

## Request for Solicitation

**Solicitation Number:** 20011004  
**Solicitation Type:** Request for Proposals  
**Originating Department:** KU Internal Audit, KU Financial Services, KU Center for Research, KU Medical Center and the Research Institute

**Replaces Contract:** New Contract

**Date Released:** June 5, 2020

**Closing Time and Date:** 2:00 pm CT, June 30, 2020

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

**Item:** KU Internal Audit and Business Advisory Services

**Agency:** The University of Kansas  
Lawrence, Kansas

**Planned Period of Multiple-Award Contracts:** August 1, 2020 to July 31, 2023  
(With an option available to negotiate renewals)

**Monetary Guarantee:** No Monetary Guarantee or Bond is Required

**Scope of Project:** The University of Kansas (KU) is seeking proposals for Internal Audit and Business Advisory Services.

**Questions/Addenda:** No pre-proposal conference is scheduled for this Solicitation. Questions requesting clarification of the Solicitation must be submitted through the University's Ebid Portal's "Questions Tab", prior to **12:00 Noon CT on June 16, 2020**. Each question or clarification should reference the appropriate Solicitation section.

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

## **Scope of Work**

### **Internal Audit and Advisory Services**

The University of Kansas (to include all campus locations, the academic medical center, University Affiliates and Political Subdivisions of the State of Kansas) is seeking to enter into a multi-award contract with established, qualified, and experienced internal audit sourcing firms knowledgeable in providing quality internal audit resources in the areas of public higher education along with emerging internal audit issues. The services sought by KU are in the performance of a number of roles including: supplementing audit resources through staff augmentation; sourcing specific internal audit engagements; and sourcing specific technical experience in higher education, sponsored research, information technology, and related compliance risks. The services may include one or more of the following:

- Providing staff augmentation through co-sourcing when the need arises.
- Providing specific technical expertise in higher education, information technology, privacy, and sponsored research administration and related regulatory areas, assisting in audits in these areas.
- Conducting specific audits or advisory projects with the oversight of KU's internal audit office.
- Bringing thought leadership along with internal audit practices and tools that enhance the university's internal audit function.
- Providing in the broadest sense specialized services that may be required by an internal audit group.

Each non-exclusive contract award will be for a three-year term, with an option available to negotiate renewals.

## Accounting, Financial Reporting, and Tax Consulting Services

The University of Kansas (to include all campus locations, the academic medical center, University Affiliates and Political Subdivisions of the State of Kansas) is seeking to enter into a multi-award contract with established, qualified, and experienced firms knowledgeable in providing accounting, financial reporting, and tax consulting resources in the areas of public higher education. The services sought by KU are in the performance of a number of roles including: serving interim roles for accounting-related positions when vacancies exist; conducting narrowly-scoped financial audit engagements; and sourcing specific technical experience in accounting, financial reporting or tax issues related to higher education or sponsored research. The services may include one or more of the following:

- Compilation of financial statements and other reports.
- Providing for interim staff while recruiting to fill positions.
- Conducting narrowly-scoped financial attestations or audits for the university's auxiliary operations or controlled, affiliated 501(c)3 corporations.
- Providing implementation guidance for accounting standards under GASB or FASB.
- Providing technical expertise on tax issues related to international operations, including reviews or analysis of specific activities to determine foreign tax implications.
- Providing in the broadest sense specialized services that may be required to address accounting, financial reporting, and tax related matters for a large, public research university and academic medical center.

Each non-exclusive contract award will be for a three-year term, with an option available to negotiate renewals.

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Estimated annual volume on these joint services is approximately \$250,000. *This is estimated volume* to give bidders a guide to see what the University's historical spend was and is NOT a GUARANTEE of future business.

## Required Submittals:

**Proposed Fees** for services described in this Scope of Work shall be submitted through the “Line Item” Tab in the eBid Document. Additional expenses associated with a Statement of Work developed at the time the University identifies a need, shall be agreed on by both parties.

**Technical Proposal** shall include:

- Your firm’s contact information. This must include a person who is authorized to respond to any questions for clarification the University may have during our review of submittals.
- A concise presentation of your firm’s qualifications and resources available to meet the needs of a large, public research university and academic medical center.
- Examples of other Higher Ed projects similar to those described in this Scope of Work.
- Strategic Partnerships that you might wish to offer. See the section in the RFP that starts on Pg 10 which addresses this matter.
- At least 3 professional references. These references are preferred to be from the Higher Ed / Government Sector.

This shall be uploaded in the eBid “Response Attachment” Tab.

**Current W-9** on the most updated IRS form, signed within the past 12 months. This shall be uploaded in the eBid “Response Attachment” Tab.

## State of Kansas Tax Clearance Certificate

The University of Kansas strongly supports the State of Kansas Tax Clearance Process. Bidders submitting proposals which exceed \$25,000 shall include a copy of a Tax Clearance Certification. Failure to provide this information may be cause for rejection of a bidder’s proposal. 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://www.ksrevenue.org/taxclearance.html> to request a Tax Clearance Certificate, then

- Return to the website the following working day to see if KDOR issued the certificate.
- If issued an official certificate, print it and attach it to your bid response, in the “Response Attachments” Tab.
- 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 Solicitation response.

## INSTRUCTIONS

1. **Proposal Submission:** E-mailed or Telephoned Proposals will not be accepted unless otherwise specified. 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 electronic bid or container. Late proposals 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. **Proposal Reference Number:** The Solicitation 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 proposal.
3. **Negotiated Procurement:** This is a negotiated procurement pursuant to K.S.A. 76-769. Evaluation of the proposals and a recommendation for award will be made by The Procurement Negotiation Committee (PNC) consisting of the following entities (or their designees): Vice Provost for Administration and Finance or their designee; the KU Chief Procurement Officer or their designee; and a member of the appropriate University department.

The Director of Procurement Services will review the PNC recommendation and determine final award.

4. **Appearance Before Committee:** Any, all or no vendors may be required to appear before the PNC to explain the vendors 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 University. Prior to a specified cut-off time for revised offers, vendors may submit revisions to their technical and cost proposals. 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 University.

5. **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.
6. **Preparation of Proposal:** In case of error in computations or totals, the unit price shall govern. The

University 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 University reserves the right to reject proposals which contain errors.

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.

7. **Withdrawal of Proposals:** A proposal 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 Proposals:** Award shall be made in the best interest of the University as determined by The University of Kansas or their designees. Although no weighted value is assigned, consideration may focus toward but is not limited to:
  - a. 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 proposal without conducting formal negotiations if recommended by the University and approved by the Chief Procurement Officer.
  - b. Adequacy and completeness of proposal
  - c. Vendor's understanding of the project
  - d. Compliance with the terms and conditions of the Request
  - e. Experience in providing like services
  - f. Qualified staff
  - g. Methodology to accomplish tasks
  - h. Response format as required by this Request
10. **Acceptance or Rejection:** The University 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.
11. **Proposal Disclosures:** At the time of closing, only the name of the vendors who submitted proposals 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 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 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 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 contracting process, and be available for examination by all interested parties. No proposals shall be disclosed until after a contract has been signed by all required parties. The University reserves the right to destroy all proposals if the Solicitation is withdrawn; a contract award is withdrawn, or as otherwise provided by Kansas law. Late Technical and/or Cost proposals 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 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". 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 Solicitation unless clearly avowed and wholly documented in a separate section of the Technical Proposal 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 Proposals:** 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 proposal, 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  
**Solicitation #**  
1246 W. Campus Road, Rm. 30  
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 proposals are not acceptable unless otherwise specified.

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 may be returned to the bidder.

18. **Experience:** All bidders are preferred to have a minimum of 10 years continuous active participation in the applicable industry, providing 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.



19. **Indefinite Quantity Contract:** This solicitation 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 vendor 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.
20. **Ownership:** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the successful bidder under the contract will be owned by the University. *The successful bidder will be required not to release any materials without the written approval of the University.*
21. **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.
22. **Submission of the Bid:** Submission of the bid will be considered presumptive evidence that the bidder 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.
23. **Contract Price:** Bidder is advised that 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/unit 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.
24. **Award:** Award will be by line item or group total, whichever is in the best interest of the University of Kansas.

**Strategic Partnerships:** In addition to the opportunities surrounding RFP, strategic sponsorships have the ability to add value to the 'Campus Wide' partnership through the following opportunities:

- **Student Programs** – there are many student led programs that KU and KUMC is encouraging our strategic partners to participate in. Examples could be a food pantry for students, a campus wide bicycle initiative, or student organization specific events. The goal with these programs is for them to be student led, sustainable, and provide a meaningful impact to the campus community.
- **Scholarships** – please describe within your proposal how your organization would support various scholarship funds on campus, including the University, and the KU Medical Center?
- **Internships** – please consider adding value within your sponsorship program by including internship opportunities. KU and KUMC are looking to create exclusive opportunities for internships with our strategic partners. For example, our strategic partner could collaborate with KU and KUMC to provide graduate and undergraduate students exclusive or 'first rights' to apply for internships with our strategic partners. Please describe within your proposal how you would support this sponsorship component, including the University, the Office of Research and the KU Medical Center?
- **Technology** – please describe proposed innovative technology that your organization will bring to the strategic partnership. For example; innovative programs, virtual or digital concepts, proximity or bundled digital marketing programs, etc. Items or programs that would create a 'value added' experience for KU and KUMC students, faculty, and staff. Would your organization benefit from using KU and KUMC as a beta site for new services and programs targeted at the 18-24 year old age demographic? If so, please describe this process within your proposal.

**Optional Naming Rights Opportunities:**

- Opportunity for naming rights on major facilities. Please describe your interest in this opportunity. The specific opportunities will be outlined in the second phase of the proposal process.
- In addition to the opportunity for naming rights for major facilities, there is an opportunity to presentation rights for specific university programs. More information on enhanced or exclusive naming rights opportunities will be provided as part of the second step in the proposal process to the proposers that express an interest in this opportunity.

**Financial Offer Summary / Potential Sponsorship:**

- Proposals should include a Financial Offer Summary Form that describes an incentive program with details on specific strategic sponsorships, signing bonuses, commissions, rebates or incentives as well as other variables such as methods and frequency of payments.

**The proposal should include the following:**

1. Explain in detail any financial rebate/revenue share offer. Clearly describe any incentive/rebate levels influenced by performance and/or spend factors.
2. A description of your sponsorship program.

**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:
- 7.

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

**Vendor Address**

**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.

8. **Contract Documents; Order of Precedence:** This solicitation and any amendments thereto, and the Contractor's proposal or bid and any amendments thereto are hereby incorporated, along with the KU-146a, into this contract by this reference and 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;

Subsequent written modifications to this contract, executed by both parties hereto;

University of Kansas General Terms and Conditions;

University's solicitation including any and all addenda; and

Contractor's written proposal submitted in response to this solicitation as finalized.

9. **Integration:** This contract, in its final composite form, will represent the entire agreement between the parties and will 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 will be independent of and have no effect on any other contracts of either party.
10. **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 Contractor.
11. **Modification:** This contract may only be modified by written agreement of the parties. No alteration or variation of the terms and conditions of this contract will be valid unless made in writing and signed by the parties. Every amendment must specify the date on which its provisions will be effective.
12. **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
- i. 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.
  - ii. 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.
13. **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 University. In the event that the Director elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least thirty (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.
14. **Accounts Receivable Set-Off Program:** 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 Contractor benefits fully from the payment because its obligation to the State is reduced by the amount subject to setoff.
- During the course of this contract if the Contractor is found to owe a debt to the State of Kansas, payments to the Contractor may be intercepted / set off by the State of Kansas. Notice of the setoff action will be provided to the Contractor. The Contractor shall credit the University's account in an amount equal to the funds intercepted.
15. **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 (2) years after that state employee's termination of employment with the State.

16. **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.

17. **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.

18. **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.

19. **Industry Standards:** Materials or work called for in this contract will be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations that apply.
20. **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.
21. **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.

22. **Third Party Beneficiaries:** This contract does not provide any enforceable rights to any third party.

23. **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.
24. **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.
25. **Proof of Insurance:** Upon request, the Contractor shall present satisfactory evidence of Workers' Compensation, Commercial Liability, and Property Damage Insurance to KU Procurement Services.
26. **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.

27. **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.
28. **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 contract, the Contractor and each of the persons and entities working for the Contractor shall destroy or return at University's request 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. **Treatment of Confidential Information.** Contractor may have access to information and private or confidential data ("confidential information"), maintained by University, to the extent necessary to carry out Contractor's responsibilities under this contract. This confidential information 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 confidential information 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. Except as otherwise expressly provided, Contractor may not disclose any confidential information 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 laws regarding confidentiality and/or open records issues. No private or confidential data collected, maintained, or used in the course of performance of this contract may be disseminated by Contractor except as required by statute, either during the period of this 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 the University without the University's prior written approval.
  3. The Contractor shall hold all such confidential information in trust and confidence for the University, and agrees that 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. Upon University's request, any staff, individual or entity assigned to work for Contractor under this contract 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 contract 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. 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, 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 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 confidential information identified by Contractor or any agent, representative, employee or subcontractor of Contractor. Contractor shall notify the University of any loss or breach of confidential information 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 or 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 confidential information. Contractor shall provide notice to the University and affected individuals of such disclosure. In addition to any remedial measures required by law or applicable legal, governmental or regulatory authority, Contractor shall cover costs of losses for remedial measures to individuals to include but are not limited to, costs of notification to individuals, establishment and operation of call centers, credit monitoring for a period of twelve (12) months and restoration services. Contractor will require these same terms herein to apply to any of third party vendor or subcontractor of Contractor. The University shall in its sole discretion make the final determination of necessary remedial measures required by this provision.

F. **Survive Termination.** The provisions of this Section, Confidentiality, shall survive termination of this contract.

29. **Injunctions:** Should the University 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, Contractor shall not be entitled to make or assert claim for damage by reason of said delay.
30. **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.
31. **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.
32. **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.
33. **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 that are owned by the University. 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.

34. **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.

35. **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.

36. **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 contract, 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.

37. **Federal Defend Trade Secrets Act (DTSA):** All contractors are expected to comply with the Federal Defend Trade Secrets Act (DTSA), as may be amended from time to time. Contractor warrants and represents that Contractor has complied with the notice requirements of DTSA's whistleblower immunity provisions. 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 violation of DTSA 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.

**38. 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. Only if applicable, the 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 (including any 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 University could not. This protection continues as long as the data is in the Contractor's possession.

The Contractor shall establish and maintain procedures and controls acceptable to the University 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.

39. **Incorporated Terms:** The Vendor Suspension, Vendor Debarment, and Dispute Resolution sections of the University's Purchasing Procedures Manual, which is available at <http://procurement.ku.edu/purchasing-policy-and-procedures>, are incorporated herein by this reference for all purposes and shall govern the parties' obligations and responsibilities with respect to the same subject matter. The University may revise and update these sections of the Purchasing Procedures Manual at any time and at the University's discretion and without notice. When any change is made, a revised version will be posted upon effective date.

40. **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 contractor.

41. **Prices:** Prices shall remain firm for the entire initial contract period. Prices quoted shall be net delivered, including all trade, quantity and cash discounts. Any price reductions available during the contract period shall be offered to the University. Failure to provide available price reductions may result in termination of the contract.

42. **Payment:** Payment Terms are Net 30 days. Payment date and receipt of order date shall be in accordance with the Kansas Prompt Payment Act, 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 30<sup>th</sup> 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 Contractor and the state agency. NOTE: If the 30<sup>th</sup> 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 Contractor's response to the University's solicitation.

43. **Indefinite Quantity Contract:** This contract is an open-ended contract between the Contractor 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.*
44. **Contingencies:** The Contractor warrants and represents that Contractor 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.
45. **Charge Back Clause:** If the Contractor fails to deliver the product within the delivery time stated in this contract, the University reserves the right to purchase the product from the open market and charge back the difference between contract price and open market price to the Contractor.
46. **Warranty:** The Contractor shall be responsible for all work performed under these specifications. The Contractor shall make good, repair and replace, at the Contractor's own expense, as may be necessary, any defective work, material acceptance, if in the opinion of the business unit and/or KU Procurement Services said defect is due to imperfection in material, design, or workmanship for the warranty period specified.
47. **Acceptance:** No contract provision or use of items by the University shall constitute acceptance or relieve the Contractor of liability in respect to any expressed or implied warranties.
48. **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 University. The Contractor may not release any materials without the written approval of the University.
49. **Software Code and Intellectual Property Rights:** As applicable, all original software and software code and related intellectual property developed or created by the Contractor in the performance of its obligations under this contract, shall become the sole property of the University. The Contractor will surrender all original written materials, including any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material, used to develop this software and/or software code and related intellectual property to the state entity for which it was developed.
50. **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/unit 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.

State of Kansas  
University of Kansas  
KU-146a (Rev. 05-2018)

### 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. In accordance with the Governor's Executive Order 18-04, the University has policies prohibiting sexual harassment, discrimination, and retaliation. The University's applicable policies on sexual harassment, discrimination, and retaliation are available at <http://policy.ku.edu/> and provide for confidentiality and anonymous reporting.

**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.