REQUEST FOR PROPOSAL (RFP)

RFP Number: B0001606
Date Mailed: June 21, 2019
Closing Date: July 31, 2019 before 2:00 PM
Procurement Officer: Steven White
Telephone: 316-978-3782
E-Mail Address: steven.white@wichita.edu

Item: Compensation Market Survey Software

Agency: Wichita State University (WSU)
Location(s): 1845 Fairmount, Campus Box 12
Wichita, KS 67260-0012

Period of Contract: The term of this contract shall begin with the award of the contract and continue for three (3) years. There will be a maximum of five (5) additional one (1)-year renewal periods with the written agreement of both parties.

Guarantee: No Monetary Guarantee Required

Scope: This Contract shall cover the procurement of a Compensation Market Survey Software Solution for WSU during the contract period referenced above.

Definition: For the purposes of this contract, WSU means Wichita State University and entities/corporations directly affiliated with Wichita State University, including but not limited to the Rhatigan Student Center

READ THIS REQUEST CAREFULLY

Failure to abide by all of the conditions of this Request may result in the rejection of a bid. Inquiries about this Request should indicate the contract number and be directed to the procurement officer.

RFP Number B0001606 was recently posted to the WSU Office of Purchasing Internet website. The document can be downloaded by going to the following website:

www.wichita.edu/purchasing

It shall be the bidder’s responsibility to monitor this website on a regular basis for any changes/addenda.
SIGNATURE SHEET

Item: Compensation Market Survey Software

Closing Date: July 31, 2019

We submit a proposal to furnish requirements during the contract period in accordance with the specifications and Schedule of Supplies. I hereby certify that I (we) do not have any substantial conflict of interest sufficient to influence the bidding process on this bid. A conflict of substantial interest is one which a reasonable person would think would compromise the open competitive bid process.

Addenda: The undersigned acknowledges receipt of the following addenda:

#1(____)#2(____) #3(____) None(____)

Legal Name of Person, Firm or Corporation

Toll Free Telephone Local Fax

E-Mail

Mailing Address City & State Zip Code

FEIN Number

Signature Date

Typed Name of Signature Title

In the event the contact for the bidding process is different from above, please indicate contact information below.

Address City & State Zip Code

Toll Free Telephone Local Fax

E-Mail

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

Address City & State Zip Code

Toll Free Telephone Local Fax

E-Mail
TAX CLEARANCE

Wichita State University strongly supports the State of Kansas Tax Clearance Process. Vendors submitting bids or proposals which exceed $25,000 over the term of the contract shall include a copy of a Tax Clearance Certification Form with their submittal. Failure to provide this information may be cause for rejection of a vendor’s bid or proposal.

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 changes(s), which may arise as a result of a State Tax Audit, Federal Revenue Agent Report, or other lawful adjustment(s).

To obtain a Tax Clearance Certificate, you must:

- Go to https://www.kdor.ks.gov/apps/taxclearance/Default.aspx 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 was not issued

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

Please Note: Individual and business applications are available. For applications entered prior to 5:00 PM Monday through Friday, results typically will be available the following business day. Tax clearance results may be denied if the request includes incomplete or incorrect information.

Please Note: You will need to sign back into the KDOR website to view and print the official tax clearance certificate.

A copy of the Certification of Tax Clearance form received from the Kansas Department of Revenue should be sent along with the bid response to:

Wichita State University
Purchasing Office
1845 Fairmount Street, Campus Box 012
Wichita, KS 67260-0012

Failure to provide this information may be cause for rejection of vendor’s bid or proposal.

Information about Tax Registration can be found at the following website:
http://www.ksrevenue.org/forms-btreg.html

The WSU Purchasing Office reserves the right to confirm tax status of all potential contractors and subcontractors prior to the release of a purchase order or contract award.

In the event that a current tax certificate is unavailable, the WSU Purchasing Office reserves the right to notify a bidder (one that has submitted a timely event response) that they have to provide a current Tax Clearance Certificate within ten (10) calendar days, or WSU may proceed with an award to the next lowest responsive bidder, whichever is determined by the Purchasing Director to be in the best interest of WSU and the State.
CERTIFICATION REGARDING IMMIGRATION REFORM & CONTROL

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

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

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

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

__________________________________________________________

Signature and Title of Contractor
SECTION I
CONDITIONS TO BIDDING

1.1. **Proposal Reference Number**: B0001606 has been assigned to this Request and MUST be shown on all correspondence or other documents associated with this Request and MUST be referred to in all verbal communications. All inquiries, written or verbal, shall be directed to the procurement officer only.

**Procurement Officer: Steven White**
Telephone: 316-978-3782
Facsimile: 316-978-3528
E-mail Address: steven.white@wichita.edu
Wichita State University
Office of Purchasing
1845 Fairmount, Campus Box 12
Wichita, KS 67260-0012

No communication is to be had with any other WSU employee regarding this Request except with designated participants in attendance **ONLY DURING**:

- Negotiations
- Contract Signing
as otherwise specified in this Request.

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

1.2. **Negotiated Procurement**: This is a negotiated procurement. Final evaluation will be made by the below team members with the final decision being made by the Executive Director of Human Resources

- Jamie Olmsted, Director, HR Total Rewards
- Susan Martin, Director HR Operations & Systems
- Vickie Chrisman, HRMS Lead
- Micah Thompson, Compensation Analyst
- Toney Flack, CIO
- Steven White, Director of Purchasing

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

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

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

1.4. **Questions/Addenda**: No pre-proposal conference is scheduled for this Request for Proposal. Questions requesting clarification of the Request for Proposal must be submitted in WRITING to the Procurement Officer prior to the close of business on June 28, 2019 to the following address:
Procurement Officer: Steven W. White
E-mail Address: steven.white@wichita.edu

Failure to notify the Procurement Officer of any conflicts or ambiguities in this Request for Proposal may result in items being resolved in the best interest of WSU. Any modification to this Request shall be made in writing by addendum and mailed to all vendors who received the original request. Only written communications are binding.

Any correspondence by potential bidders, with the using agency, must be documented in writing and submitted to the Office of Purchasing, to be considered for any possible addenda, and/or in the evaluation of the bid. Any change in specification shall be authorized only by the Office of Purchasing and will be issued by written addendum.

1.5. 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. All responses will become the property of WSU and will be a matter of public record subsequent to signing of the contract or rejection of all bids.

1.6. Evaluation of Proposals: The evaluation of the proposals will be performed by the evaluation team. WSU reserves the right to make an award not based on cost alone, but on the criteria which best meets the needs of the University. The decision of WSU will be final and binding. Proposals will be evaluated on the basis of (but may not be limited to) the following criteria:

1.6.1. Response provides detailed WSU program specific information based on the request and format identified and demonstrates the Vendor’s understanding of the entire scope;
1.6.2. Response that is in compliance with the terms and conditions of the request;
1.6.3. Response demonstrates that vendor’s product has the ability to integrate or can accept a data file created from the Ellucian Banner Software product though a secure process/site
1.6.4. Response demonstrates that vendor’s product has the ability to integrate or can create a data file that can be accepted by the Ellucian Banner Software product
1.6.5. Response demonstrates that the vendor has single sign-on capabilities
1.6.7. Response demonstrates that product is compliant with the American with Disabilities Act (ADA)
1.6.8. Response demonstrates that the product has the ability to be configurable to meet complex organizational business strategies within the higher education industry related to workforce management
1.6.9. Response demonstrates that the product offers intuitive navigation and robust workflow allowing for end user successful adoption and automation of business processes
1.6.10. Response demonstrates a commitment to be a good partner, ensuring WSU improves efficiencies, decreases duplication and expenses, and ensure compliance
1.6.11. Response that demonstrates a high level of importance on establishing scope, timeline, outcomes and the ability to monitor Key Performance Indicators;

1.7. Acceptance or Rejection: The evaluation team 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.

1.8. Contract: The successful vendor may be required to enter into a written contract with WSU. The vendor agrees to accept the provisions of form DA-146a, Contractual Provisions Attachment, which is attached to this Request. If the vendor will not or cannot comply with any of the terms and conditions contained within this Request for Proposal, it will be their responsibility to make specific mention of conflicting terms in their proposal, and otherwise the terms and conditions of this document will prevail.

1.9. Contract Documents: This Request and any amendments and the response and any amendments of the successful vendor shall be incorporated along with the DA-146a into the written contract which shall compose the complete understanding of the parties.
1.10. **Conflict in Document:** In the event of a conflict in terms of language among the documents, the following order of precedence shall govern:

1.10.1. Form DA-146a;
1.10.2. written modifications to the executed contract;
1.10.3. written contract signed by the parties;
1.10.4. this Request including any and all addenda; and
1.10.5. vendor’s written proposal submitted in response to this Request as finalized.

1.11. **Contract Formation:** No contract shall be considered to have been entered into by WSU until all statutorily required signatures and certifications have been rendered; funds for the contract have been encumbered; and a written contract, if required, has been signed by the successful vendor.

1.12. **Open Records Act (K.S.A. 45-205 et seq.):** All proposals become the property of WSU. Kansas law requires all information contained in proposals to become open for public review once a contract is signed or all proposals are rejected.

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

1.14. **Debarment of Vendors.** Any vendor who defaults on delivery as defined in this Request may, be barred (a) After reasonable notice to the vendor involved and reasonable opportunity for that vendor to be heard, the Procurement Officer, after consultation with the contracting agencies, shall have authority to debar a vendor for cause from consideration for award of contracts. The debarment shall not be for a period exceeding three years. The Procurement Officer, after consultation with the contracting agencies, shall have authority to suspend a vendor from consideration for award of contracts if there is probable cause to believe that the vendor has engaged in any activity which might lead to debarment. The suspension shall not be for a period exceeding three months unless an indictment has been issued for an offense which would be a cause for debarment under subsection (b), in which case the suspension shall, at the request of the Procurement Officer, remain in effect until after the trial of the suspended person.

1.16. **Insurance:** WSU shall not be required to purchase any insurance against loss or damage to any personal property nor shall WSU establish a “self-insurance” fund to protect against any loss or damage. Subject to the provisions of the Kansas Tort Claims Act, the vendor shall bear the risk of any loss or damage to any personal property.

**SECTION II**

**PROPOSAL INSTRUCTIONS**

2.1. **Preparation of Proposal:**

ALL COPIES OF PROPOSALS SHALL BE SUBMITTED IN A SEALED ENVELOPE OR CONTAINER. THE OUTSIDE SHALL BE IDENTIFIED CLEARLY WITH THE REQUEST NUMBER AND CLOSING DATE.

A proposal shall not be considered for award if the price in the proposal was not arrived at independently and without collusion, consultation, communication or agreement as to any matter related to price with any other vendor, competitor or public officer/employee.
Technical proposals shall contain a concise description of vendor’s capabilities to satisfy the requirements of this Request for Proposal with emphasis on completeness and clarity of content. Repetition of terms and conditions of the Request for Proposal without additional clarification shall not be considered responsive.

Vendors are instructed to prepare their Proposal following the same sequence as the RFP.

2.2. Submission of Proposals: Vendor’s proposal shall consist of:

One (1) copy of the Proposal, including literature and other supporting documents sealed securely in an envelope or other container, shall be received promptly by 2:00 PM Central Time on July, 31, 2019 addressed as follows:

Wichita State University  
Office of Purchasing  
1845 Fairmount, Campus Box 12  
Wichita, KS 67260-0012  
Request for Proposal: B0001606  
Closing Date: July 31, 2019

Additionally, one (1) electronic version of the technical and financial proposals shall be submitted with the above documents.

Faxed or telephoned proposals are not acceptable unless otherwise specified.

Proposals received prior to the closing date shall be kept secured and sealed until closing. WSU 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.

2.3. Signature of Proposals: Each proposal shall give the complete mailing address of the vendor and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line. Each proposal shall include the vendor’s social security number or Federal Employer’s Identification Number.

2.4. Acknowledgment of Addenda: All vendors shall acknowledge receipt of any addenda to this Request. Failure to acknowledge receipt of any addenda may render the proposal to be non-responsive. Changes to this Request shall be issued only by the Office of Purchasing in writing.

2.5. Modification of Proposals: A vendor may modify a proposal by letter, email or by FAX transmission at any time prior to the closing date and time for receipt of proposals.

2.6. Withdrawal of Proposals: A proposal may be withdrawn on written request from the vendor to the Procurement Officer at the Office of Purchasing prior to the closing date.

2.7. Proposal Disclosures: At the time of closing, only the names of those who submitted proposals shall be made public information. No price information will be released. Interested vendors or their representatives may be present at the announcement at the following location:

Wichita State University  
Office of Purchasing  
1845 Fairmount  
Morrison Hall, Room 021  
Wichita, KS 67260
Copies of individual proposals may be obtained under the Kansas Open Records Act by calling 316-978-5582 to request an estimate of the cost to reproduce the documents and remitting that amount with a written request to the above address or a vendor may make an appointment by calling the above number to view the proposal file. Upon receipt of the funds, the documents will be mailed. Information in proposal files shall not be released until a contract has been executed or all proposals have been rejected.

2.8. **Notice of Award:** An award is made on execution of the written contract by all parties. Only WSU is authorized to issue news releases relating to this Request, its evaluation, award and/or performance of the contract.

### SECTION III

#### GENERAL PROVISIONS

3.1. **Term of Contract:** The term of this contract is for a three (3) year period from the date of award with a maximum of five (5) additional one (1) year renewal(s) by written agreement and acceptance of both the parties.

3.2. **Inspection:** WSU reserves the right to reject, on arrival at destination, any items which do not conform to the specifications of this Request.

3.3. **Termination for Cause:** The WSU Director of Purchasing may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

3.3.1. the Vendor fails to make delivery of goods or services as specified in this contract; or

3.3.2. the Vendor 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 WSU Director of Purchasing shall provide Vendor with written notice of the conditions endangering performance. If the Vendor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as WSU may authorize in writing), the WSU Director of Purchasing shall issue the Vendor 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.

3.4. **Termination for Convenience:** The WSU Director of Purchasing may terminate performance of work under this contract in whole or in part whenever, for any reason, the Director of Purchasing shall determine that the termination is in the best interest of WSU. In the event that the WSU Director of Purchasing elects to terminate this contract pursuant to this provision, it shall provide the Vendor 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 Vendor shall continue to perform any part of the work that may have not been terminated by the notice.

3.5. **Notices:** All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively “notices”) which may be required or desired to be given by either party to the other shall be **IN WRITING** and addressed as follows:

Wichita State University  
Office of Purchasing, Director of Purchasing  
1845 Fairmount, Campus Box 12  
Wichita, KS 67260-0012

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

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

If it is determined, after notice of termination for cause, that Vendor's failure was due to causes beyond the control of or negligence of the Vendor, the termination shall be a termination for convenience.

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

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

3.7. **Force Majeure:** The Vendor shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the Vendor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Vendor's employees, and freight embargoes, etc.

3.8. **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 WSU shall not constitute a waiver.

3.9. **Ownership:** All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Vendor under this contract shall be owned by the using agency. The Vendor may not release any materials without the written approval of the using agency.

3.10. **Independent Vendor:** 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 Vendor 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.

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

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

3.12. **Conflict of Interest:** The Vendor 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 WSU and who are providing services involving this contract or services similar in nature to the scope of this contract to WSU. Furthermore, the Vendor shall not knowingly employ, during the period of this contract or any extensions to it, any WSU employee who has participated in the making of this contract until at least two years after his/her termination of employment with WSU.

3.13. **Confidentiality:** The Vendor may have access to private or confidential data maintained by WSU to the extent necessary to carry out its responsibilities under this contract. Vendor must comply with all the requirements of the Kansas Open Records Act in providing services under this contract. Vendor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Vendor must agree to return any or all data furnished by WSU promptly at the request of WSU in
whatever form it is maintained by Vendor. On the termination of expiration of this contract, Vendor will not use any of such data or any material derived from the data for any purpose and, where so instructed by WSU, will destroy or render it unreadable.

3.14. **Reviews and Hearings:** The Vendor agrees to advise the Director of Purchasing of all complaints of recipients made known to the Vendor and refer all appeals or fair hearing requests to the Director of Purchasing. WSU has the discretion to require the Vendor to participate in any review, appeal, fair hearing or litigation involving issues related to this contract.

3.15. **Nondiscrimination and Workplace Safety:** The Vendor 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.

3.16. **Environmental Protection:** The Vendor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. The Vendor shall report any violations to the applicable governmental agency. A violation of applicable laws, rule or regulations may result in termination of this contract.

3.17. **Hold Harmless:** The Vendor shall indemnify WSU against any and all loss or damage to the extent arising out of the Vendor’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.

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

3.18. **Care of WSU Property:** The Vendor shall be responsible for the proper care and custody of any state owned personal tangible property and real property furnished for Vendor's use in connection with the performance of this contract, and Vendor will reimburse WSU for such property's loss or damage caused by Vendor, normal wear and tear excepted.

3.19. **Prohibition of Gratuities:** Neither the Vendor nor any person, firm or corporation employed by the Vendor 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 WSU employee at any time.

3.20. **Retention of Records:** Unless WSU specifies in writing a shorter period of time, the Vendor 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 Vendor agrees that authorized federal and state representatives, including but not limited to, WSU personnel; independent auditors acting on behalf of WSU 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 WSU.

3.21. **Federal, State and Local Taxes Vendor:** WSU makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Vendor.

3.22. **Antitrust:** If the Vendor elects not to proceed, the Vendor assigns to WSU 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 State of Kansas relating to the particular products or services purchased or acquired by WSU pursuant to this contract.
3.23. **Anti-Kickback:** When WSU has reasonable grounds to believe that a violation of the Anti-Kickback Act of 1986 may have occurred, the university shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting department or agency of the United States or the Department of Justice.


The Contracting Officer may (1) offset the amount of kickback against any monies owed by the United States under the prime contract and/or (2) direct that the Prime Vendor withhold from sums owed a vendor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (1) of this clause be paid over to the United State Government unless the Government has already offset those monies under subdivision (2) of this clause. In either case, the Prime Vendor shall notify the Contracting Officer when the monies are withheld. WSU agrees to incorporate the substance of this clause, including this subparagraph in all subcontracts which exceed $100,000.

3.24. **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.

3.25. **Assignment:** The Vendor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of WSU.

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

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

3.27. **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.

3.28. **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.

3.29. **Governing Law:** This contract shall be governed by the laws of the State of Kansas and shall be deemed executed at Wichita, Sedgwick County, Kansas.

3.30. **Jurisdiction:** The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas, District Court of Sedgwick County. The United States District Court for the State of Kansas sitting in Wichita, Sedgwick County, Kansas, shall be the venue for any federal action or proceeding arising hereunder in which WSU is a party.

3.31. **Mandatory Provisions:** The provisions found in Contractual Provisions Attachment (DA-146a) which is attached are incorporated by reference and made a part of this contract.

3.32. **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.

3.33. **Criminal Or Civil Offense Of An Individual Or Entity That Controls A Company Or Organization Or Will Perform Work Under This Contract:** Any conviction for a criminal or civil offense 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 vendor. 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.

3.34. **Competition:** The purpose of this Request is to seek competition. The vendor shall advise the Office of Purchasing 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 Office of Purchasing no later than five (5) business days prior to the bid closing date. The Director of Purchasing reserves the right to waive minor deviations in the specifications which do not hinder the intent of this Request.

3.35. **Injunctions:** Should 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 WSU, vendor shall not be entitled to make or assert claim for damage by reason of said delay.

3.36. **Acceptance:** No contract provision or use of items by WSU shall constitute acceptance or relieve the vendor of liability in respect to any expressed or implied warranties.

3.37. **Breach:** Waiver or any breach of any contract term or condition shall not be deemed a waiver of any prior or subsequent breach. No contract term or condition shall be held to be waived, modified, or deleted except by a written instrument signed by the parties thereto.

If any contract term or condition or application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application To this end the contract terms and conditions are severable.

3.38. **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.

3.39. **New Materials, Supplies or Equipment:** Unless otherwise specified, all materials, supplies or equipment offered by a vendor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery.

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

Trade secrets or proprietary information legally recognized as such and protected by law may be requested to be withheld if clearly labeled “Proprietary” on each individual page and provided as separate from the main proposal. Pricing information is not considered proprietary and the vendor’s entire proposal response package will not be considered proprietary.
All information requested to be handled as “Proprietary” shall be submitted separately from the main proposal and clearly labeled, in a separate envelope or clipped apart from all other documentation. The vendor shall provide detailed written documentation justifying why this material should be considered “Proprietary”. The Division of Purchases reserves the right to accept, amend or deny such requests for maintaining information as proprietary in accordance with Kansas law.

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

3.41. **Exceptions**: By submission of a response, the vendor acknowledges and accepts all terms and conditions of the RFP unless clearly avowed and wholly documented in a separate section of the Technical Proposal to be entitled: “Exceptions”.

**SECTION IV**

**SPECIAL PROVISIONS**

4.1. **Sub vendors**: The vendor shall be the sole source of contact for the contract. WSU will not subcontract any work under the contract to any other firm and will not deal with any sub vendors. The Vendor is totally responsible for all actions and work performed by its sub vendors. All terms, conditions and requirements of the contract shall apply without qualification to any services performed or goods provided by any sub vendor.

4.2. **Payment Terms**: Unless specified otherwise, 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 WSU. 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.

The statute further defines the date goods or services are received as the date such goods or services are completely delivered and finally accepted by WSU. The date the payment is made by WSU is defined as the date on which the warrant or check for such payment is dated, i.e. warrant issue date.

4.3. **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 proposal for all contingencies. Later claims for labor, work, materials, and equipment required for any difficulties encountered which could have foreseen will not be recognized and all such difficulties shall be properly taken care of by Vendor at no additional cost to WSU.

4.4. **Insurance**: The Successful Vendor shall present an affidavit of Worker's Compensation, Public Liability, and Property Damage Insurance to the Office of Purchasing.

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

4.6. **Shipping and F.O.B. Point**: Unless otherwise specified, bid prices shall be F.O.B. DESTINATION, PREPAID AND ALLOWED (included in the price bid), which means delivered to WSU's receiving dock or other designated point as specified in this Request without additional charge. Shipments shall be made in order to arrive at the destination at a satisfactory time for unloading during regular working hours between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

4.8. **Equipment**: All offered equipment, equipment options, and hardware expansions must be identified by manufacturer and model number and descriptive literature of such equipment must be submitted with the bid.
4.9. **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.

4.10. **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.

4.11. **Technical Literature**: All bids shall include specifications and technical literature sufficient to allow WSU to determine that the equipment meets all requirements. This technical literature will be the primary source for bid evaluation. If a requirement is not addressed in the technical literature it must be supported by additional documentation and included with the bid. Bid responses without sufficient technical documentation may be rejected.

4.12. **Default on Delivery**: Any vendor who defaults on delivery as defined in this Request may, be barred from bidding on any subsequent Request for a period to be determined.

4.13. **Indefinite Quantity Contract**: This Request is for an open-ended contract between a vendor and WSU to furnish an undetermined quantity of a good or service in a given period of time. An estimated quantity based on past history or other means may be used as a guide.

4.14. **Prices**: Prices shall remain firm for the initial 3-year 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 WSU. Failure to provide available price reductions may result in termination of the contract.

4.15. **Price Adjustments**: On each renewal date of this contract, prices as bid may remain at the price bid or may be based on a price adjustment, either upward or downward, keyed to industry and changes. Vendor shall furnish figures as part of the Annual Plan to substantiate any claim for increase at least 60 days prior to any renewal period in which an increase is requested. Price increases shall not exceed 3% per increase. If parties to the contract cannot agree on renewal terms, it is hereby understood that the contract will be re-bid.

4.16. **Upgrades**: Bidders shall indicate the upgrade price and policy for any software, firmware, or hardware upgrades anticipated for the equipment bid. If the upgrades are provided without cost, this should be indicated.

4.17. **Payments**: Payments shall not be made for costs or items not listed in the vendor’s response.

4.18. **Documentation**: Examples of documentation delivered by the manufacturer with purchase of items shall be included. Vendor must be able to deliver additional copies (beyond the response set) of documentation on an immediate basis for use in the evaluation process. Within the section, vendors may use any format. Include detailed, standard, published literature describing each equipment item and feature offered.

If asked, vendors shall deliver additional copies of response documentation immediately. Within the section, vendors may use any format. Include detailed, standard, published literature describing each item and feature offered.

4.19. **Warranty**: Standard Manufacturer's Warranty, for all equipment bid, is to be considered a part of these conditions. All defective items shall be replaced free of charge.

Bidders must provide a ONE (1) year PARTS AND LABOR warranty on all devices and/or labor provided as part of a award that results from this Request for Quotation.

The successful bidder will be the sole point of contact on any problems with the equipment or systems during the warranty period.
The vendor shall be responsible for all work put in under these specifications. The vendor shall make good, repair and replace, at the vendor's own expense, as may be necessary, any defective work, material acceptance, if in the opinion of agency said defect is due to imperfection in material, design, or workmanship for the warranty period specified.

Bidders shall indicate the type and extent of the warranty for all equipment, hardware, software, and services proposed.

4.20. **Certification of Specifications Compliance**: 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.

4.21. **Certification of Materials Submitted**: The response to this request, together with the specifications set forth herein and all data submitted by the vendor to support the response including brochures, manuals, and descriptions covering the operating characteristics of the item(s) proposed, shall become a part of any contract between the successful vendor and WSU. Any written representation covering such matters as reliability of the item(s), the experience of other users, or warranties of performance shall be incorporated by reference into the contract.

4.22. **Experience**: All bidders must have a minimum of three (3) years continuous active participation in the applicable industry as a distinct company, providing services, equipment and systems comparable in size and complexity to the equipment and systems specified.

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.

## SECTION V
### STATEMENT OF WORK

5.1 **Background and Scope**:  
Wichita State University is a public research university that was founded in 1895 in Wichita, Kansas. It is the third-largest university governed by the Kansas Board of Regents. The campus spans 330 urban acres. The mission of Wichita State University is to be an essential educational, cultural, and economic driver for Kansas and the greater public good.

WSU offers more than 70 undergraduate degree programs in more than 200 areas of study in eight academic colleges. The Graduate School offers 41 master's degree programs and 12 doctoral degree programs. The most popular majors at WSU include: business, management, marketing, and related support services, health professions and related programs, engineering, education and homeland security, law enforcement, firefighting and related protective services.

WSU is an NCAA Division I institution and fields teams in tennis, cross-country, basketball, track, golf, men's baseball and women's volleyball and softball. The name for WSU's athletic teams is the Shockers and, collectively, students are also referred to as being "Shockers." The name reflects the University's heritage: Early students earned money by shocking, or harvesting, wheat in nearby fields.

With the development of the WSU Strategic Plan, the Innovation Campus went from a concept to reality. Innovation Campus refers to the development of the 150 acres of land formerly occupied by Braeburn Golf Course into a location that helps us live our values and fulfill our vision, mission, and goals. The goals of the Strategic Plan:
1. Guarantee an applied learning or research experience for every student by each academic program.
2. Pioneer an educational learning experience for all that integrates interdisciplinary curricula across the university.
3. Capitalize systemically on relevant existing and emerging societal and economic trends that increase quality educational opportunities.
4. Accelerate the discovery, creation and transfer of new knowledge.
5. Empower student to create a campus culture and experience that meets their changing needs.
6. Be a campus that reflects – in staff, faculty and students – the evolving diversity of society.
7. Create a new model of assessment, incentive and reward processes to accomplish our vision and goals.

5.2 Services to be Provided:
WSU is exploring the feasibility of using a third party Compensation Survey Management Software that will interface with our current ERP Ellucian’s Banner, specifically, the Human Resource and Payroll modules. The RFP process will include a review of the written responses and selected on-site demonstrations of the product and its functionality. It is requested that the vendor be able to provide, as part of the on-site demonstration, the opportunity for the evaluation team to engage in “hands on” exploration of the product to assess its functionality, intuitiveness, and understand the user experience. This is a critical step for successful adoption. In addition, a separate technical call will take place with WSU’s Information Technology Services team to assess infrastructure and other important technical aspects of the product.

As part of an implementation, WSU will go through a business transformation process and requests the vendor engages in this activity to bring leading practices related to the implementation of a market based compensation philosophy and structure, and assists WSU in leveraging the technology investment through process automation and efficiencies and decreasing our compliance related risks.

In order to participate in the RFP process, vendor is requested to provide information ensuring they have current active two (2) way integration with the Ellucian Banner product, specifically Human Resources and Payroll.

5.3 Evaluation Criteria
The decision process will be based upon the following criteria to ascertain the viability of your company and functionality of the product

Key Priorities

- **Product Features**
  Current features, capabilities, and the ability to meet WSU’s current and future business needs, configurable without customization, flexibility, ease of use, maturity and future product development and direction

- **Company Strength**
  Latest annual financial statement, experience and market penetration within the Higher Education Industry, customer service, and product market maturity

- **Technical Architecture**
  Application hardware, technical support abilities, single sign-on capabilities, integration capabilities with WSU’s Ellucian Banner modules

- **Services**
  Implementation methodology, business transformation and needs assessment, change management & communication, project management and oversight philosophy

- **Cost**
Total system cost and other costs related to implementation, resource requirements, software and hardware maintenance, hosting, and licensing costs

Response Codes for Requirements Document (Exhibit #1)

Vendors shall supply a response code for each requirement listed on the Requirements Document, which is Exhibit #1. Vendors should include comments on MNC, MX and NR responses and shall include additional costing information if they pertain. The following is a list of valid Response Codes:

<table>
<thead>
<tr>
<th>Response Code</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>MR</td>
<td>Fully meets requirements out of the box or through user managed configuration within the core application (Configurable) (MR=Meets Requirements)</td>
</tr>
<tr>
<td>MNC</td>
<td>Requirement can be met, but not within the core application or not in real-time (e.g. requirement is met through reports, interfaces, or other 3rd party component) (MNC=Meets but Non-Core Application)</td>
</tr>
<tr>
<td>MX</td>
<td>Can be customized to meet needs but may require additional costs, 3rd party intervention, and may require additional maintenance (please explain how this would be met) (MX=Meets but needs customized)</td>
</tr>
<tr>
<td>NR</td>
<td>Does not meet requirement/not available (NR=Does Not Meet Requirement)</td>
</tr>
</tbody>
</table>

5.4 RFP Resources: Additional resources provided by WSU as additional exhibits on our web site include:

Exhibit 1 – Functional and Technical Requirements Compensation Market Survey Software Solution

5.5 Submittal Requirements:

Proposals must encompass and address all requirements within the context of the terms and provisions requested in the RFP. So that WSU can systematically evaluate all proposals, please present your submittal in the following format. It is recommended that the information provided about your company be concise but complete, emphasizing why you believe your company to be uniquely qualified to operate the contract for which you are proposing.

Vendors should note the page limitation. One page is considered a front and back of 8.5” x 11” sheet of paper. Narrative font should be a minimum of size 10. Narratives with less than a size 10 font size may be disqualified.

Format of Request for Proposal

I. Executive Summary (Page Limitation – 3 pages)

Provide an Executive Summary of your product features and functionality. Explain how your product is compliant with the American’s with Disabilities Act. The Executive Summary should touch on all components of your proposal but highlight those features that you believe best demonstrate the advantages of selecting your product.

II. Company Overview (Page Limitation – 3 pages)

- Date established
- Ownership (public, partnership, subsidiary, etc.)
- Number of employees broken out by functional employee groups (sales, development, implementation consultants, administration etc.)
- Turnover rates and average tenure of each functional employee group
- Higher Education market base and services
III. **Company Experience** (Page Limitation – 2 pages)
List of a minimum of five (5) current accounts to serve as references similar in size and nature to Wichita State University's, to include:
- Client name
- Client contact name, telephone # and email address
- Description of services provided
- Length of account tenure
- Please denote if any current accounts have active integration with Ellucian’s Banner HR module

IV. **Product Overview** (Page Limitation – 15 pages)
Provide an overview of your products features and functionality, technical performance and how it supports successful user experience and adoption.

V. **Technical Overview** (Page Limitation – 3 pages)
Provide an overview of the technical specification, such as hardware/software specifications, operating system requirements, system security, data security and storage, back-up and recovery protocols, system downtime averages, maintenance windows, support service level agreements

VI. **Implementation Overview** (Page Limitation – 2 pages)
Provide an overview of your company’s implementation process. Include recommended governance process, business process redesign assistance/support, resource allocations required by your company and the use of resources outside your company, WSU suggested resources, timelines, metrics and measurements of project health, training methodology and go live support

VII. **Summary/Conclusion** (Page Limitation – 2 pages)
Provide a closing summary/conclusion that would highlight any other information that would be important and why you feel your product is unique and would be an advantage to WSU

VIII. **Signature Sheet** – See RFP Page 2

IX. **Tax Clearance** – See RFP Page 3

X. **Certification Regarding Immigration Reform & Control** – See RFP Page 4

XI. **Exhibit #1** - Vendor shall complete and add its comments to Exhibit #1 as directed in Section 5.3
CONTRACTUAL PROVISIONS ATTACHMENT

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

“The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof.”

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

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.

3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to vendor 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. Vendor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the vendor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to vendor at the end of the State’s current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the vendor.

4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any vendor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause:** The vendor 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 subvendor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the vendor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the vendor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Vendor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a vendor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do 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 available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. **Representative’s Authority To Contract:** By signing this contract, the representative of the vendor thereby represents that such person is duly authorized by the vendor to execute this contract on behalf of the vendor and that the vendor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a vendor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance**: The State of Kansas and its agencies 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 them to establish a “self-insurance” fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor shall bear the risk of any loss or damage to any property in which the vendor holds title.

11. **Information**: No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12. **The Eleventh Amendment**: “The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

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.