

**Request for Proposal
Number: 87198**

NOTE: This complete document can be viewed at our website: www.purchasing.ku.edu

PR Number: 2237 Buyer: Deana Merryman
Replaces Contract: NEW Telephone: 785-864-5971
Date Mailed: January 7, 2011 E-Mail Address: merryman@ku.edu
Web Address: www.purchasing.ku.edu

Closing Date: January 27, 2011, 2:00 PM (CST)

Item: Organizational Consulting Services for Strategic Transformation of
Administrative Services

Department: Office of the Provost
Location: Lawrence, KS

Term of Contract: Three (3) years from date of award with the option to renew for two (2) additional
one (1) year periods.

Questions/Addenda - No pre-proposal conference is scheduled for this Request for Proposal. Questions requesting clarification of the Request for Proposal must be submitted electronically (MS Word) to the Buyer indicated above, prior to the close of business on **January 17, 2011**. Each question or clarification should reference the appropriate RFP section.

Failure to notify the Buyer of any conflicts or ambiguities in this Request for Proposal may result in items being resolved in the best interest of the University. Any modification to this Request shall be made in writing by addendum and posted on the KU Purchasing Services' website, www.purchasing.ku.edu. Only written communications are binding.

Answers to questions will be available in the form of an addendum on the KU Purchasing Services' website.

It shall be the responsibility of all participating vendors to acquire any and all addenda and additional information as it is made available from the web site cited above. Vendors are required to check the website periodically for any additional information or instructions.

READ THIS REQUEST CAREFULLY

Failure to abide by all of the conditions of this Request may result in the rejection of a bid.

It is the vendor's responsibility to monitor the KU Purchasing Services website on a regular basis for any changes/addenda.

Section 1 SPECIFICATIONS

The University of Kansas is issuing this Request for Proposal to obtain competitive responses from vendors to provide Organizational Consulting Services for Strategic Transformation of Administrative Services, per the attached specifications for the Office of the Provost, Lawrence, Kansas.

1. **Term of Contract:** The term of this contract will commence on the date of award and continue in effect for a period of three (3) years with two (2) optional one (1) year renewal periods upon the mutual written agreement of the parties.

2. **Purpose:**

The University of Kansas requests proposals from qualified management consulting firms to evaluate opportunities for strategic cost reduction and service quality improvements for its administrative, fiscal, and operational units. The consultant will evaluate the organizational structures, core business processes, staffing, total cost of administrative functions and strategic sourcing opportunities. The consultant will also develop recommendations and implementation strategies based on their findings and discussion with University leadership.

The University is interested in substantially reorganizing and streamlining our infrastructure in order to identify significant administrative cost savings. To meet the ambitious goals of the University we seek an independent assessment of potential revenue enhancement and cost reduction opportunities. This initiative will include:

- Achieve cost reductions through more effective use of the University's infrastructure,
- Identify opportunities to increase revenues, reduce costs and/or improve service to further the University mission activities,
- Evaluate the delivery of administrative and business support services,
- Review funding models for the University's self-supporting units,
- Examine opportunities for reorganizing the institution's administrative infrastructure in a substantially more effective and financially sustainable manner,
- Identify top opportunities for cost savings by evaluating all ideas gathered by the University to date, examining best practices both within and outside of higher education, and interviews with key campus personnel, and
- Provide a roadmap to transforming the University into a higher education institution prepared to meet the demands of the future given the financial constraints projected over the next decade.

The engagement has three (3) phases. The first phase (Phase I) is intended to identify best practices and performance benchmarks, develop recommendations for opportunities, and conclude with the delivery of a "menu" of potential initiatives with action plans to achieve them.

The second phase (Phase II) of the initiative, to be conducted at the option of the University, includes employing the consulting firm to develop detailed action/implementation plans that are designed to achieve the cost savings, quality service improvements and revenue generation opportunities recommended in Phase 1.

The projects in the second phase will depend on the findings of Phase I and will consist of the development of 8-12 detailed business cases to support a selection of Phase I opportunities. The University may choose not to pursue all Phase I initiatives during Phase II. The selection of opportunities for Phase II will represent the opportunities which will yield the greatest benefit to the

University's overall goal of streamlining operations and increasing cost effectiveness, and the selection will be made collaboratively by University leadership and the selected management consultant based on the likelihood of realizable benefits and the ability to complete the items in the time period of the project.

As part of the business case development, the deliverable will provide the supporting analytics, the strategic rationale, and the estimated financial and organizational impact of each selected opportunity. The business cases will evaluate the ease and ability of implementation, the impact on University service levels, the estimated implementation costs and timeline, and the potential risks associated with implementation.

Phase III of the project will consist of on-going consultative support on a time and materials basis based upon the fixed rates itemized in the contract established as a result of this RFP. No work shall be performed on a time and materials basis except upon written approval of the University.

3. **Project Scope**

The scope of this initiative includes the administration, operations and fiscal areas at the University of Kansas Lawrence campus (including the Edwards Campus) and Medical Center campuses in Kansas City and Wichita. The administration and operations functions that serve the academic enterprise are a part of this initiative. The University wants to identify strategies to become more effective, reduce costs and increase revenues in service and program areas such as:

Information Technology,
Accounting and Finance,
Procurement (procurement process, strategic sourcing),
Public Safety (EHS, Police),
Student Services,
Human Resources,
Business Services in academic and non-academic program areas,
Facilities Operations (planning, maintenance, custodial, utilities, motor pool),
Design and Construction Services:
Other non-academic programs.

Phase One: Benchmarking/Diagnostic

- Identify best practices and performance benchmarks relative to organization structure at each campus, staffing costs, productivity, administrative practices, quality customer service and the regulatory environment.
- Identify a set of high-potential opportunities for (a) cost-savings and (b) revenue enhancement consistent with the University's mission at each campus. The opportunities should take into account efforts already underway to reduce costs and improve services. Provide an action plan to achieve each high-potential opportunity.
- Identify policies and requirements that may inadvertently add costs and dilute the levels of operating effectiveness and financial efficiency in the university.
- Develop tools for measurement and tracking of improvements against performance standards.
- Develop a "menu" of potential initiatives with action plans to achieve them.

Required Components:

- Projections of the yearly cost savings that can be realized in each area examined.
- Projections of new revenues that can be generated in each area.
- Identification of “quick wins” for immediate implementation, where feasible.
- Identification of the complex political, legal and financial environment the university operates within that may limit or prevent the realization of the recommendations made above.

Phase Two: Design/Solution Development and Implementation (Optional)

- Develop specific business cases, a roadmap of strategies and detailed action plans for how to deliver sustainable financial savings, cost avoidance, revenue enhancement, quality improvements, and risk mitigation with attention to the operational environment at each KU campus.
- Provide recommendations to address regulatory restrictions which keep KU from currently achieving the strategies.
- Develop an implementation plan, assist with assigning ownership, implement performance measures, measure ongoing progress, evaluate and optimize results.

Overall Guiding Principles:

- Processes for initiative identification and prioritization must be sensitive to key aspects of the University’s culture and support the missions of each campus.
- All cost reduction decisions should be communicated clearly and systematically.
- Decision process and criteria for choosing reductions should be transparent to all parties – administration, faculty, staff and students.
- Reductions in costs in one area should not shift costs to another.
- Reductions and potential reallocations will be judged on the basis of alignment with the University’s strategic plan.
- The revenue impact of cost reductions must be understood.
- Revenue generation options should be developed to reduce the size of required expense reductions.
- Proposed initiatives should be supported by data-driven comprehensive business cases.

Proposal Deliverables:

Provide a fixed cost total for Phase I.

Provide a fixed cost total for each opportunity identified as a potential initiative for Phase II. In addition to a fixed cost, describe any other cost basis you may want us to consider for conducting this work, and methods for ensuring accountability.

Provide a listing of staff that will be assigned to the work efforts in Phase I and II and include a description of the role each person/position will play in the performance of this project.

Identify the senior staff that would be made available to work on this engagement. Include vitae of these individual(s) which summarizes their relative experience in performing similar scope of work

efforts. Also briefly describe the type of staff support these individual will have access to within your organizational structure.

Provide a description of continuing services that could be provided subsequent to implementation recommendations in Phase III. Include a list of relevant resources supplied by the Contractor in provision of those services

Describe the role of the persons/positions and their hourly fees for the on-going work that may occur in Phase III. Note that these fees must be inclusive of any administrative support provided to these individuals by your company, and must remain fixed for the initial three years of the Agreement.

Travel costs, if any, shall be billed consistent with University reimbursement schedules
The University desires proposals structured in accordance with the Phase I, II and III approach described above. Alternate proposals, however, will be accepted for review. The acceptability of alternate proposals shall be at the sole discretion of the University.

Describe how you would help minimize the travel required in the performance of your work.

Describe your most recent successes in similar work efforts, including the scope of the engagement, and the key objectives achieved.

Describe why your company is best suited to perform this work.

Describe the methodology, including a draft work plan and timeline, you would employ to obtain successful results. Include details of what resources would be used and examples of how you would calculate the benefit derived from your recommended improvements.

Describe what resources you would need from the University to make this engagement the most successful in terms of providing you with necessary information, guidance, decision-making, and acceptance to perform the work efficiently and effectively.

What would you anticipate to be the greatest challenge(s) to the University in following through on recommendations, and how is your organization poised to assist in addressing these challenges?

Describe your firm's methods for each of the following: (a) process of establishing a statement of work; (b) estimating the cost of work required for a project; (c) tracking costs while working on a project; (d) communicating a project's technical progress and cost status during all phases of a project.

Describe your firm's efforts to improve efficiency within your organization and how the suggestions your firm has made to other organizations have been implemented within your firm.

Provide information on how your firm demonstrates efficient practices within your organization.

Provide a brief (less than one page) general history of your firm. Provide the last three (3) years of audited financial statements including a profit and loss statement and a Balance Sheet. The University will determine internally the financial stability of respondents to this RFP process.

The University anticipates engaging only an experienced, qualified company to perform any portion of the Project Scope. The following are attributes of a qualified company:

1. Contractor must have demonstrated performance success performing similar efficiency studies with Research 1 institutions of similar size and complexity as the University of Kansas.
2. All assigned senior consultants should have had relevant roles in Higher Education peer institution(s) as employees, consultants, or independent contractors.
3. All assigned senior consultants must have previously been engaged to perform similar scope of work services to peer institutions.
4. Contractor must have demonstrated ability to retain highly skilled, qualified senior consultants.

Background Information about the University of Kansas

Lawrence campus organization

<http://www.provost.ku.edu/orgchart/>

Medical Center campus organization

http://www.kumc.edu/org_charts/

Executive Summaries of Lawrence Campus Budget

http://www.budget.ku.edu/reporting/executive_summaries.aspx

Annual Financial Report

http://www.comptroller.ku.edu/financial_reporting_services/#Annual

KU Profiles – statistical information / fact book

<http://www2.ku.edu/~oirp/profiles.shtml>

Other pertinent university information also available at:

<http://www2.ku.edu/~oirp/>

CLIENT REFERENCE LIST

Proposer Name: _____

1. Reference Name: _____ Contact: _____
Address: _____
Phone #: () _____ E-mail address _____
Fax/Internet address: _____
Description and date(s) of commodities and services provided: _____

2. Reference Name: _____ Contact: _____
Address: _____
Phone #: () _____ E-mail address _____
Fax/Internet address: _____
Description and date(s) of commodities and services provided: _____

3. Reference Name: _____ Contact: _____
Address: _____
Phone #: () _____ E-mail address _____
Fax/Internet address: _____
Description and date(s) of commodities and services provided: _____

4. Reference Name: _____ Contact: _____
Address: _____
Phone #: () _____ E-mail address _____
Fax/Internet address: _____
Description and date(s) of commodities and services provided: _____

References may be contacted to confirm the Proposer's abilities and qualifications as stated in the Proposer's Response. The University may perform due diligence by contacting any applicable business reference. The University reserves the right to disqualify any Proposer whose references don't support their stated claim of qualifications in their response.

COST SHEET

Must be submitted separately from the Technical Proposal, unless otherwise specified.

(See Response Section, #1)

Vendor Name: _____

PHASE I – Fixed cost, not to exceed amount: \$ _____

PHASE II – Fixed cost (for each initiative identified)

\$ _____

\$ _____

\$ _____

\$ _____

TOTAL (if all initiatives implemented) \$ _____

Line Item Cost for Offered Continuing Services in Phase III:

List staff and hourly fee basis for each by title for possible assignment to work efforts in Phase III:

VENDOR RESPONSE CHECK-LIST

The following items are provided to assist bidders in ensuring all requirements are met and all required submissions are included with the bid. Vendors are instructed to utilize this list **and include it with their bid submission**. In order to ensure fair and accurate evaluation, page numbers indicating the location of your response within your bid shall be included, where indicated.

Bidders must complete the page numbers required below.

Response Page No. ____	Signature Sheet	(RFP page follows)
Response Page No. ____	Supplier Diversity Survey Form	(RFP page following Signature Sheet)
Response Page No. ____	Transmittal Letter	(RFP Response Section)
Response Page No. ____	Timeline	(RFP Response Section)
Response Page No. ____	Methodology	(RFP Response Section)
Response Page No. ____	Experience	(RFP Terms and Conditions Section)
Response Page No. ____	Qualifications	(RFP Response Section)
Response Page No. ____	References	(RFP Response Section)
Response Page No. ____	Subcontractor information, if applicable	(RFP Response Section)
Response Page No. ____	Exceptions to RFP noted, if applicable	(RFP Instructions Section)

The following items have been submitted, as required:

_____	Literature submitted as required	(RFP Response Section)
_____	Insurance/Bond information provided as required	(RFP Terms & Conditions Section)
_____	Proper number of copies submitted	(RFP Response Section)
_____	Cost and Technical packets separate	(RFP Response Section)
_____	Proprietary/Confidential information in separate packet	(RFP Instructions Section)
_____	Samples included, if required	(RFP Specifications Section)
_____	Media on separate CD/disks, if applicable	(RFP Response Section)
_____	Cost Sheet	(RFP page following Specifications)
_____	Tax Clearance	(RFP page following Specifications)
_____	Vendor Registration	
_____	W-9	
_____	Audited Financial Statement	

Contact Person for Report Issues: _____

Company Name: _____

Mailing Address _____

City & State _____ Zip Code _____

Toll Free Telephone _____ Local _____ Cell: _____ Fax _____

E-Mail _____

SIGNATURE SHEET

Item: Organizational Consulting Services for Strategic Transformation of Administrative Services

Department: Office of the Provost

Closing Date: January 25, 2011, 2:00 PM (CST)

By submission of a bid and the signatures affixed thereto, the bidder certifies all products and services proposed in the bid meet or exceed all requirements of this specification as set forth in the request and that all exceptions are clearly identified.

Legal Name of Person, Firm or Corporation _____

Mailing Address _____ City & State _____ Zip _____

Toll Free Telephone _____ Local _____ Cell: _____ Fax _____

Tax Number _____ E-Mail _____

Signature _____ Date _____

Typed Name _____ Title _____

In the event the CONTACT FOR THE BIDDING PROCESS is different from above, indicate contact information below.

Bidding Process Contact Name _____

Mailing Address _____ City & State _____ Zip _____

Toll Free Telephone _____ Local _____ Cell: _____ Fax _____

E-Mail _____

If AWARDED A CONTRACT AND PURCHASE ORDERS are to be directed to an address other than above, indicate mailing address and telephone number below.

Mailing Address _____ City & State _____ Zip _____

Toll Free Telephone _____ Local _____ Cell: _____ Fax _____

E-Mail _____

University may use the Business Procurement Card for payment.

Yes ___ No ___

(Refusal will not be a determining factor in award of this contract.)

**University of Kansas
Purchasing Services**

Supplier Diversity Survey Form

Why is the KU Purchasing Services requesting this information?

Current statutes governing the activities of the Kansas Division of Purchases do not include preferences or set-asides for Small Business Enterprises (SBEs). The Division of Purchases is interested in determining to what extent purchase orders and contracts are awarded to SBEs under existing work efforts. **Please Note:** You must submit this form with each bid opportunity.

Persons or concerns wishing to receive a Purchase Order or Contract Award resulting from this bid opportunity must provide the information contained in this document before the award is made. To help expedite this procurement, it is requested that you submit this form with your bid.

COMPANY DATA

Legal Company Name _____

Doing Business As (if applicable) _____

Federal Tax ID Number / FEIN _____

Diversity Program Contact Name _____ Title _____

Phone Number _____ Fax Number _____

E-Mail Address _____ Company Web _____

Address _____

City _____ State _____ Zip Code _____

Legal Structure: Corporation Partnership Non-Profit Sole Proprietorship LLC

Signature _____ Date: _____

COMPANY DIVERSITY DATA

(A) Business Classification (See Appendix A for definitions):

Is your business a **Small Business Enterprise (SBE)** as defined by the SBA?

Yes No Don't Know

Check all that Apply: Disabled (DIS) SBA-Small Disadvantage Business (SDB)

Veteran-Owned (VBE) Women-Owned (WBE) Service-Disabled Veterans-Owned (DVBE)

African American Native American Minority-Owned Business Enterprise (MBE)

Hispanic American Asian Pacific American Disadvantaged Business Enterprise (DBE)

Asian Subcontinent American Other: _____

(B) Has your Business Classification Status been certified by a state, municipal, federal or other certifying agency?

No Yes Certifying Entity: _____

Other State of Kansas Resources for Small Business Enterprises (SBE)

Kansas Department of Commerce

Office of Minority/Women Business Development

<http://www.kansascommerce.com/IndexPages/Pgm01.aspx?rscId=996008588532>

Purchasing Services

1246 West Campus Road | Lawrence, KS 66045-7505 | (785)864-5800 | Fax (785)864-3454 | www.ku.edu

**University of Kansas
Purchasing Services
Supplier Diversity Survey Form**

Appendix A - Definition of Terms

Small Business Enterprise / Concern (SBE)

SBEs are businesses that do not exceed the size standard for the product or service it is providing as measured by its employment and/or business receipts in accordance with the U.S. SBA numerical size standards. These standards are defined as FAR 52.219-8, 13 CFR Part 121 and 13 CFR 121.410.

Disadvantaged Business Enterprise (DBE)

DBEs are defined as a business which are (a) owned by socially disadvantaged individuals who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities; or (b) owned by economically disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged.

Disabled Business Enterprise (DIS)

DIS businesses are at least 51% owned and controlled by one or more U.S. citizens who has a physical or mental impairment which substantially limits one or more of such person's major life activities.

Small Disadvantage Business Concern (SDB)

SDB businesses are certified by the SBA as meeting the following criteria: (1) they are small business concern and (2) must be at least 51% owned and controlled by one or more U.S. citizens who are socially and economically disadvantaged. African Americans, Asian Pacific Americans, Asian Subcontinent Americans, Hispanic Americans and Native Americans are presumed to qualify as being socially disadvantaged. Other individuals can qualify if they show by a preponderance of the evidence that they are socially disadvantaged. In addition, the personal net worth of each eligible owner applicant must be less than \$750,000, excluding the values of the applicant's ownership interest in the business seeking certification and the owner's primary residence. Successful applicants must also meet applicable size standards for small businesses in their industry. SDB regulations can be found in FAR 52.219-8 and 13 CFR parts 121 & 124.

Veterans-Owned Business Concern (VBE)

VBE businesses are at least 51% owned and controlled by one or more U.S. citizens who are Veterans of the U.S. Armed Forces. In the case of any publicly owned business, at least 51% of the stock is owned by one or more veterans and one or more veterans must control the management and daily business operation. The term "Veteran" means a person who served in the active military, naval or air service and who was discharged or released there from under conditions other than dishonorable. VBE regulations can be found in FAR 52.219-9 & 38 USC 101 (2).

Service-Disabled Veterans-Owned Business Concern (DVBE)

DVBE businesses are at least 51% owned and controlled by one or more U.S. citizens who are service-disabled Veterans of the U.S. Armed Forces. In the case of any publicly owned business, at least 51% of the stock is owned by one or more service-disabled veterans and one or more veterans must control the management and daily business operation. The term "Veteran" means a person who served in the active military, naval or air service and who was discharged or released there from under conditions other than dishonorable. The term "Service-Disabled" means a veteran of the U.S. Military Service has a service-connected disability with a disability rating of 0%-100%. In the case of permanent or severe disability, the spouse or caregiver of such a service-disabled veteran may control the management and daily operations. DVBE regulations can be found in FAR 52.219-9 & 38 USC 101 (2) & USC 101 (16).

Women-Owned Business Concern (WBE)

WBE businesses are at least 51% owned and controlled by one or more U.S. citizens who are female gender. In the case of any publicly owned business, at least 51% of the stock is owned by one or more women and one or more women must control the management and daily business operations. For Federal contracting regulations see FAR 52-219-8.

Minority-Owned Business Enterprise (MBE)

MBE businesses are at least 51% owned and controlled by one or more U.S. citizens belonging to certain ethnic minority groups. In the case of any publicly owned business, at least 51 % of the stock is owned by one or more minorities, and one or more minorities must control the management and daily business operations. "Ethnic Minority Groups" are people of Asian Pacific American, Asian Subcontinent American, African American, Hispanic American and Native American descent.

- **African Americans:** People whose origins lay in any of the Black racial groups of Africa.
- **Asian Pacific Americans:** People whose origins lay in Brunei, Burma, China, Guam, Indonesia, Japan, Kampuchea (Cambodia), Korea, Laos, Malaysia, Northern Mariana Islands, Republic of the Marshall Islands, Federated States of Micronesia, Republic of Palau (U.S. Trust Territory of the Pacific Islands), the Philippines, Samoa, Singapore, Taiwan, Thailand and Vietnam.
- **Asian Subcontinent Americans:** People whose origins lay in Bangladesh, Bhutan, India, Pakistan, Sri Lanka or Nepal.
- **Hispanic Americans:** People whose origins are in the South and Central America, Mexico, Puerto Rico, Cuba or the Iberian Peninsula (including Portugal).
- **Native Americans:** American Indians, Inuit (Eskimos), Aleuts, and native Hawaiians of Polynesian ancestry.

Date of Last Update: March, 2007

CERTIFICATION REGARDING IMMIGRATION REFORM & CONTROL

All Contractors are expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with certain limitations, requires the verification of the employment status of all individuals who were hired on or after November 6, 1986, by the Contractor as well as any subcontractor or sub-subcontractor. The usual method of verification is through the Employment Verification (I-9) Form. With the submission of this bid, the Contractor hereby certifies without exception that Contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at the State's option, may subject the contract to termination and any applicable damages.

Contractor certifies that, should it be awarded a contract by the State, Contractor will comply with all applicable federal and state laws, standards, orders and regulations affecting a person's participation and eligibility in any program or activity undertaken by the Contractor pursuant to this contract. Contractor further certifies that it will remain in compliance throughout the term of the contract.

At the State's request, Contractor is expected to produce to the State any documentation or other such evidence to verify Contractor's compliance with any provision, duty, certification, or the like under the contract.

Contractor agrees to include this Certification in contracts between itself and any subcontractors in connection with the services performed under this contract.

Signature, Title of Contractor

Date

Section 2

INSTRUCTIONS

1. **Proposal Reference Number:** The RFP number, indicated in the header of this page, as well as on the first page of this proposal, has been assigned to this Request and MUST be shown on all correspondence or other documents associated with this Request and MUST be referred to in all verbal communications. All inquiries, written or verbal, shall be directed only to the Buyer reflected on Page 1 of this proposal. There shall be no communication with any other University employee regarding this Request except with designated University participants in attendance **ONLY DURING:**

Negotiations

Contract Signing

as otherwise specified in this Request.

Violations of this provision by vendor or state agency personnel may result in the rejection of the proposal.

2. **Negotiated Procurement:** This is a negotiated procurement pursuant to K.S.A. 76-769. Final evaluation and award will be made by The Procurement Negotiation Committee (PNC) consisting of the following entities (or their designees):

Associate Vice Provost for Administration and Finance or their designee;

KU Chief Procurement Officer or their designee; and

Member of Requesting Department.

3. **Appearance Before Committee:** Any, all or no vendors may be required to appear before the PNC to explain the vendor's understanding and approach to the project and/or respond to questions from the PNC concerning the proposal; or, the PNC may award without conducting negotiations, based on the initial proposal. The PNC reserves the right to request information from vendors as needed. If information is requested, the PNC is not required to request the information of all vendors.

Vendors selected to participate in negotiations may be given an opportunity to submit a revised proposal and/or their revised offer to the PNC. Prior to a specified cut-off time for revised offers, vendors may submit revisions to their technical and cost proposals. Meetings before the PNC are not subject to the Open Meetings Act. Vendors are prohibited from electronically recording these meetings. All information received prior to the cut-off time will be considered part of the vendor's revised offer.

No additional revisions shall be made after the specified cut-off time unless requested by the PNC.

4. **Cost of Preparing Proposal:** The cost of developing and submitting the proposal is entirely the responsibility of the vendor. This includes costs to determine the nature of the engagement, preparation of the proposal, submitting the proposal, negotiating for the contract and other costs associated with this Request.
5. **Preparation of Proposal:** Prices are to be entered in spaces provided on the proposal cost form if provided herein. Computations and totals shall be indicated where required. In case of error in computations or totals, the unit price shall govern. The Committee has the right to rely on any price quotes provided by vendors. The vendor shall be responsible for any mathematical error in price quotes. The Committee reserves the right to reject proposals which contain errors.

All copies of cost proposals shall be submitted in a separate sealed envelope or container separate from the technical proposal. The outside shall be identified clearly as "Cost Proposal" or "Technical Proposal" with the RFP number and closing date.

A proposal shall not be considered for award if the price in the proposal was not arrived at independently and without collusion, consultation, communication or agreement as to any matter related to price with any other vendor, competitor or public officer/employee.

Technical proposals shall contain a concise description of vendor's capabilities to satisfy the requirements of this Request For Proposal with emphasis on completeness and clarity of content. Repetition of terms and conditions of the Request For Proposal without additional clarification shall not be considered responsive.

6. **Signature of Proposals:** Each proposal shall give the complete mailing address of the vendor and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line. If the contract's contact will be a different entity, indicate that individual's contact information for communication purposes. Each proposal shall include the vendor's tax number.
7. **Acknowledgment of Addenda:** All vendors shall acknowledge receipt of any addenda to this Request by returning a signed hard copy with the bid. Failure to acknowledge receipt of any addenda may render the proposal to be non-responsive. Only the KU Purchasing Services shall issue changes to this Request which will be in writing.
8. **Modification of Proposals:** A vendor may modify a proposal by letter or by FAX transmission at any time prior to the closing date and time for receipt of proposals.
9. **Withdrawal of Proposals:** A proposal may be withdrawn on written request from the vendor to the Buyer at the KU Purchasing Services prior to the closing date.
10. **Competition:** The purpose of this Request is to seek competition. The vendor shall advise the KU Purchasing Services if any specification, language or other requirement inadvertently restricts or limits bidding to a single source. Notification shall be in writing and must be received by the KU Purchasing Services no later than five (5) business days prior to the bid closing date. The Chief Procurement Officer reserves the right to waive minor deviations in the specifications which do not hinder the intent of this Request.
11. **Evaluation of Proposals:** Award shall be made in the best interest of the University as determined by the Procurement Negotiating Committee or their designees. Although no weighted value is assigned, consideration may focus toward but is not limited to:
 - Cost. Vendors are not to inflate prices in the initial proposal as cost is a factor in determining who may receive an award or be invited to formal negotiations. The University reserves the right to award to the lowest responsive bid without conducting formal negotiations, if authorized by the PNC.
 - Adequacy and completeness of proposal
 - Vendor's understanding of the project
 - Compliance with the terms and conditions of the Request
 - Experience in providing like services
 - Qualified staff
 - Methodology to accomplish tasks
 - Response format as required by this Request

12. **Acceptance or Rejection:** The Committee reserves the right to accept or reject any or all proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this Request; and unless otherwise specified, to accept any item in a proposal.
13. **Proposal Disclosures:** At the time of closing, only the names of those who submitted proposals shall be made public information. No price information will be released. Interested vendors or their representatives may be present at the announcement at the following location:

KU Purchasing Services
1246 W. Campus Road, Rm. 30
Lawrence, KS 66045-7505

Bid results will not be given to individuals over the telephone. Results may be obtained after contract finalization by obtaining bid tabulation from KU Purchasing Services by sending (do not include with bid):

A check for \$3.00, payable to the University of Kansas
A self-addressed, stamped envelope
Contract Proposal Number

Send to: *the address on page 1*

Copies of individual proposals may be obtained under the Kansas Open Records Act. Please see below for instructions to request an estimate of the cost to reproduce the documents. Upon receipt of the funds, the documents will be mailed. You may also request to review the proposal file. Please contact the Custodian of Public Records indicated below to set up an appointment. Information in proposal files shall not be released until a contract has been executed or all proposals have been rejected.

The University of Kansas asks that you submit a written request to obtain public records. Please include the following information in your request:

Name

Mailing address

Daytime telephone number

Fax number, if applicable

A specific description of the records you are requesting. Make your request as specific as possible to expedite the process.

Regular office hours on all business days, excluding Saturday and Sunday, are from 8 a.m. to noon, and from 1 p.m. to 5 p.m.

Mail your request(s) to:

Jane E. Rosenthal
Custodian of Public Records
Office of the Provost
University of Kansas
1450 Jayhawk Boulevard, 230G Strong Hall
Lawrence, KS 66045-7535

Charges for the service shall be collected in advance. Agency records shall remain in the possession and control of an agency staff member during inspection and/or duplication.

14. **Disclosure of Proposal Content and Proprietary Information:** All proposals become the property of the University of Kansas. The **Open Records Act** (K.S.A. 45-205 et seq) of the State of Kansas requires public information be placed in the public domain at the conclusion of the selection process, and be available for examination by all interested parties. (<http://da.ks.gov/purch/KSOpenRecAct.doc>) No proposals shall be disclosed until after a contract award has been issued. The University reserves the right to destroy all proposals if the RFP is withdrawn, a contract award is withdrawn, or in accordance with Kansas law. Late Technical and/or Cost proposals will be retained unopened in the file and not receive consideration or returned to the submitting vendor upon request.

Trade secrets or proprietary information legally recognized as such and protected by law may be requested to be withheld if clearly labeled "Proprietary" on each individual page **and** provided as separate from the main proposal. Pricing information is not considered proprietary and the vendor's entire proposal response package will not be considered proprietary.

All information requested to be handled as "Proprietary" shall be submitted separately from the main proposal and clearly labeled, in a separate envelope or clipped apart from all other documentation. The vendor shall provide detailed written documentation justifying why this material should be considered "Proprietary". The KU Purchasing Services reserves the right to accept, amend or deny such requests for maintaining information as proprietary in accordance with Kansas law.

The University of Kansas does not guarantee protection of any information which is not submitted as required.

15. **Exceptions:** By submission of a response, the vendor acknowledges and accepts all terms and conditions of the RFP unless clearly avowed and wholly documented in a separate section of the Technical Proposal to be entitled: "Exceptions".
16. **Notice of Award:** An award is made on execution of the written contract by all parties.
17. **News Releases:** Only the University is authorized to issue news releases relating to this Request, its evaluation, award and/or performance of the contract.

Section 3 PROPOSAL RESPONSE

1. **Submission of Proposals:** Vendor's proposal shall consist of:
 - One (1) original and six (6) copies of the Technical Proposal, including signature sheet, applicable literature and other supporting documents;
 - One (1) original and six (6) copies of the cost proposal including signature sheet and tax clearance (if required),
 - One (1) electronic / software version(s) of the technical and cost proposals is required. This shall be provided on diskette or CD, in Microsoft® Word or Excel and technical and cost responses shall be on separate media.

All copies of cost proposals shall be submitted in a separate sealed envelope or container separate from the technical proposal. The outside shall be identified clearly as "Cost Proposal" or "Technical Proposal" with the request number and closing date.

Vendor's proposal, sealed securely in an envelope or other container, shall be received no later than 2:00 p.m., Central Time, on the closing date indicated on Page 1, addressed as follows:

KU Purchasing Services
Proposal # (Indicated on Page 1)
Closing Date: (Indicated on Page 1)
1246 W. Campus Rd., Rm. 30
Lawrence, KS 66045-7505

KU Purchasing Services now has a self-serve kiosk for receipt of hand-delivered bids. Location for receipt of bids is still 1246 W Campus Rd, Room 30, Lawrence, KS. Bids must be time-stamped by the individual making the delivery and placed in the bid receipt box. Any submission not time stamped and submitted prior to the closing date and time will be considered late. This does not apply to bids received via a mail delivery service, i.e., U.S. Mail, UPS, FedEx, etc., as these will still be received and time-stamped by the Purchasing Services office.

E-mailed or telephoned proposals are not acceptable unless otherwise specified. Proposals that do not exceed \$50,000.00 may be faxed to 785-864-3454.

Proposals received prior to the closing date shall be kept secured and sealed until closing. The University shall not be responsible for the premature opening of a proposal or for the rejection of a proposal that was not received prior to the closing date because it was not properly identified on the outside of the envelope or container. Late Technical and/or Cost proposals will be retained unopened in the file and not receive consideration, or returned to the submitting vendor upon written request.

It is the vendor's responsibility to ensure bids are received by the closing date and time. Delays in mail delivery or any other means of transmittal, including couriers or agents of the issuing entity shall not excuse late bid submissions.

2. **Proposal Format:** Vendors are instructed to prepare their Technical Proposal following the same sequence as this RFP.
3. **Transmittal Letter:** All bidders shall respond to the following statements:
 - (a) the vendor is the prime contractor and identifying all subcontractors;
 - (b) the vendor is a corporation or other legal entity;

- (c) no attempt has been made or will be made to induce any other person or firm to submit or not to submit a proposal;
- (d) the vendor does not discriminate in employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin or disability;
- (e) no cost or pricing information has been included in the transmittal letter or the Technical Proposal;
- (f) the vendor presently has no interest, direct or indirect, which would conflict with the performance of services under this contract and shall not employ, in the performance of this contract, any person having a conflict;
- (g) the person signing the proposal is authorized to make decisions as to pricing quoted and has not participated, and will not participate, in any action contrary to the above-statements;
- (h) whether there is a reasonable probability that the vendor is or will be associated with any parent, affiliate or subsidiary organization, either formally or informally, in supplying any service or furnishing any supplies or equipment to the vendor which would relate to the performance of this contract. If the statement is in the affirmative, the vendor is required to submit with the proposal, written certification and authorization from the parent, affiliate or subsidiary organization granting the University and/or the federal government the right to examine any directly pertinent books, documents, papers and records involving such transactions related to the contract. Further, if at any time after a proposal is submitted, such an association arises, the vendor will obtain a similar certification and authorization and failure to do so will constitute grounds for termination of the contract at the option of the University;
- (i) vendor agrees that any lost or reduced federal matching money resulting from unacceptable performance in a contractor task or responsibility defined in the Request, contract or modification shall be accompanied by reductions in University payments to Contractor; and
- (j) the vendor has not been retained, nor has it retained a person to solicit or secure a state contract on an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the vendor for the purpose of securing business. For breach of this provision, the Committee shall have the right to reject the proposal, terminate the contract and/or deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

5. **New Vendors:** A copy of the vendor's W-9 should also be submitted with your bid:

http://www.payroll.ku.edu/documents/fw9_2007.pdf.

Section 4 TERMS AND CONDITIONS

1. **Contract Documents:** This Request and any amendments and the response and any amendments of the Contractor shall be incorporated along with the DA-146a into the written contract which shall compose the complete understanding of the parties.

In the event of a conflict in terms of language among the documents, the following order of precedence shall govern:

- Form DA-146a;
 - written modifications to the executed contract;
 - written contract signed by the parties;
 - this Request including any and all addenda; and
 - Contractor's written proposal submitted in response to this Request as finalized.
2. **Contract:** The successful vendor will be required to enter into a written contract with the University. The vendor agrees to accept the provisions of form DA-146a (Contractual Provisions Attachment) which is incorporated into all contracts with the University and is attached to this Request.
 3. **Contract Formation:** No contract shall be considered to have been entered into by the University until all statutorily required signatures and certifications have been rendered and a written contract has been signed by the successful vendor.
 4. **Tax Clearance:** The University of Kansas strongly supports the State of Kansas Tax Clearance Process. Vendors submitting bids or proposals which exceed \$25,000 shall include a copy of a Tax Clearance Certification Form with their submittal. Failure to provide this information may be cause for rejection of vendor's bid or proposal. Tax Clearances may be obtained at the following website: <http://www.ksrevenue.org/taxclearance.htm>
 5. **Notices:** All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") which may be required or desired to be given by either party to the other shall be **IN WRITING** and addressed as follows:

KU Purchasing Services
1246 W. Campus Rd., Rm. 30
Lawrence, KS 66045-7505
RE: Bid number *see page 1*

or to any other persons or addresses as may be designated by notice from one party to the other.

6. **Termination for Cause:** The Chief Procurement Officer may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:
 - the Contractor fails to make delivery of goods or services as specified in this contract; or
 - the Contractor provides substandard quality and/or workmanship;
 - the Contractor fails to perform any of the provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms.

The Chief Procurement Officer shall provide Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as the University may authorize in writing), the Chief

Procurement Officer shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

7. **Termination for Convenience:** The Chief Procurement Officer may terminate performance of work under this contract in whole or in part whenever, for any reason, the Chief Procurement Officer shall determine that the termination is in the best interest of the University of Kansas. In the event that the Chief Procurement Officer elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least 30 days prior to the termination date. The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.

8. **Debarment of University Contractors:**

A. A vendor may be debarred for any of the following reasons:

1. Conviction of a criminal offense in relation to obtaining or attempting to obtain a University contract or in the performance of such contract;
2. Conviction under State of Kansas or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records or
3. Conviction under State of Kansas or Federal antitrust statutes arising out of the submission of bids or proposals;
4. Failure to perform in accordance with the terms of one or more contracts following notice of such failure, or a history of failure to perform, or of unsatisfactory performance of one or more contracts;
5. The vendor is currently under debarment by any other governmental entity that is based upon a settlement agreement or a final administrative or judicial determination issued by a Federal, state or local governmental entity.

Following completion of the investigation to determine whether a vendor has engaged in activities that are cause for debarment, the KU Chief Procurement Officer may debar the vendor for a period of time commensurate with the seriousness of the findings.

B. A written notice of debarment shall be sent to the vendor. The notice shall:

1. State the debarment period; and
2. Inform the debarred vendor that any person(s) representing the debarred vendor during the debarment period may conduct no business with the University and that any solicitation responses received from the debarred vendor during the debarment period shall not be considered.
3. The debarment period will be effective fourteen (14) calendar days after the notice of debarment is sent to the debarred vendor.

9. **Rights and Remedies:** If this contract is terminated, the University, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the University in the manner and to the extent directed, any completed materials. The University shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

In the event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to and/or goods were accepted by University subject to any offset by University for actual damages including loss of federal matching funds.

The rights and remedies of the University provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

10. **Force Majeure:** The Contractor shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes, etc.
11. **Waiver:** Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by University shall not constitute a waiver.
12. **Independent Contractor:** Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

13. **Staff Qualifications:** The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the proposal specifications may result in termination of this contract and/or damages.

14. **Subcontractors:** The Contractor shall be the sole source of contact for the contract. The University will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the contract shall apply without qualification to any services performed or goods provided by any subcontractor.

The University of Kansas requires tax information regarding all subcontractors be disclosed on the Signature Sheet, indicating company name, contact information and tax number. Additional pages may be added, as required. (See Tax Clearances, Page 3)

15. **Proof of Insurance:** Upon request, the vendor shall present an affidavit of Worker's Compensation, Public Liability, and Property Damage Insurance to the KU Purchasing Services.
16. **Conflict of Interest:** The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the State and who are providing services involving this contract or services similar in nature to the scope of this contract to the University. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any state employee who has participated in the making of this contract until at least two years after his/her termination of employment with the State.
17. **Confidentiality:** All University information or data is considered confidential information. Contractor agrees to return any or all information or data furnished by the University promptly at the request of University, in whatever form it is maintained by Contractor. Upon termination or expiration of this agreement, the Contractor and each of the persons and entities working for the Contractor shall destroy and return to the University all data, information electronic, written, or descriptive materials or any related matter of any type including but not limited to drawings,

blueprints, descriptions, or other papers or documents which contain any such confidential information.

- A. Contractor will have access to information and private or confidential data, maintained by University of Kansas, to the extent necessary to carry out Contractor's responsibilities under this contract. This information and data may include, but is not limited to security arrangements, personal financial information, information regarding undercover law enforcement agents, social security numbers, student employees, medical providers and/or their recipients, etc. Contractor agrees that any information or data it may have in its custody regarding any participant or other information identified by the University as being private or confidential shall be kept strictly confidential. All the information and data of the University shall be considered to be confidential and private and Contractor may not disclose any information or data at any time to any person or entity. Contractor agrees to comply with all state and federal confidentiality laws in providing services under this Contract. Contractor also agrees to the following:
1. Contractor shall be fully responsible for providing adequate supervision and training to its agents and employees to ensure compliance with all applicable State and Federal Acts regarding confidentiality and/or open records issues. No private or confidential data collected, maintained, or used in the course of performance of this Contract shall be disseminated by Contractor except as required by statute, either during the period of the Contract or thereafter. Contractor shall only use confidential information as required by this Contract. All electronic data shall be secured through encryption or other comparable security measures.
 2. Contractor shall limit access to confidential information solely to staff of Contractor who has a business need to know for purposes of fulfilling Contractor's obligations under this Contract. Contractor shall not remove confidential information from University's site without University's prior written approval.
 3. The Contractor shall hold all such confidential information in trust and confidence for the University, and agrees that it and its employees will not, during the performance or after the termination of this agreement, disclose to any person, firm, or corporation, or use for its own business or benefit any information obtained by it while in execution of the terms and conditions of this Contract.
 4. Any staff, individual or entity assigned to work for Contractor under this agreement shall separately sign a non-disclosure agreement(s) and be bound by the requirements of this Subsection and any University of Kansas computer security user agreement, which is incorporated by reference herein.
 5. All Confidential Information of the University shall be and remain the sole property of the University. Upon termination of this Agreement or at the request of the University, the Contractor shall deliver all Confidential Information promptly to the University and shall not make, retain or distribute any copies thereof.
- B. **Unauthorized Use.** The Contractor shall not use the names, home address, phone numbers, or any other information obtained by implementation or execution of this Contract about employees, citizens, vendors or other information for any purpose other than the performance of this Contract.
- C. **Press Releases, Public Statements, and/or Communications.** Contractor agrees that no public statement, release, or communication acknowledging or implying that the University is a customer of Contractor is allowed under this Contract. Any approval by the University for such public statement, release, or communication shall only be provided in writing by University to

Contractor's contact listed in Article XXII, Section B of this Contract. The University may refuse such a request for any reason.

- D. **Injunctive Relief.** Contractor acknowledges that any breach of its confidentiality obligations hereunder will constitute immediate and irreparable harm to the University, its citizens and/or its successors and assigns, which cannot adequately and fully be compensated by money damages and will warrant, in addition to all other rights and remedies afforded by law, injunctive relief, specific performance and/or other equitable relief.
- E. **Confidential Information.** Contractor shall hold University harmless and indemnify the University for expenses or damages, of any kind, incurred or suffered by the University as a result of the unauthorized disclosure or failure to protect or secure personal or other data or information identified in Article XVII by Contractor or any agent, representative, employee or subcontractor of Contractor. Contractor shall notify the University of any loss or breach of confidential information or data within twenty-four (24) hours of such knowledge. Contractor shall also be responsible and liable for any and all damages to individuals due to such breaches or loss of confidential information. In the event of any security breach in which the confidential information of one more individuals is compromised or is potentially compromised, Contractor shall be responsible and pay for any and all damages, expenses, and costs (Including lost wages and efforts spent to defend or correct against identity theft) caused to the University or any individual for the disclosure of any University Information. Contractor shall provide notice to the University and affected individuals of such disclosure and shall also offer free of charge to individual or the University identify theft protection insurance for a period of five (5) years. These terms shall also apply to any third-party vendor or subcontractor. The University shall in its sole discretion make the final determination of this provision.
- F. **Survive Termination.** The provisions of this Article survive termination of this Contract.

18. **Nondiscrimination and Workplace Safety:** The Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws, rules and regulations may result in termination of this contract.
19. **Environmental Protection:** The Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. The Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rule or regulations may result in termination of this contract.
20. **Hold Harmless:** The Contractor shall indemnify the University against any and all loss or damage to the extent arising out of the Contractor's negligence in the performance of services under this contract and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

The University shall not be precluded from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or damage to property in the Contractor's custody and control, where such loss or destruction is to University property. The Contractor shall do nothing to prejudice the University's right to recover against third parties for any loss, destruction or damage to University property.

21. **Care of University Property:** The Contractor shall be responsible for the proper care and custody of any university-owned personal tangible property and real property furnished for Contractor's use in

connection with the performance of this contract, and Contractor will reimburse University for such property's loss or damage caused by Contractor, normal wear and tear excepted.

22. **Prohibition of Gratuities:** Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any University employee at any time.
23. **Retention of Records:** Unless the University specifies in writing a different period of time, the Contractor agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of state and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post-contract period. Delivery of and access to the records shall be at no cost to the University.

24. **Antitrust:** If the Contractor elects not to proceed, the Contractor assigns to the University all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and the University of Kansas relating to the particular products or services purchased or acquired by the University pursuant to this contract.
25. **Modification:** This contract shall be modified only by the written agreement of the parties with the approval of the PNC. No alteration or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.
26. **Assignment:** The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the University.

This contract may terminate in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the University.

27. **Third Party Beneficiaries:** This contract shall not be construed as providing an enforceable right to any third party.
28. **Captions:** The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.
29. **Severability:** If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected and each provision of this contract shall be enforced to the fullest extent permitted by law.
30. **Governing Law:** This contract shall be governed by the laws of the State of Kansas and shall be deemed executed at Lawrence, Douglas County, Kansas, unless otherwise specified and agreed upon by the University of Kansas.
31. **Jurisdiction:** The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas, District Court of Douglas County, unless otherwise specified and agreed upon by the University of Kansas. The United States District Court for the State of Kansas sitting in Topeka,

Shawnee County, Kansas, shall be the venue for any federal action or proceeding arising hereunder in which the University is a party.

32. **Mandatory Provisions:** The provisions found in Contractual Provisions Attachment (DA-146a) which is attached are incorporated by reference and made a part of this contract.
33. **Integration:** This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This contract between the parties shall be independent of and have no effect on any other contracts of either party.
34. **Criminal Or Civil Offense:** Any conviction for a criminal or civil offense of an individual or entity that controls a company or organization or will perform work under this contract that indicates a lack of business integrity or business honesty must be disclosed. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in disqualification of the bid or termination of the contract.
35. **Immigration and Reform Control Act of 1986 (IRCA):** All contractors are expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with certain limitations, requires the verification of the employment status of all individuals who were hired on or after November 6, 1986, by the contractor as well as any subcontractor or sub-contractors. The usual method of verification is through the Employment Verification (I-9) form.

With the submission of this bid, the contractor hereby certifies without exception that such contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at the University's option, may subject the contract to termination and any applicable damages.

Unless provided otherwise herein, all contractors are expected to be able to produce to University any documentation or other such evidence to verify Contractor's compliance with any provision, duty, certification or like under the contract.

36. **Injunctions:** Should The University of Kansas be prevented or enjoined from proceeding with the acquisition before or after contract execution by reason of any litigation or other reason beyond the control of the University, vendor shall not be entitled to make or assert claim for damage by reason of said delay.
37. **Statutes:** Each and every provision of law and clause required by law to be inserted in the contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the contract shall be amended to make such insertion or correction.

38. **Materials and Workmanship:** The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by this solicitation, within the time specified, in accordance with the provisions as specified.

The contractor shall be responsible for all work put in under these specifications and shall make good, repair and/or replace, at the contractor's own expense, as may be necessary, any defective work, material, etc., if in the opinion of agency and/or KU Purchasing Services said issue is due to imperfection in material, design, workmanship or contractor fault.

39. **Industry Standards:** If not otherwise provided, materials or work called for in this contract shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

40. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. The successful vendor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Request. **The University of Kansas is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the vendor's price quotation.**

The University makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

41. **Accounts Receivable Set-Off Program:** During the course of this contract if the vendor is found to owe a debt to the State of Kansas, agency payments to the vendor may be intercepted / setoff by the State of Kansas. Notice of the setoff action will be provided to the vendor. The vendor shall credit the account of the agency making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes vendors against debts owed by the vendors to the State of Kansas. Payments setoff in this manner constitute lawful payment for services or goods received. The vendor benefits fully from the payment because its obligation to the State is reduced by the amount subject to setoff.

42. **Definitions:** A glossary of common procurement terms is available at <http://da.ks.gov/purch>, under "Purchasing Forms".

43. **Payment:** Payment Terms are Net 30 days. Payment date and receipt of order date shall be based upon K.S.A. 75-6403(b). This Statute requires state agencies to pay the full amount due for goods or services on or before the 30th calendar day after the date the agency receives such goods or services or the bill for the goods and services, whichever is later, unless other provisions for payment are agreed to in writing by the vendor and the state agency. NOTE: If the 30th calendar day noted above falls on a Saturday, Sunday, or legal holiday, the following workday will become the required payment date.

Payments shall not be made for costs or items not listed in the vendor's response.

Payment schedule shall be on a frequency mutually agreed upon by both the agency and the Contractor.

44. **Implied Requirements:** All products and services not specifically mentioned in this solicitation, but which are necessary to provide the functional capabilities described by the specifications, shall be included. Other products required to make the described software functional shall be identified in the vendor's response.

45. **Warranty:** The Contractor shall be responsible for all work performed under these specifications.
46. **Acceptance:** No contract provision or use of items by the University shall constitute acceptance or relieve the vendor of liability in respect to any expressed or implied warranties.
47. **Ownership:** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under this contract shall be owned by the using agency. The Contractor may not release any materials without the written approval of the using agency.
48. **Data:** Any and all data required to be provided at any time during the bid process or contract term shall be made available in a format as requested and/or approved by the University.
49. **Submission of the Proposal:** Submission of the proposal will be considered presumptive evidence that the vendor is conversant with local facilities and difficulties, the requirements of the documents and of pertinent State and/or local codes, state of labor and material markets, and has made due allowances in the proposal for all contingencies. Later claims for labor, work, materials, equipment, and tax liability required for any difficulties encountered which could have foreseen will not be recognized and all such difficulties shall be properly taken care of by Contractor at no additional cost to the University of Kansas.
50. **Alternate Proposals/Equivalent Items:** Bids on goods and services comparable to those specified herein are invited. Whenever a material, article or piece of equipment is identified in the specifications by reference to a manufacturer's or vendor's name, trade name, catalog number, etc., it is intended to establish a standard, unless otherwise specifically stated. Any material, article or equipment of other manufacturers or vendors shall perform to the standard of the item specified. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be furnished at no expense to the University and if not destroyed in the evaluation process, shall be returned at vendor's expense, if requested.

The University of Kansas reserves the right to determine and approve or deny "equivalency" in comparison of alternate bids.
51. **Certification of Materials Submitted:** The response to this request, together with the specifications set forth herein and all data submitted by the vendor to support the response including brochures, manuals, and descriptions covering the operating characteristics of the item(s) proposed, shall become a part of any contract between the successful vendor and the University of Kansas. Any written representation covering such matters as reliability of the item(s), the experience of other users, or warranties of performance shall be incorporated by reference into the contract.
52. **Inspection:** The University reserves the right to reject, on arrival at destination, any items which do not conform with the specification of this Request.
53. **Vendor Contracts:** Include a copy of any contracts, agreements, licenses, warranties, etc. proposed. (State of Kansas form DA-146a remains a mandatory requirement in all contracts.)
54. **Transition Assistance:** In the event of contract termination or expiration, Contractor shall provide all reasonable and necessary assistance to University to allow for a functional transition to another vendor.
55. **Award:** Award will be by line item or group total, whichever is in the best interest of the University of Kansas.

State of Kansas
Department of Administration
DA-146a (Rev. 1-01)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."