



Sound Beach Volunteer Fire Department, Inc.

207 Sound Beach Ave.
Old Greenwich, CT 06870

Non-Emergency: (203) 637-1806

Emergency Dial 911

www.soundbeachfire.org

Alan Yantorno, District Chief

Invitation to Bid

Specifications and Bid Documents Attached

GENERAL INFORMATION

Bid Number: **2008-002**

Title: **Biosystems MultiPro Gas Meters**

Date Issued: **Thursday, October 9, 2008**

Bid Opening Date and Time: **Monday, November 10, 2008 6:30 PM EST**

Questions regarding this Invitation to Bid must be received no later than **Monday, November 3, 2008 5:00 PM EST**. Answers to questions received will be added to this Invitation to Bid as an addendum.

PURCHASING CONTACT	RETURN THE <u>ORIGINAL</u> AND <u>ONE COPY</u> OF YOUR BID TO:
<p>T. John Cunningham, Assistant Fire Chief (203) 280-1026 jcunningham@soundbeachfire.org</p> <p><i>Please E-Mail all questions regarding this Invitation to Bid to the E-Mail address above.</i></p>	<p>Sound Beach Volunteer Fire Department, Inc. Attn: District Chief Alan Yantorno P.O. Box 391 Old Greenwich, CT 06870</p> <p><i>The following information must appear in the lower left hand corner of the envelope:</i></p> <p>Bid No.: 2008-002 Not to be opened until Monday, November 10, 2008 6:30 PM EST</p>

Open To: **This Invitation to Bid is open to all qualified bidders.**

Set Aside: **There is no set aside for this bid.**

BIDDER INFORMATION AND AGREEMENT SECTION

Complete Bidder Name (Trade Name, Doing Business As):		SSN or FEIN Number	
Bidder Street Address	City	State	Zip Code
Contact Name (Typed or Printed)	Telephone Number	Fax Number	
Contact E-Mail Address			
Business Type			
<input type="checkbox"/> Proprietorship (Individual) <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Government Agency <input type="checkbox"/> Other (_____) State Incorporated / Registered In: _____			
Number of Years in Business	Number of Years at Location	Previous Business Name(s)	
Are you a State of CT DAS certified Set-Aside Business?			
<input type="checkbox"/> Yes (copy of certification attached) <input type="checkbox"/> No			
Are you a registered federal contractor as any of the following (check all that apply):			
<input type="checkbox"/> Woman-Owned Business <input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Veteran-Owned Business <input type="checkbox"/> Service-Disabled-Veteran-Owned Business <input type="checkbox"/> Disadvantaged Business <input type="checkbox"/> Hubzone Small Business <input type="checkbox"/> Other			
<i>A copy of your certification must be attached.</i>			
Is your business reportable to the IRS?			
<input type="checkbox"/> Yes (1099/W2 will be mailed to you at year end) <input type="checkbox"/> No			
AFFIRMATION OF BIDDER: The undersigned bidder affirms and declares:			
1. That all the information supplied in this BID has been examined by me and is complete, true, and correct 2. That this BID is executed and signed by said bidder with full knowledge and acceptance of the provisions as outlined in this Invitation to Bid, of current issue and in effect on the date of bid issue. 3. That should any part of this Bid be accepted in writing by the Sound Beach Volunteer Fire Department, Inc. (SBVFD) within thirty (30) calendar days from the date of bid opening (<i>unless an earlier date for acceptance is specified by bidder in BID Schedule</i>), said bidder will furnish and deliver the commodities and/or services for which this bid is made, in the quantities and at the prices bid, and in compliance with the provisions as outlined in this BID. Should award of any part of this BID be delayed beyond the time indicated, such award shall be conditioned upon bidder's acceptance. 4. Acceptance of the conditions set forth herein, agreement in strict accordance therewith, and will furnish and deliver the commodities and/or services to SBVFD in the Bid Schedule at the prices bid therein.			
Printed Name of Authorized Person	Signature of Authorized Person	Date Executed	

BIDDER REFERNCES SECTION

This form will be used in assessing a Bidder's qualifications and to determine if the bid submitted is from a responsible, qualified bidder. Factors such as past performance, financial stability, integrity of the bidder, conformity to the specifications, etc. will be used in evaluating bids. Attach additional sheets, if necessary.

List at least **three completed projects similar** in nature to this Invitation to Bid that demonstrates **your** business's ability to perform the requirements of this bid. **Do not list subcontractor projects.**

Description of Project / Award (including dollar amount)	Date(s) of Project	Agency	Contact Information

List any relevant certifications, licenses, registration, etc. that qualify your business to meet the requirements of this bid.

OSHA COMPLIANCE SECTION

The _____
Name of Bidder's Business, Firm, Organization or Corporation

HAS HAS NOT

been cited for three (3) or more willful or serious violations of any Occupational Safety and Health Act (OSHA) or of any standard, order or regulation promulgated pursuant to such act, during the last three (3) year period preceding the bid, provided such violations were cited in accordance with the provision of any State Occupational Safety and Health Act of 1970, and not abated within the time fixed by the citation and such citation has not been set aside following appeal to the appropriate agency of court having jurisdiction or received one or more criminal convictions related to the injury or death of any employee in the three (3) year period proceeding this bid.

Copies of violations attached None received

BIDDER DEBARMENT AND/OR SUSPENSION SECTION

Has the bidder, any company official, or any subcontractor to the bidder, received any notices of debarment and/or suspension from contracting with *the Sound Beach Volunteer Fire Department, Inc., the Town of Greenwich, CT, the State of Connecticut, the Federal Government or any other governmental agency?*

YES No

If the abovesigned bidder, any company official or any subcontractor to the bidder **has** received notices of debarment and/or suspension from contracting with *the Sound Beach Volunteer Fire Department, Inc., the Town of Greenwich, CT, the State of Connecticut, the Federal Government or any other governmental agency*, said notices must be attached to this document when submitting this proposal.

YES – number of notices attached: _____ None Received

BIDDER NONDISCRIMINATION POLICIES AND PROCEDURES

<p>Does your company have a written Affirmative Action/Equal Employment Opportunity statement posted on company bulletin boards?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Do all of your company contracts and purchase orders contain non-discrimination statements?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Does your company have the state-mandated sexual harassment prevention in the workplace policy posted on company bulletin boards?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Do you, upon request, provide reasonable accommodation to employees, or applicants for employment, who have physical or mental disability?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Do you notify all recruitment sources in writing of your company's Affirmative Action/Equal Employment Opportunity employment policy?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Does your company have a mandatory retirement age for all employees?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4. Do your company advertisements contain a written statement that you are an Affirmative Action/Equal Opportunity Employer?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If your company has 50 or more employees, have you provided at least two (2) hours of sexual harassment training to all of your supervisors?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>If your company has apprenticeship programs, do they meet the Affirmative Action/Equal Employment Opportunity requirements of the apprenticeship standards of the CT Dept. of Labor?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Does your company have a written affirmative action Plan?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, please explain:</p>
<p>Is there a person in your company who is responsible for equal employment opportunity?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please provide a name and phone number:</p>	<p>Does your company have a collective bargaining agreement with workers?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes to the above, do the collective bargaining agreements contain non-discrimination clauses covering all workers?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Have you notified each union in writing of your commitments under the nondiscrimination requirements of contracts with the State of CT?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

The bidder must not advocate, support, or practice activities that discriminate based on race, color, religion, gender, gender identity or expression, sexual orientation, national origin, disability, age or status as a protected veteran. Documentation demonstrating that the bidder complies with the above statement may be required.

STANDARD BID AND CONTRACT TERMS AND CONDITIONS

In consideration of these presents, the Invitation to Bid and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree to these Standard Bid and Contract Terms and Conditions (the "Terms and Conditions"), the terms of the Invitation to Bid and the Contract.

ALL INVITATIONS TO BID ISSUED BY THE SOUND BEACH VOLUNTEER FIRE DEPARTMENT, INC. (SBVFD) WILL BIND BIDDERS TO THESE TERMS AND CONDITIONS, WHICH, UNLESS OTHERWISE SPECIFICALLY NOTED, MAY BE ABROGATED, MODIFIED OR SUPPLEMENTED IN WHOLE OR IN PART BY THE SPECIAL BID AND CONTRACT TERMS AND CONDITIONS (THE "SPECIFICATIONS") ISSUED IN CONNECTION WITH ANY INDIVIDUAL INVITATION TO BID. BY SUBMITTING A BID, THE BIDDER REPRESENTS AND WARRANTS THAT IT IS AGREEING TO ALL OF THE PROVISIONS IN THE INVITATION TO BID, INCLUDING THESE TERMS AND CONDITIONS.

1. Definitions. Unless otherwise indicated, the following definitions shall apply to all Specifications, Invitations to Bid, awards, Contracts, etc., issued by SBVFD:

- a) Agency: Any office, department, board, council, commission, institution or other agency of SBVFD.
- b) Alternate Bids: Bids submitted in addition to the bidder's primary response to the invitation to bid. Such bids are intended to act as an alternative to the primary bid or be exchanged for, take the place of, replace or substitute for the primary bid should such primary bid be rejected.
- c) Bid: An offer submitted in response to an Invitation to Bid.
- d) Bidder: A person, firm or corporation submitting a competitive bid in response to a solicitation (Invitation to Bid).
- e) Bidder Parties: A Bidder's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Bidder is in privity of oral or written contract and the Bidder intends for such other person or entity to perform under the Contract in any capacity.
- f) Cancellation: An end to the Contract effected pursuant to a right which the Contract creates due to a breach.
- g) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
- h) Conditional Bid: Bid that substantially limits or modifies any of the terms and conditions, specifications or requirements of the invitation to bid.
- i) Contract: The agreement, as of its effective date, between the Bidder and SBVFD for any, or all, products and/or services, at the Bid price. The Contract shall include the Invitation to Bid and the Bid.
- j) Contractor: A Bidder who accepts or who is deemed to have accepted a Contract.
- k) Contractor Parties: A Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor intends for such other person or entity to perform under the Contract in any capacity.
- l) Business Day: Unless otherwise specifically noted, all calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays.
- m) Expiration: An end to the Contract due to the completion in full of the mutual performances of the

parties or due to the Contract's term being completed.

- n) Invitation to Bid: The document through which SBVFD solicits sealed competitive Bids for any, or all, products and/or services through particular Specifications. The Invitation to Bid shall include these Terms and Conditions, the Specifications and all such other documents that SBVFD deems it to be appropriate to include in the solicitation.
- o) Multiple Bids: More than one Bid submitted in response to the same invitation to bid by the same bidder, whether on a separate bid form or attached to the initial bid form. Such bids are intended to be separate and distinct from each other and are meant to be evaluated as individual bids without reference to any other bid.
- p) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
- q) State: The State of Connecticut.
- r) Termination: An end to the Contract effected pursuant to a right which the Contract creates, other than for a breach.

2. Bid Submission Process. Bidders must submit Bids on and in accordance with the Invitation to Bid. SBVFD will not accept Telephone, facsimile or E-Mail Bids under any circumstances. The Invitation to Bid sets forth the time and date that SBVFD will open Bids. SBVFD will not consider Bids arriving after the specified time and date. Bidders must submit Bids in a sealed package to SBVFD at such address as the Invitation to Bid specifies. The outside of the sealed Bid package must clearly indicate the Invitation to Bid number as well as the date and time of the opening of the Bids. The name and address of the Bidder should appear in the upper left-hand corner of the Bid package. Bids may be submitted for all or any part of total quantities or for any or all agency requirements listed in the Invitation to Bid, unless otherwise specifically indicated.

3. Bid Preparation, Content, Execution and Copies. Bids must include all information required in the Invitation to Bid in order for the Bid to be accepted and not rejected. Failure to provide such information will result in the rejection of the Bid. Bidders must verify the contents of their Bids before submission, as SBVFD will not consider amendments to any Bids after the time specified for the opening of Bids. Bidders must submit one original and one copy of the Bid to SBVFD. Bids shall be handwritten in ink, typewritten, or computer prepared. SBVFD will reject all Bids prepared in pencil. A person duly authorized to sign Bids on behalf of the Bidder shall sign all Bids. **SBVFD shall reject all unsigned Bids. All signatures shall be original signatures**, unless there is specific authorization from SBVFD for the use of non-manual forms of signature. The person signing the Bid or his authorized designee shall initial and date all erasures, alterations or corrections on both the original and copy of any documentation submitted to SBVFD. Failure to do so may result in rejection of the Bid for those items erased, altered or corrected and not initialed.

4. Addenda to Invitation to Bid. If SBVFD issues any addendum to the Invitation to Bid, the Bidder should sign it and return it with the Bid or before the Bid opening. In the event that it is not, vendors will still be held to the obligation of whatever change/modification is set forth in the Addendum.

5. Conditional Bids. Conditional Bids may be rejected in whole or in part.

6. Alternate and Multiple Bids. Alternate Bids or Multiple Bids may be rejected in whole or in part.

7. No Substitute Specification. Unless limited by the term "no substitute," the use of the name of a manufacturer or of any particular make, model, or brand in describing a product or service, does not restrict Bidders to that manufacturer or specific product. Such use simply and only indicates the character or quality of the product in which SBVFD is interested. The product or service offered must be of similar character and quality and include any applicable options, accessories, etc. and serve the purpose for

which it is to be used equally as well as the one specified. Bids on comparable products or services must clearly state the exact product or system offered including any and all applicable options, accessories, etc., and the Bidder shall furnish such other information concerning the product as will be helpful in evaluating its acceptability for the purposes intended. If the Bidder does not indicate that the product offered is other than as specified, it will be understood that the Bidder is offering the product or service exactly as specified.

8. Pricing. Prices must be in decimals, not fractions, net, and shall include transportation and delivery charges fully prepaid by the Contractor, FOB, to the destination specified in the Invitation to Bid. In the event of a discrepancy between the unit price and the extension price, the unit price shall govern. Any discrepancy between the original and the copy of the Bid may result in rejection of the Bids for the product or service items so affected, except in the event of Bids awarded on a total basis, in which case SBVFD shall consider the lower total price in making the award.

9. Tax Exemption. SBVFD is exempt from the payment of excise, transportation and sales taxes imposed by the Federal Government and/or the State. Such taxes must not be included in Bid prices. Proof of tax exempt status is available upon request.

10. Bid Opening. SBVFD will open and read all Bids publicly, unless otherwise provided by law. Bidders may be present or be represented, although not required.

11. Right to Cancel or Amend. SBVFD may amend an Invitation to Bid at any time prior to the date and time of Bid opening. SBVFD may cancel an Invitation to Bid at any time prior to the date and time of Contract award. SBVFD may, at its sole and absolute discretion, decide to not issue a Contract award, even after the Bid Opening, if the SBVFD President, District Chief or authorized designee deems it to be in the best interest of SBVFD. Such cancellation shall not be deemed to be a breach of contract by SBVFD.

12. Samples. If the Invitation to Bid requires that Bidders submit samples of products, the samples must meet at a minimum all Specifications. Bidders must submit samples when required and strictly in accordance with instructions, or SBVFD may reject the Bid. If SBVFD accepts a sample that does not meet the Specifications, this does not indicate or mean that SBVFD has lowered or modified the Specifications. However, if any Bid sample is superior in quality to the Specifications, all deliveries shall have the same identity and quality as the Bid sample. If SBVFD requests samples subsequent to the opening of Bids, the Bidder shall deliver them as specified in the Bid, free of any charges or fees and be accompanied by a descriptive memorandum indicating the Bidder desires for their return. SBVFD shall return any samples in accordance with such memorandum, provided that they have not been used or made useless by testing. SBVFD may hold samples for comparison with deliveries.

13. Rejected Items; Abandonment. If SBVFD notifies Bidders that they must retrieve samples, or any other products, goods or equipment (collectively, the "Rejected Items") belonging to the Bidder, wherever located, the Bidder must do so within seven (7) days after notification unless public health and safety require immediate destruction or other disposal of the Rejected Items. The Bidder agrees and acknowledges that its failure to retrieve and remove from any SBVFD premises the Rejected Items within such time shall be deemed to be an abandonment of the Rejected Items and, without more required of any party, shall vest authority in SBVFD or any Agency to use or dispose of the Rejected Items as if they were the SBVFD's own property, as they deem it to be appropriate and in accordance with the law without incurring any liability or obligation to the Bidder or any other party. To the extent that SBVFD and/or any Agency incurs any costs or expenses in connection with the Rejected Items, including, but not limited to, disposing of the Rejected Items, the Bidder shall reimburse the appropriate State entity no later than thirty (30) days after the date of invoice for such costs and expenses. All samples will be set up at SBVFD unless SBVFD indicates another location.

14. Award Criteria. SBVFD shall award Contracts to the most qualified bidder. Price, past performance, financial responsibility, the quality of the products/services to be supplied, their conformity with

Specifications, their suitability to the requirements of the Agency, the delivery terms, performance period, serviceability and administrative costs to SBVFD shall always be factors in making contract awards. SBVFD has the absolute and sole discretion in making an Award under this Invitation to Bid. SBVFD may, at its sole and absolute discretion, decide to not issue a Contract award, even after the Bid Opening, if the SBVFD President, District Chief or authorized designee deems it to be in the best interest of SBVFD.

15. Effective Date. The Contract shall be deemed to exist and be effective from the time that the Bidder accepts SBVFD's Contract award notice to the Bidder. Bidder acceptance shall occur the earlier of the date of Bidder's written acceptance to SBVFD in response to the Contract award notice or, absent such written acceptance, ten (10) days from the date of the Contract award notice. If any Bidder refuses or fails to accept SBVFD's Contract award within ten (10) days from the date of the Contract award notice, SBVFD may award the Contract to another qualified bidder, and so on until the Contract is awarded and accepted. Refusal to accept a Contract after the ten (10) day period shall be deemed to be a breach of Contract and the Contractor shall be subject to the section in these terms and conditions concerning Open Market Purchases.

16. Bidder Obligations Concerning the Bid. A Bidder, if requested, must present evidence of experience, ability, service facilities, factory authorization and financial standing necessary to meet satisfactorily the requirements set forth or implied in the Invitation to Bid.

17. Discounts. Bidders may offer a discount for prompt payment, but such discount will not be taken into consideration in determining lowest price, except in the case of a price tie.

18. Rejection of Bids for Malfeasance. SBVFD may, in its sole discretion, reject the Bid of any Bidder if at the time of Bid submittal the Bidder or Bidder Parties is in breach of any of the applicable representations and warranties listed in the Representations and Warranties section of these Terms and Conditions

19. Order and Delivery. The Contract shall bind the Bidder to furnish and deliver the products and/or services at the prices set forth in the Bid and in accordance with the Invitation to Bid, including these Terms and Conditions.

20. Contract Amendments. No alterations or variations of the Contract shall be valid or binding upon SBVFD unless made in writing and signed by both parties.

21. Term. Contracts will remain in force for the full period specified in the Invitation to Bid or until;

- a. Terminated or Cancelled in accordance with these Terms and Conditions; or
- b. Extended upon written authorization of SBVFD and acceptance by the contractor, to permit ordering of unordered balances or additional quantities at the contract price and in accordance with contract terms.
- c. Expired.

22. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of SBVFD. SBVFD may void any purported assignment in violation of this section and to declare the Contractor in breach of Contract. If the Contractor assigns its rights or obligations under the Contract without the consent of SBVFD, SBVFD may cancel the Contract in accordance with the Termination, Cancellation and Expiration section of these Terms and Conditions, effective as of the assignment's occurrence or such other time as SBVFD specifies in the Cancellation notice. Any cancellation is without prejudice to SBVFD's rights or possible Claims.

23. Termination, Cancellation and Expiration.

- a. Notwithstanding any provisions in the Invitation to Bid, including these Terms and Conditions, the SBVFD President, District Chief or authorized designee may Terminate or Cancel the Contract whenever the SBVFD President, District Chief or authorized designee makes a written determination that such Termination or Cancellation is in the best interests of SBVFD. SBVFD shall notify the Contractor in writing of Termination or Cancellation pursuant to this section, which notice shall specify the effective date of Termination or Cancellation and the extent to which the Contractor must complete performance under the Contract prior to such date.
- b. The SBVFD President, District Chief or authorized designee shall send the notice of Termination or Cancellation via registered mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to SBVFD for purposes of correspondence, or by hand delivery. Upon receiving such notice from the SBVFD, the Contractor shall immediately discontinue all services and take all actions affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the SBVFD all Records. Contractor shall immediately make arrangements to deliver any and all products and services completed up to the date of the Termination or Cancellation.
- c. In the case of any Termination or Cancellation, SBVFD shall, within thirty (30) days of the effective date of Termination or Cancellation, reimburse the Contractor for its performance rendered (up to the date of Termination or Cancellation) and accepted by SBVFD in accordance with the compensation provisions of the Contract, in addition to all actual and reasonable costs incurred after Termination or Cancellation in completing those portions of the performance which the Contractor was required to complete by the notice. However, the Contractor is not entitled to receive and SBVFD is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by SBVFD, the Contractor shall assign to SBVFD, or any replacement contractor which SBVFD designates, all subcontracts, purchase orders and other commitments, deliver to SBVFD all Records and other information pertaining to its performance, and remove from SBVFD premises, whether leased or owned, all such equipment, waste material and rubbish related to its performance as SBVFD may request.
- d. For breach or violation of any of the provisions in the section of these Terms and Conditions concerning Representations and Warranties, SBVFD may Cancel the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- e. Upon Termination, Cancellation or Expiration of the Contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive Termination, Cancellation or Expiration of the Contract. All representations, warranties, agreements and rights of the parties under the Contract shall survive such Termination, Cancellation or Expiration to the extent not otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.
- f. (h) Termination or Cancellation of the Contract pursuant to this section shall not be deemed to be a breach of contract by SBVFD.

24. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice, or such other time as provided in the notice, the Invitation to Bid or these Terms and Conditions, whichever is latest. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract cancellation date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the cancellation date, no further action shall be required of any party to effect the cancellation as of the stated date. If the notice does not set forth an effective Contract cancellation date, then the non-breaching party

may Cancel the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If SBVFD believes that the Contractor has not performed according to the Contract, SBVFD may withhold payment in whole or in part pending resolution of the performance issue, provided that SBVFD notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the Payment section of these Terms and Conditions. For notice purposes, a lesser payment period shall not apply. If a cash discount for prompt payment is invoiced, the withholding of payments as provided for in this section shall not deprive SBVFD of the right to take such cash discount.

25. Waiver.

- a. No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.
- b. A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed.

26. Open Market Purchases. Except to the extent that the Contractor is performing within a right to cure period, failure of the Contractor to perform within the time specified in the Contract, or failure to replace rejected or substandard products or fulfill unperformed services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for SBVFD, if it deems it to be necessary or appropriate in its sole discretion, to Cancel the Contract and/or to purchase on the open market, products/or services to replace those which have been rejected, not delivered, or not performed. SBVFD shall have the right to invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Contractor's Bid and the Contractor shall pay the SBVFD invoice immediately after receiving the invoice. If SBVFD does not Cancel the Contract, SBVFD will deduct such open market purchases from the Contract quantities. However, if the SBVFD President, District Chief or authorized designee deems it to be in the best interest of SBVFD, SBVFD may accept and use the products delivered which are substandard in quality, subject to an adjustment in price to be determined by SBVFD.

27. Purchase Orders. The Contract itself is not an authorization for the Contractor to ship any products or to begin performing in any way. The Contractor may begin performing only after it has received a duly issued purchase order against the Contract for performance. All purchase orders must be in writing, bear the Contract number and comply with all SBVFD requirements concerning procurement. A Contractor making delivery without a formal written purchase order does so at his own risk.

28. Nonresponsibility. If (a) a Bidder fails to accept a Contract within ten (10) days, as specified in the Effective Date section of these terms and conditions; (b) a Contractor suffers an unexcused material breach of the Contract and fails to cure that breach in accordance with the procedures set forth in the Breach section of these terms and conditions; or (c) a Contractor fails to reimburse SBVFD for open market purchases as set forth in the Open Market Purchases section of these terms and conditions, then SBVFD will take that into consideration in future Invitations to Bid when evaluating the Bidder's responsibility. The consideration of this factor may lead to a "not responsible" finding against the Bidder and make a Bidder ineligible to receive one or more future contract awards.

29. Indemnification.

- a. The Contractor shall indemnify, defend and hold harmless SBVFD and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract.

The Contractor shall use counsel without charge to SBVFD in carrying out its obligations under this section.

- b. The Contractor shall reimburse SBVFD for any and all damages to the real or personal property of SBVFD caused by the Acts of the Contractor or any Contractor Parties. SBVFD shall give the Contractor reasonable notice of any such Claims.
- c. The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where SBVFD is alleged or is found to have contributed to the Acts giving rise to the Claims.
- d. The rights provided in this section for the benefit of SBVFD shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.

This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.

30. Insurance. Before commencing work, the Contractor shall obtain and maintain, at its own cost and expense, for the duration of the Contract, the following insurance:

- a. Commercial General Liability: Commercial General Liability of no less than \$1,000,000 per occurrence including contractual liability. The Contractor shall name SBVFD as an additional insured on the policy if so requested by SBVFD.
- b. Automobile Liability: \$500,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.
- c. Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut.

31. Forum of Choice Law. The Contract shall be deemed to have been made in the Town of Greenwich, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. For the purpose of venue, the complaint shall be made returnable in the County of Fairfield, Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

32. Contractor Guaranties. Contractor shall:

- a. Perform fully under the Contract, the Invitation to Bid and the Bid in accordance with their terms.
- b. Guarantee the products against defective material or workmanship and to repair any damage or marring occasioned in transit or, at SBVFD's option, replace them;
- c. Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, or equipment to the Contractor's work or that of Contractor Parties;
- d. With respect to the provision of services, pay for all permits, licenses and fees and give all required or appropriate notices;
- e. adhere to all contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and

- f. Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

33. Product Standards and Appurtenances. Any products delivered must be standard new products, latest model, except as otherwise specifically stated in the Invitation to Bid. Where the Invitation to Bid or Bid do not specifically list or describe any part or nominal appurtenances of equipment for the product, it shall be understood that the Contractor shall deliver such equipment and appurtenances as are usually provided with the manufacturer's stock model.

34. Delivery.

- a. Any products delivered shall be standard new equipment, latest model, except as otherwise stated in the Invitation to Bid. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Invitation to Bid. Where any part or nominal appurtenances of equipment are not described, it shall be understood that all equipment and appurtenances, which are usually provided in the manufacturer's stock model, shall be furnished.
- b. Delivery shall be made as ordered and in accordance with the Invitation to Bid.
- c. In order for the time of delivery to be extended, SBVFD must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
- d. Products shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of SBVFD unless otherwise stated in the Bid.
- e. All risk of loss and damage to the products transfers to SBVFD upon Title vesting in SBVFD.

35. Payment. Unless otherwise specified in the Invitation to Bid, payment shall be made only after SBVFD receives the products and/or services and after acceptance of the products or services and presentation of a properly completed invoice. Payment for all accepted products and/or services shall be due within thirty (30) days after acceptance of the products or services. Bids that require payment in less than thirty (30) days shall be rejected, unless SBVFD determines in its sole discretion that the Bid's requiring a lesser period is not material.

36. Invoicing. The Contractor shall send all invoices directly to SBVFD at the address indicated on the purchase order and shall make all inquiries regarding the status of unpaid invoices directly to SBVFD.

37. Advertising. In submitting a proposal, the Bidder agrees, unless specifically authorized in writing by SBVFD, on a case by case basis, that it shall have no right to use, and shall not use, the name of SBVFD, its officials or employees, or the seal/logo of SBVFD, a) in any advertising, publicity, promotion; nor b) to express or imply any endorsement of agency's services; nor c) to use the name of SBVFD, its officials or employees or the SBVFD seal/logo in any manner except only to manufacture and deliver in accordance with this agreement such products and services as are hereby contracted by SBVFD.

38. American with Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. SBVFD may Cancel the Contract if the Contractor fails to comply with the Act.

39. Representations and Warranties. The Contractor, and the Bidder, as appropriate, represent and warrant to SBVFD for itself and Contractor Parties and Bidder Parties, as appropriate, that:

- a. if they are entities, they are duly and validly existing under the laws of its state of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and performance of the Bid and the Contract and have the power and authority to execute, deliver and perform their obligations under the Contract;

- b. they will comply with all applicable State and Federal laws and municipal ordinances.
- c. the execution, delivery and performance of the Contract will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (1) any provision of law; (2) any order of any; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- d. they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;
- e. as applicable, they have not, within the three (3) years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would perform under the Contract, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- f. they are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses listed above;
- g. they have not within the three (3) years preceding the Contract had one or more public transactions (Federal, state or local) cancelled for cause or breach;
- h. they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
- i. to the best of their knowledge, there are no Claims involving the Bidder, Bidder Parties, Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract;
- j. they shall disclose annually on the anniversary date of the effective date of the Contract, any and all Claims involving the Contractor or Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract;
- k. the Bid is not made in connection or concert with any other person, entity or Bidder, including any affiliate of the Bidder, submitting a Bid for the same products and/or services, and is in all respects fair and without collusion or fraud;
- l. it has not participated in any communications concerning the Invitation to Bid with any person or entity who submits a Bid, including, but not limited to, any manufacturers and/or dealers;
- m. it is able to perform under the Contract using its own resources or the resources of a party who is not a Bidder;
- n. it shall obtain in a written contract all of the representations and warranties in this section from any subcontractor that it contracts with in connection with the Contract and to require that provision to be included in any lower tier subcontracts and purchase orders;
- o. it has paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- p. it has a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- q. it owes no unemployment compensation contributions;

- r. it is not delinquent in the payment of any taxes owed, or that it has filed a sales tax security bond, and it has, if and as applicable, filed for motor carrier road tax stickers and has paid all outstanding road taxes;
- s. all of its vehicles have current registrations and, unless such vehicles are no longer in service, it shall not allow any such registrations to lapse;
- t. it shall afford SBVFD the lowest rates available for the products and services and shall provide an annual written statement that it has complied with such representation and warranty;
- u. the products and/or services provided do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third Party.

40. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor annually on the anniversary date of the effective date of the Contract, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract. The Contractor shall provide such information to SBVFD no later than ten (10) days after the Contractor receives such information. Disclosure shall be in writing.

41. Entirety of Contract. The Contract is the entire agreement between the parties with respect to the its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. No alteration, modification or interpretation of the Contract shall be valid or binding unless in writing and signed by both parties. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.

42. Price Reduction. The parties may agree to a reduction in the Bid price for any part or all of the products and/or services after the Contractor begins to perform.

43. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the Contractor.

- a. The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, sexual orientation, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved;
- b. the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer";
- c. the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

44. Drug and Alcohol Policy. Contractor shall promote a drug-free workplace and must have a written

policy in place. Contractor acknowledges that the following are expressly prohibited:

- a. the use, possession, distribution and offering for sale of drugs or drug paraphernalia;
- b. the unauthorized use, possession, distribution, offering for sale of beverage alcohol, possession of prescribed medications not authorized for personal use;
- c. reporting for work with the presence in the body of alcohol or drugs.

45. Minority, Women, Veteran, Veteran-Disabled and Disadvantaged Owned Business Policy. It is the policy of SBVFD to provide minority, women, veteran/veteran disabled and disadvantaged owned business enterprises with equal opportunity for participating in selling goods and services to SBVFD. Bidders shall make a good faith effort to subcontract, where applicable, with or purchase supplies from such enterprises. SBVFD may restrict bidding to such enterprises in accordance with State and/or Federal regulations. Such restrictions will be noted on the Invitation to Bid. Bidders submitting as a minority, women, veteran/veteran disabled and/or disadvantaged owned business enterprises must submit proof of registration and approval from the State of Connecticut (as a Set Aside) or from the U.S. General Services Administration.

46. Headings. The headings given to the Sections in these Terms and Conditions are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular Section to which the heading refers.

47. Number and Gender. Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.

48. Parties. To the extent that any Contractor Party or Bidder Party is to participate or perform in any way, directly or indirectly in connection with the Bid or the Contract, any reference in the Invitation to Bid, the Bid and the Contract to "Contractor" or "Bidder" shall also be deemed to include "Contractor Parties" or "Bidder Parties," respectively, as if such reference had originally specifically included "Contractor Parties" or "Bidder Parties," since it is the parties' intent for the terms "Contractor Parties" and "Bidder Parties" to be vested with the same rights and obligations as the terms "Contractor" and "Bidder."

49. Further Assurances. The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provision of the Contract and which do not involve the assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.

50. Background Checks. The Contractor and Contractor Parties shall be subject to criminal background check as deemed appropriate by SBVFD.

51. Continued Performance. The Contractor and Contractor Parties shall continue to perform their obligations under the Contract while any dispute concerning the Contract is being resolved.

52. Confidential Information. SBVFD will afford due regard to the Bidder's and Contractor's request for the protection of proprietary or confidential information which SBVFD receives. However, all materials associated with the Bid and the Contract are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the Bidder or Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the vendor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Bidder or Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially

including the Bid and the Specifications, conflicts or is in any way inconsistent with this Section, this Section controls and shall apply.

SPECIFICATIONS

See attached bid schedule.

All bidders must be authorized resellers and/or distributors for Biosystems/Sperian.

BID SCHEDULE

Bid Title	RFP Date	Questions Due Date	Bid Opening Date
Biosystems MultiPro Gas Meters	October 9, 2008	November 3, 2008 5:00 PM EST	November 10, 2008 6:30 PM EST

Bidder Name	SSN or FEIN #	Payment Terms	Cash Discount
		Net 45 Days	% Days

Item	Description	Qty	Unit Price	Total
1	BioSystems MultiPro Gas Detectors w/ LEL/O ₂ /Duo-Tox (CO/H ₂ S) including: <ul style="list-style-type: none"> • Rechargeable Battery • Data-logging option • Includes 12V vehicular charger Part Number: 54-48-314ND	2		
2	Continuous sample pump for MultiPro (above), includes 10' of sample tubing and sample probe assembly Part Number: 54-49-102	2		

This bid will be a total award of: \$ _____ . _____

Payment Terms:
