. All offered products must be fully described by brand name of manufacturer and product code.
2. Bidders are responsible for indicating products that are latex free and scent free. Where applicable, preference will be given to latex-free and scent-free products. Latex content in packaging must be considered when indicating a product is latex free.

4. QUANTITIES

1. Quantities stated are annual estimated volume only.
2. Any member may participate in the group contract provided the vendor is given a 30-day notice.

5. SUBSTITUTIONS/EQUIVALENTS/PRICE PROTECTION/PRICE DIFFERENTIALS

1. During the term of a contract, no product will be substituted for another without the mutual agreement of both parties.
2. In the event of substitution, the price of the replacement item shall not exceed the price of the original bid.
3. In the event that the vendor is unable to supply a contracted item or approved substitute during the term of a contract, that vendor will be responsible to pay the price differential between the bid price and the price paid to an alternate vendor.
4. The specifications in the invitation define the minimum acceptable goods and/or services required. Minor deviations from the specifications may or may not be permitted at the sole discretion of the NLHBA.

We hereby offer to sell or supply to the NLHBA Group upon the terms and conditions set out herein, the supplies or services listed and on any attached sheets at the price(s) quoted.

Date

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6. DELIVERY

- 1. Deliveries must be made in accordance with dates stated on members' Purchase Order, notwithstanding the location of the purchaser and documentation must state purchase order number.
- 2. All shipments must be properly packed to avoid damage, spoilage or temperature extremes.
- 3. Minimum order amount should be stated and must not exceed \$500 to any organization.

7. INVOICING

- 1. Invoices will be submitted directly to each participating member organization, not the NLHBA.

8. WARRANTY

- 1. The vendor guarantees all equipment, materials, workmanship, and labourers' liens.
- 2. The vendor warrants title to commodities supplied and warrants them free from defects and/or imperfections, and will indemnify and hold purchaser harmless against any or all suits, claims, demands, and/or expenses, patent, litigation infringement, or any claim by third parties in or to the commodities mentioned and supplied by him.

9. INSPECTION

- 1. All goods delivered are subject to inspection and test within a reasonable time after delivery at purchaser's premises.

10. RETURNS

- 1. In the event of a defective product, the member reserves the right to return it to the vendor, for full credit.
- 2. Claims for either shortages or damaged merchandise will be submitted to vendor within thirty (30) days of invoice.

11. CONTRACT REVIEW AND TERMINATION

- 1. Contracts will be subject to review, re-tender, renegotiations, or termination for just cause in the event of:
 - i. unauthorized price increase;
 - ii. prolonged interruption of supply availability;
 - iii. marked deterioration in the quality of supply, sales, and technical representation.
- 2. Notwithstanding Section 11.1, the Group reserves the right to open a contract for a particular product or class of products at a time when a product (pharmaceutical) manufactured by a single source becomes multi-source and market change(s) dictate that the Group contract is no longer comparable to the new market condition.

12. NEW TECHNOLOGY

- 1. Product innovations with inventive and seemingly superior qualities to those products being used by the purchaser, which were not offered in Canada at the time of signing of a contract but are subsequently offered by any vendor, will be referred to as New Technology.
- 2. The Group reserves the right, during the term of any contract, to evaluate such New Technology for a period not to exceed four (4) months. Following such evaluation, and should the members determine that the new product provides improved therapeutic benefit, the Group reserves the right to re-open the applicable contract(s).

13. COMPLIANCE WITH LAWS

- 1. The vendor shall be responsible for complying with all Federal, Provincial, and Municipal laws, rules and regulations applicable to the sale of the contracted material.

14. PRODUCT EVALUATIONS

- 1. Samples of items, when required, must be provided at least 21 days prior to contract awarding date.
- 2. No contract shall be awarded unless:
 - i. the product has been previously used and deemed to be satisfactory; or
 - ii. the product has been evaluated and found to be satisfactory prior to submission of quotes; or
 - iii. the product has been evaluated and found to be satisfactory prior to award of any contract to purchase.
- 3. Within member organizations there are various methods and processes of product testing, and in this regard the following conditions will apply:
 - i. vendors must e-mail notification to Materials Management (current contact information may be found under the "View Reports" section of the GPOTS website), to notify of their intention to send samples. This e-mail must be sent at least 30 calendar days before the contract awards meeting;
 - ii. samples must not be sent until instruction is received from Materials Management as to who should receive the samples and to what address they should be sent;

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- iii. vendors may not send samples of products that are not being used by a particular board;
- iv. all product information and samples must be supplied for product evaluation 21 days prior to the contract awards meeting;
- v. vendors not meeting these timelines risk the members' refusal to evaluate;
- vi. all samples must be labeled with the NLHBA ten-digit contract number, as well as vendor catalogue number and brand. Where possible, packaging should be included as part of the sample;
- vii. potential suppliers to the Group have a responsibility to market their products following the public release of tender information, should their bids appear favourable;
- viii. failure to provide product information or supply products in time for evaluation will result in disqualification of the appropriate bids.

15. TENDER EVALUATION/ RIGHT TO CLARIFY

- 1. All tenders are called under the Province of Newfoundland & Labrador Public Tender Act. Bidders may obtain a copy of this legislation by contacting The Office of the Queen's Printer Department of Government Services, PO Box 8700, St. John's NL A1B 4J6
- 2. With regards to contracts for pharmaceutical products, the costs associated with calibration of tablet canisters for the Automatic Tablet Counters, will be considered in determining the lowest qualified bid.
- 3. The NLHBA reserves the right to waive minor non-compliance where such non-compliance is not of a material nature in its sole and absolute discretion. Such minor non-compliance will be deemed substantial compliance and capable of acceptance. The NLHBA will be the sole judge of whether a bid is accepted or rejected.
- 4. The NLHBA will assume that all bidders have resolved any questions they might have about the invitation and have informed themselves as to existing conditions and limitations before submitting their bids.
- 5. The NLHBA reserves the right, in its sole discretion, to clarify any bid after closing by seeking further information from that bidder, without becoming obligated to clarify or seek further information from any or all other bidders. However, bidders are cautioned that any clarifications sought will not be an opportunity to either correct errors or change their bids in any substantive manner.

16. RELEASE OF INFORMATION

- 1. Transaction Reports (Bid Information) - will be made available for 90 days following the tender closing date.
- 2. Contract Award Information - will be made available for 90 days following the Group awarding.
- 3. No tender/award information will be issued other than in the time frames indicated in Clauses 16.1 and 16.2.

17. FACSIMILE BIDS

- 1. Facsimile bids will be accepted only if they provide all required information and are submitted on the Group's standard form. This form can only be obtained by contacting the NLHBA Group Purchasing Department.
- 2. The NLHBA will not be held liable for any damages incurred by companies who submit their bids by facsimile.
- 3. Companies submitting bids by facsimile do so at their own risk, since pricing and relevant information may be visible to others.
- 4. Facsimile bids must be received before tender closing date. The bidder is responsible for ensuring that the facsimile bid is at the public opening as the NLHBA does not accept responsibility for same. The receipt time stated on the facsimile bid does not constitute the actual receipt of a tender in that it is the responsibility of the company placing the bid to have the bid at the public opening. The NLHBA will not be responsible for in-house courier service.

18. CONTRACT CONSIGNMENT

- 1. No contract shall be consigned to an alternate party without the written consent of the NLHBA Group Purchasing Program.

19. PAST PREFERENCE

- 1. The NLHBA may reject, without further explanation, the bid of any vendor who has prematurely terminated a contract or who has had a contract terminated for cause in the past twelve (12) months.

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20. CANCELLATION; NO AWARD

1. Invitations may be cancelled, in whole or in part, without penalty, when a) the price bid exceeds the funds allocated for the purchase; b) there has been a substantial change in the requirements after the invitation has been issued; c) information has been received by the NLHBA after the invitation has been issued that the NLHBA feels has substantially altered the procurement; d) there was insufficient competition in order to provide the level of service, quality of goods or pricing required; or e) the NLHBA considers that there is good reason to cancel the invitation.
2. If no compliant bids are received in response to an invitation, the NLHBA reserves the right to enter into negotiations with one or more vendors in order to complete the procurement.
3. The NLHBA will be the sole judge of whether there is sufficient justification to cancel the invitation.
4. No action or liability will lie or reside against the NLHBA or its members in its exercise of its rights under this section.

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