



Request for Quote

RFP Number: 64255502

Replaces Contract: 23335041

Date Released: August 5, 2015

Closing Time and Date: 2:00 pm CT, August 18, 2015

Buyer: *Carla Swoyer*
Telephone: 785-864-5972
E-Mail Address: cswoyer@ku.edu
Web Address: <http://www.purchasing.ku.edu/>

Item: Temporary Service for Special Events

Agency: The University of Kansas
Department of Parking & Transit
Lawrence, Kansas

Period of Contract: September 1, 2015 to August 31, 2018

Monetary Guarantee: No Monetary Guarantee or Bond is Required

Scope of Project:

The University of Kansas (KU) is seeking quotes for temporary services hourly rates for University of Kansas Special Events .

Questions/Addenda: No pre-proposal conference is scheduled for this Request for Quote. Questions requesting clarification of the Request for Quote must be submitted electronically (MS Word) to the Buyer indicated above, prior to **12:00 Noon CT on August 12, 2015**. Each question or clarification should reference the appropriate RFQ section.

Failure to notify the Buyer of any conflicts or ambiguities in this Request for Quote may result in resolution in the best interest of the University. Any modification to this Request shall be made in writing by addendum. Only written communications are binding.

Purchasing Services

Carruth-O'Leary Hall, Rm. 20 | 1246 West Campus Road | Lawrence, KS 66045-7505 | (785)864-3790 | Fax (785)864-3454 | www.ku.edu

SIGNATURE SHEET

Item: **Temporary Services for Special Events**

Agency: **University of Kansas**

Closing Date: **August 18, 2015, 2:00 pm CT**

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 _____

CAUTION: If your tax number is the same as your Social Security Number (SSN), you must leave this line blank. **DO NOT** enter your SSN on this signature sheet. If your SSN is required to process a contract award, including any tax clearance requirements, you will be contacted by an authorized representative of the KU Procurement Services at a later date.

E-Mail _____

Signature _____ Date _____

Typed Name _____ Title _____

In the event the **contact for the bid process** is different from above, indicate contact information below.

Bid Process Contact Name _____

Mailing Address _____ City & State _____ Zip _____

Toll Free Telephone _____ Local _____ Cell: _____ Fax _____

E-Mail _____

If **contract documents and purchase orders** are to be directed to an address other than above, please indicate mailing address and telephone number below.

Award Process Contact Name _____

Mailing Address _____ City & State _____ Zip _____

Toll Free Telephone _____ Local _____ Cell: _____ Fax _____

E-Mail _____

Tax Clearance: The University of Kansas strongly supports the State of Kansas Tax Clearance Process.

Vendors submitting bids or quotes which exceed \$25,000 shall include a copy of a Tax Clearance Certification with their submittal. Failure to provide this information may be cause for rejection of vendor's bid or quote.

Tax Clearances may be obtained at the following website: <http://www.ksrevenue.org/taxclearance.html>

A "Tax Clearance" is a comprehensive tax account review to determine and ensure that the account is compliant with all primary Kansas Tax Laws administered by the Kansas Department of Revenue (KDOR) Director of Taxation.

Information pertaining to a Tax Clearance is subject to change(s), which may arise as a result of a State Tax Audit, Federal Revenue Agent Report, or other lawful adjustment(s).

INSTRUCTIONS: To obtain a Current Tax Clearance Certificate, you must:

- Go to <http://ksrevenue.org/taxclearance.html> to request a Tax Clearance Certificate
- Return to the website the following working day to see if KDOR will issue the certificate
- If issued an official certificate, print it and attach it to your bid response
- If denied a certificate, engage KDOR in a discussion about why a certificate wasn't issued

Bidders (and their subcontractors) are expected to submit a current Tax Clearance Certificate with every bid response.

TEMPORARY SERVICES SPECIFICATIONS

Scope of Work

The purpose of this contract is to provide the University of Kansas Parking & Transit Department with temporary employees to assist its full time and student staff with traffic control for special and athletic events.

Staffing Services to be provided:

Must be available for scheduling seven (7) days per week from the hours of 4:00 AM TO 11:00 PM depending upon scheduled event. This will include all University of Kansas men's football and basketball games scheduled to be played in Lawrence. May also include such events as Kansas

Relays, the University's Residence Hall Move-In and the University's commencement celebration.

Duration of each assignment is generally one day.

The University of Kansas generally hosts seven (7) to eight (8) football games and twenty (20) to twenty-two (22) basketball games per year. The number of special events varies from year to year.

◎ Temporarily assigned individuals are to meet or exceed skill levels defined in the following Position Description – Requirements for all Positions and Specific Job Duties sections of these specifications.

◎ Lead time may be two (2) hours to one (1) week or more.

◎ Contractor will confirm or state unavailability with fifteen (15) minutes after a request is made for services that will commence within two (2) hours following the request.

◎ Contractor will confirm or state unavailability within four (4) hours after a request is made for services that will commence within one (1) to five (5) working days following the request.

◎ Contractor will confirm or state unavailability within two (2) working days for services that will commence later than five (5) working days following the request.

◎ Contractor will confirm arrival of its employee by telephone within one-half hour after scheduled arrival time.

◎ The University reserves the right to refuse services of any unsatisfactory employee. The contract user shall be the sole judge as to whether an assigned individual is satisfactory and fulfills the agency requirements. Disputes involving such issues shall be referred to the authorized contract user as defined above.

Staffing requirements: Because availability of Parking department staff and students varies, the number of temporary employees will vary from game to game. The numbers listed below are estimates only; the Parking & Transit Department cannot guarantee how many temporary employees will be needed for each game. This is for informational purposes only.

Football: Lot attendants: 45

Lead workers: 10

Supervisors: 2

Basketball: Lot attendants: 30

Lead workers: 5

Supervisors: 1

For reference only, it is estimated that for each football game, temporary employees will need to be on the job for six to eight hours; for each basketball game, it is estimated that temporary employees will need to be on the job for three to five hours. Employees with a proven track record of reliability and outstanding job skills will be offered the extra hours.

Contract Users: Contract users are the University of Kansas Parking & Transit Department field division managers and the University of Kansas Parking & Transit Department administration staff. Names of specific authorized individuals will be provided to the successful bidder. The contractor is responsible for verifying that the request is being made by an authorized contract user. The only temporary service this contract covers is for temporary parking attendants for the Parking & Transit Department at the University of Kansas.

Conversion Policy:

For the scope of this contract, the University will not be offering permanent placement to any temporarily employed individual. However, temporarily assigned individuals may be changed to permanent placement without a fee to the state if the individual elects to accept employment with the state outside of the contract users department. The state will not be responsible for the contractor's employees who voluntarily leave the contractor's employment or engage in employment with any other company or entity.

Billing Requirements:

Contractor may impose a cancellation charge for an assignment canceled by a contract user later than 3:00 PM the day preceding scheduled arrival of the support staff. Such charge is not to exceed two (2) hours of billable time for the job category requested by the contract user. The cancellation charge amount is applied once per canceled assignment regardless of the length of the assignment. Contractor will not bill a cancellation charge for the dismissal of a temporarily assigned individual who is deemed inappropriate by the contract user.

Contract user will be billed by the contractor for services rendered within the University. The University will not be responsible for any mileage incurred by the temporarily assigned individual in traveling to or from the designated workstation, nor any parking fees. The agreement will not be used for any form of recruiting reimbursement fees or permanent placement fees.

Reporting:

Contractor will provide quarterly reports of all services invoiced under this contract. The attached Example Quarterly Report for Temporary Parking Attendant must be used for all quarterly reports and is to be submitted to Donna R. Hultine, Director of Parking & Transit, at 1501 Irving Hill Road in Lawrence, KS 66045, on or before the 15th of the month follow the end of each calendar quarter. Failure to provide these quarterly reports may result in contract suspension or termination.

POSITION DESCRIPTIONS – REQUIREMENTS FOR ALL POSITIONS

For purposes of this contract, the applicable duties of the parking attendant shall be as follows:

HOURS: Must be available for scheduling seven (7) days per week from the hours of 7:00 AM to 10:00 PM 4:00 AM to 11:00 PM depending upon the scheduled event. This will include all University of Kansas men's football and basketball games scheduled to be played in Lawrence. Other Special Events where temporary services may also include; Kansas Relays, the University's Residence Hall Move-In and the University's Commencement Celebration.

DRESS: Clothing should be clean. Individuals are required to dress for the weather. Employees are prohibited from wearing any apparel with any writing, emblems, logos or other printing on it except that which represents the University of Kansas. Employees are required to wear shoes regardless of the weather.

WORK ENVIRONMENT: The duties of this job require that employees work outdoors in all instances regardless of weather conditions. Employees must be able to stand for long periods of time in such conditions. In certain areas, employees may be allowed to park their personal vehicles for their own use as shelter from the weather during slow times. Restrooms and other sanitary devices are generally not readily available on these sites. Roving officers will provide breaks.

HAZARDS/RISKS: Limited sanitation facilities. Adverse weather conditions. Potential for being struck by vehicles. Must deal with individuals attending special or athletic events who are angry about not being able to park where they desire and/or who are intoxicated. Must deal with individuals whose vehicle has been towed for a parking infraction.

PRIVATE VEHICLE USAGE: When feasible, temporarily assigned individuals may elect to park their private vehicle at parking lot entrances to provide shelter from the weather. The agency shall not be held responsible for any damage to the vehicle as a result of this practice, nor shall the temporarily assigned individual be reimbursed for any fuel usage as a result of this practice.

EQUIPMENT: The agency shall provide to the temporarily assigned individuals reflective safety vests and flashlights (night assignments). Any other weather gear, etc., shall be supplied by the contractor or temporarily assigned individuals.

WORKPLACE RULES: Because employees are asked to work in many weather conditions, consumption of non-alcoholic beverages appropriate to the weather is allowed and, in hot weather, encouraged. THE UNIVERSITY WILL NOT PROVIDE ANY FOOD OR DRINKS. TEMPORARY EMPLOYEES MUST BRING ANY CONSUMABLES WITH THEM TO THE WORKPLACE.

Pets or other animals are not allowed on the job site.

BEHAVIOURS CONSTITUTING GROUNDS FOR IMMEDIATE DISMISSAL:

- ⊙ Alcoholic beverages and illegal controlled substances may not be brought to or consumed on University of Kansas premises.
- ⊙ Smoking on duty is prohibited.
- ⊙ Acceptance of tips or gratuities of any kind, particularly in exchange for preferential parking privileges is prohibited.

SPECIFIC JOB DUTIES:

1. **Lot attendant:** The duty of this position is primarily to screen for specific permit types on a given lot, turning away those without proper credentials. Ability to communicate is a must in this position; must be able to provide clear directions. May also be required to direct traffic at times of heavy vehicle flow and assist with placement of signs and restrictive devices. Must be able to read, write and comprehend the English language fluently. Must be able to follow written and verbal instructions. Must be able to stand for long periods of time. Must be able to utilize small hand tools for sign installation and other tasks. Must stay on assignment until relieved by supervisor or by preset schedule of supervisor.
2. **Lead worker:** The duties of this position include screening for specific permit types on a given lot, turning away those without proper credentials. Ability to communicate is a must in this position; must be able to provide clear directions. This position will also be required to sell toll during athletic events. Must be able to make change and handle money properly. Must carry personal surety bond in the amount of \$500.00. money apron will be reconciled before employee is released from their post.
3. **Supervisor:** the primary duty of this position is to ensure that that all employees from the temporary agency are on post throughout the duration of each event and that they understand the assignment. Must be familiar with the duties of both lot attendants and lead workers to accomplish this.

**QUARTERLY REPORT FOR TEMPORARY PARKING ATTENDANT SERVICES
UNIVERSITY OF KANSAS**

For period _____ - check appropriate box
(year)

☐ JULY - SEPTEMBER

☐ OCTOBER - DECEMBER

☐ JANUARY - MARCH

☐ APRIL - JUNE

VENDOR

Submitted by: _____

Telephone: _____

This Quarterly Report must be completed even if no dollars were involved. Send reports on or before the following dates for the just-ended quarter: October 15, January 15, April 15 and July 15 annually throughout the life of the contract

Mail to:

Donna R. Hultine

Director of Parking & Transit

1501 Irving Hill Road

Lawrence, KS 66045

A. Number of requests received: _____

B. Number of requests filled: _____

C. Number of staff provided: _____

INSTRUCTIONS

1. **Quote Submission:** E-mailed or Telephoned Quotes will not be accepted unless otherwise specified. Quotes 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 quote or for the rejection of a quote that was not received prior to the closing date because it was not properly identified on the electronic bid or container. Late quotes will be retained unopened in the file and not receive consideration.

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. **Quote Reference Number:** The RFQ number, indicated in the header of this request 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 this request. **There shall be no communication with any other University employee regarding this Request except with designated University participants during negotiation sessions and other opportunities specified in this Request or if prior approval is obtained from KU Procurement Services personnel.** Violations of this provision by vendor or University personnel may result in the rejection of the quote.
5. **Cost of Preparing Quote:** The cost of developing and submitting the quote is entirely the responsibility of the vendor. This includes costs to determine the nature of the engagement, preparation of the quote, submitting the quote, negotiating for the contract and other costs associated with this Request.
6. **Preparation of Quote:** In case of error in computations or totals, the unit price shall govern. The PNC 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 PNC reserves the right to reject quotes which contain errors.

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

7. **Withdrawal of Quotes:** A quote may be withdrawn on written request from the vendor to the Buyer at KU Procurement Services prior to the closing date.
8. **Competition:** The purpose of this Request is to seek competition. The vendor shall advise the KU Procurement 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 Procurement Services no later than five (5) business days prior to the 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.
9. **Evaluation of Quotes:** 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 quote 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 quote without conducting formal negotiations if recommended by the PNC and approved by the Chief Procurement Officer.
 - ⦿ Adequacy and completeness of quote
 - ⦿ 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

10. **Acceptance or Rejection:** The PNC reserves the right to accept or reject any or all quotes or part of a quote; to waive any informalities or technicalities; clarify any ambiguities in quotes; modify any criteria in this Request; and unless otherwise specified, to accept any item in a quote.
11. **Quote Disclosures:** At the time of closing, only the name of the vendors who submitted quotes shall be made public information. No price information will be released. Interested vendors or their representatives may be present. Results will not be given to individuals over the telephone. Results may be obtained after contract finalization from KU Purchasing Services by sending a request in writing to KU Purchasing Services. The address for personal attendance on the date of closing and for submitting requests for results after contract finalization is as follows:

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

Copies of individual quotes 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 quote file. Please contact the Custodian of Public Records indicated below to set up an appointment. Information in quote files shall not be released until a contract has been executed or all quotes have been rejected.

The University of Kansas requires 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. Please 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:

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. University records shall remain in the possession and control of a University staff member during inspection and/or duplication.

12. **Disclosure of Quote Content and Proprietary Information:** All quotes 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 contracting process, and be available for examination by all interested parties. (<http://da.ks.gov/purch/KSOpenRecAct.doc>) No quotes shall be disclosed until after a contract has been signed by all required parties. The University reserves the right to destroy all quotes if the RFP is withdrawn; a contract award is withdrawn, or as otherwise provided by Kansas law. Late Technical and/or Cost quotes will be retained unopened in the file and not receive consideration or returned to the bidder upon their written 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 quote. Pricing information is not considered proprietary and the vendor's entire quote response package will not be considered proprietary.

All information requested to be handled as "Proprietary" shall be submitted separately from the main quote 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". KU Procurement 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.

13. **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 Quote to be entitled: "Exceptions".
14. **Award:** An award is made on execution of the written contract by all parties.
15. **News Releases:** Only the University is authorized to issue news releases relating to this Request, its evaluation, award and/or performance of the contract unless prior approval is obtained through KU Purchasing Services.
16. **References:** Provide at least three (3) references that have purchased similar items or services from the vendor in the last two (2) year(s). References shall show firm name, contact person, address, e-mail address and phone number. Vendor employees and the buying agency shall not be shown as references.
17. **Submission of Quotes:** If you submit electronically through the KU eBid system, you do NOT need to submit a paper version. If you submit via courier (USPS, FedEx, UPS, etc) or in person, you'll need a single paper copy with an electronic copy on a flash drive or CD.

Bidder's quote, if not submitted electronically, shall be sealed securely in an envelope or other container, shall be received no later than 2:00 p.m., Central Time, on the closing date, addressed as follows:

KU Procurement Services
RFP 44172918
1246 W. Campus Road, Rm. 20
Lawrence, KS 66045-7505

It is the bidder'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.

Faxed, e-mailed or telephoned quotes are not acceptable unless otherwise specified.

Quotes 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 quote or for the rejection of a quote that was not received prior to the closing date because it was not properly identified on the outside of the envelope or container. Late quotes will be retained unopened in the file and not receive consideration or may be returned to the bidder.

University of Kansas General Terms and Conditions

1. **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.
2. **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.
3. **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.
4. **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.
5. **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.
6. **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 Procurement Services
1246 W. Campus Rd., Rm. 20
Lawrence, KS 66045-7505

RE: Bid number as noted in the header of this electronic bid document.

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

7. **Contract Documents:** This Request and any amendments and the response and any amendments of the Contractor shall be incorporated along with the KU-146a into a 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 KU-146a;
 - written modifications to the executed contract;
 - written contract signed by the parties;
 - this request including any and all addenda; and
 - Contractor's written quote submitted in response to this Request as finalized.
8. **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.

9. **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.
10. **Modification:** This contract shall be modified only by the written agreement of the parties. 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.
11. **Termination for Cause:** The KU Director of Procurement Services (Director) 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 Director 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 KU may authorize in writing), the Director 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.

12. **Termination for Convenience:** The KU Director of Procurement Services (Director) may terminate performance of work under this contract in whole or in part whenever, for any reason, the Director shall determine that the termination is in the best interest of the State of Kansas. In the event that the Director 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.
13. **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 / set off 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 constitutes 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.

14. **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.
15. **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.

- 16. 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 quote specifications may result in termination of this contract and/or damages.

- 17. 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 upon request.

- 18. 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.

- 19. 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.

- 20. 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.

- 21. Third Party Beneficiaries:** This contract shall not be construed as providing an enforceable right to any third party.

- 22. 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.

- 23. 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.

- 24. Proof of Insurance:** Upon request, the vendor shall present an affidavit of Worker's Compensation, Public Liability, and Property Damage Insurance to KU Procurement Services.
- 25. 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 state property. The Contractor shall do nothing to prejudice the University's right to recover against third parties for any loss, destruction or damage to State property.

- 26. 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.
- 27. 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 may have access to information and private or confidential data, maintained by University, 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 State's site without State'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 or State 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 State 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 section shall survive termination of this Contract.

28. **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.
29. **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.
30. **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.
31. **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.
32. **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.
33. **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, state and university representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of university, 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

- 34. 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.
- 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 acceptance of this agreement, 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. HIPAA/FERPA Language (if applicable)

- A. Use and Disclosure of University Data.** Contractor agrees to comply with all state and federal confidentiality laws in providing services under this Contract. Any University data that Contractor may access in performing its obligations (including individually identifiable health information covered by FERPA or HIPAA) shall be held in strict confidence and shall not be further used or disclosed unless authorized in writing by University or required by law. Contractor shall be required to sign a Business Associate Agreement as required by the Health Insurance Portability and Accountability Act (HIPAA)
- B. Safeguards.** Contractor shall develop, implement, maintain, and use reasonable and appropriate administrative, technical, and physical safeguards (as required by federal law) to protect the confidentiality, integrity and availability of University data in any form or media, created, received, maintained or transmitted on behalf of the University. Contractor shall document and keep these security measures current. Contractor shall cooperate in good faith in response to any reasonable requests from University to discuss, review, inspect, and/or audit Contractor's safeguards.
- C. Subcontractors.** If Contractor provides any University data received from, or created for, University to a subcontractor or agent, then Contractor shall require such subcontractor or agent to agree in writing to the same restrictions and conditions as are imposed on Contractor.
- D. Notice of Unauthorized Use or Disclosure, Security Incident or Breach.** Contractor agrees to notify the University of any use or disclosure of University data that is not permitted by the contract, or any security incident or breach involving the University data, within five (5) business days of discovery of the unauthorized use, security incident or breach. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a misuse or unauthorized disclosure of University data by the Contractor in violation of the requirements of this Section.

- E. **Red Flags.** Contractor shall be responsible for implementation of an Identity Theft Monitoring Policy and Procedure to protect individuals' information that may be breached by the Contractor under applicable Federal Trade Commission Regulations Red Flag Rules.
- F. **Disclosure of Practices, Books and Records.** Contractor agrees to make internal practices, books and records relating to the use and disclosure of University data received from the University, or created or received by Contractor on behalf of University, available to the University or the U.S. Department of Health and Human Services or the U.S. Department of Education in a time and manner designated by the University or relevant Department, for the purposes of determining the parties compliance with applicable federal confidentiality laws and corresponding regulations.
- G. **Termination.** Upon termination, cancellation, expiration, or other conclusion of the contract, Contractor shall return to University or, if return is not feasible, destroy all University data in whatever form or medium that Contractor received from or created on behalf of University. This provision shall also apply to all University data that is in the possession of subcontractors or agents of Contractor. In such case, Contractor shall retain no copies of such information. Contractor shall complete such return or destruction as promptly as possible, but not more than thirty (30) days after the effective date of the conclusion of this contract. Within such thirty (30) day period, Contractor shall certify in writing to University that such return or destruction has been completed. If Contractor destroys the University data, it shall be done with the use of technology or methodology that renders the data unusable, unreadable, or undecipherable to unauthorized individuals as specified by the U.S. Department of Health and Human Services ("HHS") for data covered by HIPAA. If Contractor believes that the return or destruction of the data is not feasible, Contractor shall provide written notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction is not feasible, Contractor shall extend the protections of the contract to the University data received from or created on behalf of University, and limit further uses and disclosures of such University data, for so long as Contractor maintains the data.
- H. **Indemnification.** Contractor agrees to indemnify, defend and hold harmless University and its respective employees, directors, officers, subcontractors, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this section entitled "Confidentiality" or from any acts or omissions related to this "Confidentiality" section by Contractor or its employees, directors, officers, subcontractors, agents or other members of its workforce. Contractor's obligation to indemnify any Indemnified Party shall survive the expiration or termination of the contract.
- I. **HIPAA Confidentiality:** Per the Health Insurance Portability and Accountability Act (1996) (HIPAA), the agency is a covered entity under the act and therefore Contractor is not permitted to use or disclose health information in ways that the agency could not. This protection continues as long as the data is in the hands of the Contractor.

The Contractor shall establish and maintain procedures and controls acceptable to the agency to protect the privacy of members' information. Unless the Contractor has the member's written consent, the Contractor shall not use any personally identifiable information obtained for any reason other than that mandated by this agreement

37. 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 quotes;
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 Director of Purchasing and Strategic Sourcing 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.

38. Experience: All bidders are preferred to have a minimum of 5 years continuous active participation in the applicable industry, providing equipment/services comparable in size and complexity to those specified herein.

Bidders may be required to furnish information supporting the capability to comply with conditions for bidding and fulfill the contract if receiving an award of contract. Such information may include, but not be limited to, a list of similar size and type projects the Bidder has completed.

39. Price Adjustments: On the yearly anniversary date of this contract, costs may remain at the price bid or a request for adjustment may be made, either upward or downward, keyed to industry changes. Contractor shall furnish documentation in writing at least 30 days prior to expiration date to substantiate any claim for increase. Price increases shall not exceed five percent (5%) of the existing contract. The University of Kansas reserves the right to accept, amend or deny any such price increase. If parties to the contract cannot agree on renewal terms, it is hereby understood that the contract will be re-bid.

40. 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.

41. **Unit Pricing:** Each item required by the bid must be individually priced (i.e. priced per single unit) and be able to be ordered individually.
42. **Indefinite Quantity Contract:** This Request is for an open-ended contract between a vendor and the University to furnish an undetermined quantity of a good or service in a given period of time. The quantities ordered will be those actually required during the contract period, and the Contractor will deliver only such quantities as may be ordered. No guarantee of volume is made. An estimated quantity based on past history or other means may be used as a guide.
43. **Demonstration Requirements:** A demonstration of the selected devices/equipment/solution for the using agencies may be required before final contract approval. The University of Kansas reserves the right to request said devices/equipment/solution fully configured/operational for testing, which shall be furnished at no expense to the University within ten (10) days after receipt of request. Devices/equipment will be returned at the bidder's expense if found to be non-compliant with the specifications as set forth in this quote.
44. **Quarterly Report Contact Information:** Contact information must be provided for use should the University of Kansas need to contact the appropriate officials within your company to discuss the issue of quarterly reports.
45. **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.
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. **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.
48. **Submission of the Bid:** Submission of the bid 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 quote 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.
49. **Contract Price:** University-wide contracts are awarded by the KU Procurement Services to take advantage of volume discount pricing for goods and services that have a recurring demand from one or more departments. However, if a University department locates a vendor that can provide the **identical item** at a **lower price**, a waiver to "buy off contract" may be granted by the KU Procurement Services.

50. **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.
51. **Award:** Award will be by line item or group total, whichever is in the best interest of the University of Kansas.

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CONTRACTUAL PROVISIONS ATTACHMENT

1. **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. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the University of Kansas or any of its affiliates ("University") to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The terms, conditions, and limitations of liability of the State of Kansas, the University, and their employees are defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

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, the University may terminate this agreement at the end of its current fiscal year. The University 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 under the contract for which it has not been paid. The University will pay 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 under this provision, title to any such equipment shall revert to contractor at the end of the University'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. **Kansas Law and Venue:** All matters arising out of or related to this agreement shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit arising out of or related to this agreement shall reside only in courts located in the State of Kansas.

5. **Required Non-Discrimination Provision:** Contractor agrees to comply with all applicable state and federal anti-discrimination laws. Contractor specifically 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 or if it is determined that the contractor has violated applicable provisions of ADA, such violation(s) shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the University. The provisions of this paragraph (except the 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 University cumulatively total \$5,000 or less during the fiscal year.

Contractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance individuals in employment without regard to race, color, religion, sex, national origin, protected veteran status or disability.

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 of this contract shall find that the University has agreed to binding arbitration, or the payment of damages or penalties. Further, the University does not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages or rights of action available to the University at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **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 University 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 University shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require the University to establish a "self-insurance" fund to protect against any such loss or damage.

11. **Information/Confidentiality**: As a state agency, the University's contracts are generally public records. Accordingly, no provision of this contract shall restrict the University's ability to produce this contract in response to a lawful request or from otherwise complying with the Kansas Open Records Act (K.S.A. 45-215 et seq.). Moreover, 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 of the State of Kansas and need not be reserved, but the University here reiterates that nothing in or related to this contract shall be deemed a waiver of the Eleventh Amendment.

13. **Campaign Contributions / Lobbying**: Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

14. **Privacy of Student Records**: Contractor understands that the University is subject to FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g) and agrees to handle any student education records it receives pursuant to this Agreement in a manner that enables the University to be compliant with FERPA and its regulations. Contractor agrees to protect the privacy of student data and educational records in a commercially reasonable manner and shall not transmit, share, or disclose any data about a student without the student's written consent, except to other University officials who seek the information within the context of his/her professionally assigned responsibilities and used within the context of official University business. Contractor shall promptly report to the University any disclosure of University's student educational records.