

REQUEST FOR PROPOSAL NUMBER - RP-61-11

DATE ISSUED – July 6, 2011

METHOD OF AWARD - COMPETITIVE NEGOTIATION

TYPE OF COMMODITY – Liquid Nitrogen

NAME OF BUYER –KEVIN GRAVISS

TELEPHONE NUMBER - (502) 852-8215

The University of Louisville, Department of Purchasing, will receive sealed Proposals at the address hereon until the time and date shown below.

RETURN ADDRESS

PROPOSALS SHOULD BE SENT TO THE DEPARTMENT BY ONE OF THE FOLLOWING METHODS:

DELIVER BY U.S. MAIL TO:
Department of Purchasing
University of Louisville
Louisville, KY 40292

DELIVER BY COURIER OR OVERNIGHT CARRIER PROPOSALS TO:
OR
University of Louisville
Department of Purchasing
201 East Warnock
Louisville, KY 40208

PROPOSALS MUST BE RECEIVED NO LATER THAN: AUGUST 9, 2011 (EST) @2:00 O'CLOCK PM

Proposals shall not be opened and read publicly, but the proposals and subsequent negotiations shall be held confidential until a final contract agreement is awarded, at which time the file shall be made a matter of public record and may be reviewed by any interested party.

Equal Employment Opportunity - All parties must be in compliance with executive order 11246 of September 24, 1965, as amended by executive order 11375 of October 13, 1967.

AUTHENTICATION OF PROPOSAL AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That the attached Proposal covering University of Louisville, Department of Purchasing Invitation No. RP-61-11 has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation designed to limit independent competition.
2. That the proposer is legally entitled to enter into the contracts with the University of Louisville, an agency of the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 45A.325, to 45A.330 to 45A.340, 45A.990 and 164.821(7).
3. Proposer is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.
4. Proposer and its affiliates are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139 to the extent required by Kentucky law: and will remain registered for the duration of any contract awarded.
5. That I have fully informed myself regarding the accuracy of the statements made above.

SIGNED BY _____ **Print Name** _____ **DATE** _____

FIRM _____ **Email** _____

ADDRESS _____

CITY _____ **STATE** _____ **ZIP CODE** _____

AREA CODE (_____ **)TELEPHONE NO** _____ **Fax No** _____

DUNN & BRADSTREET _____

FAILURE TO SIGN AND RETURN THIS COVER SHEET SHALL DEEM YOUR PROPOSAL NON-RESPONSIVE

NO BID RESPONSE FORM

Please be advised that our company does not wish to submit a bid in response to the above-captioned bid for the following reason(s):

☐

Too busy at this time

☐

Not engaged in this type of work

☐

Project is too large or small

☐

Cannot meet mandatory specifications (Please specify below)

☐

Other (Please specify)

Company Name

Name

Street Address

Authorized Signature and Date

City, State, Zip

Title

Please return to: University of Louisville
Department of Purchasing
Service Complex Bldg
Louisville, KY 40292

INSTRUCTIONS TO PROPOSERS

PREPARATION OF OFFERS

Each offeror shall furnish the information required by the solicitation. The offeror shall sign the solicitation and print or type his Name, Firm, Address, Telephone Number and Date. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent are to be accompanied by evidence of this authority unless such evidence has been previously furnished to the issuing office.

In the interest of supporting the University of Louisville's initiative to reduce waste and extraneous use of natural resources, the University is requesting the following:

All proposals should be submitted on two-sided recycled paper containing 30% post consumer waste where possible. When proposal is submitted on recycled paper, vendors must complete the attached Recycled Content Form and return it with their proposal.
Proposers should refrain from using excessive and unnecessary packaging when shipping or mailing their responses. Proposers should refrain from using superfluous binders where possible, especially for the copies being requested. Proposers should present peripheral information (i.e. company and product brochures) on CD or DVD where possible or practical.

AUTHORITY TO CONTRACT

Contractor and the principal signing on its behalf, certifies that it is validly organized with authority to do business and perform the terms hereunder, is qualified to do business in KY, if applicable, and is not prohibited from entering into or performing the terms of this agreement for any reason.

PRE-CONTRACTUAL EXPENSE

The University shall not, in any event, be liable for any pre-contractual expenses incurred by the proposers in the preparation of their proposals. Proposers shall not include any such expenses as part of their proposals.

Pre-Contractual expenses are defined as expenses incurred by the proposer in:

- 1) Preparing its proposal in response to this RFP;
- 2) Submitting that proposal to the University;
- 3) Negotiating with the University any matter related to this proposal;
- 4) Any other expenses incurred by the proposer prior to date of award of the Proposer's Agreement

MULTIPLE REQUEST FOR PROPOSALS

Unless otherwise specified, only one price, brand and/or model may be proposed for each item on this Request for Proposals. Bidders must determine their single best offering based on the quality specified. Proposals not conforming to this requirement will be rejected.

AMENDMENTS TO REQUEST FOR PROPOSAL

Amendments to this Request for Proposal may be necessary prior to the closing date, and will be furnished in the form of written addenda sent to all prospective offerors. Oral communication with any person(s) will not be construed as providing amending data to the specifications, unless converted to the form of written addenda and conveyed to all prospective offerors.

INTERPRETATION OF REQUEST FOR PROPOSAL

If any person contemplating the submission of a Request for Proposal has any doubt as to the true meaning of any part of the invitation, he/she should contact **_Kevin Graviss_, Buyer Senior klgrav01@louisville.edu_**. Any interpretation of the specifications will be made by written addenda duly issued to each person known to have received a proposal.

RESTRICTIONS ON COMMUNICATIONS

From the issue date of this RFP until a contractor is selected, the proposer's sole point of contact for this proposal is:

- Kevin Graviss University Purchasing (klgrav01@louisville.edu)

No campus visits are proposed as a part of the initial phase of this Request for Proposal. If proposers choose to visit the campus, please be aware that no interviews or meetings will be granted by University personnel. Proposers should not attempt to contact or meet with any campus representatives. In order to insure fair and equal treatment, only questions submitted in writing by the date stated within this Request for Proposal will be entertained. Written responses will then be distributed via addendum and posted at <http://louisville.edu/purchasing/bids>.

For violation of this provision, the University shall reserve the right to reject the proposal.

QUESTIONS

Vendors requesting clarifications to this Request for Proposal may submit in writing questions for official response by the University. Questions should be sent via email to __ klgrav01@louisville.edu _ no later than Tuesday July 19th 12:00 noon. All questions received shall be addressed by the University via addenda and sent to all known recipients of the Request for Proposal. Addenda may also be viewed at: <http://louisville.edu/purchasing/bids>

SUBMISSION OF OFFERS

Offers and modifications thereof shall be enclosed in sealed envelopes and addressed to the Office specified in the solicitation. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

The Request for Proposal number must appear on the outside of the envelope.

**Vendors are required to send One (1) original (clearly marked) and Three, 3 copies of their proposal. *and a copy on CD*

The Request for Proposal must be signed. FAILURE TO SIGN AND RETURN THE COVER SHEET SHALL DEEM YOUR PROPOSAL NON-RESPONSIVE

PROPRIETARY INFORMATION

In the event that a response to this RFP contains information which is deemed by an offeror as being of a proprietary nature, the pages containing such information must be clearly marked as **PROPRIETARY INFORMATION** and placed in a marked envelope. The University will disclose this information only to the members of the evaluation committee. However, an offeror cannot classify any information pertaining to contract terms, experience, proposed products or proposed pricing as proprietary information. All information and material returned with each proposal should become part of any contract, which results from this proposal and will become a public record. All proposals are subject to the Kentucky Open Records Act (KRS 61.881).

MODIFICATION OR WITHDRAWAL OF OFFERS

Offers may be modified by written notice received prior to the exact hour and date specified for receipt of offers. An offer may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the offer, but only if the withdrawal is made prior to the exact hour and date set for receipt of offers. Offers received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered. Proposals that have clerical errors or any irregularity are subject to correction only with concurrence of the Department of Purchasing.

RECEIPT OF REQUEST FOR PROPOSALS

Request for Proposals must be received in the Office of the Department of Purchasing, Belknap Campus, Louisville, Kentucky, in a sealed envelope not later than **2:00 PM**, local time, on the specified date, at which time all proposals received

will be given to the buyer responsible for the proposal. Proposals received after this time shall be deemed non-responsive as per 200 KAR 5:307 Section 4. and will not be considered for award.

FIRM PRICING

Except as otherwise provided, proposed prices must be firm. Prices bid subject to qualifications such as: in effect on receipt of contract/order, escalation or other variables, may be rejected as non-responsive.

TERMS AND CONDITIONS

The only acceptable Terms and Conditions are contained within this Invitation to Bid and within the University General Terms and Conditions for a Purchase Order which can be found at:

http://louisville.edu/purchasing/vendors/PO_terms_and_conditions.html

Bidders shall not include any additional Terms and Conditions. Inclusion of any additional Terms and Conditions of the bidder may be cause for rejection of bid.

FOB DESTINATION

All offers in response to this Invitation to Bid must be on the basis of F.O.B. to the University, all freight prepaid and included in the Unit Price. No other terms are acceptable; any bids that do not comply with the above will be rejected.

DELIVERIES

Unless otherwise specified in the Request for Proposals, delivery at the earliest possible date is desired; therefore weighted consideration will be given to the earliest date as stated by the bidder in his proposal.

Bidders must quote actual delivery time; estimates are not appropriate. If necessary, bidders should contact manufacturer for delivery time on products not in stock.

As provided in this Request for Proposal, the bidder will clearly state in his bid the time required for the delivery upon receipt of contract, or purchase order. Delivery time must be specific and such phrases "as required", "as soon as possible" or "prompt" have no meaning and will cause for rejecting the bid.

When delivery is not made as provided in this contract, the Division of Purchasing reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the successful bidder. Failure of the vendor to meet contract delivery dates may also be cause for cancellation, removal from the University Bid list, or both.

QUANTITIES

It is herein set forth that all quantities mentioned are purely estimates and are not to be implied or inferred as being guarantees. The University of Louisville is obligated to buy only that the quantity needed during the term of the contract.

EXCEPTIONS TO CONTRACT ORDERING

The University reserves the right to make purchases for like type products or services from other vendors and firms in the event of, but not limited to, the establishment of; Governmental Contracts, Grants, Sub-Grants which may contain terms and conditions for such contract(s).

ALTERNATE BRANDS/SPECIFICATIONS

Unless otherwise specified, brands and specifications referenced in this Request for Proposals are meant to establish a minimum standard of quality only. Bidders may bid on brand(s) that they consider to be equal by marking through the specified brand and inserting those brand names, model number, etc., on which they are bidding.

Proposals offering "equal" products will be considered for award if such products are clearly identified in the bid and are determined by the University to meet or exceed fully the maximum essential and salient characteristics referenced in the

Request for Proposals. The burden of proof of equality shall be the responsibility of the bidder. If the Owner judges the material or equipment is not equal to that named in the specifications, the bid shall be rejected. The Owner's decision shall be final.

Bidders are proposing alternate brands, must enclose descriptive literature with their bids so that the equality can be verified. Failure to enclose sufficient literature may result in the rejection of the proposal.

When specified brand names are not changed, it will be assumed that the bidders are proposing to furnish those brands. The contracts will be written accordingly and the successful bidders will be required to deliver the brands named.

TAXES

The University of Louisville is tax exempt from the provision of the Kentucky six percent (6%) Sales and/or Use Tax on materials and equipment under this solicitation. All offerors or contractors shall take this into consideration when submitting their proposal. Exemption certifications will be furnished to cover excise tax exemption where applicable and when requested by the contractor.

Bidders are informed that material purchased by the contractor, for the performance of this contract for the University of Louisville, are **not exempt** from the provisions of the Kentucky Sales and/or Use Tax. All adjustments and allowances for the current sales and/or use tax shall be provided for in the bid amount as no adjustments will be permitted and/or made after the fact.

Federal Excise Tax

The University of Louisville may be entitled to exemption from Federal Excise Tax. All bidders or contractors shall take this into consideration of their bid.

Taxes, Workmen's Compensation, Etc.

The prime bidder or contractor will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law, including but not limited to old age pension, social security or annuities. Workmen's Compensation Insurance shall be carried to the full amount as required by Kentucky Statutes.

SUSTAINABILITY

The University of Louisville is dedicated to acquiring products and services that meet Sustainability requirements. For the purpose of judging Sustainability, the following description applies:

A process of current or developing business practices and technologies that restore and enhance the environment by supplying products and services that have a lessor or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison, where applicable, may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance or disposal of the product or service.

INSPECTION

All supplies and equipment shall be subject to inspection or test by the University prior to acceptance. In the event supplies or equipment are defective in material or workmanship or otherwise not in conformity with specified requirement, the University shall have the right to reject them or require acceptable correction at the vendor's expense.

GENERAL GUARANTEE

Neither the final certificate of payment nor any provision in the contract documents nor partial or entire use of the premises by the Owner shall constitute an acceptance of work done, in accordance with the Contract Documents or relieve the contractor of liability in respect to any expense warranties or responsibility for faculty material or workmanship. The contract shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of the work, unless a longer period specified. The Owner shall give notice of observed defects with reasonable promptness.

DAMAGES

Failure of the University to invoke liquidated damages at the immediate time of the delay of delivery or installation, does not waive the right of the University to invoke said damages at a later date

DAMAGE TO PROPERTY

This contractor will be responsible to repair to the satisfaction of the University any damage to grounds, buildings, vehicles, or other property belonging to the University or any of its employees or students, or property belonging to any member of the public present on campus for any legitimate purpose, where such damage is the direct or indirect result of any actions of the contractor employees.

INSURANCE

Insurance Requirements for Standard Contracts

Before the Contractor becomes entitled to any rights under this contract and prior to taking any action under this contract, Contractor shall have a Certificate of Insurance for Contractor's in-force insurance issued to the University for the following policies and limits.

MINIMUM COVERAGE AMOUNT

<i>Type of Insurance</i>	<i>Minimum Limits of Liability</i>
<i>Commercial General Liability*</i> Including: Completed Products Personal and Advertising Injury <i>Products/Completed Operations</i>	\$1,000,000.00 Each Occurrence \$2,000,000.00 General Aggregate
Auto Liability* (all owned, hired and non-owned vehicles)	\$1,000,000.00 Combined Single Limit (Bodily Injury, Property Damage)
<i>Workers Compensation</i>	Statutory Limits – Kentucky and the state(s) of domicile of the Contractor and any subcontractors(s). The all state and voluntary compensation endorsement is to be attached to the policy.
<i>Employers Liability</i>	\$1,000,000.00 (each employee, each accident and policy limit)

*Occurrence coverage is required. Claims-made coverage is not acceptable.

These policies (except Workers' Compensation) shall name the University, its trustees, officers, employees and agents as Additional Insured and shall contain a covenant requiring no less than thirty (30) days written notice to the University before cancellation, reduction or other modification of coverages.

These policies shall be primary and noncontributing with any insurance carried by the University and shall contain a severability of interests clause in respect to cross liability, protecting each Additional Insured as through a separate policy had been issued to each. Certificate of the above policies shall be furnished, to the University, at least thirty (30) days prior to the commencement of services provided under this Contract.

All Certificates of Insurance must clearly state that the Contractor's insurance(s) is PRIMARY. If Contractor's policy has deductibles, self-insured retentions or co-insurance penalties, then all such costs shall be solely borne by Contractor and not by the University. The University will not share in any policy deductibles.

It is hereby agreed that in event of a claim arising under this policy, the company will not deny liability by reason of the Additional Insured being a state, county, municipal corporation or governmental agency.

The limits listed above may be accomplished through a combination of primary and excess/umbrella liability policies written on a "follow form" basis or forms no more restrictive than the primary policies.

CONFLICTING CONDITIONS

If there is any conflict between the drawings and written specifications, the written specifications shall govern.

AWARD OF CONTRACT - COMPETITIVE NEGOTIATION

Award shall be made on the lowest responsive / responsible bidder offering the best valued proposal to the University as evaluated based upon price and criteria listed within the proposal. If not feasible to award in the manner proposed, the Department of Purchasing reserves the right to change the method of award.

OR

The contract will be awarded to that responsible offeror whose proposal conforms to the solicitation and will be most advantageous to the University, price and other evaluation factors considered.

The contract will be awarded to that responsible offeror whose proposal conforms to the solicitation and will be most advantageous to the University, price and other evaluation factors considered.

The University reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

A written award (or acceptance of offer) mailed (or otherwise furnished) to the successful offeror shall be deemed to result in a binding contract without further action by either party, and all terms and conditions of this Request for Proposal are hereby incorporated into any such contract.

RECIPROCAL PREFERENCE

In accordance with KRS 45A.490 to 45A.494, a resident Offeror of the Commonwealth of Kentucky shall be given a preference against a nonresident Offeror. In evaluating proposals, the University will apply a reciprocal preference against an Offeror submitting a proposal from a state that grants residency preference equal to the preference given by the state of the nonresident Offeror. Residency and nonresidency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively. Any Offeror claiming Kentucky residency status shall submit with its proposal a notarized affidavit affirming that it meets the criteria as set for in the above referenced statute.

Forms can be found at <http://louisville.edu/purchasing/forms>.

OTHER STATE AGENCIES

Upon mutual consent of all parties the established contract may be extended for use to other Commonwealth of Kentucky Agencies and Universities.

INTERVIEW AND NEGOTIATION SESSIONS

Request for additional information and /or interviews may be required with any firm submitting a responsive proposal. The University does however reserve the right to limit any on campus and /or teleconference interviews to the top two or three evaluated proposals based upon the original evaluation criteria listed, or may elect to proceed with contract negotiations with the highest evaluated proposal if deemed to be in the best interest of the University and that proposal was clearly the best/only proposal received. Should negotiations with the highest evaluated proposal fail to produce a formalized contract the University reserves the right to enter into negotiations with the next highest evaluated proposal or cancel the original RFP which ever would best serve the interest of the university. Regardless, all proposals and additional sessions shall be governed by KRS45A.085.

DISPOSITION OF PROPOSALS

All proposals become the property of the University of Louisville. The successful proposal will be incorporated into the resulting contract by reference.

CONTRACT PERIOD

The contract established by this Request for Proposal will be for the period of one year with the option to renew for 4 additional one year periods . All prices shall be firm for the first year of the contract. The University of Louisville, upon agreement with all parties, shall have the option to extend the contract up to one year.

CONTRACT CHANGES

During the period of the contract, no change will be permitted in any of its conditions and specifications unless the Contractor receives written approval from the University.

Should the Contractor find at any time that existing conditions make modification in requirements necessary he shall promptly report such matter to the Department of Purchasing for consideration and decision.

AMENDMENTS

It is recognized that subsequent written amendments to the awarded contract may be necessary; and all such amendments will require the mutual agreement of the parties.

COMPLETION OF CONTRACT

For any delay in completion, the Contractor and their sureties shall be liable for, and shall pay to the Owner, the aggregate sum of **Two Hundred Dollars (\$200.00)** as fixed, agreed and liquidated damages for each calendar day of delay until the contract work is completed and accepted.

CONTRACT RENEWAL

This contract may be renewed by mutual agreement between the vendor and the University. Renewal shall be based on satisfactory performance of the vendor for the work described in the specifications. The vendor shall submit a request for renewal of contract no later than thirty (30) days prior to expiration of the contract. The University may make an evaluation of market conditions and, if justified, an increase or decrease of contract prices can be made based upon a present increase or decrease in prices of raw goods.

CONTRACT CANCELLATION

The contract established by this Request for Proposal shall be non-cancelable during its life except for mal-performance, non-performance, substitution of commodities, or failure to comply with specifications given herein on the part of the vendor. [If a protest is filed, depending on the outcome of the protest, the contract/order may be cancelled or confirmed.](#) In the event of such action being necessary, the contract shall be null and void upon receipt of thirty (30) day written notice from the University of Louisville, Department of Purchasing.

The University reserves the right to cancel any established contract as a result of the Request for Proposal if any policy or procedural changes occur that would warrant discontinued use of the contract.

FISCAL FUNDING OUT CLAUSE

The University reserves the right to cancel and/or suspend the established contract if funds for the continuation of these contracted services are eliminated or are not fully appropriated in subsequent years. The University will make all efforts, though annual budget requests to meet financial obligations for continuing contractual obligations; however this does not guarantee that funds will be made available from one fiscal year to the next.

The University also reserves the right to cancel and/or suspend the established contract if changes in University policy and/or the way business are conducted regarding contracted services.

PAYMENT OF INVOICES

The vendor shall be paid, upon the submission of proper invoices, to the "Billing Address" shown on the purchase order, at the prices stipulated for items delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries.

The University reserves the right to make payment for orders via the University credit card program which is Visa.

PRE-PROPOSAL CONFERENCE

A Pre-Proposal Conference for this project will be held at the University of Louisville, Belknap Campus, Shumaker Bldg room 229, on July 15, 2011 at 10:00 am and site tour to follow.;

The purpose of this meeting is to answer questions pertaining to the specifications and conditions of this project. This meeting is to assure that all bidders will have a complete understanding of the work of the project.

Note: No transcript or report of Pre-Proposal Conference will be provided.

PERMITS AND CODES

The contractor shall obtain all permits necessary for any and/or all parts of the work from the authorities governing such work. Evidence that such permits have been issued shall be furnished to the Owner, if requested, before beginning work. The contractor shall observe all applicable Federal, State and Local codes governing the work. Building permits, when required shall be procured by the contractor.

PROTECTION AT SITE

Pedestrian and automobile traffic near project sites shall be protected from injury and damage due to construction activities by appropriate means such as roping off walk or driveways, erecting warning signs, erecting snow fences and other positive ways which will divert traffic from areas of possible danger. Special attention shall be given to open trenches regarding pedestrian traffic with emphasis on blind or handicapped pedestrians. Open trenches shall be fenced with snow fence and also protected by audio means.

CLEAN-UP

It shall be the duty of the contractor to keep the job policed and clean at all times. Rubbish and trash shall be cleaned out and removed daily and the premises kept in condition satisfactory to the Owner or the Owner's appointed representative.

REQUEST FOR PROPOSAL PROTESTS

(KRS45A.285; KRS164A.555 TO 164A.630)

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or selection for award of a contract by the University of Louisville, may file a protest via Certified Mail with the Director of Purchasing within two calendar weeks after such aggrieved person knows or should have known the facts giving rise thereto. An up to date posting of current awards can be found at http://louisville.edu/purchasing/bids/awarded_bids.html. All protests must be in writing and must use the phrase "**Request for Proposal Protest**" in the letter. The Director of Purchasing shall review all facts presented and render a determination in writing promptly to the aggrieved person.

The aggrieved person may appeal the determination in writing via Certified Mail within four calendar days to the Associate Vice President for Business Affairs who shall promptly issue a ruling in writing. A copy of such appeal must also be sent via certified mail to the Director of Purchasing. The ruling of the Associate Vice President shall be the final action on behalf of the University. Copies of the bid procedure are available on request from the University of Louisville Purchasing Department.

In the event of a bid protest, the University may notify the successful bidder to suspend the contract/order while the protest is being reviewed. Depending on the outcome of the protest, the contract/order may be cancelled or confirmed. Any questions regarding this procedure should be addressed to the Director of Purchasing, (502) 852-8220.

INDEMNIFICATION

Any liability of the University to indemnify the Contractor as specified, shall be in accordance with Kentucky Revised Statutes KRS 44.070 to 44.160 (board of claims act) and KRS 45A.245 through 45A.275 (control claims act.)

CONFLICT OF INTEREST

Firms responding to this Request for Proposal are required to disclose any potential conflict of interest. If the owner of the bidding firm is related to a University of Louisville employee, that relationship must be disclosed in writing and made a part of the bid response. Definition Related Person: Related person to a University employee means a spouse or dependent child of such employee. The term extends to other individuals sharing the same household as well as siblings, parents and non-dependent children (including step and in-law variations of those relationships) in circumstances where the University employee has actual knowledge that such relative is likely to or will benefit from a particular University transaction.

KENTUCKY CAMPAIGN LAWS:

By signing this proposal document, the vendor representative certifies that neither he/she nor any member of his/her immediate family hold an interest of 10% or more in any business entity involved in the performance of this contract; or has contributed more than the amount specified in KRS121.056(2) to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The signee further swears under the penalty of perjury that neither he/she or the Company which he/she represents has knowingly violated any provisions of the campaign laws of the Commonwealth; and, that the award of a contract to him/her or the Company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed, as a result of this proposal shall be governed under state laws. The rights and obligations of the parties shall be determined in accordance with the laws of the Commonwealth of Kentucky.

VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS

The contractor shall reveal to the owner any final determination of a violation by the contractor or subcontractor with the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor. The contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 the apply to the contractor or subcontractor for the duration of the contract.

Awarded Contractor will be required to register with the Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139 and in compliance with House Bill 609, date May 21, 2008.

EQUIPMENT SAFETY REQUIREMENTS

All equipment offered against this Request for Proposal must be in full compliance with all current safety standards as established by Federal, State, and Local governments, including, but not limited to, all current OSHA standards applicable to the manufacture, distribution, and use of said equipment. Furthermore, all equipment, including the listing and labeling of the equipment, must meet the requirements stated in the current edition of the NFPA 70 National Electrical Code. Bidders, by completing and submitting a bid in response to this Invitation to Bid, do certify that any equipment proposed shall be in full compliance with all of the above applicable safety standards.

ANTI-KICK BACK

All Bidders shall comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Bidder, subcontractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled.

ELIGIBILITY TO PARTICIPATE IN GOVERNMENTAL PROGRAMS CERTIFICATION

Vendor's signature on this solicitation response certifies that the vendor, and where applicable subcontract vendor, or any person performing services under this agreement (i) is not now nor have ever been excluded, suspended, debarred or otherwise deemed ineligible to participate in governmental healthcare, procurement, or other programs; (ii) is not now nor have ever been charged with or been convicted of a criminal offense related to the provision of government healthcare, procurement, or other programs and have not been reinstated in such programs after a period of exclusion, suspension, debarment, or ineligibility. If the vendor, and where applicable subcontract vendor, or any person performing services under this agreement becomes ineligible for participation in such governmental programs in the future, vendor will have a process in place such that subcontract vendor(s) and any person performing services under this agreement will promptly notify the vendor of such ineligibility. The vendor will notify the University buyer of record within seventy-two (72) hours of the vendor becoming aware of the governmental ineligibility of the vendor, any subcontract vendor, or any person performing services under this agreement.

AUDITED FINACIAL STATEMENTS

The University reserves the right to request Audited Financial Statements from any and all firms submitting proposals in order to adequately evaluate firm(s) financial stability in performing the services as outlined within this request for proposal. Upon request from the University, firm(s) shall provide the last two (2) years audited financial statements for review by the University. These statements shall be treated as Proprietary Information. They will be marked so in the bid file and will not be subject to open records inspection/requests.

CONDUCT OF EMPLOYEES

It is understood that the possession of weapons and/or consumption of alcohol or drugs on the job by any personnel, Contractor or otherwise, is strictly prohibited. Any person having possession of same and/or under the influence of alcohol or drugs, while on the premises at any time, shall be removed from the site at the direction of the Contractor and shall be subject to automatic dismissal by the Contractor.

Contractor must maintain the work environment free of discrimination, verbal and sexual harassment keeping in compliance with any and all Affirmative Action Plans. No contractor or subcontractor employee shall fraternize, use abusive language, make either verbal or suggestive overtures to or with the students, staff and general public at or near the facility or job site. Job conduct and responsibilities shall be discussed regularly at sub-contractor meetings.

SMOKE FREE BUILDINGS

All University of Louisville buildings, including mechanical rooms, are smoke free.

SUPPLIER CERTIFICATION

The awarded contractor will be required to sign and execute the "Supplier Certification" upon request by the University of Louisville Human Resources Department. A sample copy is attached to this document.

OTHER INFORMATION

Any questions regarding this Request for Proposal should be directed to:

Kevin Graviss C.P.M.
Department of Purchasing
University of Louisville
Louisville, KY 40292

University of Louisville

SUPPLIER CERTIFICATION

1. EQUAL OPPORTUNITY CLAUSE

(Applicable to contracts and purchase orders exceeding \$10,000.)

This Contract is subject to the requirements of Executive Orders 11246 and 11375 and the rules and regulations of the U.S. Secretary of Labor (41 CFR Chapter 60) in promoting Equal Opportunities.

During the performance of this contract or purchase order, the Bidder, Offerer, Applicant, Seller, or Subcontractor (hereupon referred to as Supplier) agrees as follows:

- a. Supplier will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Supplier will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. Supplier agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause.
- b. Supplier will, in all solicitations or advertisements for employees placed by or on behalf of the Supplier, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.
- c. Supplier will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Supplier's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. Supplier will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders.
- e. Supplier will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Affirmative Action Office for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of Supplier's noncompliance with the nondiscrimination clauses of this contract or purchase order or with any of such rules, regulations, or orders, this contract or purchase order may be canceled, terminated, or suspended in whole or in part, and Supplier may be declared ineligible for further Government contracts in accordance with the procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. Supplier will include the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. Supplier will take such action with respect to any subcontract or

purchase order as the Government or Buyer may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event Supplier becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Supplier may request the United States to enter into such litigation to protect the interests of the United States.¹

2. AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

(Applicable to contracts and purchase orders exceeding \$10,000.)

This contract is subject to the requirements of Executive Order 11701 and the regulations of the U.S. Secretary of Labor (41 CFR Chapter 60, Part 60-250) in promoting employment opportunities for disabled and Vietnam veterans.

During the performance of this contract or purchase order, Supplier agrees as follows:

- a. To provide special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era. The Supplier also agrees that all suitable employment openings of the Supplier which exist at the time of execution of this contract or purchase order and those which occur during the performance of this contract or purchase order, including those not generated by this contract or purchase order and including those occurring at an establishment of the Supplier other than the one wherein the contract or purchase order is being performed but excluding those of independently operated corporate affiliates, shall be offered for listing at an appropriate local office of the State Employment Service system wherein the opening occurs and to provide such reports to such local office regarding employment openings and hires as may be required: provided, that if the contract or purchase order is for less than \$10,000 or if it is with a state or local government, the reports set forth in Paragraphs (c) and (d) of this clause are not required.
- b. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment service or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Supplier from any requirements in Executive Order or regulations regarding nondiscrimination in employment.
- c. The reports required by Paragraph (a) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or where the Supplier has more than one establishment in a state, with the central office of the state employment service. Such reports shall indicate for each establishment (1) the number of individuals who were hired during the reporting period; (2) the number of those hired who were disabled veterans; and (3) the number who were nondisabled veterans of the Vietnam era.
- d. The Supplier shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract or purchase order. The Supplier shall maintain copies of the reports submitted until the expiration of one year after final payment under the contract or purchase order, during which time they shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the University's Affirmative Action Office.

¹ For federally-assisted construction contracts, the Supplier further agrees that it shall comply with the requirements of 41 CFR 60-1.4(b), which is specifically incorporated by reference herein.

- e. Whenever the Supplier becomes contractually bound to the listing provisions of this clause, he shall advise the employment service system in each state wherein he has establishments of the name and location of each such establishment in the state. As long as the Supplier is contractually bound to these provisions and has so advised the state system, there is no need to advise the state system of subsequent contracts or purchase orders. The Supplier may advise the state system when it is no longer bound by this contract clause.
- f. This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.
- g. This clause does not apply to openings which the Supplier proposed to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
- h. As used in this clause:
 - 1. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical, and executive administrative, and professional openings which are compensated on a salary basis of less than \$18,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Supplier proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. Under the most compelling circumstances an employment opening may not be suitable for listing, including the situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government
 - 2. "Appropriate office of the state employment service system" means the local office of the federal-state national system or public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
 - 3. "Openings which the Supplier proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Supplier's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Supplier proposes to fill from regularly established "recall" or "rehire" lists.
 - 4. "Openings which the Supplier proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings for which no consideration will be given to persons outside of a special hiring arrangement, including openings which the Supplier proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Supplier and representatives of his employees.
 - 5. "Disabled veteran" means a person entitled to disability compensation under the law administered by the Veterans' Administration for disability rates at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.
 - 6. "Veterans of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred after August 05, 1964, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or

released from active duty for service-connected disability if any part of such duty was performed after August 05, 1964, and (2) who was so discharged or released within the 48 months preceding his application for employment covered under this part.

3. CERTIFICATE OF NONSEGREGATED FACILITIES

(Applicable to contractors exceeding \$10,000 in contracts with the University of Louisville.)

This contract is subject to the requirements of Executive Order 11246 and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-1.8) prohibiting segregated facilities based upon race, color, religion, sex or national origin.

The undersigned Supplier certifies to the University of Louisville and the Federal Government agencies with which it contracts that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit the employees to perform their services at any location under his control where segregated facilities are maintained. Supplier certifies further that he will not maintain or provide for his employment any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The undersigned bidder, offerer, applicant, supplier, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time period) he will obtain identical certifications from proposed subcontractors prior to the award of subcontractors exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, that he will retain such certification in his files, and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certification for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provision of the Equal Opportunity Clause. The Certification may be submitted either for each subcontract or for all subcontracts or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

4. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

(Applicable to contractors exceeding \$10,000 in contracts with the University of Louisville.)

This contract is subject to the requirements of Executive Order 11758, section 503 of the Rehabilitation Act of 1973, as amended, and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-741.5) to promote the employment and advancement of qualified handicapped individuals.

During the performance of this contract or purchase order, Supplier agrees as follows:

- a. that it will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
- i. Recruitment, advertising, and job application procedures;
 - ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
 - iii. Rates of pay or any other form of compensation and changes in compensation;
 - iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - v. Leaves of absence, sick leave, or any other leave;
 - vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor;
 - vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - viii. Activities sponsored by the contractor including social or recreational programs; and
 - ix. Any other term, condition, or privilege of employment.
- b. that it will comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- c. that in the event of noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- d. that it will post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- e. that it will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- f. that it will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

5. AFFIRMATIVE ACTION PROGRAM REQUIREMENT

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in contracts with the University of Louisville.)

This contract is subject to the requirements of Executive Order 11758, section 503 of the Rehabilitation Act of 1973, as amended, and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-741.40) in promoting affirmative action in Employment of the Handicapped. Supplier agrees to conform to its requirements as outlined in 41 CFR Part 60-741.44.

Furthermore, Supplier agrees to develop a written Affirmative Action Compliance Program for each of its establishments as required by 41 CFR 60-2.1.

6. FILING CERTIFICATE

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in contracts with the University of Louisville.)

Supplier has filed or will file the necessary compliance reports, including Standard Form 100 (EEO-1) where and when required by law and applicable regulations, including, without limitation, the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 and regulations in 41 CFR 60-1.7. Supplier further agrees that it shall require similar certification and filing from its nonexempt subcontractors and suppliers. The Supplier agrees to submit a copy of his Affirmative Action Program to the Affirmative Action Office, University of Louisville, within 30 days after the award to him of a contract or subcontract. Subsequent reports shall be submitted annually in accordance with 41 CFR 60-1.7(a)(1).

7. AFFIRMATIVE ACTION CERTIFICATE

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in contracts with the University of Louisville.)

Supplier has developed, is maintaining, and will continue to maintain the written affirmative action compliance program to guarantee equal employment opportunity to minority groups required by applicable laws and regulations, including, without limitations, those appearing in 41 CFR 60-1.40. Supplier further agrees that it shall require similar certification and filing from its nonexempt subcontractors and suppliers.²

² Nonconstruction contractors should refer to 41 CFR Part 60-2 for specific affirmative action requirements. Construction contractors should refer to 41 CFR Part 60-4 for specific affirmative action requirements.

The undersigned Supplier agrees that the clauses set forth herein are, where applicable, hereby incorporated in every nonexempt contract or purchase order between us currently in force or what may be issued.

This form is being sent to all entities doing business with the University of Louisville. Not all sections apply to all suppliers. Your signature hereon will signify your acceptance of the provisions of those sections legally applicable to you and not to those sections which are inapplicable.

FIRM NAME _____

STREET ADDRESS _____

CITY, STATE, ZIP _____

NAME OF AUTHORIZED REPRESENTATIVE _____

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____

DATE OF EXECUTION _____