



University of Nebraska–Lincoln  
May 21, 2008  
Request for Proposals # 204243  
RCF Purchase

Key Dates and Times:

Bids Due: June 12, 2008, 3:00 p.m. Local Time  
Questions Due: June 3, 2008

Office of University Services  
Purchasing Department  
1700 “Y” Street  
Lincoln, Nebraska 68588-0645

Requests for reasonable accommodations needed in order to participate in the process described in this RFP may be directed to the Office of Equity, Access & Diversity, 128 Canfield Administration; phone- (402) 472-2322; Voice/TDD-(402) 472-3417.

# TABLE OF CONTENTS

<b><u>1.0 COVER SHEET AND SPECIFICATIONS</u></b> .....	
PROPOSAL COVER SHEET .....	1
SPECIFICATIONS .....	2
1.1 HISTORY AND BACKGROUND OF BIDDER .....	2
1.2 DESCRIPTION OF THE GOOD OR SERVICE SOUGHT .....	3-8
1.3 PRICE; TERM .....	9
1.4 REFERENCES .....	9
1.5 INSURANCE.....	9
1.6 BID BOND; PERFORMANCE BOND .....	9
1.7 WARRANTY .....	9-10
1.8 UNIVERSITY SYSTEM PARTICIPATION .....	10
<b><u>2.0 COMPONENTS OF THE PROCESS</u></b> .....	11
2.1 REQUIREMENTS-RESPONDING TO SPECIFICATIONS .....	11
2.2 COMMUNICATIONS .....	11
2.3 CRITICAL DATES .....	11
2.4 BASIS OF SELECTION .....	11-12
2.5 NEGOTIATION .....	12
2.6 NOTIFICATION OF AWARD .....	12
2.7 RESERVATION OF RIGHTS; REJECTION OF PROPOSALS; NON-RESPONSIVE PROPOSALS.....	12
2.8 PUBLIC INFORMATION.....	13
2.9 BOARD OF REGENTS APPROVAL .....	13
<b><u>3.0 PROPOSAL SUBMITTAL REQUIREMENTS</u></b> .....	14
3.1 SUBMITTALS AND BID OPENING .....	14
3.2 MAILING LABEL.....	14
3.3 BIDDER QUESTIONS; CLARIFICATIONS, AND ADDENDA INTERPRETATION.....	14
3.4 COST OF PREPARATION.....	15
3.5 BIDDER QUALIFICATION .....	15
3.6 EXCEPTIONS.....	15
<b><u>4.0 TERMS AND CONDITIONS</u></b> .....	16
4.1 GENERAL. ....	16
4.2 TERMINATION FOR CAUSE .....	16
4.3 CONTRACT ASSIGNMENT .....	16
4.4 INDEMNITY, GENERAL, AND PATENT .....	16
4.5 GOVERNING LAW; VENUE.....	16
4.6 FORCE MAJEURE.....	17
4.7 COMPLIANCE WITH LAWS AND REGULATIONS;	

	<b>GRAMM LEACH BLILEY; UNIVERSITY OF NEBRASKA</b>	
	<b>POLICIES .....</b>	<b>17</b>
<b>4.8</b>	<b>SEXUAL HARASSMENT .....</b>	<b>17</b>
<b>4.9</b>	<b>DRUG FREE WORKPLACE .....</b>	<b>18</b>
<b>4.10</b>	<b>WEAPONS POLICY .....</b>	<b>18</b>
<b>4.11</b>	<b>EQUAL OPPORTUNITY IN PROCUREMENT AND</b>	
	<b>CONTRACTS .....</b>	<b>18</b>
<b>4.12</b>	<b>PROPRIETARY INFORMATION, CONFIDENTIAL EMPLOYEE</b>	
	<b>INFORMATION, HIPAA; FERPA .....</b>	<b>19</b>
<b>4.13</b>	<b>SUBCONTRACTORS.....</b>	<b>19</b>
<b>4.14</b>	<b>LEGISLATIVE FUNDING OUT CLAUSE.....</b>	<b>19</b>
<b>4.15</b>	<b>PARKING .....</b>	<b>19</b>
<b>4.16</b>	<b>BUILDING RULES AND REGULATIONS; TOBACCO USE .....</b>	<b>19</b>
<b>4.17</b>	<b>USE OF PREMISES.....</b>	<b>19</b>
<b>4.18</b>	<b>HAZARDOUS WASTE GENERATED BY CONTRACTORS .....</b>	<b>19-20</b>
<b>4.19</b>	<b>DELIVERY; F.O.B.; SHIPPING .....</b>	<b>20</b>
<b>4.20</b>	<b>QUANTITY .....</b>	<b>20</b>
<b>4.21</b>	<b>INSPECTION .....</b>	<b>20</b>
<b>4.22</b>	<b>DEFECTIVE GOODS OR WORK .....</b>	<b>20</b>
<b>4.23</b>	<b>LIENS .....</b>	<b>20</b>
<b>4.24</b>	<b>FEDERAL, STATE AND LOCAL SALES TAXES; FEDERAL</b>	
	<b>EXCISE TAXES .....</b>	<b>21</b>
<b>4.25</b>	<b>AMBIGUITIES .....</b>	<b>21</b>
<b>4.26</b>	<b>RECYCLING POLICY .....</b>	<b>21</b>
<b>4.27</b>	<b>CONTRACTOR IDENTIFICATION .....</b>	<b>21</b>
<b>4.28</b>	<b>LEGAL RELATIONSHIP .....</b>	<b>21</b>
<b>4.29</b>	<b>USE OF UNIVERSITY NAMES AND LOGOS .....</b>	<b>21</b>
<b>4.30</b>	<b>IMPROPER BUSINESS RELATIONSHIPS AND CONFLICT OF</b>	
	<b>INTEREST PROHIBITED.....</b>	<b>22</b>
<b>4.31</b>	<b>ELECTRONIC AND INFORMATION TECHNOLOGY</b>	
	<b>ACCESSIBILITY .....</b>	<b>22</b>

**SECTION 1.0: COVER SHEET AND SPECIFICATIONS**

**PROPOSAL COVER SHEET  
UNIVERSITY OF NEBRASKA–LINCOLN**

**Office of University Services  
Purchasing Department  
1700 “Y” Street  
Lincoln, Nebraska 68588-0645**

**PROPOSAL IN RESPONSE TO RFP # 204240**

The undersigned authorized officer of the bidder firm represents that the bidder has carefully examined the specifications and conditions contained in the RFP. The bidder fully understands the type and quality of the product(s) and/or service(s) sought by the University of Nebraska–Lincoln and hereby proposes to supply such at the prices stated and in accordance with the Proposal accompanying this cover sheet.

The bidder acknowledges its receipt of addenda numbered \_\_through\_\_ and further agrees that the provisions of such addenda, as well as those of the RFP, are fully incorporated into bidder’s Proposal, unless otherwise clearly stated to the contrary in the Proposal. Proposals containing exceptions to RFP provisions may not be favorably received.

The bidder represents and warrants that the proposal submitted is not the result of collusion with other eligible bidders, with any employee of the State or University, and no effort has been made to preclude UNL from obtaining the most advantageous response possible to this RFP.

Except where a written signature is required, please type or clearly print the following:

BIDDER FIRM: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Authorized Signature

Signing Officer’s Name and Title: \_\_\_\_\_

Correspondence to the bidder with respect to this RFP may be directed to:

Name \_\_\_\_\_ Phone # \_\_\_\_\_  
Title \_\_\_\_\_ FAX # \_\_\_\_\_  
Address \_\_\_\_\_ E-mail \_\_\_\_\_

UNL appreciates your consideration of this Request for Proposals and looks forward to receiving your response.

## Specifications

The University of Nebraska–Lincoln (“UNL”) invites proposals from qualified bidders to provide the goods and/or services described below. If the bid process is successful, UNL will enter into a contract with the successful bidder for the product or service.

The specifications and requirements listed in this RFP are the minimal standards by which proposals will be judged.

Each Proposal shall provide the information requested or indicate consent to the requirement described. The submitted proposal should be numbered so that responses in the Proposal correspond to the number of the items below.

[The balance of this Section 1 will be different for each RFP. Use the format below and consider the listed categories of specifications, but customize for the good or service UNL seeks. Some of the provisions may not apply; in other instances, recognize that you may need to draft a new specification tailored to the needs of the project.]

### 1.1 History and Background of Bidder:

A. Describe your company (a brief history may be appropriate), the nature of its legal entity (e.g. a Nebraska corporation, a limited partnership), its size and locations, and number of employees. Confirm that your company is qualified to do business in Nebraska.

B. The bidder shall provide UNL with audited financial statements and that of any parent or holding company for the three most recent fiscal years. Demonstrated financial ability and stability to ensure performance under any contract awarded is of extreme importance to the evaluation of the proposals. Without stating specific reasons, the University may reject or refuse to further evaluate any proposal based on the exercise of its judgment in its sole discretion that the financial position presented in a proposal lacks the qualities that UNL deems necessary to the success of the project. Entities unable to meet the requirements set forth in this paragraph may provide other information or guaranties, which in the discretion of UNL, meet its concerns regarding financial stability.

C. Identify any litigation or claim brought against your company within the last seven years, which might reflect adversely on your company’s professional image or ability in relation to providing the goods or services sought under this RFP.

D. Is your company currently for sale or involved in any transaction to expand or to become acquired by or merged with another organization? If so, please explain. Has your company been involved in any reorganization, acquisition or merger within the last two years? If so, please explain.

## 1.2 Description of the Good or Service Sought:

### 1.2.1 Introduction

A. The Research Computing Facility (RCF) at the University of Nebraska—Lincoln requests bids for a new closely coupled computing platform. Multiple independent bids may be submitted if vendors desire. We anticipate spending a total of \$200,000 towards a computational resource. Several considerations including price are detailed below. We desire for this purchase to enhance and integrate with our current facility. With this in mind, the next several sub-sections are arranged as follows: first, a description of our current environment; second, possible bid responses; third, bid evaluation criteria. This section concludes with various other details.

### 1.2.2 Description of current environment

#### A. CMS cluster (Red.unl.edu)

**Vendor: TeamHPC**

65 1U nodes consisting of the following:

Tyan S2881 motherboards

2 Opteron 275 processors

1 80GB SATA HDD

4GB (8X512GB) PC3200 Reg ECC RAM

PCI-e bus

**Vendor: Dell**

51 1435 (Opteron 2216/4 GB RAM) servers

#### B. Current Campus Cluster (PrairieFire)

**Vendor: Various**

Heterogeneous Myrinet cluster. 110 Opteron-based nodes, mostly single core, to be retired or moved out of parallel production mode.

#### C. Altix 3700 (Merritt)

64 Itaniums (1.3 GHz), 512 GB RAM, 28 TB Disk.

#### D. Switch

**Vendor: Foundry Networks**

Big Iron RX16

1 Four port 10Gb module

6 48-port 1Gb module

#### E. Storage

Sun X4500 (31 TB usable, NFS exported)

20 TB exported via NFS from Merritt

#### F. Network connections

Network connectivity to campus (I2) is 10 Gigabit/sec.

Network connectivity on campus is 10 Gigabit/sec.

Network connectivity within the cluster is 1 Gigabit/sec.

### **1.2.3 Bid response options:**

Vendor will deliver a machine designed to run close-coupled parallel MPI code and/or OpenMP code. This system is expected to be comparable to or exceeding a 50 node, 2-way, Opteron 2354 or Xeon 5430 cluster with an Infiniband interconnect. These particular possibilities would require at least 2 GB RAM per CPU core (16 GB RAM/node). Existing storage has been obtained independently of this bid and should not be included here; nonetheless, it is expected sufficient storage will be included for the systems to operate with a small data set (i.e. there is room for a kernel and small scratch space on each node). Each node should have a SATA or SAS controller, and the OS disk should be at least 160GB. 1U chassis are strongly preferred, PCI-express bus is expected and must be described, and at least one gigabit ethernet NIC is necessary. A switch is not required since we will add on to our existing Foundry switch. A headnode of compatible hardware is preferred.

While the above describes viable options, vendors may submit competing, comparable platforms (i.e. a blade architecture, or shared memory platform). The processors must be 64-bit and capable of emulating 32-bit. The bid must include a low latency fabric (or shared memory). It is preferred this fabric cover the entire system, but if costs dictate, a solution using multiple smaller fabrics will be considered.

RCF staff will be present to assist in the installation of the cluster operating system and other software during this procedure. Vendor should be present for on-site installation of system. This should include but will not be limited to racking necessary chassis, moving the system into location, assisting with and troubleshooting any problems that may arise. The cost of this installation service must be separately itemized.

Vendor bid must include all necessary software to test the capability of this resource. Specific arrangements may be suggested as part of this bid, such as joint publications, or other research or promotional activities. Vendor should be able to submit a single test node, or access to a remote system, within five business days after request. The hardware must be delivered with a three year warranty on all parts. This machine must be delivered and operational 20 days after the bid is awarded to the vendor.

### **1.2.4 Bid Evaluation Criteria**

**The criteria for an acceptable response are as follows:**

#### **50%: Performance/\$ (affordable parallel performance):**

- The proposed system(s) must possess good aggregate performance. An opportunity to verify this performance (either on site or remote) is required. Performance characteristics when running our users' software will be a key factor in the decision. Key applications include G03, LS-DYNA, Amber, BLAST and WARF. A good HPL score often indicates good performance for our purposes.
- The system must be capable of low-latency interprocessor communication. A typical

response would be DDR Infiniband to each node. Vendor should concisely defend their choice of interconnect. Latency between processors will be a primary decision factor. Both latency and bandwidth should be described by the vendor.

- It is anticipated at least 4, and preferably 8 or more cores will be accessible in a shared memory configuration in each node of a cluster. A completely shared memory platform is acceptable, but it is recognized that will not be likely to be cost-competitive.
- MPI code is expected to be the dominant API used. Configuration need not allow for entire resource to be uniformly accessible, but this is preferred. Thus, segments of the cluster may be more tightly coupled than the rest, but at a minimum set of 24 nodes should be closely coupled with a low-latency network.
- Cost and power consumption of proposed system(s) per performance will be evaluated using our benchmarks and software.
- The proposed system(s) must integrate into the computational environment at RCF. An existing gigabit Ethernet switch will be used to link the nodes to our shared (NAS) file servers.
- Brand of components of proposed system will be considered. Vendor should submit the brand of each component including but not limited to motherboard, RAM, hard drive, power supply, and CPU with their bids. Costs of each component should be listed.
- Vendors may include special options to the bids. This may include but is not limited to the options listed here. These options will be a secondary consideration, and may not necessarily be included in the total cost of the bid. If it is not included in the total cost of the bid, the system MUST function without purchase of any options, and an itemized cost of each option must be included.
  - Additional hard drive space (ie. Upgrade from 160GB to 500 GB drives).
  - Upgrade in CPU speed.
  - Additional or faster RAM.
  - Additional nodes (we request the cost of purchasing additional nodes from all vendors).
  - Management or productivity software.

**25%: Watts/FLOPS (energy efficient serial performance):**

- Power consumption and cooling requirements of proposed hardware will be strongly considered. Watts/Flops will be an important metric.

**25%: Vendor Reputation and Support (reliable use and support):**

- The proposed system(s) must come with a three year warranty.
- The vendor should be able to provide technical assistance with installing/upgrading/maintaining a Linux Cluster and software.

- The vendor should send us or give us access to a test system within one business week of request so we can test performance and power consumption. Remote system access will require the vendor to send power consumption numbers.
- The vendor response to the RFP must include three references of companies/institutions using the same or similar systems.
- Past experience with vendor or recommendations from a third party may be a significant factor in the decision. Further references may be sought while evaluating bid responses. We reserve the right to share these bids with third parties as necessary.
- Ease of use and administration such as remote control of power and monitoring capabilities (IPMI, lights out management, etc.) is strongly preferred.

### **1.2.5 Hardware Requirements and criterion**

The proposed system **MUST** be a 64-bit computing system. There are few other firm requirements in this section. The vendor is free to propose a solution that they feel will meet our needs, and **are asked to concisely defend their proposal**. Documentation should be provided, regarding the system and its components to help us evaluate the proposed solution.

We are looking for features that will set this system apart from its competitors. Each of the subsections below identifies various sub-components of a typical computer system and the type of information we are interested in.

### **1.2.6 System Architecture**

Vendors should provide documentation on the general system architecture, the number of expansion slots and other relevant information regarding their architecture. Manufacturer and model of components in a cluster system should be specified.

### **1.2.7 CPU and Cache Architecture**

The proposed system must exhibit price/performance that approaches the leading edge of current technology available in the market for machines in this price range. The amount of primary and secondary cache (if applicable) provided with the proposed CPU and/or system will also be an important criterion. Vendors should provide documentation describing the CPU design, cache design, primary and secondary cache sizes, CPU to cache bandwidth and other relevant information. URLs are adequate for this documentation.

### **1.2.8 Memory**

The new system(s) proposal(s) must include at least 2 GB RAM per processing core.

### **1.2.9 Storage**

The proposed system must include at least 160 GB drive/node for local (scratch) storage, but need not include any storage beyond this.

### **1.2.10 Low Latency Network**

Vendor should describe the interconnect and the latency of interprocessor communication (e.g. DDR infiniband with a 48 port switch, 3 microsecond message latency). Infiniband is likely to be sufficient, but is not required. Other low-latency solutions may be accepted. Higher bandwidth is preferred, but latency is the primary concern. Our users run very few high processor count jobs – thus, a combination of smaller switches may be preferable. We do not foresee spending more than 30% on the interconnect (if possible).

### **1.2.11 Console**

A local operator's console is not required, but vendor should describe management and other administrative interfaces for the system. IPMI or other LOM capability should be described. The systems should accept a mobile monitor and keyboard for troubleshooting, or other means of investigating individual nodes or components should be detailed.

### **1.2.12 Power Failure**

In the event of a power failure, the system should come with a ride-through mechanism, which allows the system to reboot itself when power is resumed.

### **1.2.13 Physical Facility and Installation**

The proposed system must operate in a normal operating environment. Should there be a component that cannot be installed by the customer, the cost of the proposed system must then include vendor installation. 120V or 208V power is available to the server. Vendor must specify what kind of power outlet is necessary in the bid so we may have the required outlets necessary for power-up when the system arrives. Our preference is to run 2 L21-20 (or L21-30) 3-phase input PDUs per rack cabinet, and provide either 120V or 208V to each server.

### **1.2.14 Operating System Requirements**

This system must run CentOS 4 or other current LINUX distribution (vendor should specify). Other UNIX operating systems will be considered, but it should be possible to fall back to LINUX if desired.

### **1.2.15 Benchmark Requirements**

RCF staff will run benchmarks using user software and test power consumption. BLAST, LS-DYNA, WARF, Amber, G03, and HPL will be run.

### **1.2.16 Warranty and Support**

Describe the warranty and support costs per year after the period of warranty. The level of support requested for this system is next working day cross-ship replacement support on hardware, and business hours telephone support for (systems) software. It is heavily preferred that the vendor allow us to charge all return shipments to their shipping account. Vendor should specify if support includes assistance for troubleshooting, performance tuning, or other operational expertise.

### **1.2.17 Third Party Products**

The vendor is required to provide a detailed description on issues dealing with installing third party hardware on their system. The vendor response to this RFP must contain in writing how the warranty or support of the system will be affected if various third party options like memory

upgrades or disk subsystems are installed on the machine. The vendor will be required to honor the warranty in the event that no restrictions are documented in the vendor response, but made known at a later point in time.

#### **1.2.18 Evaluation System**

Vendor may be requested to provide a test system for every bid submitted within one week of request. This must be identical to one of the cluster nodes proposed by vendor. Remote access to a blade or other integrated solution will be sufficient.

1.3 Price; Term:

Price Summary :

(A) **Total Purchase Price\***: \$ \_\_\_\_\_

\*Shall include prices for **any and all** of the following: hardware, installation, testing, training, instruction manuals, and all other requirements as specified in this Request for Proposal.

Bidder will be required to provide an itemized list and corresponding cost of all products and/or services included in their bid proposal.

Time Schedule: Since time is of the essence in scheduling and completing this project, it is essential that the successful bidder deliver the systems within 20 days of receipt of the purchase order.

Can you meet this requirement? \_ yes \_ no

If no, please indicate your alternate proposed time frame and schedule for completion (or on a separate sheet, if necessary)

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1.4 References:

Vendor should provide a list of at least five sites with a similar usage profile to ours that use a similar system as the one proposed in this bid. Please include the site name, contact person and phone number. Other university clients would be most valuable.

1.5 Insurance:

Describe the nature and extent of the general liability insurance (including completed operations) and workers compensation insurance carried to protect the bidder, recognizing that UNL may require additional insurance to protect itself in relation to this project. UNL requires that the Board of Regents of the University of Nebraska be added to any policy as an additional named insured. The successful bidder will be required to provide a certificate of insurance in the form attached as **Exhibit A** prior to the start of the work.

1.6 Performance Bond:

An Owner's Protective Bond (Performance/Labor and Materials) bond will be required from the successful bidder acceptable to the Owner in the amount of 100% of the contract. A copy of the owner's protective bond form acceptable to UNL is available upon request [or is attached].

1.7 Warranty:

Bidder must warrant that all the equipment and supplies offered will conform to the design, specifications, samples, or other descriptions contained in this RFP, will be free from defects in workmanship and material and to the extent that the bidder knows, or has reason to know of the purpose for which the supplies are intended, will be fit and sufficient for such purpose as deemed

applicable. The warranty required hereunder must provide all parts, equipment, transportation, technical assistance, labor and supervision necessary to correct any deficiency resulting from manufacturing defects without charge for a period of three (3) years after the date of final acceptance of all materials, equipment, and services furnished by successful bidder. Thereafter the manufacturer's standard warranty shall apply.

1.8. University System Participation:

[In very rare instances, other University campuses or state agencies may wish to explore the possibility of sharing in the benefits of the RFP and its resultant contract. If we are interested in exploring bids and pricing that would apply to campuses or state agencies other than the UNL campus, the RFP should reflect that interest here with enough detail to allow the bidder to make an informed response with respect to the potential, additional goods or services sought.]

## **SECTION 2.0: COMPONENTS OF THE PROCESS**

### **2.1 Requirements--Responding to Specifications:**

Each bidder responding to this RFP is expected to submit a well organized, easy-to-read, written proposal, which clearly and coherently provides the information outlined in Section 1.0: Cover Sheet; Specifications. Answers and responses to the information required by Section 1.0 must be numbered to directly coordinate with the number of the inquiry as it appears in Section 1.0.

### **2.2 Communications:**

All questions concerning this RFP shall be in writing, and faxed or e-mailed by the bidder and addressed to:

Tom Hansen  
1700 Y Street  
University of Nebraska–Lincoln  
Lincoln, Nebraska 68588-0645

Fax: (402) 472-2246  
E-mail: [unlpurchasing2@unl.edu](mailto:unlpurchasing2@unl.edu)

For additional information concerning bidder questions, clarifications and addenda, see Section 3.0: Proposal Submittal Requirements, item 3.

### **2.3 Critical Dates:**

2.3.1 Proposals are due upon the date and time set forth on the cover to this RFP.

2.3.2 Any bid may be withdrawn prior to the scheduled time for the opening of bids. Unless otherwise stated in this RFP, no Proposal may be rescinded within ninety (90) days following the scheduled opening of proposals without the approval of the Director of Purchasing.

### **2.4 Basis of Selection:**

2.4.1 The award of a contract, if any, shall be made to the most responsible bidder, taking into consideration the best interest of the University. While pricing is often an important criterion, it may or may not be determinative. UNL shall establish evaluation criteria and their components before proposals are opened. UNL may waive any irregularity or other requirement, which it deems does not materially affect the selection process. Factors that may be considered include, but are not limited to, clarity and responsiveness, conformity with RFP specifications, cost effectiveness, design, delivery, installation, the specific needs of the UNL community, bidder's reputation and/or past performance, quality of goods and/or services offered to UNL, technical performance, installation, and ability to expand with UNL's needs.

2.4.2 Proposals will be evaluated, and the contract, if any, awarded and performed in compliance with all relevant University of Nebraska policies.

2.4.3 The deliberations of the evaluation committee are confidential, and no representative of a bidder should directly or indirectly contact any member of the evaluation committee, or any faculty or staff member concerning this RFP, unless permission is explicitly otherwise given to the bidder by the Purchasing Department, for the purposes of providing additional information or facilitating the evaluation. Any attempt by a bidder to contact a member of the evaluation committee or any other faculty or staff member about this RFP can lead to disqualification.

2.4.4 UNL reserves the right to request additional information from a bidder in any format which UNL deems necessary to evaluate the proposals, including formal Q & A or meetings and presentations. The evaluation may include subjective assessment of the proposal materials, including factors not listed specifically in this RFP.

2.4.5 Bidders may be required to submit samples of any item or product offered in response to this RFP. Each sample must be clearly identified by the name of the bidder, name of the manufacturer, or other information, if requested, relevant to the evaluation of the sample.

## 2.5 Negotiation:

UNL reserves the right to conduct discussions and negotiations with any or all respondents to this RFP, concerning any element of or response to this RFP, for the purpose of clarification and modification. Discussion and negotiation may include, but is not limited to, the scope of work, design, schedule, and price.

## 2.6 Notification of Award:

Upon completion of the evaluation process, the bidders will be notified in writing, or by e-mail, of the identity of the successful bidder. If for any reason, UNL and the successful bidder fail to finalize a contract, UNL reserves the right to attempt to enter into a contract with the next most responsive bidder, based on evaluation results.

## 2.7 Reservation of Rights: Rejection of Proposals; Non-Responsive Proposals:

UNL reserves the right to reject all proposals received and discontinue the evaluation and selection process at any time. UNL also reserves the right to resolicit proposals in response to this RFP or any amendment of this RFP. If no responsive bids are received by the UNL, UNL reserves the right to negotiate with any firm in order to substantially fulfill the RFP under such terms and conditions as UNL deems best serve its needs.

## 2.8 Public Information:

Bidders' names are public information at the time proposals are opened at the scheduled bid closing time. Until the successful bidder is determined and announced, UNL will treat all other elements of the proposals as confidential information, not subject to public disclosure. However, once the successful bidder is announced, then the proposals will be treated as public information, except to the extent that any bidder gives UNL specific written notice of information it believes to be proprietary, commercial, a trade secret, or otherwise confidential. Should UNL determine that such bidder-identified information is indeed proprietary or otherwise confidential, then it will not publicly disclose that portion of the proposal without the consent of the bidder, unless otherwise required by law, e.g. judicial order. As a general matter, UNL considers financial statements of privately held companies, if such are a required submission, to be proprietary. Pricing terms appearing in proposals are considered public information.

Bidder shall be chiefly responsible for providing the defense for any challenge to a decision to withhold information contained in a Proposal, based upon bidder's identification of the information as not subject to public disclosure.

## 2.9 Board of Regents Approval:

In certain instances, the Bylaws and Policies of the Board of Regents of the University of Nebraska require that the Board approve the award of a contract. Bidders shall be notified if Board of Regents approval is required. In such cases, no contract or award shall be enforceable absent the Regents' approval.

## SECTION 3.0: PROPOSAL SUBMITTAL REQUIREMENTS

### 3.1 Submittals and Bid Opening:

One original and one CD of any proposal in response to this RFP must be received by UNL in the Office of University Services, Purchasing Department, 1700 Y Street, University of Nebraska–Lincoln, Lincoln, Nebraska 68588-0645 no later than the date and time set forth on the cover of this RFP. At that time, the proposals will be **opened publicly**. No proposals received after the opening time will be considered. All proposals submitted, along with any exhibits, addenda or modifications, shall be the property of UNL.

### 3.2 Mailing Label:

Each bidder is responsible for securing a UNL mailing label (whether in hard copy form or from the website), which is identified with this RFP. In order to assure proper processing, bid submittals should be returned in an envelope or parcel with the UNL provided mailing label affixed, delivered to University of Nebraska–Lincoln, Office of University Services, Purchasing Department, 1700 Y Street, Lincoln, NE 68588-0645.

### 3.3 Bidder Questions, Clarifications, and Addenda Interpretation:

It is the responsibility of each bidder to become familiar with the project requirements. Lack of knowledge concerning the project requirements will not relieve bidders of the conditions required as responsive to this RFP.

Except in the course of preliminary conference open to all interested parties, should one be held, no interpretation related to the requirements of this RFP will be made verbally to any bidder by UNL. Any request for bid interpretation shall be put in writing and faxed or e-mailed by the bidder and addressed to:

Tom Hansen  
Purchasing  
University of Nebraska–Lincoln  
Lincoln, Nebraska 68588-0645

FAX (402) 472-2246  
E-mail: [unlpurchasing2@unl.edu](mailto:unlpurchasing2@unl.edu)

**In order to be given consideration, any requests for interpretation must be received no later than June 3, 2008.** Any and all interpretations and any supplemental instructions provided by UNL shall be in the form of a written addenda to the Request for Proposal, which if issued, will be mailed, e-mailed or faxed to all known interested parties or bidders, or such other form of communication as UNL deems reasonably likely to reach interested parties; provided however, that bidders who were notified of this RFP by accessing the UNL Purchasing Department website are responsible to check the website from time-to-time in order to inform themselves of any addenda to the RFP. The bidder, not UNL, is responsible to secure notification and delivery of any addenda. Failure of any bidder to receive any addenda or other information released by UNL after the initial distribution of this RFP shall not relieve the bidder from the obligations specified in addenda or other releases. All addenda shall be incorporated in the RFP to the same effect as if they were set out in the initial RFP release.

The bidders are solely responsible for providing their correct mailing addresses, email addresses, and fax numbers for any response to inquiries. UNL is not responsible for lost or undeliverable responses.

3.4 Cost of Preparation:

UNL will not be responsible for any costs incurred in preparation of the bidder's proposal.

3.5 Bidder Qualification:

UNL may make any investigations deemed necessary or request any documentation to evaluate the ability of the bidder to perform the specifications of this RFP. The bidder shall furnish UNL with pertinent information and data upon request. UNL reserves the right in its sole discretion to reject any bid based on the facts resulting from an investigation which indicate that a bidder: (a) is not properly qualified to carry out the obligations of any contract awarded; or (b) presents a public image not in keeping with the professional standards and reputation which UNL expects. Conditional bids will not be accepted.

3.6 Exceptions:

Any exceptions with respect to any requirement of this RFP must be specified in writing as part of the submitted proposal. Specific reference must be made to the paragraph numbers and other identifying criteria with respect to any exceptions proposed by the bidder. Generally, UNL will not look favorably upon the request for any exceptions. However, UNL recognizes that in certain instances, an exception may be appropriate, and therefore, will consider and reserves the right to grant exceptions when UNL deems such exceptions promote its best interests. Conditional bids will not be considered.

## **SECTION 4.0: TERMS AND CONDITIONS**

The information contained in this section is a partial listing of standard terms commonly appearing in contracts awarded by UNL. All proposals are subject to these terms, unless otherwise explicitly stated.

### **4.1 General:**

The specifications, terms, and conditions set forth in this RFP and any related award document shall be incorporated by reference, without Bidder exception, into any resulting contract between the University and the successful bidder. Any additional or different terms proposed by the successful bidder are not accepted, unless the same are expressly accepted in writing by UNL. The contract may not be changed in any way except by an instrument in writing signed by both parties. The contract cancels and supersedes any prior understandings or agreements between the parties with respect to the subject matter hereof. Failure of any party to enforce its right under the contract shall not constitute a waiver of such rights or of any other rights under the contract.

### **4.2 Termination for Cause:**

UNL may terminate the contract at any time if the successful bidder fails to carry out its terms or fails to make substantial progress toward the fulfillment of those terms. In such an event, UNL shall provide the successful bidder with a thirty (30) day written notice of the terms in breach. If after such notice, the successful bidder fails to remedy the breach within those 30 days, UNL may immediately cancel the contract.

### **4.3 Contract Assignment:**

Contracts granted pursuant to this RFP shall not be transferred or assigned without prior written consent of UNL.

### **4.4 Indemnity, General and Patent:**

The successful bidder shall indemnify and save harmless UNL and its respective officers, agents and employees from and against any and all liabilities and losses whatsoever, including without limitation, costs and expenses in connection therewith, on account of, or by reason of, injury to or death of, any person whatsoever, or loss of or damage to any property whatsoever, suffered or sustained in the case of, or in connection with, the performance of the contract, except for that liability and loss arising from the acts or omissions of UNL or its agents.

With respect to anything provided to UNL by the bidder pursuant to this RFP, the bidder shall indemnify the University and its respective officers, agents and employees against liability, including costs and attorney's fees for infringement of any United States patent, copyright, trade infringement or other intellectual property right arising out of the manufacture, delivery and use of such by UNL.

### **4.5 Governing Law; Venue:**

The laws of the State of Nebraska shall govern any contract awarded to the successful bidder. Any dispute arising under any contract awarded, which is not settled by agreement of the parties, shall be resolved in forums (except for applicable federal appellate courts) located in the State of Nebraska.

#### 4.6 Force Majeure:

Neither party to the contract shall be liable to the other for damages for any delay in performance arising out of causes beyond its reasonable control and without its fault or negligence, including without limitation: (1) fire, flood or water damage, elements of nature or other acts of God, including any of the foregoing that are harmful to electronic circuitry; (2) outbreak or escalation of hostilities, war, riots, or civil disorders in any country; (3) act or omission of the other party or any governmental authority, (4) labor disputes (whether or not the employees' demands are reasonable or within the party's power to satisfy), (5) non-performance by a third party (including any voice or data telecommunications common carrier), (6) failures or fluctuations in telephone, computer or other telecommunications equipment or lines or other equipment, (7) the real, potential, or credible threat of terrorist activity, or (8) a health emergency (e.g. serious outbreak of contagious disease such as a influenza pandemic) which in the judgment of UNL poses a serious threat to the public health. In the case of any such excusable delay, the non-performing party will be excused from performance of any affected obligation only for so long as the cause of the excusable delay prevails and such party continues to use commercially reasonable efforts to re-commence performance of its obligations as soon as possible; provided however, that the parties may mutually agree that such excusable delay is cause to cancel the contract in its entirety, in which case neither party shall be liable to the other for any further performance in relation obligations arising after cancellation.

#### 4.7 Compliance with Laws and Regulations; Gramm Leach Bliley; University of Nebraska Policies:

This contract must comply with all applicable federal, state and local laws, specifically including all laws and regulations related to the protection and security of any personal information gathered by the successful bidder, such as the Gramm Leach Bliley Act implemented at the University of Nebraska by Presidential Executive Memorandum No. 26 which requires specific vendor contract provisions; and all other applicable policies of the University of Nebraska. Bidder agrees to indemnify UNL against any loss, cost, liability, or damage by reason of bidder's violation of any applicable law or regulation. Any successful bidder must be qualified to conduct the business necessary to the performance of the contract in the State of Nebraska throughout the duration of the contract term or any renewal thereof. The successful bidder shall obtain, at its own cost and expense, all necessary licenses, professional certifications and permits and shall assume the responsibility for and pay all applicable fees and all other taxes, which are now or may be imposed in the future by any governmental authority arising out of the conduct of bidder's business.

#### 4.8 Sexual Harassment:

State and federal law, as well as the policies of the Board of Regents of the University of Nebraska, prohibit sexual harassment of members of the UNL community. Sexual harassment includes any unwelcome sexual advance, any request for a sexual favor, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive environment. UNL contractors, subcontractors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of UNL employees, students and other members of the UNL community. The employer of any person who UNL, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of any contract awarded hereunder to cause such person to be removed from the project site and from UNL premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

#### 4.9 Drug Free Workplace:

The successful bidder agrees that in the performance of this contract, neither the bidder nor any of its employees shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by the contract. UNL reserves the right to request a copy of the bidder's Drug Free Workplace Policy. The bidder further agrees to insert a provision similar to this statement in all subcontracts or services required in response to this RFP.

#### 4.10 Weapons Policy:

Possession of dangerous weapons (concealed or unconcealed) on UNL property, on the work site, in UNL vehicles, or in personal vehicles when on UNL property shall be a violation of UNL policy. (A dangerous weapon shall include guns, knives, explosives, or any other device as determined by UNL, which in the manner used or intended is capable of producing death or bodily injury. Devices authorized by the Vice Chancellor for Business and Finance and/or provided to its employees for the purpose of carrying out work responsibilities shall not be deemed dangerous weapons for the purpose of this policy.) Violations of this policy shall make the offender subject to appropriate disciplinary action. Should UNL in its reasonable judgment determine that the bidder or its employee or agent has committed an act in violation of this policy, the bidder agrees as a term and condition of the contract awarded hereunder to cause such person and weapon to be removed from the project site and from UNL premises and to take such other action as may be reasonably necessary to ensure compliance with this weapons policy.

#### 4.11 Equal Opportunity in Procurement and Contracts:

The University of Nebraska recognizes the importance of a strong culturally diverse business community and the positive impact that successful businesses have upon the people of the State of Nebraska. The University of Nebraska assumes a leadership role in actions that will provide business opportunities for all businesses in the State of Nebraska.

Accordingly, the University of Nebraska reaffirms its policy of providing equal opportunity to small business enterprises and to minority, disadvantaged and women owned business enterprises in all aspects of the University of Nebraska's procurement and contracting activities. This includes procurement of contracts for operational supplies and equipment, construction projects and materials, service contracts and License agreements. It is also the University of Nebraska's policy that any person or business seeking the opportunity to do business with the University of Nebraska shall not be discriminated against on the basis of race, color, religion, sex, national or ethnic origin, age, disability, marital status, or veteran status. The University of Nebraska conducts its procurement and contracting activities in a manner designed to prevent unlawful discrimination. University of Nebraska policies are consistent with applicable state and federal laws and regulations prohibiting unlawful discrimination. (See attachment **Exhibit B**)

#### 4.12 Proprietary Information; Confidential Employee Information; HIPAA; FERPA:

It is to be expected that the parties to the contract may find it necessary to reveal certain proprietary information to each other. The contract may, when proprietary information is exchanged, include certain provisions to mutually protect against the use and disclosure of the proprietary information of each party. In the unusual circumstance that the contract should result in the sharing of employee information protected by the law or University of Nebraska policy, information protected by the Health Insurance Portability and Accountability Act, information protected by the Family Educational Rights and Privacy Act of 1974, or any other information deemed confidential and protected by the law, the parties to the contract agree to maintain the

confidentiality of such information to the extent and manner required by the law and University policy.

4.13 Subcontractors:

The successful bidder shall not subcontract all or substantially all of any facet of the Proposal without the prior written approval of UNL. The successful bidder shall be fully responsible for the acts and omissions of its subcontractors and of the persons directly or indirectly employed by them. Every subcontractor shall be bound by the terms of any contract awarded under this RFP; provided however, that no contractual relationship shall exist between any subcontractor and UNL, unless it is evidenced in a separate contract independent of the contract with the successful bidder.

4.14 Legislative Funding Out Clause:

Notwithstanding any provision in the contract to the contrary, if the legislative body appropriating funds, does not allocate sufficient funds to allow UNL to make any periodic payment agreed to in the contract for any future fiscal period, UNL will not be obligated to pay the contract balance remaining at the time of the governmental funding short-fall.

4.15 Parking:

UNL shall not be responsible for providing parking for successful bidder's parking needs. The successful bidder and/or its employees and agents will be solely responsible for any fines resulting from parking violations occurring on UNL property. It is recommended that the successful bidder and any temporary employees contact the Parking and Transit Services at Stadium Drive Parking Garage, Lincoln, Nebraska, phone (402) 472-1800 to obtain information regarding parking and to obtain permits.

4.16 Building Rules and Regulations; Tobacco Use:

Employees of the successful bidder and any subcontractors shall comply with all UNL rules and regulations pertaining to conduct in UNL's facilities. UNL reserves the right to request the removal or replacement of any bidder or subcontractor employee who fails to comply with such rules and regulations.

All buildings and University owned vehicles on the UNL campus are tobacco-free. Use of tobacco products is not permitted inside any UNL facility. The successful bidder is expected to respect this tobacco-free policy and fully comply with it.

4.17 Use of Premises:

To the extent that any contract awarded requires the successful bidder or its employees or agents to be present on or within UNL's properties, then the bidder shall limit its presence and activities to such areas as are reasonably necessary in order to perform under the contract. The successful bidder shall take such precautions as are required to avoid damage to buildings, facilities, utilities, ground resources, trees and landscape amenities, and other properties adjacent to the bidder's activities within the scope of the contract and agrees to be responsible and/or carry out any repairs for which it is liable, as a result of its performance under the contract.

4.18 Hazardous Waste Generated by Contractors:

Any hazardous waste that is generated from the performance of any contract awarded shall be properly disposed of by the successful bidder in a timely fashion and in accordance with

applicable hazardous waste laws and regulations. The cost for hazardous waste management and disposal is successful bidder's responsibility. Should UNL deem it prudent to dispose of any hazardous waste left on its property, as a result of the successful bidder's failure to meet its responsibilities, all costs associated with such disposal shall be deducted from any amount yet to be paid to the bidder and/or billed to the bidder. University Environmental Health Services is to be notified of all hazardous waste issues.

Any non-hazardous waste generated in the performance of this contract must be disposed of off campus by the successful bidder.

4.19 Delivery; F.O.B.; Shipping:

The successful bidder shall bear all costs of transportation, packing, crating, delivery, installation, storage, and service under warranty for any goods or related services, delivered pursuant to the contract. The successful bidder shall be responsible for and make delivery, including costs of delivery, cartage, temporary storage, off-loading costs, and insurance, F.O.B. destination: University of Nebraska -Lincoln, Lincoln, Nebraska. Unless otherwise specified, all shipments will utilize the best commercial practice to insure safe arrival at the UNL delivery point.

4.20 Quantity:

With respect to quantity of any good purchased under the contract, UNL need not accept any variation in quantity except as specified in the contract. Over-shipments may be returned to the bidder at its expense, which shall include a reasonable cost for UNL handling, or be retained by UNL at no increase in price.

4.21 Inspection:

UNL may, at any time in the course of the contract, inspect and test materials and supplies being used in the performance of the contract, including at the point of manufacture. If inspection and tests are made on contractor's premises, contractor without additional charge, shall provide reasonable facilities and assistance for the safety and convenience of the testing/inspection personnel. Except as otherwise agreed in writing, all goods, equipment and supplies furnished under the contract shall be subject to final inspection and acceptance by UNL at the delivery destination.

4.22 Defective Goods or Work:

UNL, notwithstanding any prior acceptance, at its option, may reject or require prompt correction (in place or elsewhere) of any goods, equipment, supplies, or other work, which are defective in material or workmanship or otherwise fail to meet the requirements of the contract. All supplies furnished under the contract shall be subject to inspection at F.O.B. destination, and successful bidder shall be given notice of any defects, other than latent defects, within a reasonable time after receipt of the goods, equipment, and supplies, along with all records of delivery. UNL may, in addition to any rights it may have by law, prepare for shipment and ship the defective goods, equipment, and supplies to the successful bidder, require the successful bidder to remove them, or direct a correction in place. The expense of any such remedy shall be borne by the successful bidder, including any excess cost.

4.23 Liens:

Successful bidder warrants that it has title to any goods delivered under the contract and shall deliver same free of all liens, claims, and encumbrances.

4.24 Federal, State and Local Sales Taxes; Federal Excise Taxes:

Purchases made by the University of Nebraska are exempt from the payment of State Sales and Use Taxes and Federal Excise Taxes. Certification of these exemptions will be provided to the successful bidder upon request.

4.25 Ambiguities:

Should the successful bidder perceive an ambiguity in the contract, the successful bidder shall request an interpretation from UNL before proceeding. If a successful bidder fails to make such a request, failure to perform with respect to the alleged ambiguity shall not be excused.

4.26 Recycling Policy:

When purchasing products, materials, or supplies for use, the University, when making such purchases shall actively pursue the purchase of products, materials, or supplies which are manufactured or produced with at least 10% post-consumer recycled materials. This policy shall not operate when it would result in the purchase of products, materials, or supplies that are of inadequate quality, not readily available or substantially higher in cost. It is the intent of the University to continually increase the percentage produced from post-consumer recycled material, and, to increase each year the types and variety of products, materials, or supplies purchased with post-consumer recycled material.

4.27 Contractor Identification:

The Contractor shall cause each of its employees or any person acting on behalf of the Contractor, while providing goods/services to the University under this Agreement and working on University property, to carry identification, with photo, showing that the individual is an employee or person acting on behalf of the Contractor. A badge worn outside of clothing is appropriate for this purpose. Such identification shall be produced upon request of any University representative, in order to confirm that the Contractor's representative is authorized to be present on University property and/or performing as authorized by the Agreement. Whereas campus security is of utmost importance, failure of any Contractor representative to produce the requisite identification upon request, shall be a material breach of the Agreement and shall be cause, at the discretion of the University, for immediate termination of the Agreement. For those who commonly wear a work uniform, such uniform shall be worn while providing the services related to this Agreement in order that the University may quickly and clearly identify Contractor's service representatives when necessary. A uniform, however, does not take the place of a photo identification badge.

4.28 Legal Relationship:

The contractor shall under no circumstances be considered as an agent or employee of the University and shall have no right or authority to, in any manner, obligate the University to any person or company except as authorized in writing by the University.

29. Use of University Names and Logos:

The contractor shall not use any University name, sign, logo, symbol, etc. for any purpose, without the prior written approval of the University. Use of University brands generally requires licensing.

30. Improper Business Relationships and Conflict of Interest Prohibited:

In connection with this RFP, each bidder shall ensure that no improper, unethical, or illegal relationships, or conflict of interest exists between or among the bidders, the University and any staff and faculty, and any other party to this RFP. The University reserves the right to determine the materiality of such relationships, when discovered or disclosed, whether intended or not; and to decide whether or not bidder disqualification and/or cancellation of award shall result. Such disqualification and/or cancellation shall be at no fault or liability whatsoever to the University.

31. Electronic and Information Technology Accessibility:

All electronic and information technology procurements, agreements, and contracts shall comply with Section 508 of the Rehabilitation Act of 1998 as amended.



UNIVERSITY OF NEBRASKA  
EQUAL OPPORTUNITY CLAUSE AND CERTIFICATION OF  
NON-SEGREGATED FACILITIES

Unless otherwise exempted by rules, regulations or orders issued under Executive Order 11246, during the performance of each order received from the Buyer:

"(1) The Contractor will not discriminate against any employee or applicant of employment because of race, color, religion, sex 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 or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisement of 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 or national origin.

"(3) 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 by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of Sept. 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of Sept. 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contractor with any of such rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of Sept. 24, 1965 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 24 of Executive Order No. 11246 of Sept. 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 contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

Seller certifies that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not and will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained.

Seller agrees that a breach of this certification is a violation of the Equal Opportunity clause in this certification. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, or color or national origin, because of habit, local custom or otherwise.

During the performance of furnishing goods or services as stipulated in any purchase order, contract, or agreement whether written or verbal, the contractor agrees that the concern presented will comply with the provisions of 41 CFR 60-741.4 relating to employment of the Handicapped and 41 CFR 50-250.3 relating to employment of Disabled Veterans and Vietnam Era Veterans.

Moreover, if annual sales to the University of Nebraska exceeds \$50,000, I certify that our firm has on file an Affirmative Action Compliance Program, dated \_\_\_\_\_, or that our firm is exempt for the following reason: \_\_\_\_\_

During the performances of furnishing goods or services as stipulated in any purchase order, contract, or agreement whether written or verbal, the undersigned certifies that the concern represented will comply with the provisions of Executive Order 11246 as amended, and all rules, regulations and relevant orders of the Secretary of Labor, and will incorporate by reference in each contract and in each order which is within the scope of the regulations the clause relating to Equal Opportunity contained in 41 CFR 60-1.4, and the clauses relating to Employment of the Handicapped contained in 41 CFR 60-741.4, and Employment of Disabled and Vietnam Era Veterans, 41 CFR 50-250.3. The concern further agrees to comply with all existing federal, state and city legislation Prohibiting discrimination in all phases of its performances and certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained.

_____	_____	_____	_____	_____
Firm	Address	City	State	Zip
_____	_____	_____	_____	_____
Signature of Authorized Representative	Title	Date		
Federal I.D. # _____				

Please Return to: University of Nebraska-Lincoln, 1700 Y Street, Lincoln, NE 68588-0645