



Request for Proposal (RFP)

**County of Dane, Wisconsin
Dane County Courthouse**

**Vending Services for the Dane County Courthouse
Madison, WI**

RFP #105121

Proposals must be submitted
No later than
2:00 p.m., October 28, 2005

For further information regarding this RFP, contact:
Carolyn Clow, Purchasing Agent
(608) 266-4966.

Issued by
Dane County Purchasing Division
Department of Administration
October 3, 2005

LATE, FAXED, AND/OR UNSIGNED PROPOSALS WILL BE REJECTED

Dane County Vendor Registration Program

All bidders wishing to submit a bid/proposal must be a *paid registered vendor* with Dane County. Prior to the bid opening, you can complete a registration form online by visiting our web site at <http://www.co.dane.wi.us/purch/purch.htm>, or you can obtain a Vendor Registration Form by calling 608.266.4131. Your completed Vendor Registration Form and Registration Fee must be received for your bid to be considered for an award.

GENERAL INFORMATION

I. INTRODUCTION

You are invited to submit a proposal to install and maintain twenty-three (23) vending machines, at the new Dane County Courthouse, 215 S. Hamilton, Madison, WI 53703.

The **machines shall be as follows:**

- (1) Cold vending machine, and shall be stocked with healthy snacks, i.e. fruit, yogurt, vegetables, bagels, sandwiches, soup, juice, etc.
- (1) Hot Drink machine
- (19) Cold Drink machines
- (2) Snack machines

II. PROPOSAL DUE DATE

An original and two (2) copies of each proposal are to be received by Dane County up to and including 2:00 p.m., on October 28, 2005. Late or faxed proposals will not be accepted.

All proposals are to be addressed to:

DANE COUNTY PURCHASING DIVISION
ROOM 425 CITY-COUNTY BLDG
210 MARTIN LUTHER KING JR BLVD
MADISON WI 53703-3345

The following notation must be in the lower left-hand corner of the proposal envelope:

Proposal No. 105121
Item: Vending
Date: October 28, 2005

III. PROPOSAL AND CONTRACT SECURITY

No proposal bond or performance bond is required.

IV. CONTRACT NEGOTIATIONS

Dane County reserves the right to negotiate a contract after the successful firm is selected. Selection will be based only on the proposal submitted and subsequent interviews, if any; therefore, the proposals must be complete. Submission of a proposal shall constitute a valid offer, which may be accepted by the County for a period of ninety (90) days following the proposal opening.

V. TERM OF CONTRACT

The term of the contract will be for one (1) year, beginning on December 15, 2005, with an option to extend the contract for four additional one-year periods for a maximum of five years.

VI. PROPOSAL FORMAT

Proposers shall include the following forms with their submittal

Attachment A	Signature Affidavit
Attachment B	Vendor Data Sheet
Attachment C	Reference Data Sheet
Attachment D	Designation of Confidential and Proprietary Information
Attachment E	Products/Commissions Offered Submittal Form

Proposers may submit any additional information that is pertinent to their RFP.

VII. EVALUATION OF PROPOSALS

The Dane County Purchasing Division will evaluate and award your proposal based on the information submitted and the commission offered.

References	10%
Product selection	10%
Ability to meet	10%
Courthouse requirements	
Use of Energy Star Refrigerated Beverage Vending Machines	30%
Commission offered	40%
TOTAL	100%

VIII. QUESTIONS CONCERNING THIS RFP SHOULD BE DIRECTED TO:

Carolyn Clow, Purchasing Agent
Dane County Purchasing Division
City-County Building, Room 425
210 Martin Luther King Jr. Blvd.
Madison, WI 53703-3345
608/266-4966
608/266-4425 fax
clow@co.dane.wi.us

Questions are to be submitted in writing no later than 4:00 p.m. on Monday, October 17, 2005.

IX. CHANGES IN REQUEST FOR PROPOSAL (RFP)

If it becomes necessary to revise any part of the RFP, or otherwise provide additional information, an addendum will be issued by the County and furnished to all firms that have received copies of the original RFP. Please acknowledge the receipt of any addenda in the appropriate section, as directed in the addendum.

X. PROPRIETARY INFORMATION

Any restrictions on the use of data contained within a proposal and all confidential information must be clearly stated on the Proprietary Information form attached. Proprietary information submitted in a proposal, or in response to the RFP, will be handled in accordance with the applicable Wisconsin Statute(s).

To the extent permitted by law, it is the intention of Dane County to withhold the contents of the proposals from public view until such time as competitive or bargaining reasons no longer require non-disclosure, in the opinion of Dane County. At that time, all proposals will be available for review in accordance with the Wisconsin Open Records Law.

XI. INCURRING COSTS

Dane County is not liable for any costs incurred in replying to this RFP.

XII. ACCEPTANCE/REJECTION

Dane County reserves the right to accept or reject any or all proposals in part or in total, as deemed to be in the best interest of Dane County. Firms whose proposals are not accepted will be notified as soon as the awarded contract has been approved.

XIII. TAXES

Dane County is exempt from all federal, state and local taxes.

XIV. SCOPE

The successful proposer shall be required to furnish, install maintain twenty-three (23) vending machines for use by visitors and employees of the Dane County Courthouse. The courthouse shall house approximately 300 employees and an estimated 1,500 visitors per day.

The **cold vending machine** shall be stocked with healthy snacks such as fruit, yogurt, vegetables, bagels, sandwiches, soup, juice, etc. Dane County Consolidated Food Services staff will pick from selections submitted by the successful proposer, and selections may be changed from time to time by the Consolidated Food Services staff.

The **hot drink machine** will provide regular coffee, decaf coffee, and other hot beverages. Options of sugar and cream are also required.

The **soda machine** needs to offer 8-10 varieties of soda, in 20 ounce bottles, and water. The selection of soda and water to be provided will be made by Consolidated Food Services staff.

The **snack machine** will be able to house a variety of snack shapes and sizes, the selection of which will be made by Consolidated Food Services staff.

Selections, for all machines, may be changed from time to time by the Consolidated Food Services staff.

The proposer shall furnish all food, beverages, supplies and equipment herein specified and all management and labor necessary for the efficient, sanitary and ecologically sound operation of the vending machine services included in this contract, subsequent extensions and amendments. Additionally, the vendor shall furnish forks and spoons, as well as packets of catsup, mustard, mayonnaise, salt and pepper for the cold vending machine products as necessary.

Dane County permits the proposer to use such spaces as necessary to carry out the terms of this contract; such spaces, as defined by the Consolidated Food Services staff, as areas for vending equipment. Dane County shall provide electricity. The County shall **not** guarantee an uninterrupted supply of electricity, except that it shall be diligent in restoring service following an interruption. The proposer agrees to exercise care to keep energy services to a minimum.

A. GENERAL TERMS AND CONDITIONS

1. Inspection of Premises

Proposers are invited to inspect the site completely prior to submitting their proposal in order to determine all requirements associated with the contract. Failure to inspect adequately shall not relieve the proposer from the necessity of furnishing and installing, without additional costs to the County, any materials and equipment or performing any labor that may be required to carry out the intent of the contract. To schedule an inspection, contact Greg Brockmeyer at 608-845-1244 by Friday, October 21, 2005.

2. Applicable Law

This contract shall be governed and interpreted by the laws of the State of Wisconsin and County of Dane, Wisconsin.

3. Contract Termination

The County may terminate this contract for neglect, which shall consider such items as:

- Insufficient insurance coverage
- Failure to provide required period statements

- Failure to pay period commission payments due on or before the 15th day following the period in which they were earned
- Failure to enforce required standards of sanitation
- Failure to keep items stocked
- Failure to maintain the equipment

The County shall provide ten (10) calendar days written notice of contract neglect, and unless within ten (10) calendar days such neglect has ceased and arrangements made to correct the neglect, the County may terminate the contract by giving thirty (30) days notice in writing by registered or certified mail of its intention to cancel this contract.

4. Required permits/licenses

The proposer shall be financially responsible for obtaining all required permits, licenses, and bondings to comply with pertinent municipal, county, State and Federal laws, and shall assume liability for all applicable taxes, including but not restricted to, sales and property.

5. Vending Prices, Minimum Portions, and Product Specifications

The proposer shall indicate the items, portions, and prices he has available on the **Products/Commissions Offered Submittal Form, Attachment E**. The item-portion and price schedule included in this proposal shall also serve as a price and portion guide for other items not specifically included at this time. The Consolidated Food Services staff shall make selections from items proposed for the initial vending machine selections offered. The Consolidated Food Services staff may from time to time change the selections for the machine from the proposer's offerings.

Price and portion change request from the proposer may be submitted to the Consolidated Food Services staff for consideration on a semi-annual basis in January and July.

6. Equipment installed

Vending machine installed shall be new or 2003 model or more recent updated equipment. Updated vending equipment shall be rebuilt and reconditioned prior to installation. All vending equipment and product shall be in compliance with the Wisconsin Administrative Code, Department of Health and Social Services, Chapter 198, Vending of Food. Equipment shall meet the approval of the Consolidated Food Services staff.

7. Ownership/Maintenance of Equipment

Ownership of vending equipment of the proposer shall remain with the proposer. However, the Consolidated Food Services staff agrees to take such measures as may be reasonable required for the protection against loss by pilferage or destruction. Required equipment repairs expense shall be the proposer's responsibility. The proposer shall provide vending equipment maintenance and repair service between the hours of 7:00 a.m. and 5:00 p.m., seven days a week, so as to minimize

vending equipment down time should malfunctions be reported. The provider should attempt to respond to all repair calls within 24 hours. Equipment which cannot be returned to full service within 72 hours of notification of needed repair shall be replaced with comparable equipment of like quality until the original equipment is returned to service. The proposer shall replace equipment on an as needed basis throughout the length of this contract. A log book of repairs shall be kept on site at the Consolidated Food Services. Proposer shall log each service call in the book to document the maintenance of equipment for the purposes of determining when machines may need to be replaced and resolving disputes.

8. Stocking/Maintaining

The vending machine shall be stocked and routinely maintained on a schedule as agreed upon between the proposer and Consolidated Food Services staff. Such schedule shall occur during the hours between 7:00 a.m. and 3:30 p.m., Monday through Friday.

9. Accounting

The proposer shall maintain complete and accurate records of vending transactions for the vending machine. Vending equipment shall be equipped by the proposer with non-reset item sale counters which are maintained in continual operative condition; and each period statement shall include beginning and ending counter readings for the equipment.

Inventory control cards shall be kept for the vending machine indicating date, product description, sale price and quantity loaded into the machine, and such control cards shall be available to Dane County.

Sales tax collected from employees shall be deducted from gross receipts, before computing the State Sales Tax and County Tax, provided the employees are advised of the amount of sales tax they are paying by posted sign on printed notice. (Divide gross receipts by 1.055). Commissions shall be computed on the resulting net receipts for all commission sales. The proposer shall make available to Dane County copies of all sales and other excise tax reports which the proposer is required to furnish any government or governmental agency which identify those revenues and resulting taxes generated at the Courthouse.

10. Payments

The Proposer shall pay the Consolidated Food Services the commission percentage of each period's net (gross sales less State and County Tax) vending equipment sales. These payments must be made on or before the 15th day of the period following the last day of the period in which commissions were earned, and shall accompany this payment with a detailed explanation of dollar sales. For the purpose of this contract, the term period shall mean one quarter (three calendar months). Payment dates will be: April 15, July 15, October 15, and January 15.

All period commission payments shall be made payable to the Treasurer and reference the contract number as assigned. Commission payments shall be sent to Dane County Consolidated Food Services, 1100 E. Verona Ave. Verona WI. 53593. Copies of period statements and supporting documents shall also be sent to the DCLETC.

On expiration or termination of this contract, commissions due Consolidated Food Services shall be paid on sales until all equipment has been removed, and the removal date shall be indicated on the period statement when the equipment is removed.

All records pertaining the operations of this vending machine shall be open for inspection and/or audit by the County of Dane, Wisconsin at any or all reasonable times.

ATTACHMENT A

SIGNATURE AFFIDAVIT

In signing this proposal, we also certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a proposal; that this proposal has been independently arrived at without collusion with any other proposer competitor or potential competitor; that this proposal has not been knowingly disclosed prior to the opening of proposals to any other proposer or competitor; that the above statement is accurate under penalty of perjury.

The undersigned, submitting this proposal, hereby agrees with all the terms, conditions, and specifications required by the County in this Request for Bid, and declares that the attached proposal and pricing are in conformity therewith.

Name (Type or Print)

Title

Signature

Firm

Address: (Street, City , State, Zip Code)

Telephone

Fax

E-Mail

Date

VENDOR DATA SHEET

1. **Proposing Company Name** _____

Telephone _____ Toll Free Telephone _____ Fax _____

Address: _____

City: _____ State: _____ Zip + Four: _____

2. **Contact Person in the event there are questions about your proposal**

Name: _____ Title: _____

Telephone: _____ Toll Free Telephone: _____

Address: _____

City: _____ State: _____ Zip + Four: _____

3. **All vendors that are awarded \$20,000 or more on this contract will be Required to Submit Affirmative Action Information to the Department. Please list the Person in your Company we can contact about this plan.**

Name: _____ Title: _____

Telephone: _____ Toll Free Telephone: _____

Address: _____

City: _____ State: _____ Zip + Four: _____

4. **Mailing address where County purchase orders/contracts are to be mailed and person the Department can contact concerning orders and billing.**

Name: _____ Title: _____

Telephone: _____ Toll Free Telephone: _____

Address: _____

City: _____ State: _____ Zip + Four: _____

REFERENCE DATA SHEET

FOR VENDOR:

Provide company name, address, contact person, telephone number, and appropriate information on the product(s) and/or service(s) used for three (3) or more installations/services with requirements similar to those included in this solicitation document. If vendor is proposing any arrangement involving a third party, the named references should also be involved in a similar arrangement.

Company Name: _____
Address: _____
Telephone: _____ Contact Person: _____
Product(s) and/or Service(s) Used: _____

Company Name: _____
Address: _____
Telephone: _____ Contact Person: _____
Product(s) and/or Service(s) Used: _____

Company Name: _____
Address: _____
Telephone: _____ Contact Person: _____
Product(s) and/or Service(s) Used: _____

Company Name: _____
Address: _____
Telephone: _____ Contact Person: _____
Product(s) and/or Service(s) Used: _____

Company Name: _____
Address: _____
Telephone: _____ Contact Person: _____
Product(s) and/or Service(s) Used: _____

DESIGNATION OF CONFIDENTIAL AND PROPRIETARY INFORMATION

The attached material submitted in response to this Proposal includes proprietary and confidential information which qualifies as a trade secret, as provided in Sect 19.36(5), Wisconsin State Statutes, or is otherwise material that can be kept confidential under the Wisconsin Open Records law. As such, we ask that certain pages, as indicated below, of this proposal response be treated as confidential material and not be released without our written approval. Attach additional sheets if needed.

Section	Page Number	Topic

Prices always become public information when proposals are opened, and therefore cannot be designated as confidential.

Other information cannot be kept confidential unless it is a trade secret. Trade secret is defined in Sect. 134(80)(1)(c) Wis. State Statutes, as follows: "Trade secret" means information, including a formula, pattern, compilation, program, device, method technique or process to which all of the following apply:

1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use.
2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

In the event the Designation of Confidentiality of this information is challenged, the undersigned hereby agrees to provide legal counsel or other necessary assistance to defend the Designation of Confidentiality.

Failure to include this form in the proposal response may mean that all information provided as part of the proposal response will be open to examination or copying. The County considers other markings of confidential in the proposal document to be insufficient. The undersigned agree to hold the County harmless for any damages arising out of the release of any material unless they are specifically identified above.

Signature-Authorized Representative

Company Name

Print Name-Authorized Representative

Date

BID SUBMITTAL FORM FOR VENDING SERVICES (continued)

Describe the equipment you will be installing, include:

Manufacturer:_____ Model:_____

Year Manufactured:_____ New:_____ Used:_____

Manufacturer:_____ Model:_____

Year Manufactured:_____ New:_____ Used:_____

Manufacturer:_____ Model:_____

Year Manufactured:_____ New:_____ Used:_____

Manufacturer:_____ Model:_____

Year Manufactured:_____ New:_____ Used:_____

Please enclose manufacturer's literature and specifications for the vending machines you are proposing.

Installation of equipment will be _____ calendar days after award of proposal.

Vending machines will be stocked _____ times per week, or (indicate schedule) _____

Repair service is available _____ hours per day, _____ days per week.

Indicate number of years your company has been in the vending equipment business. _____ years.

Please indicate any exceptions to the specifications of this RFP: _____

STANDARD TERMS AND CONDITIONS (Request For Bids/Proposals/Contracts)

1.0 **APPLICABILITY:** The terms and conditions set forth in this document apply to Requests for Proposals (RFP), Bids and all other transactions whereby the County of Dane acquires goods or services, or both.

1.1 **ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract, including any purchase order, awarded as a result of this request. Special requirements of a resulting contract may also apply. Said written contract with referenced parts and attachments shall constitute the entire agreement, and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the County.

1.2 **DEFINITIONS:** As used herein, "vendor" includes a provider of goods or services, or both, who is responding to an RFP or a bid, and "bid" includes a response to either an RFP or a bid.

2.0 **SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability or performance level, or any combination thereof, desired. When alternates are proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. Dane County shall be the sole judge of equivalency. Vendors are cautioned to avoid proposing alternates to the specifications which may result in rejection of their bid.

3.0 **DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from terms, conditions, or specifications shall be described fully, on the vendor's letterhead, signed, and attached to the bid. In the absence of such statement, the bid shall be accepted as in strict compliance with all terms, conditions, and specifications and vendor shall be held liable for injury resulting from any deviation.

4.0 **QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. No pre-owned, obsolete, discontinued or defective materials may be used.

5.0 **QUANTITIES:** The quantities shown on this request are based on estimated needs. The County reserves the right to increase or decrease quantities to meet actual needs.

6.0 **DELIVERY:** Deliveries shall be FOB destination freight prepaid and included unless otherwise specified. County will reject shipments sent C.O.D. or freight collect.

7.0 **PRICING:** Unit prices shown on the bid shall be the price per unit of sale, e.g., gal., cs., doz., ea., etc., as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price,

the unit price shall govern in the bid evaluation and contract administration.

7.1 Prices established in continuing agreements and term contracts may be lowered due to market conditions, but prices shall not be subject to increase for the term specified in the award. Vendor shall submit proposed increases to the contracting department thirty (30) calendar days before the proposed effective date of the price increase. Proposed increases shall be limited to fully documented cost increases to the vendor that are demonstrated to be industry wide. Price increases may not be granted unless they are expressed in bid documents and contracts or agreements.

7.2 Submission of a bid constitutes bidder's certification that no financial or personal relationship exists between the bidder and any county official or employee except as specially set forth in writing attached to and made a part of the bid. The successful bidder shall disclose any such relationship which develops during the term of the contract.

8.0 **ACCEPTANCE-REJECTION:** Dane County reserves the right to accept or reject any or all bids, to waive any technicality in any bid submitted and to accept any part of a bid as deemed to be in the best interests of the County. Submission of a proposal or a bid constitutes the making of an offer to contract and gives the County an option valid for 60 days after the date of submission to the County.

8.1 Bids **MUST** be dated and time stamped by the Dane County Purchasing Division Office on or before the date and time that the bid is due. Bids deposited or time stamped in another office will be rejected. Actual receipt in the office of the purchasing division is necessary; timely deposit in the mail system is not sufficient. **THERE WILL BE NO EXCEPTIONS TO THIS POLICY.**

9.0 **METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive vendor conforming to specifications, terms, and conditions, or to the most advantageous bid submitted to the County on a quality versus price basis. Among other things, quantities, time of delivery, purpose for which required, competency of vendor, the ability to render satisfactory service and past performance will be considered in determining responsibility.

10.0 **ORDERING/ACCEPTANCE:** Written notice of award to a vendor in the form of a purchase order or other document, mailed or delivered to the address shown on the bid will be considered sufficient notice of acceptance of bid. A formal contract containing all provisions of the contract signed by both parties shall be used when required by the Dane County Purchasing Division.

11.0 **PAYMENT TERMS AND INVOICING:** Unless otherwise agreed, Dane County will pay properly submitted vendor invoices within thirty (30) days of receipt of goods or

services, or combination of both. Payment will not be made until goods or services are delivered, installed (if required), and accepted as specified. Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order.

11.1 NO WAIVER OF DEFAULT: In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by County of any breach of the covenants of the Agreement or a waiver of any default of the successful vendor, and the making of any such payment or acceptance of any such service or product by County while any such default or breach shall exist shall in no way impair or prejudice the right of County with respect to recovery of damages or other remedy as a result of such breach or default.

12.0 TAXES: The County and its departments are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below. The State of Wisconsin Department of Revenue has issued tax exempt number ES41279 to Dane County.

12.1 The County is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. The County is exempt from Wisconsin sales or use tax on these purchases. The County may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Vendors performing construction activities are required to pay state use tax on the cost of materials.

13.0 GUARANTEED DELIVERY: Failure of the vendor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the vendor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include administrative costs.

14.0 APPLICABLE LAW AND VENUE: This contract shall be governed under the laws of the State of Wisconsin, and venue for any legal action between the parties shall be in Dane County Circuit Court. The vendor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct.

15.0 ASSIGNMENT: No right or duty in whole or in part of the vendor under this contract may be assigned or delegated without the prior written consent of Dane County.

16.0 NONDISCRIMINATION/AFFIRMATIVE ACTION: During the term of this Agreement the vendor agrees, in accordance with sec. 111.321, Wis. Stats., and Chapter 19 of the Dane County Code of Ordinances, not to discriminate against any person, whether an applicant or recipient of services, an employee or applicant for employment, on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural

differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs. The vendor shall provide a harassment-free work environment. These provisions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, including apprenticeships, rates of pay or other forms of compensation.

16.1 Vendors who have twenty (20) or more employees and a contract of twenty thousand dollars (\$20,000) or more must submit a written affirmative action plan to the County's Contract Compliance Officer within fifteen (15) working days of the effective date of the contract. The County may elect to accept a copy of the current affirmative action plan filed with and approved by a federal, state or local government unit.

16.2 The vendor agrees to post in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this Agreement as they relate to affirmative action and nondiscrimination.

16.3 Failure to comply with these Terms and Conditions may result in the vendor being debarred, termination of the contract and/or withholding of payment.

16.4 The vendor agrees to furnish all information and reports required by Dane County's Contract Compliance Officer as the same relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine compliance with Chapter 19, D.C. Ords., and the provisions of this Agreement.

16.5 *Americans with Disabilities Act:* The vendor agrees to the requirements of the ADA, providing for physical and programmatic access to service delivery and treatment in all programs and activities.

17.0 PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT: The vendor guarantees goods sold to the County were manufactured or produced in accordance with applicable federal labor laws, and that the sale or use of the articles described herein do not infringe any patent, copyright or trademark. The vendor covenants that it will, at its own expense, defend every suit which shall be brought against the County (provided that such vendor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent, copyright or trademark by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.

18.0 SAFETY REQUIREMENTS: All materials, equipment, and supplies provided to the County must fully comply with all safety requirements as set forth by the Wisconsin Department of Commerce and all applicable OSHA Standards.

18.1 MATERIAL SAFETY DATA SHEET: If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29 CFR 1910.1200, provide one

(1) copy of the Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

19.0 **WARRANTY:** Unless specifically expressed otherwise in writing, goods and equipment purchased as a result of this request shall be warranted against defects by the vendor for one (1) year from date of receipt. An equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the vendor. The time limitation in this paragraph does not apply to the warranty provided in paragraph 27.0.

20.0 **INSURANCE RESPONSIBILITY:** The successful vendor shall:

20.1 Maintain worker's compensation coverage as required by Wisconsin Statutes, for all employees engaged in the work. The successful vendor shall furnish evidence of adequate worker's compensation insurance.

20.2 Indemnify, hold harmless and defend County, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which County, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of the successful vendor furnishing the services or goods required to be provided under the contract with the County, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of County, its agencies, boards, commissions, officers, employees or representatives. The obligations of the successful vendor under this paragraph shall survive the expiration or termination of any contract resulting from the successful vendor's bid.

20.3 At all times during the term of this Agreement, keep in full force and effect comprehensive general liability and auto liability insurance policies (as well as professional malpractice or errors and omissions coverage, if the services being provided are professional services) issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amount of at least \$1,000,000 CSL (Combined Single Limits). Coverage afforded shall apply as primary. County shall be given ten (10) days advance notice of cancellation or non-renewal. Upon execution of this Agreement, the successful vendor shall furnish County with a certificate of insurance listing County as an additional insured and, upon request, certified copies of the required insurance policies. If the successful vendor's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Agreement, the Certificate of Insurance shall state that coverage is Claims-Made and indicate the Retroactive Date, the successful vendor shall maintain coverage for the duration of this Agreement and for two years following the completion of this Agreement. The successful vendor shall furnish County, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that the successful vendor shall furnish the

County with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either the successful vendor or County may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by the successful vendor. In the event any action, suit or other proceeding is brought against County upon any matter herein indemnified against, County shall give reasonable notice thereof to the successful vendor and shall cooperate with the successful vendor's attorneys in the defense of the action, suit or other proceeding.

20.4 The County reserves the right to require higher or lower insurance limits where County deems necessary.

20.5 In case of any sublet of work under this Agreement, the successful vendor shall furnish evidence that each and every subvendor has in force and effect insurance policies providing coverage identical to that required of the successful vendor.

21.0 **CANCELLATION:** County reserves the right to terminate any Agreement due to non-appropriation of funds or failure of performance by the vendor. This paragraph shall not relieve County of its responsibility to pay for services or goods provided or furnished to County prior to the effective date of termination.

22.0 **PUBLIC RECORDS ACCESS:** It is the intention of the County to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid openings are public unless otherwise specified. Records are not available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Bid results may be obtained by visiting the Dane County Purchasing Office Monday – Friday, between 8:00 a.m. and 4:00 p.m. Prior appointment is advisable.

22.1 **PROPRIETARY INFORMATION:** If the vendor asserts any of its books and records of its business practices and other matters collectively constitute a trade secret as that term is defined in s. 134.90(1)(c), Wis. Stats., County will not release such records to the public without first notifying the vendor of the request for the records and affording the vendor an opportunity to challenge in a court of competent jurisdiction the requester's right to access such records. The entire burden of maintaining and defending the trade secret designation shall be upon the vendor. The vendor acknowledges and agrees that if the vendor shall fail, in a timely manner, to initiate legal action to defend the trade secret designation or be unsuccessful in its defense of that designation, County shall be obligated to and will release the records.

22.2 Data contained in a bid, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations shall be the property of the County.

22.3 Any material submitted by the vendor in response to this request that the vendor considers confidential and

proprietary information and which vendor believes qualifies as a trade secret, as provided in section 19.36(5), Wis. Stats., must be identified on a designation of Confidential and Proprietary Information form. In any event, bid prices will not be held confidential after award of contract.

23.0 RECYCLED MATERIALS: Dane County is required to purchase products incorporating recycled materials whenever technically and economically feasible. Vendors are encouraged to bid products with recycled content which meet specifications.

24.0 PROMOTIONAL ADVERTISING: Reference to or use of Dane County, any of its departments or sub-units, or any county official or employee for commercial promotion is prohibited.

25.0 ANTITRUST ASSIGNMENT: The vendor and the County of Dane recognize that in actual economic practice, overcharges resulting from antitrust violation are in fact usually borne by the County of Dane (purchaser). Therefore, the successful vendor hereby assigns to the County of Dane any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.

26.0 RECORDKEEPING AND RECORD RETENTION-PUBLIC WORKS CONTRACTS: The successful bidder on a public works contract shall comply with the State of Wisconsin prevailing wage scale and shall establish and maintain adequate payroll records for all labor utilized as well as records for expenditures relating to all subcontracts, materialmen and suppliers. All records must be kept in accordance with generally accepted accounting procedures. The County shall have the right to audit, review, examine, copy, and transcribe any such records or documents. The vendor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

26.1 RECORDKEEPING AND RECORD RETENTION-COST REIMBURSEMENT CONTRACTS: Where payment to the vendor is based on the vendor's costs, vendor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. The County contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the vendor. The vendor will retain all documents applicable to the contract for a period of not less than three (3) years after final payment is made.

27.0 YEAR 2000 COMPLIANT: Vendor warrants that: a) all goods, services and licenses sold otherwise provided pursuant to this procurement have been tested for and are fully year 2000 compliant, which means they are capable of correctly and consistently handling all date-based functions before, during and after the year 2000; b) the date change from 1999 to 2000, or any other date changes, will not prevent such goods, services or licenses from operating in a merchantable manner, for the purposes intended and in accordance with all applicable plans and specifications and

without interruption before, during and after the year 2000; and c) vendor's internal systems, and those of vendor's vendors, are year 2000 compliant, such that vendor will be able to deliver such goods, services and licenses as required by this procurement.

28.0 LIVING WAGE REQUIREMENT: The vendor shall, where appropriate, comply with the County's Living Wage requirements as set forth in section 25.015, Dane County Ordinances.

28.01 In the event its payroll records contain any false, misleading or fraudulent information, or if the vendor fails to comply with the provisions of s. 25.015, D.C. Ords., the County may withhold payments on the contract, terminate, cancel or suspend the contract in whole or in part, or, after a due process hearing, deny the vendor the right to participate in bidding on future County contracts for a period of one (1) year after the first violation is found and for a period of three (3) years after a second violation is found.

28.02 Bidders are exempt from the above requirements if:

- The maximum value of services to be provided is less than \$5,000;
- The bid involves only the sale of goods to the County;
- The bid is for professional services;
- The bid is for a public works contract where wages are regulated under s. 62.293, Wis. Stats.;
- The bidder is a school district, a municipality, or other unit of government;
- The service to be provided is residential services at an established per bed rate;
- The bidder's employees are persons with disabilities working in employment programs and the successful bidder holds a current sub-minimum wage certificate issued by the U.S. Department of Labor or where such a certificate could be issued but for the fact that the employer is paying a wage higher than the minimum wage;
- The bidder is an individual providing services to a family member; or
- The bidder's employees are student interns.