



**LINCOLN UNIVERSITY
PURCHASING DEPARTMENT
REQUEST FOR PROPOSAL (RFP)**

RFP NO.: B19-1152
TITLE: FINANCIAL/MUNICIPAL ADVISOR
ISSUE DATE: AUGUST 21, 2018

REQ NO.:
BUYER: Debra Kidwell
PHONE NO.: (573) 681-5415
E-MAIL: kidwelld@lincolnu.edu

RETURN PROPOSAL NO LATER THAN: AUGUST 31, 2018 AT 2 P.M. CENTRAL TIME

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Delivered sealed proposals must be in the Lincoln University Purchasing Department (1002 Chestnut St, Room 101) by the return date and time.

RETURN PROPOSAL TO: (courier service)
LINCOLN UNIVERSITY
1002 CHESTNUT ST
SHIPPING & RECEIVING BLDG
JEFFERSON CITY MO 65101

CONTRACT PERIOD: may vary

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Proposal (Revised 04/23/2010). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from Lincoln University or when this RFP is countersigned by an authorized official of Lincoln University, a binding contract shall exist between the offeror and Lincoln University.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	
DOING BUSINESS AS (DBA) NAME		LEGAL NAME OF ENTITY/INDIVIDUAL FILED WITH IRS FOR THIS TAX ID #	
MAILING ADDRESS		IRS FORM 1099 MAILING ADDRESS	
CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE	
VENDOR NO. (IF KNOWN)	TAXPAYER ID NUMBER (TIN)	TAXPAYER ID (TIN) TYPE (CHECK ONE) <input type="checkbox"/> FEIN or <input type="checkbox"/> SSN	
VENDOR TAX FILING TYPE WITH IRS (CHECK ONE) <input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> State/Local Government <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Other			
CONTACT PERSON		E-MAIL ADDRESS	
PHONE NUM BER.		FAX NUMBER	

NOTICE OF AWARD (LINCOLN UNIVERSITY ONLY)

ACCEPTED BY LINCOLN UNIVERSITY AS FOLLOWS:			
CONTRACT NO.		CONTRACT PERIOD	
BUYER	DATE	PURCHASING DIRECTOR	

PART ONE
INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction: This document constitutes a request for competitive proposals from qualified individuals and organizations to provide CONSULTING SERVICES AS A FINANCIAL/MUNICIPAL ADVISOR for Lincoln University (herein referred to as “the University” and also “LU”) in accordance with the requirements, terms and conditions of this Request for Proposal (RFP).

1.2 Purpose/Objective: The selected firm is expected to collect and synthesize pertinent data associated with the following. Based on the analysis, the selected firm MAY be asked to assist with the refunding and/or issuance of revenue bonds. Refunding and/or issuance of revenue bonds is not guaranteed and will be done at the sole discretion of the University.

1.2.1 Refunding opportunities for existing auxiliary revenue bonds;

1.2.2 Modification of existing bond covenant language regarding Auxiliary System Fee;

1.2.3 Financial viability of closing Dawson Hall; and

1.2.4 Assessment of the viability of:

1.2.4.1 Construction of a new residence hall supported by auxiliary revenue; or

1.2.4.2 Renovation of Dawson Hall

1.3 Organization: This document, referred to as a Request for Proposal (RFP), is divided into the following parts for the convenience of the Contractor:

1.3.1 Part One: Introduction and General Information

1.3.2 Part Two: Scope of Work

1.3.3 Part Three: General Contractual Requirements

1.3.4 Pricing Page

1.3.5 Attachment: Terms and Conditions of Request for Proposal

1.4 General Information:

1.4.1 Lincoln University is a state funded school with over 2500 students and 450 employees. Lincoln University is an 1890 land-grant, comprehensive institution which is part of the Missouri state system of higher education. Founded in 1866 through the cooperative efforts of the enlisted men and officers of the 62nd & 65th Colored Infantries, Lincoln University was designed to meet the educational and social needs of freed-African-Americans. While remaining committed to this purpose, the University has expanded its historic mission to embrace the needs of a significantly broader population reflecting varied social, economic, educational, and cultural backgrounds. This is the unique purpose that Lincoln University fulfills in higher education.

1.4.2 Mission Statement: The core mission of Lincoln University is to provide excellent educational opportunities for a diverse student population in the context of an open enrollment institution. The University provides student-centered learning in a nurturing environment, integrating teaching, research, and service. Lincoln University offers relevant, high quality undergraduate and select graduate programs that prepare students for careers and lifelong learning. These programs

are grounded in the liberal arts and sciences and focused on public service professions that meet the academic and professional needs of its historical and state-wide student clientele.

1.4.3 **Vision:** Lincoln University's vision is to be nationally recognized as a premier, historically black, land-grant, and an open admission university dedicated to excellence in teaching, research, service, and outreach where social and cultural diversity are an integral part of student-centered learning.

1.5 **Current status:**

1.5.1 As of June 30, 2018, Lincoln University has three existing outstanding revenue bonds secured by auxiliary system revenue. Principal balances as of June 30, 2018 for each revenue bond are listed below.

- 2007 Series Revenue Bond \$16,615,000 public placement
- 2015A Series Revenue Bonds \$ 1,723,035 private placement
- 2015B Series Revenue Bonds \$ 2,136,348 private placement

1.5.2 The University has nine residence halls, in addition to three properties contiguous to campus that have the capacity to house approximately 1049 students. Residence halls include Dawson, Martin, Sherman Scruggs, Anthony, Bennett, Yates, Hoard, Perry and Tull Hall. Due to the age and condition of Dawson Hall, the university is considering closing Dawson Hall and constructing a replacement facility. Dawson Hall currently holds approximately 360 beds.

1.5.3 The University is committed to determining the best and most appropriate bonding structure to meet today and future needs of the University.

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PART TWO SCOPE OF WORK

2.1 Background and Experience:

- 2.1.1** Identify the lead advisor and associated team. Include experience and years of service of each team member.
- 2.1.2** Describe knowledge and access to applicable market, economic and financial information pertinent to bond refunding and future bond issuance.
- 2.1.3** Discuss any current affiliations or relationships with broker-dealers for any team member and any relationships or affiliations in the last two years.
- 2.1.4** Disclose any conflicts of interest that may include payment to consultants or contractual agreements.
- 2.1.5** List professional associations.
 - 2.1.5.1** Firms must be registered with the Security and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB). Include the central index key (CIK) for SEC registration and the MSRB ID# in your response.
 - 2.1.5.2** List any other professional associations
- 2.1.6** Please provide at minimum three references from the public sector, preferably in Missouri and with at least one reference being a higher education reference.
- 2.1.7** Discuss the applicable insurance carried that covers errors and omissions, improper judgements and or negligence.
- 2.1.8** Provide any pending litigation or disciplinary action taken with the past three years by the SEC, Financial Industry Regulatory Authority (FINRA), MSRB or other regulatory body.

2.2 Minority Business Enterprise (MBE) participation: The University has identified an MBE participation goal of 30%. This can be accomplished through subcontracting or joint advising services. Participation should be clearly identified in the proposal, with the associated firm identified and participation value.

2.3 Analysis: The University is interested in analyzing the financial impact of refunding existing revenue bonds, closure of an existing residence hall, construction of a replacement residence hall and modifications to the bond covenant language regarding an Auxiliary System Fee. This should include, but is not limited to, the following services:

- 2.3.1** Review the Lincoln University outstanding Auxiliary Revenue Bond Series 2007, 2015A and 2015B and the potential for refunding opportunities.
- 2.3.2** Recommend and facilitate processes to refund bonds, if appropriate.
- 2.3.3** Prepare financial analysis to determine the net result of closing an existing residence hall, Dawson Hall, and ensuring that existing bond covenants do not preclude the University from doing so.
- 2.3.4** In conjunction with possible bond refunding and closing down Dawson Hall, review university enrollment, residence hall capacity and financial data to ascertain the viability of an additional bond issuance to construct a new residence hall and advise on the maximum resources available for construction.
- 2.3.5** Provide advice on the maximum debt structure feasible for the university if a new facility is constructed with applicable debt service coverage ratio calculations.

- 2.3.6** Based on discovery data, provide analysis and projections of debt service coverage ratio on each scenario.
- 2.3.7** Based on discovery data, provide advice on modification of existing bond covenant language associated with the Auxiliary System Fee.
- 2.3.8** Research and recommend funding resource options including public or private bond issuance.
- 2.3.9** Consult with bond counsel, underwriters and other related parties, as necessary, to facilitate transactions.
- 2.3.10** Present updates to University officials and Board of Curators regarding recommendations and proposals.
- 2.3.11** Coordinate the process to select an underwriter for the sale of bonds as appropriate.

2.4 **Estimated timeframes:**

- 2.4.1** RFP responses submitted: late August 2018
- 2.4.2** Recommendation: early September 2018
- 2.4.3** Completion of Contract: early September 2018
- 2.4.4** Firm completion of initial financial assessment: as soon as possible, but no more than 3 weeks from award of contract
- 2.4.5** Firm presentation to the BOC: September 13, 2018 if possible
- 2.4.6** Refund bonds, if applicable: October 2018
- 2.4.7** University assesses complete financial assessment and determines next steps on items 2-4 as outlined in section 1.2 of the RFP: October-December 2018.

2.5 **Project Approach:**

- 2.5.1** Explain the process to meet the expectations outlined in this document.
- 2.5.2** Discuss qualifications including best practices for refunding and selling bonds.
- 2.5.3** Discuss the plan of work based on outline above and elaborate on the firm's access to relevant market information that would aid in the requested analysis.
- 2.5.4** Identify information Lincoln University will be required to provide to complete the analysis.

2.6 **Fee structure:**

- 2.6.1** The University expects to pay advising/municipal fees from bond proceeds.
- 2.6.2** Explain fee structure, listing fees for refunding and new residence hall bonds separately.
- 2.6.3** Fee structure should include a not-to-exceed amount.
- 2.6.4** Define fees included in the not-to-exceed amount.
- 2.6.5** Identify reimbursable costs, if any.
- 2.6.6** MSRFB fees should not be passed on to the University.

PART THREE GENERAL CONTRACTUAL REQUIREMENTS

- 3.1** **Contract Period:** The contract for the financial analysis portion of the work is anticipated to be awarded as expeditiously as possible, ideally prior to September 1, 2018. If feasible, the selected firm should plan to provide the financial analysis as explained in this document by September 13, 2018. If the University decides to move forward with the refunding and/or issuance of revenue bonds using the selected contractor, an amendment to the contract will be issued for that work.
- 3.2** Except as provided herein, the contract shall not bind, nor purport to bind, Lincoln University for any contractual commitment in excess of the stated contract period.
- 3.3** **Contract Price:** All prices shall be as stated in the contract. The University shall neither pay nor be liable for any costs not specifically identified in the contract. Increases in contract prices for any subsequent term during which the contract is effective shall be limited to the maximum amount, if any, stated in the contract for that period.
- 3.4** **Contract Documents:** The contract between Lincoln University and the Contractor shall consist of: (1) the Request for Proposal (RFP), including the Terms and Conditions attached hereto, and (2) any amendments to the RFP, (3) the Contractor's response to the RFP, and (4) any additional terms and conditions mutually agreed upon by the parties during the negotiation process. Lincoln University reserves the right to clarify any contractual relationship in writing with the concurrence of the Contractor and such written clarification shall govern in the event of a conflict with the applicable requirement(s) stated in either the RFP or the Contractor's response. In all other matters not affected by the written clarification, if any, the RFP shall govern and any inconsistency in the response to the RFP shall be disregarded. The Contractor is cautioned that his/her response shall be subject to acceptance without further clarification.
- 3.5** **Amendment to Contract:** No modification of any provision in the contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and Lincoln University President and incorporated in a written amendment to the contract approved by Lincoln University prior to the effective date of such modification.
- 3.6** **Contractor Liabilities:** The Contractor shall be responsible for any and all injury or damage as a result of the Contractor's negligence involving any equipment or service provided under the terms and conditions of the contract. In addition to the liability imposed upon the Contractor on account of personal injury (including death), or property damage suffered as a result of the Contractor's negligence, the Contractor assumes the obligation to save Lincoln University, including its agents, employees, and assigns, from every expense (including attorney fees), liability, or payment arising out of such negligent act. The Contractor also agrees to hold Lincoln University, including its agents, employees, and assigns, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Contractor under the terms of the contract and to indemnify Lincoln University for all costs, expenses (including attorney fees), damages and payment.

3.7 Assignments:

3.7.1 The Contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of Lincoln University.

3.7.2 The Contractor shall agree and understand that, in the event Lincoln University consents to a financial assignment of the contract in whole or in part to a third party, any payments made by Lincoln University pursuant to the contract, including all of those payments assigned to the third party, shall be contingent upon the performance of the prime Contractor in accordance with all terms, conditions, and provisions of the contract.

3.8 Right to Terminate Contract: Lincoln University reserves the right to terminate the contract at any time for the convenience of Lincoln University, without penalty or recourse by giving the Contractor a written notice of such termination at least thirty (30) calendar days prior to termination. The Contractor shall be entitled to receive compensation according to the terms of the contract for that work completed pursuant to the contract prior to the effective date of termination.

3.8.1 Lincoln University reserves the right to officially modify or cancel a RFP after issuance. Such a modification shall be identified as an amendment. Lincoln University reserves the right to interview Contractors before selecting the successful Contractor.

3.8.2 In the event that only one bid is received in response to this RFP, Lincoln University reserves the right to negotiate the terms and conditions, including the price, as proposed in the sole Contractor's bid. In addition, as part of such negotiations, the University reserves the right to require supporting cost, pricing and other data from the sole Contractor in order to determine the reasonableness and acceptability of the bid.

3.8.3 Lincoln University reserves the right to accept or reject any and all bids without any statement or reason thereof and to waive any non-conformities. Final acceptance shall be subject to the parties entering into a written agreement including the terms thereof.

3.9 Independent Contractor: The Contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of Lincoln University, therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee health insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold Lincoln University, its officers, agents, employees, and assigns, harmless from and against any and all loss, cost, (including attorney fees), and damage of any related to such matters.

- 3.10 Property of Lincoln University:** All reports, documentation, and material developed or acquired by the Contractor as a direct requirement specified in the contract shall become the property of Lincoln University.
- 3.11 Confidentiality Requirements:** The Contractor agrees and understands that all discussions with the Contractor and all information gained by the Contractor as a result of the Contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the University. The Contractor must ensure the complete confidentiality of all data/information to which the Contractor has access.
- 3.12 Bankruptcy or Insolvency:** Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Contractor must notify the University Purchasing Office immediately. Upon learning of the actions identified herein, the University reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.
- 3.13 Waiver:** The Contractor understands and agrees that failure by the University to require performance by the Contractor of any provision contained herein or in the Contractor's proposal shall not be deemed a continuing waiver of such provision or a waiver of any other provision of the contract.
- 3.14 Communications and Notices:** Any written notice to the Contractor shall be deemed sufficient when deposited in the United States mail, postage prepaid, or hand-carried and presented to an authorized employee of the Contractor at the Contractor's address as listed on the signature page of the contract or at such address as the Contractor may have requested in writing.
- 3.15 Substitution of Personnel:** The Contractor agrees and understands that Lincoln University's decision to enter into the contract is predicated in part on the utilization of the specific individual(s) identified in the proposal. Therefore, the Contractor agrees that no substitution of such specific individual(s) and/or personnel qualifications shall be made without the prior written consent of Lincoln University. The Contractor further agrees that any substitution made pursuant to this paragraph shall be by personnel of equal or better qualifications than originally proposed and that Lincoln University's approval of a substitute shall not be construed as an acceptance of the substitute's performance potential.
- 3.16 Insurance Requirements:** The Contractor shall understand and agree that Lincoln University cannot save and hold harmless and/or indemnify the Contractor or its employees against any liability incurred or arising as a result of any activity set out in the contract or any activity of the Contractor's employees related to the Contractor's performance under the contract.
- 3.16.1** The Contractor shall acquire and maintain adequate insurance in the form(s) and amount(s) sufficient to protect Lincoln University, its employees, and the general public against any such loss, injury, damage, and/or expense.

3.16.2 The Contractor must have and maintain, at the Contractor's expense, adequate liability insurance to protect the University and the general public against any loss, damage and/or expense related to the Contractor's performance under the contract. The insurance coverage shall include, but need not be limited to, the following coverage in the amounts specified. Such insurance must indemnify the University to the fullest extent possible under the laws of the State of Missouri.

3.16.2.1 Commercial General Liability Coverage, comprehensive form with the following limits of liability:

Bodily Injury: \$2,000,000 each person

\$2,000,000 aggregate

\$5,000 medical each person

Property Damage: \$2,000,000 each accident

3.16.2.2 Automobile Public Liability and Property Damage with the following limits of liability:

Bodily Injury: \$2,000,000 each person

\$2,000,000 each accident

Property Damage: \$2,000,000 each accident

3.17 Written evidence of the required insurance coverage must be submitted before or upon award of the contract. Such policy(ies) shall name the Curators of Lincoln University of Missouri, its officers and employees, as additional named insureds and required the insurer to notify the University immediately in the event that the insurance coverage is canceled.

3.18 The Contractor understands and agrees that the insurance required under the terms of the contract in no way precludes the Contractor from carrying such other insurance as may be deemed necessary by the Contractor for the operation of the Contractor's business or for the benefit of the Contractor's employees.

3.19 Notwithstanding any other provision of the contract to the contrary, no insurance procured by Contractor shall be construed to constitute a waiver of any sovereign immunity as set forth in section 537.600 *et seq.*, MO. REV. STAT., or any other governmental or official immunity, nor provide coverage for any liability or suit for damages which is barred under said doctrines of sovereign, governmental or official immunity available to the University, its Board of Curators, officers or employees, nor constitute waiver of any available defense; and neither shall such insurance provide coverage for any sums other than those which the University, its Board of Curators, officers or employees may be obligated to pay as damages. The Contractor shall cause all policies of insurance related to this RFP to be endorsed in accord with this subparagraph. The Contractor shall further require the upper limits of coverage of such policies to be adjusted on an annual basis to be at least equal to the limits of liability set forth in section 537.610.2 and 537.610.5, MO. REV. STAT., as amended from time to time.

PART FOUR PROPOSAL SUBMISSION INFORMATION

- 4.1** **Contractor's Contacts:** All questions regarding technical specifications, bid process, etc., must be directed to Debra Kidwell, Director of Purchasing at 573.681.5415 or by email at kidwelld@lincolnu.edu. Questions should be submitted in writing and received not later than one (1) week prior to the bid closing date.
- 4.2** **Clarification of Requirements:** It is the intent and purpose of Lincoln University that this request permits competitive bidding. It shall be the Contractor's responsibility to advise Lincoln University, at the address noted on page one of the RFP, if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Such notification shall be submitted in writing and received by Lincoln University Purchasing Department not later than one (1) week prior to the bid closing date. A review of such notifications will be made.
- 4.3** **Submission of Proposals:**
- 4.3.1** Proposals must be priced, signed, sealed, and received in the University's Purchasing Office by the closing date and time specified. Any proposal received by the Purchasing Office after the exact closing date and time specified will not be opened and will not be evaluated regardless of the reason(s) or mitigating circumstances related to its lateness or degree of lateness. A facsimile transmission is NOT an acceptable response to this RFP.
- 4.3.2** The Contractor must respond to this RFP by submitting all data required herein in order for his/her response to be evaluated and considered for award. The Contractor is cautioned that it is the Contractor's sole responsibility to submit information related to the evaluation categories and that Lincoln University is under no obligation to solicit such information if it is not included with the bid. The Contractor's failure to submit such information may cause an adverse impact on the evaluation of the bid.
- 4.3.3** **Copies of Proposals:** The Contractor is requested to submit an original signature proposal and seven (7) complete copies of the original signature proposal, for a total of eight (8) complete proposals. An included electronic copy of the proposal should also be included (USB drive preferred).
- 4.3.4** **Open Records Law:** The Contractor is hereby advised that, upon completion of the evaluation process, all proposals and associated documentation will be made public pursuant to the Open Records law of the State of Missouri (RSMo 610.021). **Please do not include statements of confidentiality or proprietary information in your proposal. All proposals are required to become a matter of public record according to state law.**
- 4.4** **Official Position:** The Contractor is advised that the official position of the University is that position which is stated in writing and issued by the Purchasing Office as a Request for Proposal and any amendments thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

4.5 Contractor's Responsibility: The Contractor is cautioned that it is the Contractor's sole responsibility to submit information related to the evaluation categories included herein and that the University is under no obligation to solicit such information if it is not included as part of the Contractor's proposal. Failure to submit such information may cause an adverse impact on the evaluation of the Contractor's proposal.

4.6 Evaluation Process:

4.6.1 Proposal Evaluation: Any contract award resulting from this request shall be made following the evaluation of all proposals which are responsive to the terms, conditions, and provisions of the Request for Proposal. The comparative assessment of the relative benefits and deficiencies of a proposal in relation to the published evaluation criteria will be made using subjective judgment. The University will be the sole judge as to the acceptability, for our purposes, of any and all proposals.

4.6.1.1 Cost 30%

4.6.1.2 Experience – 25%

- Service and experience with higher education
- References – higher education references preferred

4.6.1.3 Expertise – 20%

- Staffing
- Years in business
- Insurance coverages

4.6.1.4 Plan of work/Timing – 25%

- Defined plan of action for analysis, including but not limited to
 - list of required information from Lincoln University
 - ability to meet or address the proposed timeline
 - MBE participation goal

4.7 Oral Presentation: After an initial screening process, the Contractor may be requested to give an oral presentation of the Contractor's proposal to select University officials, if deemed necessary by the University, to clarify or verify the Contractor's proposal and to develop a comprehensive assessment thereof. If an oral presentation is deemed necessary, the Contractor will be so advised.

4.8 Negotiation: The University reserves the right to negotiate with selected Contractors if deemed necessary and in the best interests of the University. Contractors are cautioned, however, that an award decision may be made without negotiation, based on the prices and terms of a Contractor's original proposal.

4.9 Errors/Omissions: The Contractor shall be solely responsible for errors or omissions in the Contractor's proposal. Contractors may not revise or withdraw submitted proposals after the stated time and date for the receipt of proposals. Revisions to the Contractor's original proposal will only be allowed if specifically requested by the University as part of the negotiation process.

- 4.10 Conformity with Specifications:** Any deviations from the requirements of this Request for Proposal must be set forth in detail as part of the Contractor's proposal. The University may, at its sole discretion, waive minor informalities or irregularities that do not materially affect the overall proposal.
- 4.11 Specification Interpretation:** In the event of a difference of opinion between the Contractor and the University as to the meaning of any provision in these specifications, the decision of the University shall be final and without recourse.
- 4.12 Contract Award:**
- 4.12.1** Any contract award resulting from this RFP will be made only by written authorization from the University's Purchasing Office and may be subject to approval by the President of Lincoln University and/or the University's Board of Curators. The University reserves the right to not award a contract if deemed in the best interests of the University.
- 4.12.2** The award shall be made to the responsible Contractor whose proposal is determined to be the most advantageous to the University based on the evaluation factors described in the RFP. Price, although a consideration, may not be the sole determining factor.
- 4.13 Discussions/Negotiations:** Lincoln University reserves the right to conduct discussions with Contractors, and to accept revisions of proposals, and to negotiate price changes at the sole discretion of the University. During this discussion period, LU will not disclose any information regarding proposal submittals. Upon the execution of a contract, the proposals will become public record and contents will be disclosed upon request.
- 4.14 Pre-Award Presentations:** The University reserves the right to require presentations from the highest-ranking Contractors, in which they may be asked to provide additional information.
- 4.15 Proposal Organization:** Proposals should be prepared as simply as possible and should provide a straightforward, concise description of the Contractor's capabilities to satisfy the requirements of the RFP. To facilitate evaluation of the Contractor's proposal by the University, ***Contractors are strongly encouraged to provide a point-by-point response to each item identified herein.*** Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, etc., of the proposal should be numbered and clearly labeled. The proposal should be organized into a single volume with sections that correspond with the main headings and subject areas identified herein. All material and information related to each identified section should be included in each such section, and all documentation that comprises the Contractor's proposal should be bound in a single volume. The signed page one from the original RFP and all signed amendments should be placed at the beginning of the Contractor's proposal.
- 4.16 Pricing Requirements:** The Contractor must provide pricing information as specified on the Pricing Page of this Request for Proposal. Any cost and/or pricing data submitted by the Contractor or related to the Contractor's proposal shall be subject to evaluation if

deemed in the best interests of the University. Percentages of increase quoted for renewal periods will also be considered.

- 4.17** **Experience and Expertise:** The experience of the Contractor's organization and the expertise of proposed personnel will be considered in the evaluation process. Therefore, the Contractor is advised to submit any information that documents successful and reliable experience in past performances, especially those performances related to the requirements of this Request for Proposal. As a minimum, the Contractor should provide the name of the firm/company/individual(s) submitting the proposal, as well as the name and title of the individual who is authorized to contractually bind the Contractor.
- 4.18** **Client List:** A complete list of all clients during the last three (3) years must be submitted, including a designation of which remain current clients. You are encouraged to submit a list of past and current clients who are similar in size, scope, and mission to LU describing demonstrated success in securing state and other support for those clients.
- 4.19** **References:** The name and address of at least three (3) clients and the name and telephone number of a contact person for each client who may be contacted as a reference.
- 4.20** **Contractor information:** Information on the Contractor and on the personnel who will be providing services to LU under the terms of the contract, including the Contractor's web site address if applicable, are to be provided.
- 4.21** **Proposed plan of work:** Proposals will be evaluated based on the firm's proposed plan for performing the requirements as outlined in section 2.3 including the availability of personnel to provide the required services with time limitations if applicable. The firm should provide a detailed outline of the steps in the financial analysis, including key variables or factors that may impact the resulting assessment.

PRICING PAGE

The information requested in this section of the RFP should be provided within a single section of your response labeled 'pricing information'. Information should be in accordance with the requirements, specifications, terms and conditions of this document.

Prices should be provided for the following categories:

- Financial analysis
 - Financial analysis
 - Reimbursable/travel costs
- Costs contingent on bond issuance
 - Refund existing bonds
 - Issue new bonds
- Other

Provide static costs for the financial analysis, and add any reimbursable costs that may be applicable. Ensure that all potential fees are identified and explained clearly.

(additional pages may be attached if needed)

Other information:

Central index key (CIK) for SEC registration: _____

MSRB ID#: _____

Proposer's website address, if available: _____

References (minimum 3 from the public sector, preferably Missouri. One MUST be a higher education reference):

At a minimum, provide Client, Contact Person, City/State, Email, Phone#

1.	
2.	
3.	

**LINCOLN UNIVERSITY
PURCHASING DEPARTMENT**

TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by **Lincoln University**. Lincoln University is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the physical receipt of sealed proposals by Lincoln University in its office.
- e. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- f. **Buyer** means the procurement staff member of Lincoln University. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful bidder as a result of an IFB and who enters into a contract.
- i. **Exhibit applies** to forms which are included with an RFP for the offeror to complete and return with the sealed proposal **prior to the specified opening date and time**.
- j. **Request for Proposal (RFP)** means the solicitation document issued by Lincoln University to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a proposal being considered non-responsive.
- m. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and returned by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of Lincoln University.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The offeror shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the offeror and Lincoln University.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the RFP or resulting contract shall be in the Circuit Court of Cole County, Missouri.
- f. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise Lincoln University if any language, specifications or requirements of an RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from offerors regarding specifications, requirements, competitive procurement process, etc., must be directed to the buyer from Lincoln University, as indicated on the first page of the RFP. Such communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, offerors are advised that unless specified elsewhere in the RFP, any questions received by Lincoln University less than ten calendar days prior to the RFP

- opening date may not be answered.
- c. Offerors are cautioned that the only official position of Lincoln University is that position which is stated in writing and issued by Lincoln University in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
 - d. Lincoln University monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
 - e. The RFP is available for viewing and downloading on Lincoln University's Purchasing Department webpage. E-mail notifications will be sent to potential offerors at the current address maintained on the vendor registration file in Lincoln University's Purchasing Department. Any subsequent amendment to an RFP shall be e-mailed to the same address as the original RFP unless otherwise notified.
 - f. Lincoln University reserves the right to officially modify or cancel an RFP after issuance. Such a modification shall be identified as an amendment.

4. PREPARATION OF PROPOSALS

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the proposal. In addition, the offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.
- d. Proposals lacking any indication of intent to offer an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFP.
- e. The following is only applicable to state agencies and political subdivisions submitting a proposal. In the event that the offeror is an agency of Lincoln University or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFP, such an offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between Lincoln University and the offeror, if such offeror is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP. Any such offeror needs to include in the proposal, a complete list of statutory references and citations for each provision of the RFP which is affected by this paragraph.
- f. All equipment and supplies offered in a proposal must be new and of current production and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Proposals, including all prices therein, shall remain valid for 90 days from proposal opening unless otherwise indicated. If the proposal is accepted, prices shall be firm for the specified contract period.
- i. Any foreign bidder not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

5. SUBMISSION OF PROPOSALS

- a. A proposal submitted by a offeror must (1) be signed by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, (3) be priced as required, (4) be sealed in an envelope or container, and (5) be mailed or hand-delivered (not faxed) to the Purchasing Department at Lincoln University located at 1002 Chestnut Street and officially clocked in no later than the exact opening time and date specified in the RFP. It shall be the responsibility of the offeror to ensure their proposal is in the Purchasing office no later than the exact opening time and date specified in the RFP.
- b. The sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal may only be modified or withdrawn by signed, written notice which has been received by Lincoln University prior to the official opening date and time specified. A proposal may also be withdrawn or modified in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw or modify a proposal shall not be honored.
- d. Offerors must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so shall result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.
- e. Electronic submission of proposals shall not be accepted. Faxed proposals shall not be accepted. However, faxed and e-mail no-bid notifications shall be accepted.

6. PROPOSAL OPENING

- a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening. The contents of the proposals shall not be disclosed.
- b. Proposals which are not received by Lincoln University prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late proposals may only be opened under extraordinary circumstances.

7. PREFERENCES

- a. In the evaluation of proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the state of Missouri, and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 05-30, contractors are encouraged to utilize certified minority and women-owned businesses in selecting subcontractors.
- d. In the evaluation of proposals, a service-disabled veteran business preference shall be applied in accordance with Section 34.074 RSMo.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request written clarification of the intended proposal. The correction shall be made in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by a offeror but not reflected on the pricing page shall be subject to evaluation if deemed by Lincoln University to be in the best interests of Lincoln University.
- c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit Lincoln University. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with Sections 34.010 and 34.070 RSMo and Executive Order 04-09.
- e. In the event all offerors fail to meet the same mandatory requirement in a RFP, Lincoln University reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, Lincoln University reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. Lincoln University reserves the right to reject any and all proposals.
- g. When evaluating a proposal, Lincoln University reserves the right to consider relevant information and fact, whether gained from a proposal, from a offeror, from offeror's references, or from any other source.
- h. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.
- i. Any award of a contract shall be made by written notification from Lincoln University to the successful offeror. Lincoln University reserves the right to make awards by item, group of items, all or none, or a combination thereof on a geographic and/or statewide basis with one or more suppliers. The grouping of items awarded shall be determined by Lincoln University based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of Lincoln University.
- j. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- k. Lincoln University reserves the right to request written clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response shall be subject to acceptance or rejection without further clarification.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP and any exhibits or amendments thereto, (2) the contractor's response (proposal) to the RFP including the contractor's best and final offer and (3) Lincoln University's acceptance of the response (proposal) by "notice of award" (for ongoing provision of equipment, supplies, and/or services) or by "purchase order."
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the contractor must receive a properly authorized Purchase Order or other approved form of authorization.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representatives of the contractor and Lincoln University or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other

document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment/change order to the contract.

10. INVOICING AND PAYMENT

- a. Lincoln University does not pay state or federal taxes unless otherwise required under law or regulation.
- b. Each invoice submitted must reference the contract or purchase order number and must be itemized in accordance with items listed on the purchase order and/or contract. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the written consent of Lincoln University.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. Lincoln University assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the University's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by Lincoln University shall be subject to late payment charges as provided in Section 34.055 RSMo.
- g. Lincoln University reserves the right to purchase goods and services using the Lincoln University Purchasing Card.

11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by Lincoln University pursuant to a contract shall be deemed accepted until the University has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. Lincoln University reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. Lincoln University's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the University may have.

13. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by Lincoln University, (2) be fit and sufficient for the purpose expressed in the RFP, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of Lincoln University's acceptance of or payment for said equipment, supplies, and/or services.

14. CONFLICT OF INTEREST

- a. Officials and employees of Lincoln University, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by Lincoln University of any existing or future right and/or remedy available by law in the event of any claim by the Lincoln University of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to Lincoln University of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with Lincoln University.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, Lincoln University may cancel the contract. At its sole discretion, Lincoln University may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide Lincoln University within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, Lincoln University will issue a notice of cancellation terminating the contract immediately.
- c. If Lincoln University cancels the contract for breach, Lincoln University reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as Lincoln University deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon Lincoln University for any period in which funds have not been appropriated, and Lincoln University shall not be liable for any costs associated with termination caused by lack of appropriations.

17. COMMUNICATIONS AND NOTICES

Any written notice to the offeror/contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail, or hand-carried and presented to an authorized employee of the offeror/contractor.

18. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify Lincoln University immediately.
- b. Upon learning of any such actions, Lincoln University reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless Lincoln University, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or, veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, Lincoln University shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, removal from all contractor's lists issued by the division until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

22. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.