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2017 OA - 004

AMENDING CHAPTER 25 OF THE DANE COUNTY CODE OF ORDINANCES,
REORGANIZING AND MODIFYING THE PURCHASING ORDINANCE

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Chapter 25 is repealed in its entirety and recreated to read as follows:

**CHAPTER 25
PURCHASING AND CONTRACTING**

**SUBCHAPTER I
GENERAL PURCHASING REGULATIONS**

- 25.01 AUTHORITY.
- 25.02 INTENT.
- 25.03 APPLICABILITY.
- 25.04 DEFINITIONS.
- 25.05 ADMINISTRATION.
- 25.06 APPROPRIATIONS.
- 25.07 COMMITTEE RESPONSIBILITIES.
- 25.08 PURCHASE OF GOODS AND SERVICES.
- 25.09 BIDDER RESPONSIBILITY.
- 25.10 SEALED BIDDING PROCESS.
- 25.11 REVIEW PROCESS FOR MAJOR CONTRACTS.
- 25.12 LIVING WAGE REQUIREMENT.
- 25.13 EQUAL BENEFITS REQUIREMENT.
- 25.14 FINANCIAL INTEREST PROHIBITED.
- 25.15 PAYMENT PROCEDURE.
- 25.16 UNLAWFUL PURCHASES.
- 25.17 SURPLUS PROPERTY MANAGEMENT.

**SUBCHAPTER II
SPECIFIC CONTRACT REGULATIONS**

- 25.50 HUMAN SERVICES CONTRACTS.
- 25.51 HIGHWAY CONTRACTS.
- 25.52 PUBLIC WORKS CONTRACTS.
- 25.53 JAIL INMATE PERSONAL SERVICES.
- 25.54 MUNICIPAL GRANTS.
- 25.55 APPROVAL OF CONTRACTS UNDER SUBCHAPTER II.

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**SUBCHAPTER I
GENERAL PURCHASING REGULATIONS**

25.01 AUTHORITY. This ordinance is created pursuant to the authority granted by sections 59.03(1), 59.51(1), 59.52(1)(b) and (9), Wis. Stats.

25.02 INTENT. This chapter is intended to achieve greater efficiency and economy in the operation of Dane County government and to encourage competition and business within Dane County by centralizing purchasing transactions where feasible and by providing a uniform set of standards pursuant to which purchases are made.

25.03 APPLICABILITY. (1) This ordinance applies to the procurement of all goods and services made by Dane County, whether professional or nonprofessional.

(2) The county recognizes that from time to time it may be in its best interests to enter into contracts, leases or other agreements that have been negotiated, bid for, or otherwise entered into in a manner which is not in strict conformity with the terms of this ordinance. Upon adoption or ratification of any such contract, lease or other agreement by the county board or the committee, any such nonconformity shall be deemed to have been waived by the county.

(3) This ordinance shall not be construed to create any right or rights of enforcement in any person seeking to do business with the County of Dane and compliance with the terms of this ordinance shall rest solely with the County of Dane.

(4) Except as otherwise provided in this chapter, the provisions of Subchapter I shall apply to transactions under Subchapter II.

(5) Except as otherwise expressly provided, this chapter does not apply to real estate transactions regulated by ch. 28.

25.04 DEFINITIONS. In this chapter, unless the context clearly indicates to the contrary, the following words have the meanings indicated:

(1) *Bid* means the written or verbal commitment of a contractor to furnish goods or services, or a combination thereof, in specific quantities at a firm price.

(2) *Bidder* is one who submits a bid in response to a Request for Bids or Proposals.

(3) *Board* shall mean the Dane County Board of Supervisors.

(4) *Committee* shall mean that certain standing committee of the county board designated as its finance committee, unless the context clearly indicates otherwise.

(5) *Dane County-Made Good* shall mean an article that is manufactured, mined, produced, or grown in Dane County and over 50% of the total cost of its components are made in Dane County.

(6) *Department* shall mean any division of county government which is separately listed in the annual county budget.

- 92 (7) *Goods* shall mean any tangible item, supply or anything purchased or
93 available for purchase other than real property or services.
- 94 (8) *Irrevocable letter of credit* means an engagement by a bank or other person
95 made at the request of a customer and of a kind within the scope of chapter 405,
96 Wis. Stats., wherein the issuer irrevocably agrees to honor drafts or other
97 demands for payment upon compliance with the conditions specified in the credit.
98 In the discretion of the controller or designee, an irrevocable letter of credit may
99 be accepted in lieu of a bid bond.
- 100 (9) *Locally Operated Vendor* means a supplier or provider of equipment,
101 materials, supplies or services which has an established place of business within
102 the County of Dane and whose business is registered and authorized to do
103 business in the State of Wisconsin. An established place of business means a
104 physical office, plant or other facility. A post office box address does not qualify a
105 vendor as a Locally Operated Vendor.
- 106 (10) *Major Contract* shall mean all contracts, and addendums thereto, that
107 exceed \$100,000 in the aggregate in disbursements or receipts, or any contract
108 so designated in writing to the controller by the county board chairperson or the
109 finance committee chairperson.
- 110 (11) *Most responsive and responsible bidder* shall mean that bidder who offers
111 either the lowest cost or the highest payment, as appropriate; who submits a bid
112 which conforms in all material respects to the requirements stated in the bid
113 solicitation; and who also possesses the necessary financial responsibility, skill,
114 ability and integrity to perform the obligations required by the transaction.
115 However, in no instance may a bidder who has been convicted of bid rigging or
116 price fixing within three years of submission of the bid involved, involving a bid
117 submitted to the county, be considered the most responsive and responsible
118 bidder.
- 119 (12) *Negotiation* shall mean contracting through the use of competitive or other
120 than competitive proposals or discussions. Any contract awarded without a
121 formal bidding procedure is a negotiated contract.
- 122 (13) *Performance bond* shall mean a bond that is executed subsequent to award
123 by a successful bidder, to protect the buyer from loss due to the bidder's inability
124 to complete the contract as agreed.
- 125 (14) *Procurement* shall mean buying, purchasing, renting, leasing or otherwise
126 acquiring any supplies, materials, equipment and contractual services. It also
127 includes all functions and administrative practices that pertain to obtaining the
128 above, including description of requirements, selection and solicitation of
129 sources, and preparation and award of contract.
- 130 (15) *Purchase order* shall mean a written contract with a vendor or provider which
131 formalizes the terms and conditions of a proposed transaction, such as a
132 description of the requested items, delivery schedule and terms of payment.
- 133 (16) *Purchase requisition* shall mean an internal document by which an agency or
134 department sends details of supplies, services or materials required to the
135 purchasing division.
- 136 (17) *Purchasing division* shall mean the organizational sub-unit within the
137 department of administration, its officers and employees, which is charged to

138 carry out the act of procurement for Dane County in compliance with this
139 ordinance.

140 **(18) *Locally Based and Owned Vendor*** means a supplier or provider of
141 equipment, materials, supplies or services whose business or corporate
142 headquarters is physically located in Dane County and whose owners or
143 shareholders totaling more than 50% of ownership live in Dane County and the
144 business is registered and authorized to do business in the State of Wisconsin.

145 **(19) *Regionally-Made Good*** shall mean an article that is manufactured, mined,
146 produced or grown in the eight counties including Dane County and the seven
147 counties adjacent to Dane County (Columbia, Dodge, Green, Iowa, Jefferson,
148 Rock or Sauk) and over 50% of the total cost of its components are made in
149 those counties.

150 **(20) *Regulations*** shall mean those rules or guidelines issued by the controller or
151 the department of administration to administer this ordinance.

152 **(21) *Request for bids*** shall mean a formal request to prospective vendors
153 soliciting price quotations. The request contains or incorporates by reference the
154 specifications or scope of work and all contractual terms and conditions
155 applicable to the procurement for which a bid is solicited.

156 **(22) *Request for proposal*** shall mean all documents, whether attached or
157 incorporated by reference, used for soliciting competitive proposals when exact
158 specifications are unknown and when it is expected that negotiations with one or
159 more bidders may be required with respect to any aspect of the requirements for
160 a procurement or when other qualitative factors will be considered in the
161 selection of a contractor in addition to price.

162 **(23) *Service*** shall mean the furnishing of labor or time by a contractor, not
163 involving the delivery of a specific end product other than usual reports which are
164 incidental to the required performance.

165 **(24) *Specification*** shall mean any description of the physical or functional
166 characteristics of a supply, service or other item. It may include a description of
167 any requirement for inspecting, testing or preparing a supply, service or other
168 item for delivery.

169 **(25) *Standard terms and conditions*** shall mean that certain document which
170 sets forth the instructions, rules, regulations and processes that apply to bidders
171 and/or vendors in the procurement process. The *Standard Terms and*
172 *Conditions* document or a summary of it accompanies solicitation documents and
173 contracts.

174 **(26) *Surplus property*** shall mean items that no longer have use to the county
175 including obsolete supplies and scrap materials that have completed their useful
176 life.

177 **(27) *Transaction*** shall mean any act or agreement between the county and any
178 other party or parties pursuant to which the county receives goods or services.

179 **(28) *Wisconsin-Made Good*** shall mean an article that is manufactured, mined,
180 produced or grown in the State of Wisconsin and over 50% of the total cost of its
181 components are made in the State of Wisconsin.

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183 **25.05 ADMINISTRATION. (1) (a)** Under the general direction of the director of
184 administration, the controller shall manage the purchasing activities of the
185 county and supervise purchasing division.

186 **(b)** The controller or staff of the affected department, under the direction of the
187 controller, shall prepare specifications for proposed transactions. The bid
188 specifications shall describe completely the services, items or supplies to be
189 furnished, the department for which the same are required and the quantities
190 desired. Such specifications shall be drawn so as to facilitate competitive
191 bidding.

192 **(c)** The controller may also promulgate and amend purchasing operational
193 procedures and administrative regulations which are consistent with the various
194 provisions of this chapter and which shall be permanently recorded and
195 circulated to all county departments. The controller shall assist departments in
196 complying with such regulations.

197 **(d)** The controller shall maintain such records as are necessary to account for
198 expenditures of funds for purchases made through his or her office.

199 **(e)** The controller may request information from departments when necessary or
200 desirable for efficient administration of the purchasing function.

201 **(2) Delegation of Authority. (a)** Purchasing authority may be delegated to
202 departments to purchase goods or services using blanket purchase orders, a
203 procurement card or other means as authorized by this chapter or by the
204 controller.

205 **(b)** The purchase of all goods and services for which purchasing authority has
206 not been delegated to departments shall be made by means of a purchase
207 requisition submitted to the purchasing division by department officials who have
208 such authority.

209
210 **25.06 APPROPRIATIONS.** All transactions shall be subject to fiscal
211 appropriations made by the board for the operation of the affected department.
212 No transaction may be entered into unless adequate funds have been
213 appropriated therefore.

214
215 **25.07 COMMITTEE RESPONSIBILITIES.** The committee shall have those
216 responsibilities imposed by the rules of the board and, in addition, shall exercise
217 the following duties and functions relating to this chapter:

218 **(1)** Provide general oversight of all matters concerning purchases and sales;

219 **(2)** Advise and consult with departments concerning transactions when
220 requested or when otherwise deemed necessary by the committee;

221 **(3)** Investigate on its own motion all questions related to transactions controlled
222 by this chapter; and

223 **(4)** Review and refer to the board:

224 **(a)** any transaction for which no budgetary appropriation has been made;

225 **(b)** those transactions requiring board approval; and

226 **(c)** any instance of non-compliance with this chapter or any regulations adopted
227 under this chapter.

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229 **25.08 PURCHASE OF GOODS AND SERVICES. (1)** Any act of procurement
230 shall be conducted in such a manner as to obtain the best possible price,
231 performance guarantee, service guarantee, quality and resale value. The
232 purchasing division shall maintain documents regarding the procedures used for
233 each transaction.

234 **(2)** Any act of procurement shall comply with the Standard Terms and
235 Conditions promulgated by the purchasing division.

236 **(3)** Purchases with an estimated cost of less than \$10,000 shall be acquired
237 through a method of solicitation determined by the controller acting in the best
238 interests of the public.

239 **(4)** Purchases with an estimated cost between \$10,000 and \$35,000 shall be
240 acquired through a written, competitive solicitation process through which the
241 controller obtains multiple bids.

242 **(5)** Purchases with an estimated cost of over \$35,000 shall be acquired through
243 an official sealed bidding process as provided in s. 25.10.

244 **(6)** Major contracts shall be subject to the review process set forth in s. 25.11.

245 **(7)(a)** The method of evaluating bids or proposals and the criteria for awarding
246 contracts shall be stated in the bid document or in the request for proposals.

247 **(b)** When using a request for proposals (RFP), the RFP shall specify that any
248 Locally Operated Vendor and Locally Based and Owned Vendor will
249 automatically receive five points in the evaluation scoring. Non-Locally Operated
250 Vendors with an established place of business within one of the counties
251 adjacent to Dane County in the Thrive 8 county region will automatically receive
252 two points. Non-Locally Operated Vendors will receive zero points in that portion
253 of the evaluation scoring.

254 **(8)** Bids may be corrected or withdrawn by the vendor prior to the bid opening
255 by providing a notice to the purchasing division prior to the bid opening date and
256 time specified in the bid documents. Bids may not be amended or withdrawn by
257 the vendor after the bid opening.

258 **(9)** The controller or designee may cancel any invitation for bid, request for
259 proposal, or other solicitation in whole or in part whenever such cancellation is
260 deemed by the controller or designee to be in the best interest of the county.

261 **(10)** The controller or designee shall open all sealed bids on the date and at the
262 time and place specified in the bid documents. The receipt and reading of bids
263 shall be open to the public.

264 **(11) (a)** Contracts for purchases shall be awarded to the most responsive and
265 responsible bidder.

266 **(b)** The Controller and the committee shall consider compliance with fair labor
267 standards as set forth in s. 25.09 in determining the most responsive bidder.

268 **(c)** If the Controller, after reviewing the responses to a competitive solicitation
269 under sub (4) or a sealed bid under sub (5) and s. 25.09, finds that a Locally
270 Based and Owned Vendor's price is within 15% of the lowest cost bid, the
271 Controller will contact the Locally Based and Owned Vendor to determine if the
272 Vendor is willing to meet the bid price offered by the most responsive bidder. If
273 the Locally Based and Owned Vendor is willing to meet the price offered by the
274 most responsive bidder, then the Locally Based and Owned Vendor shall be

275 awarded the bid. If more than one Locally Based and Owned Vendor has offered
276 a price within 15% of the most responsive bidder, the Locally Based and Owned
277 Vendor with the lowest price will be contacted first. If the first Locally Based and
278 Owned Vendor declines to meet the price of the most responsive bidder, then
279 the Controller will contact the next highest Locally Based and Operated Vendor
280 to determine that vendor's interest in meeting the price offered by the most
281 responsive bidder.

282 **(d)** If after reviewing the responses to a competitive solicitation or a sealed bid ,
283 the Controller finds there is no Locally Based and Owned Vendor within 15% of
284 the lowest cost bid, or if there is a Locally Based and Owned Vendor within 15%
285 of the lowest cost bid, but that vendor is not willing to meet the bid price offered
286 by the most responsive bidder in the process set forth in sub. (c), then the
287 Controller shall review the responses to determine if a Locally Operated Vendor's
288 price is within 10% of the lowest cost bid. If so, the Controller will contact the
289 Locally Operated Vendor to determine if the Locally Operated Vendor is willing
290 to meet the bid price offered by the most responsive bidder. If the Locally
291 Operated Vendor is willing to meet the bid price offered by the most responsive
292 bidder, then the Locally Operated Vendor shall be awarded the bid. If more than
293 one Locally Operated Vendor has offered a price within 10% of the most
294 responsive bidder, the Locally Operated Vendor with the lowest price will be
295 contacted first. If the first Locally Operated Vendor declines to meet the price of
296 the most responsive bidder, then the Controller will contact the next highest
297 Locally Operated Vendor to determine that vendor's interest in meeting the price
298 offered by the most responsive bidder.

299 **(e)** If after reviewing the responses to a competitive solicitation or a sealed bid,
300 the Controller finds there is no Locally Operated Vendor within 10% of the lowest
301 cost bid, or if there is a Locally Operated Vendor within 10% of the lowest cost
302 bid, but that vendor is not willing to meet the bid price offered by the most
303 responsive bidder in the process set forth in sub. (d), then the Controller shall
304 review the responses to determine if there is a Non-Locally Operated Vendor
305 with an established place of business in one of the counties adjacent to Dane
306 County in the Thrive 8 county region within 5% of the lowest cost bid. If the
307 Controller identifies such a vendor, the Controller will contact the vendor to
308 determine if the vendor is willing to meet the bid price offered by the most
309 responsive bidder, then that vendor shall be awarded the bid.

310 **(f)** With the exception of bids for sand, gravel, salt, asphalt and concrete, if the
311 Controller, after reviewing the responses to a sealed bid finds that a vendor is
312 offering Dane County-Made Goods at a price that is within 15% of the lowest cost
313 bid, the Controller will award the bid to the vendor offering Dane County-Made
314 Goods at the lowest cost.

315 **(g)** With the exception of bids for sand, gravel, salt, asphalt and concrete, if a
316 Dane County-Made Good is not available, the Controller, after reviewing the
317 responses to a sealed bid finds that a vendor is offering Regionally-Made Goods
318 at a price that is within 12.5% of the lowest cost bid, the Controller will award the
319 bid to the vendor offering Regionally-Made Goods at the lowest cost.

320 **(h)** With the exception of bids for sand, gravel, salt, asphalt and concrete, if a
321 Dane County-Made Good or a Regionally-Made Good is not available, the
322 Controller, after reviewing the responses to a sealed bid finds that a vendor is
323 offering Wisconsin-Made Goods at a price that is within 10% of the lowest cost
324 bid, the Controller will award the bid to the vendor offering Wisconsin-Made
325 Goods at the lowest cost.

326 **(i)** If no vendor offers Dane County-Made Goods, Regionally-Made Goods, or
327 Wisconsin-Made Goods within the price percentages described in subs. (f)-(h),
328 the Controller will award the bid to the lowest responsive and responsible bidder
329 without regard to where the goods were made.

330 **(j)** No purchase shall be made under subs. (f)-(h) unless the vendor offering
331 such goods first submits a sworn affidavit stating that the goods meet the
332 requirements of the applicable subsection.

333 **(k)** For purchases of motor vehicles for the Sheriff's Office, if after reviewing the
334 responses to a sealed bid the Controller shall review the responses to determine
335 if a Local Vendor's price is within 15% of the lowest cost bid. If so the Controller
336 will contact the Local Vendor to determine if the Local Vendor is willing to offer a
337 price within 5% of the lowest cost bid. If the Local Vendor is willing to offer a price
338 within 5% of the lowest cost bid, then the Local Vendor shall be awarded the bid.
339 If more than one Local Vendor has offered a price within 15% of the most
340 responsive bidder, the Local Vendor with the lowest price will be contacted first. If
341 the first Local Vendor declines to offer a price within 5% of the most responsive
342 bidder, then the Controller will contact the next highest Local Vendor to
343 determine that vendor's interest in offering a price within 5% of the most
344 responsive bidder.

345 **(12)** The controller or designee is authorized to negotiate an adjustment of the
346 bid price with the lowest most responsive and responsible bidder, including
347 changes in the bid requirements, in order to bring the bid within the amount of
348 available funds if one of the following conditions apply:

349 **(a)** All bids exceed available or attainable funds;

350 **(b)** Time or economic conditions preclude the resolicitation of work or a
351 reduction in the scope of the requisition.

352 **(13)** The controller or designee may reject any or all bids or proposals and may
353 waive any technicality or error in any bid or part thereof when such rejection or
354 waiver is deemed to be in the best interest of Dane County.

355 **(14)** The controller or designee may require that all bidders on a bid submit a bid
356 bond, certified check or irrevocable letter of credit in the amount required by the
357 bid specifications. When a bid is accepted, the controller or designee may
358 require the successful bidder to file a performance bond.

359 **(15)** When, after soliciting bids, it is determined by the controller or designee that
360 no valid bids have been received, the controller or designee may purchase the
361 good or service on the open market at his or her discretion.

362 **(16)** The various price levels set forth in this chapter which establish the
363 procedures required for purchasing goods and services shall be adjusted once
364 every year, in accordance with changes in the Consumers Price Index-United
365 States All Urban Consumers - All Items - Milwaukee-Racine Area Urban

366 Consumers. Such adjustments shall be computed as follows: (CPI Index for the
367 first half of the most recent year *divided by* CPI Index for the first half of 2016
368 *times* the price levels rounded to the nearest thousand *equals* adjusted price
369 level.) The controller shall distribute to the committee and department heads an
370 announcement of each change in the price levels.

371 **(17) Terms of Multi-Year Contracts.** (a) Except for contracts where the original
372 vendor is the only option for computer software or hardware maintenance and
373 support, the term, including any extension of the initial term, of any contract for
374 the procurement of goods and services shall not exceed five (5) years.

375 **(18) Exceptions to the Competitive Bidding Process.** (a) The controller may
376 decide to negotiate, contract for, and purchase goods and services without
377 securing formal competitive bids whenever such goods and services are of such
378 a nature as to make it impossible or impractical to complete the formal
379 competitive bidding process. These circumstances include:

380 1. Emergency procurement shall be allowed when necessary to alleviate a
381 situation in which there is a threat to health, welfare or safety and when
382 circumstances do not allow time for normal competitive purchasing procedures.
383 The controller shall maintain a record of emergency purchases, including the
384 justification submitted by the requesting department.

385 **(b) Waiver of bid procurement.** The controller may waive the requirement for
386 competitive bids:

- 387 1. when he or she determines that only one vendor possesses the unique and
388 singularly available ability to meet the county's requirements;
389 2. when unique and specific technical qualifications, the ability to deliver at a
390 particular time, or services from a public utility are required;
391 3. when special adaptation for a special purpose is required; or
392 4. when an unique or opportune buying condition exists.

393 **(c)** When a waiver of bid is granted, the controller shall conduct negotiations, as
394 appropriate, as to price, delivery and terms. The controller shall maintain a
395 record of waiver of bid purchases, including a justification submitted by the
396 requisitioning department. Waiver of bid purchases over \$35,000 shall receive
397 prior approval from the committee.

398 **(d) Intergovernmental procurement.** The purchasing manager is authorized to
399 purchase goods or services directly from any other governmental or quasi-
400 governmental entity or political subdivision without going through the bidding
401 process, when the controller determines that it is in the county's best interest to
402 do so.

403 **(e) Cooperative procurement.** The controller may participate in, sponsor,
404 conduct or administer a cooperative purchasing agreement for the procurement
405 of any materials, supplies, equipment or services with one or more units of
406 government in accordance with an agreement entered into by the participants.
407 Cooperative procurement may include, but is not limited to:

- 408 1. Joint or multi-party contracts between units of government; and
409 2. Open-ended state, municipal, federal and other units of governments'
410 contracts which are made available to the county.

411 (f) Used goods and livestock. The controller may purchase used goods or
412 livestock on the open market or at auction without competitive solicitation. After
413 surveying the market, the controller may negotiate with the seller to obtain the
414 item which offers the best combination of price and condition.

415 (19) *Encouraging the Participation of Targeted Business Enterprises.* Dane
416 County's official policy is to utilize to the fullest extent targeted businesses, as
417 defined in chapter 19, when contracting for any construction, purchases,
418 furnishing or disposal of goods, services or real property in order to ensure an
419 equitable share of Dane County contracts in accordance with chapter 19 of the
420 Dane County Ordinances. Dane County recognizes that it must ensure that the
421 principles of equal opportunities in its contracting process are pursued in a
422 concerted manner. Dane County reaffirms its commitment to the targeted
423 business programs and policies which ensure utilization by the county and those
424 who contract with the county.

425 (20) *Authority to Debar or Suspend.* (a) The head of an affected department or
426 a purchasing agent may file a complaint alleging a vendor's violation of this
427 chapter; violation of contract provisions; failure to perform in accordance with the
428 specifications or within the time limit provided in a contract; conviction of a
429 criminal offense incident to a contract or subcontract; conviction under state or
430 federal statutes of embezzlement, theft, forgery, bribery, falsification or
431 destruction of records, receiving stolen property, or other offense indicating a
432 lack of integrity or honesty which impacts on responsibility as a contractor; or
433 conviction under state or federal antitrust statutes arising out of the submission of
434 bids or proposals. All complaints shall be filed with the controller.

435 (b) The controller shall investigate and determine whether there has been a
436 violation of this section, and provide copies of a proposed decision to the
437 complainant and the vendor. If a violation is found, the proposed decision may
438 include any of the following:

- 439 1. Suspension of the right to bid on county contracts for up to three months;
- 440 2. Debarment, for a period of up to 3 years.

441 (c) Any person affected by the proposed decision may, no later than 30 days
442 after issuance of the proposed decision, appeal the decision to the director of
443 administration by serving a notice of appeal on the director of administration. If
444 no appeal is taken within the time allotted, the proposed decision shall become
445 final.

446 (d) Upon the filing of an appeal, the director of administration shall, on notice,
447 take testimony, receive evidence, allow a party to call witnesses, allow cross-
448 examination and issue a final decision. The director of administration shall not
449 be bound by common law or statutory rules of evidence, but shall admit all
450 testimony having reasonable probative value, excluding that which is immaterial,
451 irrelevant or unduly repetitious. The director of administration shall give effect to
452 the rules of privilege recognized by law. Basic principles of relevancy, materiality
453 and probative force, as recognized in equitable proceedings, shall govern the
454 proof of all questions of fact. The director of administration may take official
455 notice of any generally recognized fact or established technical or scientific fact,
456 but parties shall be notified either before or during hearing or by full reference in

457 preliminary reports, or otherwise, of the facts so noticed, and the parties shall be
458 afforded an opportunity to contest the validity of the official notice.

459 **(e)** The director of administration's final decision may include suspension of up
460 to three months or debarment of up to three years.

461 **(f)** A department may not award any contract to a vendor who has been
462 debarred unless at least 3 years have elapsed from the date of debarment,
463 unless a shorter time of debarment is specified in the director of administration's
464 final decision.

465 **(21) Recycling. (a)** The controller shall, to the extent practicable, make
466 purchasing selections using specifications developed in conformity with s.
467 16.72(2)(e), Stats., to maximize the purchase of materials utilizing recycled
468 materials and recovered materials.

469 **(b)** Each department shall ensure that the average recycled or recovered
470 content of all paper purchased by the department, measured as a proportion, by
471 weight, of the fiber content of paper products purchased in a calendar year is not
472 less than 40% of all purchased paper of which at least 20% is post consumer
473 fiber.

474
475 **25.09 BIDDER RESPONSIBILITY. (1)** Any bid, application or proposal for any
476 contract with the county, including public works contracts regulated under
477 chapter 40, shall include a certification indicating whether the bidder has been
478 found by the National Labor Relations Board (NLRB) or the Wisconsin
479 Employment Relations Commission (WERC) to have violated any statute or
480 regulation regarding labor standards or relations within the last seven years. The
481 controller shall investigate any such finding and make a recommendation to the
482 committee, which shall determine whether the conduct resulting in the finding
483 affects the bidder's responsibility to perform the contract.

484 **(2)** During the term of any contract with the county, the contractor or a
485 subcontractor shall report to the controller within 10 days any findings required to
486 be disclosed under sub. (1), including an NLRB or WERC "finding merit" to the
487 filing of an unfair labor practice, or allegations of such violations filed with those
488 agencies. The controller shall investigate and determine whether the allegations
489 or findings adversely impact the contractor's responsibilities under the contract.
490 If the controller determines that the allegations or findings adversely affect the
491 contractor's responsibilities under the contract, the controller shall render a
492 proposed decision which may terminate, suspend or cancel the contract, in whole
493 or in part, and shall provide the contractor with a copy of the proposed decision.

494 **(3)** Any person affected by a proposed decision issued under sub. (2) may
495 appeal such decision as set forth in s. 25.08(20)(c) - (e).

496 **(4)** All contractors and subcontractors shall post the following statement in a
497 prominent place visible to employees: "As a condition of receiving and
498 maintaining a contract with Dane County, this employer shall comply with federal,
499 state and all other applicable laws prohibiting retaliation for union organizing."
500

501 **25.10 SEALED BIDDING PROCESS. (1) Notice. (a)** The proposed
502 procurement shall be publicly advertised in the official county newspaper and

503 such other media as deemed desirable, which may include the Internet or trade
504 magazines as determined by the controller.

505 **(b)** The proposed procurement shall be advertised at least two (2) weeks before
506 the bid opening date.

507 **(c)** The advertisement shall call for sealed bids to furnish goods or services, or
508 both, in accordance with specifications prepared or approved by the controller.

509 **(2)** Bids may be corrected or withdrawn by the vendor prior to the bid opening
510 by providing a notice to the purchasing division prior to the bid opening date and
511 time specified in the bid documents. Bids may not be amended or withdrawn by
512 the vendor after the bid opening.

513 **(3)** The controller or designee shall open all sealed bids on the date and at the
514 time and place specified in the bid documents.

515

516 **25.11 REVIEW PROCESS FOR MAJOR CONTRACTS. (1)** Unless otherwise
517 exempt all major contracts shall be subject to county board approval under the
518 provisions of this section, and approval by the County Executive. All contracts
519 approved by the county board shall be countersigned by the County Clerk.

520 **(2) (a)** In this subsection, the phrase “the contract documents” includes all of
521 the following: the complete contract, including all schedules, exhibits and
522 attachments; the contract rating sheet; the contract routing sheet; and an
523 executive summary of the contract.

524 **(b)** The contract documents shall be uploaded to the legislative information
525 system three days prior to the time the contract is to be considered by the
526 committee.

527 **(c)** The contract cover sheet shall describe any deviations from the standard
528 contracting process and any changes to the standard county purchase of
529 services form agreement.

530 **(3)** The director of administration, the corporation counsel and the affected
531 department head shall each independently review the contract.

532

533 **25.12 LIVING WAGE REQUIREMENT. (1)** As used in this section, the
534 following words have the meanings indicated:

535 **(a)** *Board* means the contract compliance hearing board as defined in s.
536 19.51(5), D.C. Ords.

537 **(b)** *Contractor* means a person or entity having a service contract with the
538 County of Dane.

539 **(c)** *Family member* includes mother, father, grandparents, spouse, children,
540 brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law,
541 son/daughter-in-law, member of alternative family and grandchildren.

542 **(d)** *Professional service* means services for which the provider is required to hold
543 a license issued by Wisconsin Department of Safety and Professional Services in
544 order to practice in this state.

545 **(e)** *Service contract* means any contract with the county, for the provision of
546 services to any county department or agency. The purchasing agent shall review
547 each bid specification or request for proposals and make a determination as to
548 whether the proposed contract will constitute a service contract. *Service contract*

549 includes subcontracts but does not include any contract, whether or not a
550 subcontract, which:

- 551 1. Involves only the purchase of goods;
- 552 2. Is a professional service contract;
- 553 3. Is a department of public works contract regulated under ch. 40;
- 554 4. Has a value of less than \$5,000;
- 555 5. Is a contract or lease involving use of facilities at the Dane County
556 Exposition Center;
- 557 6. Involves services provided by student interns;
- 558 7. Involves services provided by persons with disabilities working in
559 employment programs where the employer holds a current sub-minimum wage
560 certificate issued by the U. S. Department of Labor or where such a certificate
561 could be issued but for the fact that the employer is paying a wage higher than
562 the minimum wage;
- 563 8. Is a contract in existence prior to October 23, 1999, through the duration of
564 its term;
- 565 9. Is a department of human services contract for residential services for
566 individual clients purchased at an established per bed rate;
- 567 10. Is a contract with a school district, a municipality or other unit of government;
- 568 11. Is a contract in which compensation is provided to a family member under a
569 department of human services program;
- 570 12. Is a grant, project or contract as to which federal or state law imposes the
571 obligation to pay prevailing wages; or
- 572 13. Is a grant, contract or project as to which labor agreements otherwise require
573 the payment of a wage in excess of the living wage.

574 **(f)** *Subcontractor* means a person or entity having an arrangement with a
575 contractor pursuant to which the subcontractor furnishes services for the benefit
576 of the County of Dane and which arrangement would constitute a service
577 contract as defined herein if entered into directly with the county.

578 **(g)** *Living wage* means the following:

- 579 1. For contracts entered into prior to January 1, 2017, an hourly wage equal to
580 100% of the poverty level divided by 2080.
- 581 2. For contracts entered into after December 31, 2016, an hourly wage as
582 follows:
 - 583 a. 2017 - \$12.50.
 - 584 b. 2018 - \$13.00.
 - 585 c. 2019 - \$13.50.
 - 586 d. 2020 - \$14.00.
 - 587 e. 2021 - \$14.50.
 - 588 f. 2022 - \$15.00.
 - 589 g. Beginning January 1, 2023, the living wage shall be adjusted annually by the
590 percentage change in the June Consumer Price Index for All Urban Consumers
591 for the previous year.

592 **(h)** *Poverty level* means an annual income equal to the U.S. Department of
593 Health and Human Services' then most recently published poverty guideline for a
594 family of four.

595 **(2)** The living wage requirement set forth in this section shall apply to:
596 **(a)** All employees of an employer who has entered into a service contract of
597 \$5,000 or more, provided that this section applies only to those employees who
598 are directly involved in providing the contracted services;
599 **(b)** All employees of employers who are beneficiaries of economic development
600 assistance from the county worth \$5,000 or more, except those for construction
601 projects subject to Wis. Stat. s. 66.0903(1m)(c); and
602 **(c)** The county's own employees, except those in supported employment
603 positions.
604 **(d)** Tipped employees, employees paid on commission, and others whose
605 compensation consists of more than hourly wages shall be paid an hourly wage
606 which, when coupled with the other compensation, will at least equal the living
607 wage.

608 **(3)** The living wage requirements of this section do not apply to time an
609 employee spends in employer-authorized "sleep time" at the work site.

610 **(4)** Every service contract and every grant of economic development assistance
611 entered into by the county shall contain the following notice: "The contractor [or
612 grant beneficiary] agrees to pay all workers employed by the contractor [or grant
613 beneficiary] in the performance of this contract [or grant], whether on a full-time
614 or part-time basis, the living wage of not less than [purchasing agent to insert
615 current living wage in accordance with this section]. The contractor [or grant
616 beneficiary] agrees to make available for county inspection the contractor's
617 payroll records relating to employees providing services on or under this contract
618 or subcontract [or grant]. If any payroll records of a contractor [or grant
619 beneficiary] contain any false, misleading or fraudulent information, or if a
620 contractor [or grant beneficiary] fails to comply with the provisions of s. 25.12,
621 D. C. Ords., the contract compliance officer may withhold payments on the
622 contract, terminate, cancel or suspend the contract in whole or in part, or, after a
623 due process hearing, deny the contractor the right to participate in bidding on
624 future county contracts for a period of one year after the first violation is found
625 and for a period of 3 years after a second violation is found."

626 **(a)** Every contractor and grant beneficiary shall provide a similar written notice
627 to any subcontractor.

628 **(b)** Each worker employed in performance of a county contract shall receive the
629 full living wage. If a worker is performing both county and non-county work and it
630 is not possible to separately account for the time associated with work under the
631 county contract, then the worker shall receive the full living wage. No
632 proportional calculation is allowed. If no bids are received on a contract and staff
633 determines that compliance with this subsection contributed to the lack of bids,
634 the contract may be re-bid with a waiver of the no proportional calculation
635 requirement.

636 **(5)** The purchasing agent shall add a summary of the requirement for the living
637 wage to the county's standard *Bids & Specifications* document.

638 **(6)** For every service contract and economic development assistance grant the
639 current living wage shall be kept posted by the contractor or grant beneficiary at
640 the site of the work in a prominent place where it can be easily seen and read by

641 persons employed in the performance of such contract or grant. The poster shall
642 also provide information of the means the reader may use to file a complaint of
643 violation. In addition, copies of the current living wage requirement shall be
644 supplied to any person employed in the performance of a service contract or
645 economic development assistance grant at the request of such person and within
646 a reasonable period of time after the request.

647 **(7)(a)** Upon completion of a contract or grant and before receiving final payment
648 for his or her work on the contract or grant, each contractor or grant beneficiary
649 shall furnish the county with certification affirming that the contractor or grant
650 beneficiary has complied fully with the requirements of this section. A contractor
651 or grant beneficiary may not receive final payment until such certification is filed.

652 **(b)** Where the contractor or grant beneficiary receives regular monthly
653 payments, the certification shall be filed at least quarterly.

654 **(c)** Notwithstanding the provisions of sub. (a), Human Services contractors that
655 are paid 1/12th of an annual contract per month may receive final payment prior
656 to filing the required certification, but must file said certification on an annual
657 basis at the completion of the contract term.

658 **(d)** When requested by the contract compliance officer, the contractor or grant
659 beneficiary shall also furnish certifications from each of the contractor's or grant
660 beneficiary's subcontractors.

661 **(8)** Each contractor and subcontractor providing county-compensated services
662 and each grant beneficiary receiving an economic development assistance grant
663 shall keep full and accurate payroll records for every employee subject to this
664 section.

665 **(9)** The contract compliance officer or designee may demand and examine, and
666 it shall be the duty of every contractor, subcontractor or grant beneficiary and
667 agent thereof to keep and furnish to the contract compliance officer or designee,
668 copies of payroll records which relate to the wages paid to employees providing
669 county-compensated services.

670 **(10)** If requested by any person, the contract compliance officer or designee
671 shall inspect the payroll records of any contractor, subcontractor or grant
672 beneficiary, or agent of any of them, providing county-compensated services or
673 receiving an economic development assistance grant to ensure compliance with
674 this section.

675 **(11)(a)** An affected employee may file a complaint alleging a contractor's or
676 grant beneficiary's violation of this section. All complaints shall be filed with the
677 contract compliance officer.

678 **(b)** The contract compliance officer shall investigate and determine whether
679 there has been a violation of this section and provide copies of a proposed
680 decision to the complainant and the contractor or grant beneficiary. If a violation
681 is found, the proposed decision may include any of the following:

- 682 1. Withholding of payments due the contractor or grant beneficiary in an
683 amount sufficient to pay the wages due all affected employees;
- 684 2. Termination, suspension or cancellation of the contract or grant in whole or
685 in part;
- 686 3. Debarment for a period of up to 3 years.

687 (c) Any person affected by the proposed decision issued under sub (b) may
688 appeal such decision as set forth in s. 25.08(20)(c) – (e).

689 (12) A department or agency may not award any contract to a contractor nor any
690 grant to a grant beneficiary who has been debarred unless at least 3 years have
691 elapsed from the date of debarment, unless a shorter time of debarment is
692 specified in the board's final decision.

693 (a) This subsection does not apply to any contractor, subcontractor or grant
694 beneficiary who has not exhausted or waived all appeals, provided that the
695 period of debarment shall commence as of the date all appeals are exhausted or
696 waived, as appropriate.

697 (13) The board may promulgate rules to administer this subsection.

698 (14) A contractor or grant beneficiary shall not retaliate against any employee
699 who files a complaint under this section, and a violation thereof shall be subject
700 to the penalties set forth in sub. (11)(b)2. and 3. above.

701

702 **25.13 EQUAL BENEFITS REQUIREMENT.**

703 (1) *Purpose.* The purpose of this ordinance is to ensure that equal
704 compensation is provided to all employees of contractors, grant beneficiaries,
705 and loan recipients performing work for the County of Dane. It is the County's
706 intent, through the contracting practices outlined in this section, to assure that
707 those companies wanting to do business with the County will equalize the total
708 compensation between similarly situated spouses and those with domestic
709 partners.

710 (2) As used in this section, the following terms shall have the meanings
711 indicated:

712 (a) *Board* means the contract compliance hearing board as defined in s.
713 19.51(5).

714 (b) *Benefit* means any plan, program or policy provided or offered by a
715 contractor to its employees as part of the employer's total compensation
716 package. This includes, but is not limited to, the following types of benefits:
717 bereavement leave, family medical leave, sick leave, health benefits, dental
718 benefits, disability insurance, life insurance, membership or membership
719 discounts, moving expenses, pension and retirement benefits, and travel
720 benefits.

721 (c) *Cash equivalent* means the amount equal to the actual cost to the employer
722 for providing insurance benefits to the spouse of a married employee and not
723 provided to a domestic partner, provided that:

724 1. The benefit would have been provided to the domestic partner if that person
725 was a spouse of the employee; and

726 2. After making a reasonable effort to provide the benefit to a domestic partner
727 of an employee, the employer is unable to provide the benefit.

728 (d) *Contract* means any human services, public works or service contract, and
729 includes subcontracts, but does not include any contract which:

730 1. Involves only the purchase of goods;

731 2. Is a contract or lease for use of facilities at the Alliant Energy Center;

- 732 **3.** Is a contract in existence prior to the effective date of this ordinance. The
733 term of such contract shall not be extended unless the requirements of this
734 section are incorporated into the contract.
- 735 **4.** Is a contract with a school district, municipality, or other unit of government;
736 or
- 737 **5.** Involves a collective bargaining agreement in existence prior to the effective
738 date of this ordinance, provided that the contractor must agree to propose to the
739 applicable collective bargaining unit that the equal benefits requirement be
740 incorporated into the agreement upon amendment, extension or other
741 modification occurring after the effective date of this ordinance.
- 742 **(e)** *Contractor* means a person or entity having a service, human services or
743 public works contract with Dane County.
- 744 **(f)** *Domestic partner* means an adult of the same or opposite sex with whom a
745 contractor's employee is living with in a non-marital committed relationship and
746 with whom they share a common residence and responsibility for each other's
747 common welfare. Contractors may require an employee to sign and file a
748 Declaration of Domestic Partnership in conformance with Chapter 60.
- 749 **(g)** *Economic development grant beneficiary* means any employer who is the
750 recipient of an economic development grant from Dane County.
751 membership discounts, moving expenses, pension and retirement benefits, and
752 travel benefits.
- 753 **(h)** *Loan recipient* means any person who receives a loan of any amount, other
754 than a reverse mortgage loan, from Dane County.
- 755 **(i)** *Public works contract* means all contracts subject to chapter 40, Dane Co.
756 Ords.
- 757 **(j)** *Service contract* means any contract with the County, for the provision of
758 services to any County department or agency. The purchasing agent shall
759 review each bid specification or request for proposal and make a determination
760 as to whether the proposed contract will constitute a service contract.
- 761 **(3)** *Applicability.*
- 762 **(a)** This ordinance shall apply to:
- 763 **1.** All contractors as follows:
- 764 **a.** A contractor's operations located in Dane County, regardless of whether
765 there are employees at those locations performing work on the contract;
- 766 **b.** A contractor's operations on real property located outside of Dane County if
767 the property is owned by the County or the County has the right to occupy the
768 property, and if the contractor's presence at or on that property is connected to a
769 contract with the County; and
- 770 **c.** The contractor's employees located elsewhere in the United States but
771 outside of Dane County, if those employees are performing work on a county
772 contract.
- 773 **2.** All employers who are beneficiaries of economic development grants from
774 the County.
- 775 **3.** Dane County regarding its employees, including limited term employees.
- 776 **4.** All loan recipients.

777 **(b)** Notwithstanding anything to the contrary, the controller or designee may
778 waive the provisions of this section when there is only one prospective contractor
779 willing to enter into a contract with the County on the terms and conditions
780 established by the County, or when the needed services or public works are
781 available only from a sole source and the prospective contractor is not currently
782 disqualified from doing business with the County based on any contract
783 compliance requirements, and such waiver is in the best interest of Dane
784 County. Any such waiver shall be reported to the Personnel & Finance
785 Committee.

786 **(4)** All contractors, economic development grant beneficiaries, and loan
787 recipients shall provide the same benefits to employees with domestic partners
788 as they do to employees with spouses, or the cash equivalent if a benefit cannot
789 reasonably be provided.

790 **(5)** Every public works and service contract, every grant of economic
791 assistance, and every loan entered into by the County shall contain the following
792 notice: "The contractor [grant beneficiary or loan recipient] agrees to provide the
793 same economic benefits to all of its employees with domestic partners as it does
794 to employees with spouses, or the cash equivalent if such a benefit cannot
795 reasonably be provided. The contractor [grant beneficiary or loan recipient]
796 agrees to make available for County inspection the contractor's [grant
797 beneficiary's or loan recipient's] payroll records relating to employees providing
798 services on or under this contract or subcontract [grant or loan]. If any payroll
799 records of a contractor [grant beneficiary or loan recipient] contain any false,
800 misleading or fraudulent information, or if a contractor [grant beneficiary or loan
801 recipient] fails to comply with the provisions of s. 25.14, D.C. Ords., the contract
802 compliance officer may withhold payments on the contract [grant or loan];
803 terminate, cancel or suspend the contract [grant or loan] in whole or in part; or,
804 after a due process hearing, deny the contractor [grant beneficiary or loan
805 recipient] the right to participate in bidding on future County contracts [grants or
806 loans] for a period of one year after the first violation is found and for a period of
807 three years after a second or subsequent violation is found."

808 **(a)** Every contractor, grant beneficiary, or loan recipient shall provide a similar
809 written notice to any subcontractor.

810 **(6)** The County's purchasing agent shall add a summary of the requirement for
811 the equal benefits to the County's standard *Bids & Specifications* document.

812 **(7)** For every service contract, economic development assistance grant, or loan,
813 a notice of the equal benefits requirement shall be kept posted by the contractor,
814 grant beneficiary, or loan recipient at the site of the work in a prominent place
815 where it can be easily seen and read by persons employed in the performance of
816 such contract, grant, or loan. The poster shall also provide information of the
817 means the reader may use to file a complaint of violation. In addition, copies of
818 the equal benefit requirement shall be provided to any person employed in the
819 performance of a service contract, economic development assistance grant, or
820 loan upon request and within a reasonable period of time.

821 **(8)(a)** Upon completion of a contract, grant, or loan and before receiving final
822 payment for his or her work on said contract, grant, or loan, each contractor,

823 grant beneficiary, or loan recipient shall furnish the County with a certification
824 affirming that he or she has complied fully with the requirements of this section.
825 A contractor, grant beneficiary, or loan recipient may not receive final payment
826 until such certification is filed.

827 **(b)** Notwithstanding the provisions of sub. (a), Human Services contractors that
828 are paid 1/12th of an annual contract per month may receive final payment prior
829 to filing the required certification, but must file said certification on an annual
830 basis at the completion of the contract term.

831 **(c)** When requested by the contract compliance officer, the contractor, grant
832 beneficiary, or loan recipient shall also furnish certifications from each of his or
833 her subcontractors.

834 **(9)** Each contractor and subcontractor providing County-compensated services,
835 each grant beneficiary receiving an economic development assistance grant,
836 and each loan recipient shall keep full and accurate records of benefits provided
837 or cash equivalents paid for every employee subject to this section.

838 **(10)** The contract compliance officer or designee may demand and examine, and
839 it shall be the duty of every contractor, subcontractor, grant beneficiary, or loan
840 recipient and agent thereof to keep and furnish to the contract compliance officer
841 or designee, copies of records which relate to the benefits provided or cash
842 equivalents paid to employees providing County-compensated services.

843 **(11)** If requested by any person, the contract compliance officer or designee shall
844 inspect the payroll records of any contractor, subcontractor, grant beneficiary, or
845 loan recipient, or agent thereof, providing County-compensated services or
846 receiving an economic development assistance grant or loan to ensure
847 compliance with this section.

848 **(12)(a)** An affected employee may file a complaint alleging a contractor's, grant
849 beneficiary's, or loan recipient's violation of this section. All complaints shall be
850 filed with the contract compliance officer.

851 **(b)** The contract compliance officer shall investigate and determine whether
852 there has been a violation of this section and provide copies of a proposed
853 decision to the complainant and the contractor, grant beneficiary, or loan
854 recipient. If a violation is found, the proposed decision may include any of the
855 following:

- 856 1. Withholding of payments due the contractor, grant beneficiary, or loan
857 recipient in an amount sufficient to pay the wages due all affected employees;
- 858 2. Termination, suspension or cancellation of the contract, grant, or loan, in
859 whole or in part;
- 860 3. Debarment for a period of up to three years.

861 **(c)** Any person affected by the proposed decision issued under sub (b) may
862 appeal such decision as set forth in s. 25.08(20)(c) – (e).

863 **(13)** A department or agency may not award any contract to a contractor, nor any
864 grant to a grant beneficiary, nor any loan to a loan recipient who has been
865 debarred unless at least three years have elapsed from the date of debarment,
866 unless a shorter time of debarment is specified in the board's final decision.

867 **(a)** This subsection does not apply to any contractor, subcontractor, grant
868 beneficiary, or loan recipient who has not exhausted or waived all appeals,

869 provided that the period of debarment shall commence as of the date all appeals
870 are exhausted or waived, as appropriate.

871 **(14)** The board may promulgate rules to administer this subsection.

872 **(15)** A contractor, grant beneficiary, or loan recipient shall not retaliate against
873 any employee who files a complaint under this section, and a violation thereof
874 shall be subject to the penalties set forth in sub. (12)(b)2. and 3. above.

875 **(16)** No contractor, grant beneficiary, or loan recipient may use the equal benefits
876 requirement of this section to reduce the wage paid to any person employed by
877 the contractor, grant beneficiary, or loan recipient.

878 **(17) Legal effect and severability. (a)** Nothing in this section shall be interpreted
879 to alter, contravene or be in conflict with any provision of county, state or federal
880 law.

881

882 **25.14 FINANCIAL INTEREST PROHIBITED. (1)** Employees engaged in the act
883 of procurement shall not be personally or financially interested in, or in any
884 manner connected directly or indirectly with, any bidder or proposer. Such
885 employees shall not solicit, accept or receive, directly or indirectly, from any
886 bidder or proposer, by rebate, gift or otherwise, any money or other thing of
887 value, nor receive any promise or obligation for future reward or compensation
888 from any bidder or proposer, nor financially profit in any manner from their
889 employment with Dane County, other than the wages and benefits furnished
890 directly by the county.

891 **(2)** All county purchase orders, bid specifications, requests for proposal and
892 contracts shall contain, when feasible, reference to state law prohibiting any
893 public officer or employee's private pecuniary interest, direct or indirect, in any
894 public contract.

895

896 **25.15 PAYMENT PROCEDURE.** After proper processing and auditing of
897 requisitions, purchase orders and vouchers, and approval of the county board or
898 personnel and finance committee, as appropriate, payments shall be made in
899 accordance with the terms of the contract.

900

901 **25.16 UNLAWFUL PURCHASES.** Contracts for any goods or services contrary
902 to the provisions of this chapter, or the rules or regulations made thereunder,
903 shall be void.

904

905 **25.17 SURPLUS PROPERTY MANAGEMENT. (1)(a)** Departments which have
906 equipment or supplies which are unsuitable or have become unnecessary, and
907 which are not to be traded in, shall report such fact, with a description of such
908 equipment or supplies, to the controller. Upon receipt of such notice, the
909 controller shall canvas other county departments to determine whether they need
910 the items or supplies.

911 **(b)** If such items or supplies are not needed by any county department, they
912 may be made available to municipalities within the county at a price to be
913 established by the controller. If no municipality has use for such items or
914 supplies, they may be sold by the controller on the open market at the price to be

915 established by the controller or by competitive bidding, whichever method is
916 deemed most advantageous to the county.

917 **(c)** The proceeds from the sale of any equipment or supplies hereunder shall be
918 paid to the Dane County Treasurer and shall be recorded by the county controller
919 in an account established for such purpose.

920 **(2)** Surplus property may be retained in a used property pool controlled and
921 administered by the controller, such property to be utilized as needed by county
922 departments in accordance with regulations established by the department of
923 administration or disposed of in accordance with this section.

924 **(3)** Notwithstanding any other language to the contrary in this ordinance, no
925 property with a current book value to the county of more than \$200,000 shall be
926 considered surplus until declared as such by the county board.

927

928

929

SUBCHAPTER II SPECIFIC CONTRACT REGULATIONS

930

931

932 **25.50 HUMAN SERVICES CONTRACTS. (1) (a)** Client service contracts with
933 purchase of service agencies that are under \$100,000 that have not been
934 identified as a major contract may be executed by the director of the department
935 of human services without approval by the county board or county executive.

936 **(b)** Client service contracts with purchase of service agencies in excess of
937 \$100,000 may be executed by the director of the department of human services if
938 the contract has been approved as part of the county budget process.

939 **(c)** All other contracts for the Human Services Department are subject to the
940 provisions of this chapter.

941 **(2)(a)** Notwithstanding anything to the contrary in this chapter, change orders,
942 modifications and addenda to human services department contracts that are
943 under 10% of the aggregate cost of the contract may be approved by the
944 director of the department of human services.

945 **(b)** Change orders, modifications addenda to human services contracts that
946 exceed 10% of the aggregate cost of the contract must be approved by the
947 Health and Human Needs Committee and Personnel and Finance Committee.

948 **(3)** The human services department is authorized to develop purchasing
949 procedures, not inconsistent with this chapter, to procure goods and services
950 related to client services.

951

952 **25.51 HIGHWAY CONTRACTS. (1)** The highway commissioner is authorized
953 to make purchases directly related to highway construction in accordance with
954 sec. 83.015(2)(b), Wis. Stats. The highway commissioner may, in his or her
955 discretion, utilize the services of the purchasing division for any other or all
956 supplies or equipment which are directly related to highway construction.
957 Purchases not directly related to highway construction shall be conducted
958 through the purchasing division in accordance with this ordinance.

959 **(2)** Pursuant to the provisions of sec. 83.035, Wis. Stats., the Dane County
960 Highway Commissioner, with the approval of the Dane County Highway

961 Committee, is hereby authorized to execute contracts, in triplicate, with a copy to
962 be filed with the county clerk, and with cities, villages and towns of Dane County
963 for the purpose of enabling the county to construct and maintain streets and
964 highways in such municipalities. Maintenance shall include the furnishing of any
965 road supplies and equipment to such municipalities.

966 **(3)** The Dane County Highway Department shall undertake no construction or
967 maintenance for such municipalities in excess of the county aid authorized by the
968 county board.

969 **(4)(a)** All contracts executed with any municipality for such road work shall
970 provide that payment in full must be made to Dane County within 120 days of the
971 completion of such road work.

972 **(b)** If a municipality fails to make payment in full within the above-prescribed 120
973 days, the Dane County Highway Department shall do no further work of any type
974 nor furnish any road supplies or equipment for or to such municipalities.

975 **(c)** If a municipality fails to make payment in full within the above-prescribed 120
976 days, any unpaid balance outstanding shall bear interest at the rate of five
977 percent (5%) per annum until paid.

978
979 **25.52 PUBLIC WORKS CONTRACTS.** The public works director is authorized
980 to make purchases directly related to public works construction in accordance
981 with chapter 40 and s. 59.52(29), Wis. Stats. The director of public works may,
982 at his or her discretion, utilize the services of the purchasing division for any
983 other or all goods and services related to public works construction which are
984 required by the public works department. Purchases not directly related to public
985 works construction shall be made through the controller in accordance with this
986 ordinance.

987
988 **25.53 JAIL INMATE PERSONAL SERVICES.** **(1)** Dane County shall not
989 provide services or enter into any contract for telephone, laundry or commissary
990 services for jail inmates, that is intended to generate revenues in excess of the
991 costs of providing these services to jail inmates.

992 **(2)** The procurement of telephone, laundry or commissary services for jail
993 inmates shall be subject to competitive bidding under this section, designed to
994 achieve the lowest possible cost for inmates consistent with public safety.

995 **(3)** The provisions of this subsection shall not apply to any fee charged by the
996 county that is associated with security of the jail or electronic monitoring for
997 release programs.

998
999 **25.54 MUNICIPAL GRANTS.** When considering a grant application by a
1000 municipality, the financial capacity of the municipality to fund the project shall be
1001 considered.

1002 **(1)** For capital grants, the following criteria shall be considered:

1003 **(a)** The outstanding debt per capita of the municipality; and

1004 **(b)** The municipality's tax rate compared to the average tax rate of other
1005 municipalities of the same class.

1006 (2) For operating grants, the amount of any remaining capacity under local levy
1007 limits shall be considered.

1008 (3) Grants for development planning and related projects will not be made for
1009 projects inside a municipality's tax increment districts.

1010
1011 **25.55 APPROVAL OF CONTRACTS UNDER SUBCHAPTER II.** Except as
1012 otherwise provided in this chapter, contracts entered into under the authority of
1013 this subchapter shall follow the standard contract approval and routing process
1014 as established by Dane County policies and procedures. Contracts shall in all
1015 ways conform to the requirements of applicable state statutes.

1016
1017
1018 *[EXPLANATION: This amendment reorganizes the existing provisions of*
1019 *Chapter 25, makes minor textual housekeeping changes, and creates specific*
1020 *exceptions for human services contracts.]*

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