



COUNTY OF McHENRY  
PURCHASING DEPARTMENT  
2200 N SEMINARY AVENUE  
WOODSTOCK, IL 60098



## STANDARD TERMS AND CONDITIONS

### I. PROCEEDURAL PROVISIONS

#### McHENRY COUNTY PURCHASING ORDINANCE

The attention of vendors is directed to the McHenry County Purchasing Ordinance, amended June 1, 2021. This Ordinance is incorporated by reference into this Bid or Request as if it were contained herein. If you have not received a copy of the above Ordinance and desire a copy, please visit our website at: <https://www.mchenrycountyil.gov/county-government/departments-j-z/purchasing/purchasing-ordinance> or contact the office of the Director of Purchasing.

#### AUTHORIZED COMMUNICATIONS

Any communication regarding this Bid or Request between the date of issue and date of award is required to go through the Procurement Specialist listed (or the Purchasing Administrative Specialist). Unauthorized contact with other McHenry County staff or officers is strictly forbidden.

#### RESERVED RIGHTS

The County of McHenry reserves the right at any time and for any reason to cancel this Bid or Request, to reject any or all proposals, to waive irregularities or to accept an alternate proposal. The County will be the sole judge of acceptability of any product or service offered. The County reserves the right to waive any immaterial defect in any proposal. Unless otherwise specified by the offeror, the County has no less than one hundred and twenty (120) days to accept. The County may seek clarification from a contractor at any time and failure to respond promptly is cause for rejection. The County may require submission of best and final offers. This project may be divided and awarded to single or multiple vendors (based on the best interest of the county).

#### COOPERATIVE PURCHASING

This contract must be offered for purchases to be made by other counties and governmental units within the State of Illinois as authorized by the Government Joint Purchasing Act. All purchases and payments made under this authority must be made directly by the governmental unit to the Vendor. The County of McHenry must not be responsible in any way for such purchase orders or payments. All terms and conditions of this contract must apply to all orders placed by another governmental unit.

#### ADDENDUM

Should the Vendor require any additional information about this Bid or Request, please contact Purchasing with any questions by the deadline as outlined in the schedule of events. ANY AND ALL changes to these specifications are valid only if they are included by Written Addendum to All vendors. NO interpretation of the meaning of the plans, specifications, or other contract documents will be made orally. In addition, all addenda are posted on the County of McHenry's website. Failure of the vendor to receive any such addendum or interpretation must not relieve the vendor from obligation under this Bid or Request as submitted. All addenda so issued must become part of the bid or request documents. Failure to request an interpretation constitutes a waiver to later claim that ambiguities or misunderstandings caused by a bidder to improperly submit a bid.

Response to these questions will be made by means of an addendum. Only the Director of Purchasing has the authority to issue an addendum.

Addenda are written instruments issued by the County prior to the date for receipt of proposals, which modify or interpret the Bid or Request by addition, deletions, clarifications or corrections.

Prior to the receipt of submissions, vendor must ascertain prior to submitting a bid that all addenda issued have been received and, by submission, such act must be taken to mean that such vendor has received all addenda and that the vendor is familiar with the terms thereof and understands fully the contents of the addenda.

#### SUBMISSION RESPONSES

It is highly recommended that the vendor completely read the bid or request prior to filling out to become acquainted with terms and conditions of the bid document and merchandise requirements.

No relief will be allowed from conditions unless you take written exception to that condition on your bid.

All submission envelopes and correspondence are to be clearly marked with the Bid or Request Number, title, time, and date of opening. Likewise, any attachment to this bid, as required by the bid conditions, or made at the bidder's option, must reference on their face the bid title, opening date, and time.

Submit one (1) bid, multiple bids will not be accepted.

#### AWARD OF ORDER

Award shall be made by the McHenry County Board to the most responsive and responsible contractor whose proposal is determined to be the most advantageous to the County, taking into consideration price and the evaluation criteria set forth herein. The County will be the sole judge of acceptability of any products offered. This project may be divided and awarded to single or multiple vendors (based on the best interest of the county).

#### RIGHT TO PROTEST

Any actual or prospective bidder or Contractor who is aggrieved in connection with the solicitation or award of a Contract may protest to the Director of Purchasing. Any protest must be submitted in writing within ten (10) calendar days from the issuance of the solicitation, addendum, and notice of award or other decision by the Purchasing Department.

#### INCURRED COSTS

The County of McHenry will not be liable in any way for any costs incurred by respondents in replying to this Request.

#### COMPLIANCE WITH LAWS

The bidder hereto covenants and agrees to comply with all applicable federal, state, and local laws, codes, ordinances, rules and regulations. Failure to comply with the terms of this provision must constitute a breach of contract and permit the County to terminate this (Request for Sealed Proposal/Bid) in accordance with the termination provisions stated herein.

#### PAYMENT

The Contractor shall furnish the County with an itemized invoice. Payment shall be made in accordance with applicable provisions of the "Local Government Prompt Payment Act." Payment will be processed after receipt of invoice and / or appropriate affidavit.

#### TERMINATION

Failure to comply with the terms and conditions as herein stated must be cause for cancellation of the contract. The County will give written notice of unsatisfactory performance and the contractor will be allowed thirty (30) days to take corrective action and accomplish satisfactory control. If at the end of the thirty days, the County deems the contractor's performance still unsatisfactory, the contract must be canceled. The exercise of its right of cancellations must not limit the County's right to seek any other remedies allowed by law.

The successful bidder will agree that the resulting contract is made subject to available budgetary appropriations and must not create any obligation on behalf of the County in excess of such appropriations. In the event that no funds or insufficient funds are appropriated and budgeted, this Contract must terminate without penalty or expense to the County thirty (30) days after written notification of termination from the County.

The successful bidder will agree that pursuant to requirements imposed under Illinois law, the County must have 120 days after each election of county board members to terminate this Agreement, without cause and without penalty.

#### CHOICE OF LAW AND VENUE

The bidder agrees that this bid has been executed and delivered in Illinois and that their relationship and any and all disputes, controversies or claims arising under this bid or any resulting contract must be governed by the laws of the State of Illinois, without regard to conflicts of laws principles. The bidder further agrees that the exclusive venue for all such disputes must be the Circuit Court of the 22<sup>nd</sup> Judicial Circuit of McHenry County, Illinois, and the bidder hereby consent to the personal jurisdiction thereof.

## **II. PRODUCT AND/OR SERVICE SPECIFICATIONS**

### PROCUREMENT OF GREEN PRODUCTS AND TECHNOLOGIES

As approved by the McHenry County Board in April 2008, it is in the interest of public health, safety and welfare and the conservation of energy and natural resources to use and promote environmentally responsible products. The County should strive to influence private purchases through the example of using government specifications and standards that are green or environmentally friendly when making its purchases.

Whenever available and cost-justified, the County should purchase those materials including the purchase of recycled products containing post-consumer materials rather than residual materials resulting from the processing or manufacturing from another product. To the extent practicable, all products standards must emphasize functional or performance criteria which do not discriminate against the use of recycled materials.

McHenry County should cooperate to the greatest extent feasible with other governments and organizations to develop a comprehensive, consistent and effective procurement effort intended to stimulate the market for recycled products, reusable products, products designed to be recycled, and other environmentally responsible products.

McHenry County must continue to participate in and must encourage other public jurisdictions to participate with the County in the purchase of products containing recycled content. Participation in such cooperative systems must be aimed at obtaining maximum practical recycled content in County purchases, to obtain best available price for products with recycled content, to facilitate or encourage lower prices industry-wide and to encourage development of industries and markets dealing with recycled content products.

### PROCUREMENT OF PRODUCTS THAT ARE ENERGY STAR QUALIFIED

McHenry County must select, where life cycle and cost-effective, ENERGY STAR and other energy efficient products, when acquiring energy-using products. This information will be required by the bidder in their bid submittal.

### WORKMANSHIP

Items must be manufactured according to the highest traditions of the industry and must meet all commercial standards of quality. The County must be the sole judge of acceptable products. Unacceptable products will be rejected and suitable price adjustments made.

### MISCELLANEOUS

It is the bidder's task to be familiar with the referenced items and to offer only products of equal or greater quality. Any questions on specifications should be directed to the Purchasing Department.

### EXCEPTIONS

The bid speaks for itself. Bidders taking exception to any terms, conditions or specifications of this bid must clearly state in writing such exception(s) either on or with their bid. The County will be the sole judge of the acceptability of any exception noted, and is not bound to consider any bid submitted with exceptions.

### ALTERNATES

Trade names are used solely for the purpose of setting minimum standards of quality and performance and are not to be construed as exclusionary. Bidders are encouraged to contact the Purchasing Department prior to the bid opening for the purpose of clarifying specifications.

### FULL PRICING AND CONTINGENCIES

The County must hold the successful bidder to bid pricing. Additional charges for contingencies discovered by the vendor at any time after the date of opening of this bid will not be considered for payment by the County.

### RECOURSE FOR UNSATISFACTORY MATERIALS

Payment must be contingent upon the County's inspection of and satisfaction with completed work. Any defective work or materials, non-conformance to bid specifications, damaged materials, or unsatisfactory installation must be corrected to the County's satisfaction by the successful bidder at no additional charge.

### DELIVERY

Delivery will be considered in making the award and the bidders must state expected delivery after receipt of Purchase Order. Failure to meet said delivery promises without prior consent of the Director of Purchasing will be considered a breach of faith.

### FREIGHT

Freight is all inclusive unless otherwise stated.

### FUEL SURCHARGE

The County of McHenry does NOT accept any fuel surcharges.

### EXPECTATION FOR EQUIPMENT/HARDWARE

It is the County's expectation equipment and/or hardware installed as part of this bid will be in new, un-used condition unless otherwise noted in bid submission.

### TAXES

The County of McHenry is exempt from paying Illinois Use Tax, Illinois Retailers Occupation Tax and Federal Excise Tax. The bidder's attention is directed to the McHenry County Purchasing Ordinance {S3-10, (9), (10), and (11)}.

The attention of vendors is directed to the McHenry County Purchasing Ordinance, amended June 1, 2021. This Ordinance is incorporated by reference into this Bid or Request as if it were contained herein. If you have not received a copy of the above Ordinance and desire a copy, please visit our website at: <https://www.mchenrycountyil.gov/county-government/departments-j-z/purchasing/purchasing-ordinance> or contact the office of the Director of Purchasing.

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### **III. PERSONAL AND PAYROLL PROVISIONS**

#### **PREVAILING WAGE**

The State of Illinois requires that all wages paid by the Contractor and each subcontractor must be in compliance with The Prevailing Wage Act (820 ILCS 130), as amended. This requires payment of the general prevailing rate for each craft or type of worker, including payment of the general prevailing rate for legal holiday and overtime work. The Illinois Department of Labor publishes the prevailing wage rates on its website at [www.state.il.us/agency/idol/rates.htm](http://www.state.il.us/agency/idol/rates.htm). The Contractor must review the wage rates applicable to the work of the contract at regular intervals in order to ensure the timely payment of current wage rates. The Contractor agrees that no additional notice is required. The Contractor must be responsible to notify each subcontractor of the wage rates set forth in this contract and any revisions thereto. A copy of the prevailing wage rates is posted on the McHenry County website at [www.co.mchenry.il.us](http://www.co.mchenry.il.us) under BIDS and RFP's. If wage rates change during the course of the project, the new rates will be available in the County of McHenry Purchasing Office. Vendors may access the Illinois Department of Labor website for updates [www.state.il.us/agency/idol](http://www.state.il.us/agency/idol).

If this Bid or Request requires Prevailing Wages: please visit the IDOL website for instructions. It is the responsibility of the Awarded Vendor to submit Certified Payrolls to the State.

<https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/prevailing-wage-act.aspx>

#### **EMPLOYMENT OF ILLINOIS WORKERS ON PUBLIC WORKS ACT**

Pursuant to (30 ILCS 570/3) the "Employment of Illinois Workers in Public Works Act," whenever there is "a period of excessive unemployment" in Illinois, defined by any month immediately following two consecutive calendar months during which the level of unemployment in the state has exceeded 5%, then any person or entity working in a Public Works project for the county shall employ at least 90% Illinois laborers on such project. The County expects all contractors on Public Works projects to abide by this act in addition to prevailing wage until the provisions of this act are lifted by the State of Illinois. More information about the Employment of Illinois Workers on Public Works Act can be found here:

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=549&ChapterID=7>

#### **SUBSTANCE ABUSE PREVENTION ON PUBLIC WORKS PROJECTS ACT**

The successful bidder must be in compliance with State of Illinois HB-1855 (Public Act095-0635), which amends the Prevailing Wage Act. Before an employer commences work on a public works project, the employer must have in place a written program which meets or exceeds the program requirements in this Act, to be filed with the public body engaged in the construction of the public works and made available to the general public, for the prevention of substance abuse among its employees. The testing must be performed by a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services.

#### **INCREASED PENALTIES FOR PREVAILING WAGE VIOLATIONS (Public Act 94-0488)**

Effective January 1, 2006, penalties for violations of the Prevailing Wage Act will increase from 20% to 50% of the underpaid amounts for second or subsequent violations. An additional penalty of 5% of the underpayment penalty must be paid to workers for each month the wages remain unpaid (up from the current 2% penalty).

For violations that occur after January 1, 2006, the debarment period --during which contractors are ineligible for public works contracts -increases from 2 years to 4 years if two notices of violation are issued/serious violations occur within a 5-year period. In addition, a new monetary penalty of \$5,000 may be assessed against contractors who retaliate against employees who report violations or file complaints under the Prevailing Wage Act.

#### **NON-DISCRIMINATION**

Contractor must comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, Illinois Administrative Code, Title 44, Part 750 (Appendix A), 775 ILCS

5/1-102, which is incorporated herein by reference, and constituting of a written EEO Policy and a workforce profile that demonstrates its EEO practices. Furthermore, the Contractor must comply the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended. The Contractor must have a written sexual harassment policy which meets Illinois State Statutes, 775 ILCS, 15/3.

#### CERTIFIED PAYROLL REQUIREMENTS (Public Act 94-0515)

Effective August 10, 2005 contractors and subcontractors on public works projects must submit certified payroll records on a monthly basis to the public body in charge of the construction project, along with a statement affirming that such records are true and accurate, that the wages paid to each worker are not less than the required prevailing rate and that the contractor is aware that filing records he or she knows to be false is a Class B misdemeanor.

The certified payroll records must include for every worker employed on the public works project the name, address, telephone number, social security number, job classification, hourly wages paid in each pay period, number of hours worked each day, and starting and ending time of work each day. These certified payroll records are considered public records and public bodies must make these records available to the public under the Freedom of Information Act, with the exception of the employee's address, telephone number and social security number. Any contractor who fails to submit a certified payroll or knowingly files a false certified payroll is guilty of a Class B misdemeanor.

#### OSHA REQUIREMENTS

The Occupational Safety and Health Act of 1970 (OSHA) “guarantees workers the right to a safe and healthful workplace”. Under Section 5(a) (1) of the OSHA Act, the employer must “furnish to each of his employees’ employment and a place of employment which are free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees.”

Entitles and individuals (contractors) hired by the County of McHenry must perform their duties in a manner that is complaint with all state and federal health and safety laws and industry guidelines. It is the responsibility of the contractor to ensure that their personnel and subcontractors comply with all state and federal health and safety laws and regulations and industry guidelines, including, but not limited to those set forth by: OSHA and related regulations, the Safety Inspection and Education Act, the Health and Safety Act, the National Institute of Occupational Safety and Health, the National Fire Protection Association, the Centers for Disease Control, American Industrial Hygiene Association, the American Council of Governmental Industrial Hygienists, the Environmental Protection Agency, and the Department of Transportation.

#### SECURITY

The contractor represents and warrants to the County of McHenry that neither it nor any of its principals, shareholders, members, partners or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Contractor further represents and warrants to the County of McHenry that the Contractor and its principals, shareholders, members, partners, or affiliates, as applicable, are not directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as Specially Designated National and Blocked Person. The Contractor hereby agrees to defend, indemnify and hold harmless the County of McHenry, the Corporate Authorities, and all County of McHenry elected or appointed officials, officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys’ fees and costs) arising from or related to any breach of the foregoing representation and warranties.

#### IV. INSURANCE AND BOND PROVISIONS

(1) GENERAL

The Potential Vendor must maintain for the duration of the contract and any extensions thereof, at Vendor's expense, insurance that includes "Occurrence" basis wording and is issued by a company or companies qualified to do business in the State of Illinois that are acceptable to the County, which generally requires the company or companies be assigned a Best's Rating of A or higher with a Best's financial size category of Class XIV or higher, in the following types and amounts:

- (a) Commercial General Liability in a broad form, to include, but not limited to, coverage for the following where exposure exists: Bodily Injury and Property Damage, Premises/Operations, Independent contractors, Products/Completed Operations, Personal Injury and Contractual Liability; limits of liability not less than: \$1,000,000 per occurrence and \$2,000,000 in the aggregate
- (b) Business Auto Liability to include, but not be limited to, coverage for the following where exposure exists: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership; limits of liability not less than: \$1,000,000 per occurrence, combined single limit for: Bodily Injury Liability and Property Damage Liability;
- (c) Workers' Compensation Insurance to cover all employees and meet statutory limits in compliance with applicable state and federal laws. The coverage must also include Employer's Liability with minimum limits of \$100,000 for each incident.

(2) EVIDENCE OF INSURANCE

The Potential Vendor agrees that with respect to the above required insurance that:

- (a) The County of McHenry must be provided with Certificates of Insurance evidencing the above required insurance, prior to commencement of the contract and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least fifteen (15) days prior to the expiration or cancellation of any such policies;
- (b) The contractual liability arising out of the contract must be acknowledged on the Certificate of Insurance by the insurance company;
- (c) The County of McHenry must be provided with thirty (30) days prior notice, in writing, of Notice of Cancellation or material change and said notification requirement must be stated on the Certificate of Insurance;
- (d) Subcontractors, if any, comply with the same insurance requirements. In addition to being named as an additional insured on the Certificate of Insurance, each liability policy must contain an endorsement naming the County of McHenry as an additional insured. A copy of the endorsement must be provided to McHenry County along with the Certificate of Insurance; and
- (e) have McHenry County named as an additional insured and the address for certificate holder must read exactly as:

County of McHenry, a **body politic**  
2200 N. Seminary Avenue  
Woodstock, IL 60098

- (e) Insurance Notices and Certificates of Insurance must be provided to:

McHenry County, Purchasing Department  
2200 N. Seminary Avenue, Room 200  
Woodstock, Illinois 60098

**HOLD HARMLESS CLAUSE**

The Potential Vendor will agree to indemnify, save harmless and defend the County of McHenry, its agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of or in connection with the work covered by this contract upon award. The foregoing indemnity must apply except if such injury, death or damage is caused directly by the willful and wanton conduct of the County of McHenry, its agents, servants, or employees or any other person indemnified hereunder.

**PERFORMANCE AND PAYMENT BOND:**

A Performance and Payment Bond will be required from the Potential Vendor as described below if the bid amount exceeds \$50,000.00.

- Payment and Performance Bond must be in the amount of 110% of the bid value. Any additional scope value during the project must be covered by the bonds.
- Oblige is County of McHenry, project owner for the Payment and Performance Bonds.
- Payment and Performance Bonds must be signed by an official of the bonding company and accompanied by the bonding agent's written Power of Attorney.
- Provide three (3) copies of each of the bonds and the Power of Attorney in order that one copy of each may be attached to each copy of the contract agreement. Bonds must be submitted to McHenry County within two (2) weeks of the notice of award, if start of construction is sooner, then bonds must be submitted a minimum of two (2) days prior.
- Date of Agreement and Payment and Performance Bonds must be the same.
- Such Payment and Performance Bonds must be issued by a surety listed on the Department of Treasury's listing as approved sureties (Department Circular 570) with an A.M. Best Rating of "A" or better which is licensed in the state of the location of the project and must be acceptable to the design-builder.

Facsimile or digital copy acceptable with submission. Original required upon award.

**BID BOND:**

Each separate bid must be accompanied by a bid bond, certified check, or a cashier's check, drawn on a bank authorized to do business in Illinois, in a dollar amount of not less than five percent (5%) of the sum of the computed total amount of the bid or five hundred dollars (\$500), whichever is greater. Facsimile or digital copy acceptable with submission. Original required upon award.