



Lexington-Fayette Urban County Government

Request for Proposal

The Lexington-Fayette Urban County Government hereby requests proposals for **RFP #25-2022 Commissary Services for Community Corrections** to be provided in accordance with terms, conditions and specifications established herein.

Online proposals will be received at <https://lexingtonky.ionwave.net/> until **2:00 PM**, prevailing local time, on **April 26, 2022**.

Proposals received after the date and time set for opening proposals will not be considered for award of a contract and will be returned unopened to the Proposer. It is the sole responsibility of the Proposer to assure that his/her proposal is received (uploaded to <https://lexingtonky.ionwave.net/>) by the Division of Central Purchasing before the date and time set for opening proposals.

Additional copies of this Request For Proposals are available from the Division of Central Purchasing, Room 338 Government Center, 200 East Main Street, Lexington, KY 40507, (859)-258-3320, at no charge.

Proposals, once submitted, may not be withdrawn for a period of sixty (60) calendar days.

The Proposer must upload one (1) electronic version in PDF format to <https://lexingtonky.ionwave.net/>.

The Lexington-Fayette Urban County Government reserves the right to reject any or all proposals, and to waive technicalities and informalities when such waiver is determined by the Lexington-Fayette Urban County Government to be in its best interest.

Signature of this proposal by the Proposer constitutes acceptance by the Proposer of terms, conditions and requirements set forth herein.

Minor exceptions may not eliminate the proposal. Any exceptions to the specifications established herein shall be listed in detail on a separate sheet and attached hereto. The Lexington-Fayette Urban County Government shall determine whether any exception is minor.

The Lexington-Fayette Urban County Government encourages the participation of minority- and women-owned businesses in Lexington-Fayette Urban County Government contracts. This proposal is subject to Affirmative Action requirements attached hereto.

Please do not contact any LFUCG staff member or any other person involved in the selection process other than the designated contact person(s) regarding the project contemplated under this RFP while this RFP is open and a selection has not been finalized. Any attempt to do so may result in disqualification of the firm's submittal for consideration.

Laws and Regulations

All applicable state laws, ordinances and resolutions (including but not limited to Section 2-33 (Discrimination due to sexual orientation or gender identity) and Chapter 13 (Licenses and Regulations) of the Lexington-Fayette Urban County Government Code of Ordinances, and Resolution No. 484-17 (Minority, Women, and Veteran-Owned Businesses)) and the regulations of all authorities having jurisdiction over the project shall apply to the contract, and shall be deemed to be incorporated herein by reference.

Equal Employment Opportunity

The Entity (regardless of whether construction contractor, non-construction contractor or supplier) agrees to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information, political affiliation, or veteran status, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

Kentucky Equal Employment Opportunity Act

The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any "county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;
- (2) The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractors that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;
- (3) The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provision of the nondiscrimination clauses required by this section; and
- (4) The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses."

The Act further provides:

"KRS 45.610. Hiring minorities -- Information required

(1) For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetables.

(2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.

KRS 45.620. Action against contractor -- Hiring of minority contractor or subcontractor

(1) If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

(2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.

(3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

KRS 45.630 Termination of existing employee not required, when

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee upon proof that employee was employed prior to the date of the contract.

KRS 45.640 Minimum skills

Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job."

It is recommended that all of the provisions above quoted be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence that his workforce in Kentucky is

representative of the available work-force in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

LFUCG Non-Appropriation Clause

Contractor acknowledges that the LFUCG is a governmental entity, and the contract validity is based upon the availability of public funding under the authority of its statutory mandate.

In the event that public funds are unavailable and not appropriated for the performance of the LFUCG's obligations under this contract, then this contract shall automatically expire without penalty to the LFUCG thirty (30) days after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the LFUCG shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this contract, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

In the event of a change in the LFUCG's statutory authority, mandate and mandated functions, by state and federal legislative or regulatory action, which adversely affects the LFUCG's authority to continue its obligations under this contract, then this contract shall automatically terminate without penalty to the LFUCG upon written notice to Contractor of such limitation or change in the LFUCG's legal authority.

Contention Process

Vendors who respond to this invitation have the right to file a notice of contention associated with the RFP process or to file a notice of appeal of the recommendation made by the Director of Central Purchasing resulting from this invitation.

Notice of contention with the RFP process must be filed within 3 business days of the bid/proposal opening by (1) sending a written notice, including sufficient documentation to support contention, to the Director of the Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his/her contention with the RFP process. After consulting with the Commissioner of Finance the Chief Administrative Officer and reviewing the documentation and/or hearing the vendor, the Director of Central Purchasing shall promptly respond in writing findings as to the compliance with RFP processes. If, based on this review, a RFP process irregularity is deemed to have occurred the Director of Central Purchasing will consult with the Commissioner of Finance, the Chief Administrative Officer and the Department of Law as to the appropriate remedy.

Notice of appeal of a RFP recommendation must be filed within 3 business days of the RFP recommendation by (1) sending a written notice, including sufficient documentation to support appeal, to the Director, Division of Central Purchasing or (2) submitting a written request for a meeting with the Director of Central Purchasing to explain his appeal. After reviewing the documentation and/or hearing the vendor and consulting with the Commissioner of Finance and the Chief Administrative Officer, the Director of Central Purchasing shall in writing, affirm or withdraw the recommendation.

SELECTION CRITERIA:

See page 39 for scoring criteria

Proposals shall contain the appropriate information necessary to evaluate based on these criteria. A committee composed of government employees as well as representatives of relevant user groups will evaluate the proposals.

Questions shall be addressed to:

Todd Slatin, Director
Division of Central Purchasing
tslatin@lexingtonky.gov

Affirmative Action Plan

All vendors must submit as a part of the proposal package the following items to the Urban County Government:

1. Affirmative Action Plan for his/her firm;
2. Current Work Force Analysis Form;

Failure to submit these items as required may result in disqualification of the submitter from award of the contract. All submissions should be directed to:

Director, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor
Lexington, Kentucky 40507

All questions regarding this proposal must be directed to the Division of Central Purchasing, (859)-258-3320.

AFFIDAVIT

Comes the Affiant, _____, and after being first duly sworn, states under penalty of perjury as follows:

1. His/her name is _____ and he/she is the individual submitting the proposal or is the authorized representative of _____, the entity submitting the proposal (hereinafter referred to as "Proposer").

2. Proposer will pay all taxes and fees, which are owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, prior to award of the contract and will maintain a "current" status in regard to those taxes and fees during the life of the contract.

3. Proposer will obtain a Lexington-Fayette Urban County Government business license, if applicable, prior to award of the contract.

4. Proposer has authorized the Division of Central Purchasing to verify the above-mentioned information with the Division of Revenue and to disclose to the Urban County Council that taxes and/or fees are delinquent or that a business license has not been obtained.

5. Proposer has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky within the past five (5) years and the award of a contract to the Proposer will not violate any provision of the campaign finance laws of the Commonwealth.

6. Proposer has not knowingly violated any provision of Chapter 25 of the Lexington-Fayette Urban County Government Code of Ordinances, known as "Ethics Act."

Continued on next page

7. Proposer acknowledges that "knowingly" for purposes of this Affidavit means, with respect to conduct or to circumstances described by a statute or ordinance defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Further, Affiant sayeth naught.

STATE OF _____

COUNTY OF _____

The foregoing instrument was subscribed, sworn to and acknowledged before me by
_____ on this the _____ day of
_____, 20__.

My Commission expires: _____

NOTARY PUBLIC, STATE AT LARGE

EQUAL OPPORTUNITY AGREEMENT

The Law

- Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and sub-contractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- Section 503 of the Rehabilitation Act of 1973 states:

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability.

- Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal contracts.
- Section 206(A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractors may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped and aged persons.

Signature

Name of Business

WORKFORCE ANALYSIS FORM

Name of Organization: _____

Categories	Total	White (Not Hispanic or Latino)		Hispanic or Latino		Black or African-American (Not Hispanic or Latino)		Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino)		Asian (Not Hispanic or Latino)		American Indian or Alaskan Native (not Hispanic or Latino)		Two or more races (Not Hispanic or Latino)		Total	
		M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Administrators																	
Professionals																	
Superintendents																	
Supervisors																	
Foremen																	
Technicians																	
Protective Service																	
Para-Professionals																	
Office/Clerical																	
Skilled Craft																	
Service/Maintenance																	
Total:																	

Prepared by: _____
(Name and Title)

Date: ____/____/____
Revised 2015-Dec-15

**DIRECTOR, DIVISION OF CENTRAL PURCHASING
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
200 EAST MAIN STREET
LEXINGTON, KENTUCKY 40507**

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL
EMPLOYMENT OPPORTUNITIES AND DBE CONTRACT PARTICIPATION**

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) Contract participation. Disadvantaged Business Enterprises (DBE) consists of Minority-Owned Business Enterprises (MBE) and Woman-Owned Business Enterprises (WBE).

The Lexington-Fayette Urban County Government has set a goal that not less than ten percent (10%) of the total value of this Contract be subcontracted to Disadvantaged Business Enterprises, which is made up of MBEs and WBEs. The goal for the utilization of Disadvantaged Business Enterprises as subcontractors is a recommended goal. Contractor(s) who fail to meet such goal will be expected to provide written explanations to the Director of the Division of Purchasing of efforts they have made to accomplish the recommended goal, and the extent to which they are successful in accomplishing the recommended goal will be a consideration in the procurement process. Depending on the funding source, other DBE goals may apply.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
smiller@lexingtonky.gov

Lexington-Fayette Urban County Government
MWDBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Minority-Owned (MBE), Woman-Owned (WBE), Disadvantaged (DBE) Business Enterprises and Veteran-Owned Businesses as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established 10% of total procurement costs as a Goal for participation of Minority-Owned, Woman-Owned and Disadvantaged Businesses on this contract.
- 3) **It is therefore a request of each Bidder to include in its bid, the same goal (10%) for MWDBE participation and other requirements as outlined in this section.**
- 4) The LFUCG has also established a 3% of total procurement costs as a Goal for participation for of Veteran-Owned Businesses.
- 5) **It is therefore a request of each Bidder to include in its bid, the same goal (3%) for Veteran-Owned participation and other requirements as outlined in this section.**

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all payments submitted to Minority-Owned or Woman-Owned subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a Minority-Owned or Woman-Owned subcontractor or supplier listed in the original submittal must be requested in writing and must be accompanied by documentation of Good Faith Efforts to replace the subcontractor / supplier with another MWDBE Firm; this is subject to approval by the LFUCG. (See LFUCG MWDBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Central Purchasing (859-258-3320)
- 4) The LFUCG will make every effort to notify interested MWDBE and Veteran-Owned subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned and operated by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.
- 2) A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned and operated by one or more Non-Minority Females.

- 3) A Disadvantaged Business (DBE) is defined as a business which is certified as being at least 51% owned and operated by a person(s) that are economically and socially disadvantaged.
- 4) A Veteran-Owned Business is defined as a business which is certified as being at least 51% owned and operated by a veteran and/or a service disabled veteran.
- 5) Good Faith Efforts are efforts that, given all relevant circumstances, a bidder or proposer actively and aggressively seeking to meet the goals, can reasonably be expected to make. In evaluating good faith efforts made toward achieving the goals, whether the bidder or proposer has performed the efforts outlined in the Obligations of Bidder for Good Faith Efforts outlined in this document will be considered, along with any other relevant factors.

D. OBLIGATION OF BIDDER FOR GOOD FAITH EFFORTS

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for MWDBE subcontractors/suppliers. The failure to meet the goal shall not necessarily be cause for disqualification of the bidder; however, bidders not meeting the goal are required to furnish with their bids written documentation of their Good Faith Efforts to do so.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) The Form of Proposal includes a section entitled “MWDBE Participation Form”. The applicable information must be completed and submitted as outlined below.
- 4) **Failure to submit this information as requested may be cause for rejection of bid.**

E. DOCUMENTATION REQUIRED FOR GOOD FAITH EFFORTS

- 1) Bidders reaching the Goal are required to submit only the MWDBE Participation Form.” The form must be fully completed including names and telephone number of participating MWDBE firm(s); type of work to be performed; estimated value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 2) Bidders not reaching the Goal must submit the “MWDBE Participation Form”, the “Quote Summary Form” and a written statement documenting their Good Faith Effort to do so. If bid includes no MWDBE participation, bidder shall enter “None” on the subcontractor / supplier form). In addition, the bidder must submit written proof of their Good Faith Efforts to meet the Participation Goal:
 - a. Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms to participate.
 - b. Included documentation of advertising in the above publications with the bidders good faith efforts package

- c. Attended LFUCG Central Purchasing Economic Inclusion Outreach event
- d. Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities
- e. Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms
- f. Requested a list of MWDBE subcontractors or suppliers from LFUCG Economic Engine and showed evidence of contacting the companies on the list(s).
- g. Contacted organizations that work with MWDBE companies for assistance in finding certified MWDBE firms to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.
- h. Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.
- i. Followed up initial solicitations by contacting MWDBEs to determine their level of interest.
- j. Provided the interested MWDBE firm with adequate and timely information about the plans, specifications, and requirements of the contract.
- k. Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce
- l. Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
- m. Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.
- n. Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.
- o. Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

p. Made efforts to expand the search for MWBE firms beyond the usual geographic boundaries.

q. Other--any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.



MINORITY BUSINESS ENTERPRISE PROGRAM

Sherita Miller, MPA
Minority Business Enterprise Liaison
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
smiller@lexingtonky.gov
859-258-3323

OUR MISSION: The mission of the Minority Business Enterprise Program is to facilitate the full participation of minority and women owned businesses in the procurement process and to promote economic inclusion as a business imperative essential to the long term economic viability of Lexington-Fayette Urban County Government.

To that end the city council adopted and implemented resolution 167-91—Disadvantaged Business Enterprise (DBE) 10% Goal Plan in July of 1991. The resolution states in part (a full copy is available in Central Purchasing):

“A Resolution supporting adoption of the administrative plan for a ten percent (10%) Minimum goal for disadvantaged business enterprise participation in Lexington-Fayette Urban County Government construction and professional services contracts; Providing that as part of their bids on LFUCG construction contracts, general Contractors shall make a good faith effort to award at least ten percent (10%) of All subcontracts to disadvantaged business enterprises; providing that divisions of LFUCG shall make a good faith effort to award at least ten percent of their Professional services and other contracts to disadvantaged business enterprises...”

A Disadvantaged Business Enterprise is defined as a business that has been certified as being at least 51% owned, operated and managed by a U.S. Citizen of the following groups:

- African-American
- Hispanic-American
- Asian/Pacific Islander
- Native American/Native Alaskan

- Non-Minority Female
- Economically and Socially Disadvantaged

In addition, to that end the city council also adopted and implemented resolution 167-91—Veteran-owned Businesses, 3% Goal Plan in July of 2015. The resolution states in part (a full copy is available in Central Purchasing):

“A resolution adopting a three percent (3%) minimum goal for certified veteran-owned small businesses and service disabled veteran-owned businesses for certain of those Lexington-Fayette Urban County contracts related to construction for professional services, and authorizing the Division of Purchasing to adopt and implement guidelines and/or policies consistent with the provisions and intent of this resolution by no later than July 1, 2015.”

We have compiled the list below to help you locate certified MBE, WBE and DBE certified businesses. Below is a listing of contacts for LFUCG Certified MWDBEs in Economic Engine (<https://lexingtonky.ionwave.net>)

Business	Contact	Email Address	Phone
LFUCG	Sherita Miller	smiller@lexingtonky.gov	859-258-3323
Commerce Lexington – Minority Business Development	Tyrone Tyra	ttyra@commercelexington.com	859-226-1625
Tri-State Minority Supplier Diversification Council	Sonya Brown	sbrown@tsmsdc.com	502-625-0137
Small Business Development Council	Dee Dee Harbut UK SBDC	dharbut@uky.edu	859-257-7668
	Shirley Mack	smack3@email.uky.edu	859-257-7666
Community Ventures Corporation	James Coles	jcoles@cycky.org	859-231-0054
KY Department of Transportation	Melvin Bynes	Melvin.bynes2@ky.gov	502-564-3607
	Shella Eagle	Shella.Eagle@ky.gov	502-564-3607
Ohio River Valley Women’s Business Council (WBENC)	Rea Waldon	rwaldon@gcul.org	513-487-6534
Kentucky MWBE Certification Program	Yvette Smith, Kentucky Finance Cabinet	Yvette.Smith@ky.gov	502-564-8099
National Women Business Owners’ Council (NWBOC)	Janet Harris-Lange	janet@nwbo.org	800-675-5066
Small Business Administration	Robert Coffey	robertcoffey@sba.gov	502-582-5977
LaVoz de Kentucky	Andres Cruz	lavozdeky@yahoo.com	859-621-2106
The Key News Journal	Patrice Muhammad	paatricem@keynewsjournal.com	859-373-9428



LFUCG MWDBE PARTICIPATION FORM
Bid/RFP/Quote Reference # _____

The MWDBE subcontractors listed have agreed to participate on this Bid/RFP/Quote. If any substitution is made or the total value of the work is changed prior to or after the job is in progress, it is understood that those substitutions must be submitted to Central Purchasing for approval immediately.

MWDBE Company, Name, Address, Phone, Email	Work to be Performed	Total Dollar Value of the Work	% Value of Total Contract
1.			
2.			
3.			
4.			

The undersigned company representative submits the above list of MWDBE firms to be used in accomplishing the work contained in this Bid/RFP/Quote. Any misrepresentation may result in the termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title



LFUCG MWDBE SUBSTITUTION FORM

Bid/RFP/Quote Reference # _____

The substituted MWDBE subcontractors listed below have agreed to participate on this Bid/RFP/Quote. These substitutions were made prior to or after the job was in progress. These substitutions were made for reasons stated below and are now being submitted to Central Purchasing for approval. By the authorized signature of a representative of our company, we understand that this information will be entered into our file for this project.

SUBSTITUTED MWDBE Company Name, Address, Phone, Email	MWDBE Formally Contracted/ Name, Address, Phone, Email	Work to Be Performed	Reason for the Substitution	Total Dollar Value of the Work	% Value of Total Contract
1.					
2.					
3.					
4.					

The undersigned acknowledges that any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title



MWDBE QUOTE SUMMARY FORM

Bid/RFP/Quote Reference # _____

The undersigned acknowledges that the minority subcontractors listed on this form did submit a quote to participate on this project.

Company Name	Contact Person
Address/Phone/Email	Bid Package / Bid Date

MWDBE Company Address	Contact Person	Contact Information (work phone, Email, cell)	Date Contacted	Services to be performed	Method of Communication (email, phone meeting, ad, event etc)	Total dollars \$\$ Do Not Leave Blank (Attach Documentation)	MBE * AA HA AS NA Female	Veteran

(MBE designation / AA=African American / HA= Hispanic American/AS = Asian American/Pacific Islander/ NA= Native American)

The undersigned acknowledges that all information is accurate. Any misrepresentation may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title



LFUCG SUBCONTRACTOR MONTHLY PAYMENT REPORT

The LFUCG has a 10% goal plan adopted by city council to increase the participation of minority and women owned businesses in the procurement process. In order to measure that goal LFUCG will track spending with MWDBE vendors on a monthly basis. By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentation may result in termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims. Please submit this form monthly to the Division of Central Purchasing/ 200 East Main Street / Room 338 / Lexington, KY 40507.

Bid/RFP/Quote # _____

Total Contract Amount Awarded to Prime Contractor for this Project _____

Project Name/ Contract #	Work Period/ From: _____ To: _____
Company Name:	Address:
Federal Tax ID:	Contact Person:

Subcontractor Vendor ID (name, address, phone, email)	Description of Work	Total Subcontract Amount	% of Total Contract Awarded to Prime for this Project	Total Amount Paid for this Period	Purchase Order number for subcontractor work (please attach PO)	Scheduled Project Start Date	Scheduled Project End Date

By the signature below of an authorized company representative, you certify that the information is correct, and that each of the representations set forth below is true. Any misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

Company

Company Representative

Date

Title

LFUCG STATEMENT OF GOOD FAITH EFFORTS

Bid/RFP/Quote # _____

By the signature below of an authorized company representative, we certify that we have utilized the following Good Faith Efforts to obtain the maximum participation by MWDBE business enterprises on the project and can supply the appropriate documentation.

_____ Advertised opportunities to participate in the contract in at least two (2) publications of general circulation media; trade and professional association publications; small and minority business or trade publications; and publications or trades targeting minority, women and disadvantaged businesses not less than fifteen (15) days prior to the deadline for submission of bids to allow MWDBE firms to participate.

_____ Included documentation of advertising in the above publications with the bidders good faith efforts package

_____ Attended LFUCG Central Purchasing Economic Inclusion Outreach event

_____ Attended pre-bid meetings that were scheduled by LFUCG to inform MWDBEs of subcontracting opportunities

_____ Sponsored Economic Inclusion event to provide networking opportunities for prime contractors and MWDBE firms

_____ Requested a list of MWDBE subcontractors or suppliers from LFUCG Economic Engine and showed evidence of contacting the companies on the list(s).

_____ Contacted organizations that work with MWDBE companies for assistance in finding certified MWBDE firms to work on this project. Those contacted and their responses should be a part of the bidder's good faith efforts documentation.

_____ Sent written notices, by certified mail, email or facsimile, to qualified, certified MWDBEs soliciting their participation in the contract not less than seven (7) days prior to the deadline for submission of bids to allow them to participate effectively.

_____ Followed up initial solicitations by contacting MWDBEs to determine their level of interest.

_____ Provided the interested MWDBE firm with adequate and timely information about the plans, specifications, and requirements of the contract.

_____ Selected portions of the work to be performed by MWDBE firms in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MWDBE participation, even when the prime contractor may otherwise perform these work items with its own workforce

_____ Negotiated in good faith with interested MWDBE firms not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

_____ Included documentation of quotations received from interested MWDBE firms which were not used due to uncompetitive pricing or were rejected as unacceptable and/or copies of responses from firms indicating that they would not be submitting a bid.

_____ Bidder has to submit sound reasons why the quotations were considered unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a MWDBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy MWDBE goals.

_____ Made an effort to offer assistance to or refer interested MWDBE firms to obtain the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal

_____ Made efforts to expand the search for MWDBE firms beyond the usual geographic boundaries.

_____ Other - any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include MWDBE participation.

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. Documentation of Good Faith Efforts are to be submitted with the Bid, if the participation Goal is not met.

The undersigned acknowledges that all information is accurate. Any misrepresentations may result in termination of the contract and/or be subject to applicable Federal and State laws concerning false statements and claims.

Company

Company Representative

Date

Title

GENERAL PROVISIONS

1. Each Respondent shall comply with all Federal, State & Local regulations concerning this type of service or good.

The Respondent agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, *29 U.S.C. 650 et. seq.*, as amended, and KRS Chapter 338. The Respondent also agrees to notify the LFUCG in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Respondent agrees to indemnify, defend and hold the LFUCG harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

2. Failure to submit ALL forms and information required in this RFP may be grounds for disqualification.
3. Addenda: All addenda, if any, shall be considered in making the proposal, and such addenda shall be made a part of this RFP. Before submitting a proposal, it is incumbent upon each proposer to be informed as to whether any addenda have been issued, and the failure to cover in the bid any such addenda may result in disqualification of that proposal.
4. Proposal Reservations: LFUCG reserves the right to reject any or all proposals, to award in whole or part, and to waive minor immaterial defects in proposals. LFUCG may consider any alternative proposal that meets its basic needs.
5. Liability: LFUCG is not responsible for any cost incurred by a Respondent in the preparation of proposals.
6. Changes/Alterations: Respondent may change or withdraw a proposal at any time prior to the opening; however, no oral modifications will be allowed. Only letters, or other formal written requests for modifications or corrections of a previously submitted proposal which is addressed in the same manner as the proposal, and received by LFUCG prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope which is plainly marked "modifications of proposal".
7. Clarification of Submittal: LFUCG reserves the right to obtain clarification of any point in a bid or to obtain additional information from a Respondent.
8. Bribery Clause: By his/her signature on the bid, Respondent certifies that no employee of his/hers, any affiliate or Subcontractor, has bribed or attempted to bribe an officer or employee of the LFUCG.
9. Additional Information: While not necessary, the Respondent may include any

product brochures, software documentation, sample reports, or other documentation that may assist LFUCG in better understanding and evaluating the Respondent's response. Additional documentation shall not serve as a substitute for other documentation which is required by this RFP to be submitted with the proposal,

10. Ambiguity, Conflict or other Errors in RFP: If a Respondent discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify LFUCG of such error in writing and request modification or clarification of the document if allowable by the LFUCG.
11. Agreement to Bid Terms: In submitting this proposal, the Respondent agrees that it has carefully examined the specifications and all provisions relating to the work to be done attached hereto and made part of this proposal. By acceptance of a Contract under this RFP, proposer states that it understands the meaning, intent and requirements of the RFP and agrees to the same. The successful Respondent shall warrant that it is familiar with and understands all provisions herein and shall warrant that it can comply with them. No additional compensation to Respondent shall be authorized for services or expenses reasonably covered under these provisions that the proposer omits from its Proposal.
12. Cancellation: If the services to be performed hereunder by the Respondent are not performed in an acceptable manner to the LFUCG, the LFUCG may cancel this contract for cause by providing written notice to the proposer, giving at least thirty (30) days notice of the proposed cancellation and the reasons for same. During that time period, the proposer may seek to bring the performance of services hereunder to a level that is acceptable to the LFUCG, and the LFUCG may rescind the cancellation if such action is in its best interest.

A. Termination for Cause

- (1) LFUCG may terminate a contract because of the contractor's failure to perform its contractual duties
- (2) If a contractor is determined to be in default, LFUCG shall notify the contractor of the determination in writing, and may include a specified date by which the contractor shall cure the identified deficiencies. LFUCG may proceed with termination if the contractor fails to cure the deficiencies within the specified time.
- (3) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to:
 - (a) Failure to perform the contract according to its terms, conditions and specifications;
 - (b) Failure to make delivery within the time specified or according to a delivery schedule fixed by the contract;
 - (c) Late payment or nonpayment of bills for labor, materials,

supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency;

- (d) Failure to diligently advance the work under a contract for construction services;
- (e) The filing of a bankruptcy petition by or against the contractor; or
- (f) Actions that endanger the health, safety or welfare of the LFUCG or its citizens.

B. At Will Termination

Notwithstanding the above provisions, the LFUCG may terminate this contract at will in accordance with the law upon providing thirty (30) days written notice of that intent, Payment for services or goods received prior to termination shall be made by the LFUCG provided these goods or services were provided in a manner acceptable to the LFUCG. Payment for those goods and services shall not be unreasonably withheld.

13. **Assignment of Contract:** The contractor shall not assign or subcontract any portion of the Contract without the express written consent of LFUCG. Any purported assignment or subcontract in violation hereof shall be void. It is expressly acknowledged that LFUCG shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason, fully within the sole discretion of LFUCG.
14. **No Waiver:** No failure or delay by LFUCG in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by LFUCG in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of LFUCG hereunder or shall operate as a waiver thereof.
15. **Authority to do Business:** The Respondent must be a duly organized and authorized to do business under the laws of Kentucky. Respondent must be in good standing and have full legal capacity to provide the services specified under this Contract. The Respondent must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Respondent to enter into this Contract. The Respondent will provide LFUCG with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the proposer is authorized to do business in the State of Kentucky if requested. All proposals must be signed by a duly authorized officer, agent or employee of the Respondent.
16. **Governing Law:** This Contract shall be governed by and construed in accordance

with the laws of the Commonwealth of Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Fayette County Circuit Court or the U.S. District Court for the Eastern District of Kentucky, Lexington Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

17. Ability to Meet Obligations: Respondent affirmatively states that there are no actions, suits or proceedings of any kind pending against Respondent or, to the knowledge of the Respondent, threatened against the Respondent before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Respondent to perform its obligations under this Contract, or which question the legality, validity or enforceability hereof or thereof.
18. Contractor understands and agrees that its employees, agents, or subcontractors are not employees of LFUCG for any purpose whatsoever. Contractor is an independent contractor at all times during the performance of the services specified.
19. Contractor [or Vendor or Vendor's Employees] will not appropriate or make use of the Lexington-Fayette Urban County Government (LFUCG) name or any of its trade or service marks or property (including but not limited to any logo or seal), in any promotion, endorsement, advertisement, testimonial or similar use without the prior written consent of the government. If such consent is granted LFUCG reserves the unilateral right, in its sole discretion, to immediately terminate and revoke such use for any reason whatsoever. Contractor agrees that it shall cease and desist from any unauthorized use immediately upon being notified by LFUCG.
20. If any term or provision of this Contract shall be found to be illegal or unenforceable, the remainder of the contract shall remain in full force and such term or provision shall be deemed stricken.

Signature

Date

**AMENDMENT 1 —
CERTIFICATION OF COMPLIANCE FOR AMERICAN RESCUE PLAN ACT
EXPENDITURES**

The Lexington-Fayette Urban County Government (“LFUCG”) may classify the subject matter of this bid as an expenditure under the American Rescue Plan Act of 2021. Expenditures under the American Rescue Plan Act of 2021 require evidence of the contractor’s compliance with Federal law. Therefore, by the signature below of an authorized company representative, you certify that the information below is understood, agreed, and correct. Any misrepresentations may result in the termination of the contract and/or prosecution under applicable Federal and State laws concerning false statements and false claims.

The bidder agrees and understands that in addition to all conditions stated within the attached bid documents, the following conditions will also apply to any Agreement entered between bidder and LFUCG, if LFUCG classifies the subject matter of this bid as an expenditure under the American Rescue Plan Act. The bidder further certifies that it can and will comply with these conditions, if this bid is accepted and an Agreement is executed:

1. Any Agreement executed as a result of acceptance of this bid may be governed in accordance with 2 CFR Part 200 and all other applicable Federal law and regulations and guidance issued by the U.S. Department of the Treasury.
2. Pursuant to 24 CFR 85.43, any Agreement executed as a result of acceptance of this bid can be terminated if the contractor fails to comply with any term of the award. This Agreement may be terminated for convenience in accordance with 24 CFR 85.44 upon written notice by LFUCG. Either party may terminate this Agreement with thirty (30) days written notice to the other party, in which case the Agreement shall terminate on the thirtieth day. In the event of termination, the contractor shall be entitled to that portion of total compensation due under this Agreement as the services rendered bears to the services required. Either party may terminate this Agreement for good cause shown with forty-five (45) days written notice, which shall explain the party’s cause for the termination. If the parties do not reach a settlement before the end of the 45 days, then the Agreement shall terminate on the forty-fifth day.
3. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - (1) 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor 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 to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with 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.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, 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 administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. If fulfillment of the contract requires the contractor to employ mechanic's or laborers, the contractor further agrees that it can and will comply with the following:

- (1) *Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.*
- (2) *Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.*
- (3) *Withholding for unpaid wages and liquidated damages. LFUCG shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.*
- (4) *Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.*

5. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.*

6. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

7. *The contractor shall include these requirements in numerical paragraphs 5 and 6 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funding.*

8. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.*

9. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.*

10. *The contractor shall include these requirements in numerical paragraphs 8 and 9 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

11. *The contractor shall comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.*

12. *The contractor shall report each violation to LFUCG and understands and agrees that LFUCG will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency regional office.*

13. *The contractor shall include these requirements in numerical paragraphs 11 and 12 in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.*

14. *The contractor shall include this language in any subcontract it executes to fulfill the terms of this bid: “the sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with ‘Limited English Proficiency’ in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.”*

15. *Contractors who apply or bid for an award of \$100,000 or more shall file the required certification that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient. The required certification is included here:*

- a. The undersigned certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation,

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- b. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Firm Submitting Proposal: _____

Complete Address: _____
Street City Zip

Contact Name: _____ Title: _____

Telephone Number: _____ Fax Number: _____

Email address: _____

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Consultant hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Consultant or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "Consultant") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) Consultant shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by Consultant's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the Consultant; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) Notwithstanding, the foregoing, with respect to any professional services performed by Consultant hereunder (and to the fullest extent permitted by law), Consultant shall indemnify, save, hold harmless and defend LFUCG from and against any and all liability, damages and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of Consultant in the performance of this agreement.
- (4) In the event LFUCG is alleged to be liable based upon the above, Consultant shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (5) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (6) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONSULTANT acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONSULTANT in any manner.

FINANCIAL RESPONSIBILITY

CONSULTANT understands and agrees that it shall, prior to final acceptance of its proposal and the commencement of any work or services, demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions.

INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

Required Insurance Coverage

CONSULTANT shall procure and maintain for the duration of this contract the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to LFUCG in order to protect LFUCG against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by CONSULTANT. The cost of such insurance shall be included in any bid:

<u>Coverage</u>	<u>Limits</u>
General Liability aggregate (Insurance Services Office Form CG 00 01)	\$1 million per occurrence, \$2 million or \$2 million combined single limit
Professional Liability	\$1 million per occurrence
Worker's Compensation	Statutory
Employer's Liability	\$100,000

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky. LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement and a Products

Liability endorsement unless they are deemed not to apply by LFUCG.

- d. The General Liability Policy shall have a Professional Liability endorsement (including Errors and Omissions) for any services performed pursuant to the contract, and/or a separate Professional Liability Policy shall be obtained unless it is deemed not to apply by LFUCG.
- e. The Professional Liability policy shall be maintained for a minimum of three years beyond the completion date of the project, to the extent commercially available. If not commercially available, CONSULTANT shall notify LFUCG and obtain similar insurance that is commercially available and acceptable to LFUCG.
- f. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- g. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, and may be submitted on a manually signed renewal endorsement form. If the policy or carrier has changed, however, new evidence of coverage must be submitted in accordance with these Insurance Requirements.

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE.

Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of CONSULTANT's financial capacity to respond to claims. Any such programs or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If CONSULTANT satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, CONSULTANT agrees to provide Lexington-Fayette Urban County Government, Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

- a. Latest audited financial statement, including auditor's notes.
- b. Any records of any self-insured trust fund plan or policy and related accounting statements.
- c. Actuarial funding reports or retained losses.

- d. Risk Management Manual or a description of the self-insurance and risk management program.
- e. A claim loss run summary for the previous five (5) years.
- f. Self-Insured Associations will be considered.

Safety and Loss Control

CONSULTANT shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and LFUCG.

Verification of Coverage

CONSULTANT agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

CONSULTANT understands and agrees that LFUCG may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

DEFAULT

CONSULTANT understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at its option any single remedy or penalty or any combination of remedies and penalties, as available, including but not limited to purchasing insurance and charging CONSULTANT for any such insurance premiums purchased, or suspending or terminating the work.

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Lexington-Fayette Urban County
Government Division of
Community Corrections
RFP #25-2022 Commissary Services for Community
Corrections

The Lexington-Fayette Urban County Government is accepting proposals for a price contract for Commissary Services for the Division of Community Corrections, 600 Old Frankfort Circle, Lexington, Kentucky, 40510, as per the following specifications.

I. OBJECTIVES

- A) The objectives are as follows:
- 1) To result in a contract between the successful proposer and the Division which will meet the following objectives:
 - 2) Provide proposals for a “cash-less” commissary program for up to 1400 adult offender residents of the Fayette County Detention Center located at 600 Old Frankfort Circle in Lexington, Kentucky.
 - 3) Furnish all labor, food, materials, supplies and chemicals necessary to provide commissary services for offenders at the Detention Facility.
 - 4) Maintain and operate an Offender Commissary Services Program that meets all applicable federal, state and local laws, rules, codes, regulations, court orders and Division requirements.

II. GENERAL SPECIFICATIONS

- A) Term of Contract
- 1) The term of this contract will be for a period of **three (3) years**.
 - 2) The contract will automatically renew for **two (2) additional 1 year** period(s) if there is no written notice of intent to cancel contract.
 - 3) These specifications are incorporated into and as a part of any final contract.
- B) Performance Bond – A \$100,000.00 performance bond must be

given prior to award of the contract. This performance bond must remain in effect throughout the entire contract including any renewals.

- C) Subcontracting – None of these services may be subcontracted without prior written approval of Division

III. QUALIFICATIONS OF PROPOSER

- A) To be considered for award of this contract, the Proposer must meet the following minimum qualifications:
- B) The Proposer must be organized for the purpose of providing institutional commissary service, and must have five (5) years previous correctional commissary experience with proven effectiveness in administering large scale correctional commissary service programs.

C) The Proposer must have a proven ability for a contract start-up by July 1, 2022.

- 1) The Proposer must have qualified and trained staff with sufficient back-up personnel and the unit manager must have a minimum three (3) years of commissary experience in corrections.
- 2) The Proposer must have the central office capability to supervise and monitor the program ensuring satisfactory provision of services.
- 3) The Proposer must submit a certified copy of a current financial report of the company.
- 4) The Proposer shall submit a list of five (5) references, including the name of the institution, their address, and the contact person and phone number.

IV. SELECTION CRITERIA

- A) The Proposer will be selected on the basis of the Proposers written Proposals and any requested presentations. The primary criteria and weighted scoring will be used in making a selection will be as follows:
 - 1) Experience – 10% - The Proposer's demonstrated experience and expertise in correctional facilities. Experience shall include current service in correctional facilities of similar size and volume, as well as experience of staff, on-site manager and transition team. Proposer shall provide a list of five (5) current contracts with facilities of similar size, including a contact person, telephone number and contact e-mail address.

- 2) Responsiveness to the Specifications – 20% - Consideration will be given to how the Proposer meets the functional requirements, provides the required coverage and reliability.
- 3) Ease of Implementation, Maintenance & Operation – 10% – Proposals will be evaluated for factors that will allow the Division to introduce, maintain and operate the system with minimal disruption to ongoing operations.

- 4) Commission – 50% – The amount of commission proposed for each of the service areas.
- 5) Products – 5% – Ability of the Proposer to provide products familiar to the offender population.
- 6) Past History – 5% – Past history with the Division

Final Recommendation - The Proposal Evaluation Committee's final recommendation will be based on all the factors mentioned in this Proposal and **will not rely solely on the highest commission rates being offered.**

V. METHOD OF AWARD

- A) The Committee will review submitted Proposals. If a satisfactory agreement can be reached with the selected Proposer, the contract shall be awarded to the Proposer; otherwise, negotiations will be conducted with each subsequent Proposer until a satisfactory contract can be established or until the Division determines the rejection of all Proposals is the best interest of the Division. The Division will assemble a committee for the purpose of Proposal evaluations.
- B) The selection process may, however, include a request for additional information or an oral presentation to support the written Proposal; the price Proposal will be considered firm and cannot be altered after receipt per the terms of this Proposal. **The Division reserves the right to award this contract not necessarily to the Proposer with the highest commission, but to the Proposer that demonstrates the best ability to fulfill the requirements of the Proposal.** The successful Proposer will be chosen based on the qualifications and selection criteria in Sections IV and V of this Proposal.
- C) The successful Proposer shall commence work only after the transmittal of a fully executed contract and after receiving written notification to proceed from the Division. The successful Proposer will perform all services indicated in the Proposal in compliance with the contract.
- D) The Division reserves the right to reject any or all Proposals in whole or in part received by reason of this Proposal. The Division will not pay for any information herein requested, nor is it liable for any costs incurred by the Proposer.
- E) Proposers whose Proposals do not meet the mandatory requirements will be considered non-compliant. After the evaluation of the Proposals and selection of the successful Proposer, all Proposers will be notified in writing of the selected firm.

VI. PROPOSAL PACKAGE

- A) Proposers must submit a response in the form of a Proposal, which includes the following sections:
 - 1) Transmittal Letter
 - (1) This letter is to be a brief letter, which provides the following information:
 - 2) Name and address of the Proposer;

- 3) Name, title and telephone number of the contact person for the Proposer;
 - 4) A statement that the Proposal is in response to this RFB; and
 - 5) The signature, typed name and title of the individual who is authorized to commit the Proposer to the Proposal.
- B) Technical Proposal – This portion of the Proposal must address each item listed below:
- 1) Introduction
 - 2) Company Profile
 - 3) Date organized to provide commissary service management in institutional or correctional facilities.
 - 4) Corporate background and depth of support
 - 5) Number of employees
 - 6) Number of years doing business
 - 7) Describe current contracts or business with other correctional facilities.
 - 8) Corporate office organizational structure.
 - 9) References, with addresses, e-mail and phone contacts.
- C) Insurance – The Proposer shall not commence any work in connection with this Contract until all the following types of insurance and such insurance have been obtained and approved by the Division, nor shall the Proposer allow any Sub-Proposerto commence work on his sub-Contract until all similar insurance required of the Sub-Proposer has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in the Commonwealth of Kentucky.
- D) Worker's Compensation Insurance
- (a) The Proposer shall take out and maintain during the life of this Contract, Worker's Compensation Insurance for all employees connected with the work of this Proposal and, in case any work is sublet, the Proposer shall require the Sub-Proposer similarly to provide Worker's Compensation Insurance for all the Latter's employees unless such employees are covered by the protection afforded by the Proposer.
 - (b) Such insurance shall comply fully with the Kentucky's Worker's Compensation Law.
 - (c) In case any hazardous work under this Contract at the site of the Proposal is notprotected under the Worker's Compensation statute, the Proposer shall provide, and cause each Sub-Proposer to provide adequate insurance, satisfactory to the Division, for the protection of employees not otherwise protected.
 - (d) Worker's Compensation shall be provided as required by the Kentucky Revised Statues, and Employer's Liability \$300,000 one accident and aggregate disease.

- (e) The Proposer shall waive all rights of subrogation against the Division for losses arising from work performed by the Proposer for the Division.
 - (f) Coverage shall not be suspended or reduced in limits during the Contract period.
- E) Proposer's Public Liability and Property Damage Insurance
- (a) The Proposer shall take out and maintain during the life of this Contract, Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance and shall protect from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise from operations under this Contract whether such operations be by the Proposer or by anyone directly or indirectly employed by the Proposer.
 - (b) The amounts of such insurance shall be the minimum limits as follows:
 - (1) Comprehensive General – \$1,000,000 bodily injury and property Liability damage combined single limit.
 - (2) Automobile – \$1,000,000 bodily injury and property damage combined single limit.
- F) Other Insurance
- (a) Professional Liability – covering commissary service related incidents during the Contract period and providing the following coverage and endorsement:
 - (1) Limits of not less than 1,000,000 per occurrence, \$5,000,000 aggregate for Proposer's professional staff and employees acting under the control or supervision of the Proposer for any act or omission in the furnishing of food services.
- G) The provider must show proof of agreement to maintain jail insurance coverage for a period of 7 years after the last day of service.
- H) Extended Business Liability Endorsement
- I) Broad Form Contractual Liability
- J) Personal Injury Liability
- K) Policies and Procedures – The Proposal shall indicate the method the Proposer will follow in establishing and revising commissary service policies and procedures.

VII. SCOPE OF WORK

- A) All current functionality of the commissary system will be retained and expanded where appropriate; such as:
- Order preparation and delivery methods
 - Hot/Cold cart
 - Kiosk for Inmate Deposits in Front Lobby (cash, credit, and debit)

- Kiosk for Booking Deposits in Intake (cash and coin)
 - Kiosk for deposit in Intake area (credit and debit)
 - Kiosk for Electronic Monitoring deposits – specialized program (cash, credit/debit)
 - Bonding via kiosk and internet
 - Phone time purchase/refunds
 - Commissary Phone Ordering
 - Debit Card Release
 - Internet deposits, commissary purchases
- B) The Proposer will be expected to provide at a minimum the following general services as part of the commissary service program:
- 1) Off-site commissary preparation and on-site delivery using Proposer staff.
 - 2) Telephone ordering and a manual backup system.
 - 3) Kiosks that offer inmate account depositing and bond payments
 - 4) Debit Card release for the offenders
 - 5) Integrated with existing Division management information systems (JailTracker).
 - 6) Scheduled upgrade paths for all software and hardware.
 - 7) Hot/cold cart functions.

VIII. MINIMUM REQUIREMENTS

- A. The on-site Administrator shall be responsible for the training and supervision of offenders, when they are available to be provided to the Proposer, for the processing of orders.
 - B. The Administrator assigned shall be subject to review, acceptance or rejection by the Division.
 - C. A computer software program must be installed at the Detention facility, which will be capable of retaining all account balances of offender residents at the Division of Community Corrections.
 - 1) Such software shall be ODBC compliant and meet all requirements to integrate with other offender information systems as required by the Division and shall be developed to meet specific requirements of the Division offender accounts program coordinator, including as an example maintaining a negative balance on an offender's account to allow recoveries, to properly maintain the offender accounts.
 - 2) **All upgrades and revisions** of commissary software and operating system software will be installed automatically upon release.
- B) All data regarding transactions generated by the Proposer without regard to the system employed (kiosk, Internet, telephone, etc.) or the system of a sub-contractor, will be considered the property of the Division.
- 1) All data will be stored for retrieval for a minimum of five (5) years.

- 2) All data will be made available to the Division within thirty (30) days of notice of request for data.
 - (a) For each day past the thirty (30) notice date, the Proposer will be assessed a penalty of \$100.00 per day until the data is provided.
- C) Two (2) printers, capable of printing checks for the offenders. Equipment sufficient enough for the Proposer's personnel to perform tasks related to the processing of commissary and hot cart/cold cart. Printing of receipts and necessary forms.
- D) Selection menus for offender resident use shall be provided by the Proposer. Selection menus are to be distributed to the offender residents no less than once a week and more often if necessary as determined by the Division.
- E) Offender menu selections and pricing of same will be developed by joint agreement between Proposer and Division with primary consideration being given to protecting Officer and offender safety and security.
- F) Offenders shall be allowed to purchase up to Fifty Dollars (\$50) of general commissary goods per week. The purchase allowance is at the discretion of the Division.
- G) Offenders shall be allowed to purchase up to Twenty Five Dollars (\$25) of hot cart/cold cart goods per week. The purchase allowance is at the discretion of the Division.
- H) Each order will be processed and bagged by the Proposer with the order receipt showing the offender name, products ordered and beginning and ending balance and a copy provided for the offender and one for the Division.
- I) Proposer will be allowed to use offender labor to process orders when the offenders are available, and at the discretion of the facility. Proposer's onsite staff will be required to provide supervision of such offender labor.
- J) Proposer will provide completed orders to Proposer personnel for delivery throughout the facility.
- K) Delivery schedules are at the discretion and determination of the Division.
- L) Printouts must be provided as requested by the Division and price levels of cost versus sale prices. The commission rate applied and the commission amount earned for the time period requested.
- M) Product price increases will be allowed with proof of market wide increases.
- N) Proposer must provide no less than two persons, in addition to the Administrator, scheduled forty (40) hours per week for on site preparation. Proposer will provide adequate coverage for all positions in the event of Proposer staff vacations and/or leave.
- O) Proposer staff shall adhere to any training requirements of the Division of Community Corrections. Proposer staff must comply with safety, security, and regulations of the Kentucky Division of Corrections. Proposer staff will further be required to comply with the Division Drug and Alcohol policy as well as all other policies and procedures of the Division of Community Corrections.

- P) Proposer shall be responsible to provide adequate stock to fill hot/cold items for offender orders. Proposer stock shall be maintained in consultation with Division commissary program coordinator.
- Q) A secure storage room and office space will be provided to the Proposer adjacent to the loading dock.

IX. COMMISSARY DELIVERY METHOD

- A) The Division requires order preparation by the Proposer off-site.
- B) The Division requires delivery by Proposer staff.

X. EXISTING FUNCTIONS

A) *Internet Web Page*

- 1) Proposer will provide an Internet web page that provides the minimum features to the Division:
- 2) Gift Deposits that will allow friends and family to make deposits directly onto an offender account by means of a credit card.
- 3) Proposer to establish that an existing link exists between their Offender Banking System and the Web Page ordering system to electronically transfer deposits from web site to the Offender Banking System.
- 4) Make available for sale to users pre-assembled Gift Packs or Care Packs, and the current commissary menu.
- 5) Proposer to provide same delivery of web orders with offender Commissary orders. Proposer to provide same warehouse to pack web orders as packs the offender commissary orders.
- 6) Ensure that all of the restrictions on the traditional Commissary Program are also available in the web site. Examples of restrictions may be:
 - (a) The Commissary system/Offender Banking must communicate directly with the website to take into account Offender Spending Limits.
 - (b) Ensure that restricted items available on the web are not delivered to offenders. For instance, the system will electronically identify restricted items for certain classification levels and ensure that the items are not delivered.

B) *Offender Banking Program*

- 1) Proposer to provide an acceptable Offender Banking Program to the Division.
- 2) Administration of offender deposits and expenditures.
- 3) Ability to develop interface into existing Lexington/Fayette Division's Jail Management System providing for real-time data updates.
- 4) Prisoner Account Fund (PAF) Accounting Capabilities
 - (a) Deposits can come from any number of locations in any form such as cash, credit/debit cards, on-line deposits or money orders.

- (b) Ability to track each deposit in great detail including who it is from, who deposited the transaction, date/time stamp when the deposit occurred and who posted the transaction.
 - (c) Withdrawals will be made payable in the form of check or debit card.
 - (d) The system must be able to format the checks in the same style format currently used by the facility.
 - (e) Deposits must be able to be automatically garnished for outstanding debts (accounts receivable) based and priorities.
 - (f) Kiosk must provide printed receipts. Capability of providing printed receipts to depositor if there is an issue with the kiosk.
 - (g) All receipts and checks must print on laser and inkjet printers.
- 5) Shift and Drawer Management Capabilities
- (a) At the end of each shift the staff member must have the ability to perform a fast and simple shift close procedure that balances the drawer and records any overages or shortages.
 - (b) A shift close receipt that summarizes all activity must be generated for signature.
 - (c) All transactions date and time will be stamped with officer's user information.
- 6) Debt Accounts Receivable Management
- (a) The system must have the capability to create as many or as few debt codes as needed.
 - (b) Each debt code must have a default withholding percentage and priority code.
 - (c) The system must have the capability for debts to be automatically collected as deposits that are entered.
 - (d) The system must have the capability that makes it fast and easy to apply a charge to a group of offenders.
 - (e) The system must have the capability for reversal of a charge if an offender was charged in error.
- 7) Security Levels
- (a) The system must have the capability to restrict access to features by specific users as well as groups.
 - (b) The system must have the capability for all transactions to be stamped with time, date and user information.
 - (c) The system must have the capability to generate a login report to track all access by any or all users.
- 8) Integration with other Systems

- (a) The system must have the capability to interface with Division management information systems to eliminate the double entry of new bookings and housing location changes.
- (b) The system must have the capability to interface with offender kiosks and phone systems.
- (c) All Proposer programs shall be ODBC compliant.

C) *Offender Phone Ordering System*

- 1) The Division uses an offender telephone ordering program for the offenders to order commissary product. This program is fully integrated into the Jail Management Information system, the current provider's Offender Banking Program and the current offender phone service provider.
 - (a) This is the method of commissary ordering that the successful Proposer will utilize.
 - (b) A backup method of ordering must be in place in case of phone system issues/outages.
- 2) The Proposer shall currently have an existing program using integrated telephone ordering in place.
- 3) The existing program shall provide a live link from the phone service to the Proposer-provided offender banking program.
- 4) The existing program shall provide for real-time feedback to the offender of the funds remaining in the account after each item is ordered.
- 5) The Proposer shall have documented experience in this arena, outlined in detail denoting where the Proposer currently has these systems operational with contact telephone and e-mail information for each operational site.

D) *Hot/Cold Cart*

- 1) Proposer will continue with the provision of hot/cold cart services to the offender population using Proposer staff.

E) *Debit Calling*

- 1) Proposer will continue with the provision of debit calling services to the offender population.
- 2) Offenders must be able to purchase "phone time" with the funds transferring to the offenders account with the inmate phone service provider. System must also be capable of refunding any unused phone time back to the offenders commissary account upon release. Proposer software must interface with offender telephone system for real time debiting/crediting of the account.

- 3) Proposer will work with the telephone provider to upgrade, enhance and modify the system as upgrades become available.

F) **Kiosks**

- 1) The Division will continue using a Lobby Kiosk configuration that allows visitors to deposit money to an offender's account by way of cash, credit and debit card
- 2) Additionally, the Division will continue using a Booking Kiosk to accept cash & coin. A second kiosk will accept credit and debit card when an offender is taken into custody.
- 3) The Division will continue using a kiosk in their Electronic Monitoring (EM) Program area for the acceptance of funds from drug testing participants. This kiosk accepts cash as well as credit/debit cards.
 - (a) Participants names
 - (b) Ability to select Electronic Monitoring (EM) for payment
- 4) All of this technology shall be able to electronically communicate with the Offender Banking program and the jail management information system on a real-time basis.
- 5) Proposer shall have existing technology in place in a detention facility that matches the current configuration, outlined in detail denoting where the Proposer currently has these systems operational with contact telephone and e- mail information for each operational site.

G) **Offender Bonding Capabilities**

- 1) The Division requires that the Proposer provide a bonding function through the kiosks (Lobby and Intake) and via the Internet.
- 2) The Division requires the following capabilities as currently operational:
 - (a) On line capability for user to bond out an offender over the Internet, with the use of a credit card/debit card.
 - (b) Ability for user to bond out an offender through the lobby kiosk.
 - (c) The bond process shall link with the Proposer's offender accounting program and jail management information system.
 - (d) All bonding funds shall be directly deposited into the offender accounting program and Division's Prisoner Account Fund.
 - (e) Please provide reference where the Proposer currently provides this service.

H) **Electronic Payment and Website Ordering**

- 1) The requirements stated are in addition to all goods and services Proposer is required to provide as stated elsewhere. Proposer's website order process shall conform to all of the following:

- 2) Definitions – The headings herein contained are for convenience and reference only and are not intended to define the scope of any provision thereof. The following words as used herein (whether in singular or plural) shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.
- (a) Application: The general software applications, together with all Source Code and Related Documentation, from time to time implemented by or on behalf of Proposer which acts as end-user accessed, front-end website and interface to Layer 2 and Layer 3 for purposes of website ordering of items for Division offenders.
 - (b) Association Rules: The bylaws, rules and regulations of the Associations, as they exist from time to time.
 - (c) Associations: Any entity formed to administer and promote the use of Cards, including, without limitation, Visa U.S.A. Inc. and MasterCard International, Incorporated, which from time to time promulgate the Association Rules.
 - (d) Authorization: The approval, by or on behalf of the Card Issuer, of Settlement of a Transaction for the Division.
 - (e) Business Day: With regard to the goods and services indicated in this section, twenty-four (24) hours per day, seven (7) days per week, unless otherwise expressly noted in this section.
 - (f) Card: The plastic card or other evidence of credit or debit account and account number, issued by a Card Issuer to the Cardholder, either of which the Proposer accepts from a Cardholder as payment for the purchase price for a sale of goods or services.
 - (g) Card Issuer: Any financial institution, which is a member bank of the Association or its agents, American Express and/or Discover.
 - (h) Cardholder: The person or entity issued a Card and a corresponding account and account number by a Card Issuer and which person or entity is entitled to use the Card.
 - (i) Division Data: Without limiting any provision in the body of the Agreement, information and other data relating to Transactions and all other information or other data provided by an end user during the process of ordering items for Division offenders, irrespective of whether such information or other data is collected or retained by or on behalf of Proposer.
 - (j) Day(s): Calendar day(s) unless otherwise specified.
 - (k) Division/Merchant: Used interchangeably, the Division
 - (l) Merchant Commerce System Layer (Layer 1): Composed of e-commerce applications, databases, and the merchant integration plugs required by

Layer 2. Layer 1 equips the merchant integration plug to encrypt and send payment details to the Layer 2. Layer 1 includes the Applications.

- (m) Payment Gateway Layer (Layer 2); Facilitates a payment channel between Layer 1 and Layer 3. Collects Cardholder's information and account information, transmits the details to a Layer 3, interprets the response sent back from the processor, logs Transaction details, and passes it to the merchant application for completion of the Transaction. This layer contains several important components including, Application Payment Interface (API), payment server, Transaction database.
- (n) Payment Processor (Layer 3): Provides the connectivity to the Card Issuers, Card Associations and financial institutions for authorization, processing, and settlement of Card Transactions. Layer 3 routes the card authorization request to the Card Issuer. The Card Issuer confirms the Cardholder information and determines his available credit. An approval or decline message is sent back to Layer 3, and is returned to the Merchant.
- (o) Related Documentation: All written and electronic publications relating to the Applications, such as reference, user, installation, systems administrator and technical guides, delivered, or otherwise made available by or on behalf of Proposer to Division hereunder.
- (p) Services: Any and all installation, implementation, and ongoing operation, maintenance and support services related to Layer 1, Layer 2, and/or Layer 3 Application services and other services performed by or on behalf of Proposer pursuant to this Agreement.
- (q) Settle; Settlement: For each Transaction, the transfer of funds by or on behalf of Proposer in settlement of the Transaction value between the Proposer on behalf of the Division and the Association and/or Card Issuer, via federal funds wire or automated clearing house transfer to the bank account designed by the Division.
- (r) Source Code: The programming code (in human readable form) for the Applications, including, without limitation, all new releases, updates, modifications, enhancements, corrections, patches and improvements, together with all Related Documentation and other proprietary information related to such programming code.
- (s) Transaction: With respect to each payment of the purchase price for a sale of goods or services, by a Cardholder to Proposer on behalf of the Division, a collective reference to all steps necessary to obtain Settlement of such payment via Layer 1, including, without limitation (i) the capture of all necessary payment and Card and/or Cardholder Information, (ii) the transmission of such information to the applicable Card payment processor and Card Issuer, (iii) the obtainment of an Authorization for such payment and (iv) the cash Settlement of such payment.

B) Security Standards

- 1) Proposer shall maintain production Secured File Transfer Protocol (SFTP) system uptime 99.9% of each Business Day.
- 2) For each Application used by Proposer to provide Services hereunder, Proposer shall at its own expense, conduct an Application security risk assessment and shall prepare a written report of such assessment that includes the written code, techniques used and identification of any potential vulnerabilities. To the extent that the Services are provided by a third party, Proposer may submit reports authored by the third party as long as the reports comply with all applicable requirements for reports and audits stated in this section. Proposer shall deliver the report to Division within 30 Business Days of approval by the Division. Proposer will provide quarterly security assessments and prepare a written report of such assessment that includes the written code, techniques used and identification of any potential vulnerability. Additionally, in connection with each security assessment described above, Proposer shall provide Division a letter certifying that each Application is Cardholder Information Security Program ("CISP") and/or Payment Card Industry ("PCI") compliant at the time the assessment report is provided to the Division.
- 3) Proposer shall maintain File Transfer Protocol (FTP) file encryption of using 3- Data Entry Standard (DES)/ keys. Connections to processors must minimally use Secured Socket Layer (SSL)-128 bit or triple DES encryption for transition of all data.
- 4) Proposer shall use secure FTP (SFTP) transmission for all data exchange between Division and Proposer.
- 5) Proposer shall use data encryption of stored data and other encrypted data of at least 128-bit triple DES.
- 6) Proposer shall maintain an active, not self-signed, digital certificate for every Application.
- 7) Proposer shall use and require use of Secure Socket Layer (SSL), of at least 128-bit for all Applications. Proposer shall maintain SSL certificate for all Applications. Should SSL certificate expire, Proposer shall disable access to Application during the cure period until said Application SSL certificate is re-obtained and cure is complete.
- 8) All Applications shall validate end-user browser to insure support of Secure Socket Layer (SSL) of at least 128-bit SSL encryption, if not, Application shall show directed error message to end-user.
- 9) Proposer shall encrypt all stored Division data.
- 10) At Division's request and expense, Proposer shall use a licensed, bonded and insured carrier service that specializes in data transport to transport all Division data from live to archive. Within 5 days of transport, Proposer shall provide Division copies of carrier's service information and proof of transport.

- 11) Proposer must provide written security environment information for each new archive location within 1 month of securing location, if storing Division Data at said location.
- 12) Proposer must store Division archived data in a separate storage media from other customers.
- 13) Proposer shall comply with all security standards and guidelines that may be published from time to time by any Card Issuer or any Association, including, without limitation, the Visa U.S.A. CISP, PCI and all such standards and guidelines, collectively "Security Guidelines"). Proposer additionally shall comply with the Association Rules and Card processor requirements in each case, as from time to time in effect. Proposer shall inform Division within 2 Business Days of rule and/or rule change to insure Division's continued compliance with any Association Rules, Security Guidelines and/ or Card Issuer rule changes.
- 14) Proposer shall process full and partial refunds/card credit, retrieval requests, charge backs, and refunds within the guidelines and timelines required by the Association Rules.
- 15) Proposer shall utilize procedures for determining that each end user is the authorized Cardholder, which procedures meet or exceed industry standards, including, without limitation, those standards promulgated by Card Issuers and Associations.
- 16) Proposer shall comply with all Division policies and standards for websites, including but not limited to Division Board of Supervisors Policy 6.030(Division Website Advertising and Hotlink Policy).
- 17) Without limiting any other provision, Proposer shall maintain the confidentiality of the Division data. In addition, without limiting any other provision, Proposer shall use the Division data solely for the purpose of processing Transactions.

C) Reporting Standards

- 1) All Proposer authored reports delivered by Proposer shall be accompanied by a written certification from an authorized officer of Proposer that such report is true and accurate. All third party authored audits and other reports delivered by Proposer shall be accompanied by a written certification of an authorized officer of Proposer that such audit or other report is a true and accurate copy of such 3rd party audit or other report as originally delivered to Proposer by such 3rd party.
- 2) Proposer shall undergo no less than two (2) annual external audits to be conducted by reputable third party audit company/companies and one of which must illustrate annual PCI compliance. Proposer shall then provide Division a letter **no later than 30 days after receipt of audit findings**, certifying as to the date of such findings and as to whether it passed or failed, as appropriate, audit, internal or third party, including

non-Division client required audits, hired audit/testing Proposers and VISNMC required audits.

- 3) Proposer shall backup Division Data regularly based upon a mutually agreed upon interval to maintain system recoverability. Such mutually agreed upon interval shall be established in writing between Proposer and the Division.
- 4) As regular system maintenance (e.g., Microsoft patches, anti-viral protection, etc.) and Application-level modifications are performed, in order to maintain and validate appropriate security levels after these modifications occur, the Proposer shall perform a security assessment, at its own expense, and provide Division a letter to the effect that the assessment was completed and passed security requirements, including but not limited to, CISP and PCI. Said letter shall be provided within 5 Business Days of assessment completion. The assessment will address potential vulnerabilities and risks that may exist in the Application prior to or after the performance of the aforementioned maintenance activities and the annual PCI security assessment.
- 5) Proposer shall report to Division in writing any security incident (defined as a breach of security or security interest) within one (1) hour of identification or notification of incident.
- 6) Proposer shall make security incident reports and assessments for all incidents that may potentially affect Division. An incident is identified based on criticality, major or minor incident: major notification within two (2) hours, minor notification within twelve (12) hours.
- 7) Proposer shall store archived data for at least 5 years. At end of such time Proposer, at Division's sole discretion and as permissible by Card Issuer, Association and NACHA rules, shall return or destroy said data.
- 8) Proposer shall make live and archived data available to Division upon Division request within 10 Business Days, and such data shall be provided in ODBC compliant format on a mutually agreed upon media.
- 9) Proposer shall provide Division written monthly, quarterly or other Division requested, as appropriate, self-monitoring reports required for monitoring purposes of Proposer's compliance with the Security and Reporting Requirements set forth.
- 10) Proposer shall provide reports which truly and accurately reflect the events reported therein, including, containing no data loss or incorrect sums.
 - 11) Proposer to provide standard daily, monthly, annual, or variable date range reports to enable the Division to research and/or balance Transactions. Proposer shall also provide customizable transaction history detail reports to meet Division requirements within the parameters of the Proposer's online reporting tool. In no event shall Proposer provide Card numbers or information regarding the Division's

designated bank account number(s) in any report or database accessible to Division users. If requested by Division, Proposer shall truncate Card numbers and Merchant account numbers appearing on all Proposer provided reports and Division accessible reports through Proposer's reporting tool.

- 12) Upon request, Proposer shall create customer payment remittance reports, for archived data, based on Proposer's standard secure formats. For live data, Proposer's system shall have the ability to allow Division to produce industry standard format reports (such as NACHA, etc.) within 10 days of such request. Said reports shall not cause Division or Proposer to jeopardize PCI certification or cause security risk.
- 13) Proposer's reporting tool shall have the functionality to create monthly reports that contain daily information broken-down by every Transaction type, including, sales, refunds, voids and chargeback amounts, with a breakdown of the discount fees by Card Issuer.
- 14) Within two (2) days of Proposer's receipt of change/violation, Contractor shall notify Division of any Division violation of any Association Rule, Security Guideline and/or Card processor requirement immediately upon a responsible officer of Proposer becoming aware thereof (or should have become aware thereof upon due inquiry).
- 15) Proposer shall provide Division with their Originating Depository Financial Institution (ODFI) name(s), ODFI's Transit Routing Number, and Company Identification Number. (Division will use the information to verify ACH Credits and Debits originated to Division's bank account(s).) Any changes to the ODFI information must be provided to Division 30 days prior to the change.

XI. NEW FUNCTIONS

- 1) The Division wishes to add other features to the kiosk (existing and new) to allow offenders to pay the following:
 - a. Electronic Monitoring Fees
 - b. Probation Fees
 - c. Restitution
- 2) The Division wishes to add a kiosk with the above listed features at a satellite location (Adult Probation Office).

XII. STAFFING REQUIREMENTS

- A) The Division recognizes the need for continuity in the staffing of all commissary service positions.
- B) Written notification concerning the release of any current employee will be provided the Division prior to discharge.

XIII. EACH PROPOSAL MUST INCLUDE:

- A) List of items available for commissary purchase.
- B) Percentage of total commissary gross sales given to the Lexington – Fayette Urban Division of Community Corrections.
- C) Sale price must include all applicable Federal, State and Local taxes.
- D) Type of software program and operating system software to be used.
- E) List of specific hardware to be furnished, including PC, printers, servers, etc.
- F) Proposed price list of all sale items to be made available.
- G) Resume of previous experience in a Division jail commissary environment with past and present references including their phone numbers.

XIV. BILLING AND COMMISSIONS

- A) The Lexington – Fayette Urban Division Government will be billed weekly for the offender purchases.
- B) Commissions will be paid to the Lexington – Fayette Urban Division Government by the fifteenth (15TH) of the month for the previous month's sales.

XV. AUDITING

- A) The Proposer will provide for an independent audit of all commissary accounts, kiosk accounts, Internet ordering accounts and bonding accounts.
- B) The audit will be conducted by an auditing firm mutually agreeable to the Division and the Proposer.
- C) The report documenting the outcome of the audit will become the property of the Division with copies available to the Proposer and other involved parties.
- D) The Proposer will be required to provide full access to all commissary accounts, kiosk accounts, Internet ordering accounts and bonding accounts as requested by Lexington Fayette Urban County Government auditors.
- E) All data generated by activities associated with the commissary, kiosks, Internet and bonding will be stored and retrievable by the Division for at least five (5) years from the activity date.