



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

**RFP NO.: B19-1160  
TITLE: NATIONAL RADIO PROGRAMMING  
ISSUE DATE: OCTOBER 30, 2018**

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

**RETURN PROPOSAL NO LATER THAN: NOVEMBER 7, 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.

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

**CONTRACT PERIOD: n/a**

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

## **REQUEST FOR PROPOSAL PART I – INTRODUCTION**

Lincoln University of Missouri (LU) is seeking Proposals for **NATIONAL RADIO PROGRAMMING** for the University's public radio station, KJLU. Interested offerors are encouraged to submit questions and/or clarifications by email to kidwelld@lincolnu.edu. All inquiries must reach the Lincoln University Purchasing Department on or before noon on November 2, 2018. Clarifications and/or answers to the questions will be compiled and sent to all participating offerors.

KJLU is an HBCU radio station which receives funding from the Corporation for Public Broadcasting. The station has historically produced national programs for other HBCU radio stations or other blacked owned radio stations. Those programs have included Classic Soul programs, R&B programs and Smooth Jazz programs.

## **PART II – PECIFICATIONS**

KJLU wishes to produce 3-4 radio programs for an approximate budget not to exceed \$30,000.

The first program is to be a 3-4 hour Classic Soul Christmas music program to be completed by the end of November 2018.

The second program is to be an end of the year R&B music program of the same length to be completed by the end of November 2018.

The third program must be a multi-segment short format program focusing on the Smithsonian Museum of African American History, and the pieces in its collection. This program would be desired in Spring 2019.

The fourth program should be a multi-segment short format program with a historical focus on African Americans. This program would be desired in Spring 2019.

Proposals must include the following:

1. Program Information
  - a. List of proposed programs to be created in FY19 with short description of each program
  - b. A short description of how the programs are to be created
  - c. A program budget
2. Company qualifications
  - a. Description of qualifications
  - b. Description of experience
  - c. Any other relevant information
3. References
  - a. A minimum of three (3) companies: name, contact person, phone number, and email address
  - b. Preference is for HBCU and/or Higher Education references

## **PART III – GENERAL CONTRACTUAL REQUIREMENTS**

1. **Contract Period:** The contract period shall be as stated on page one (1) of the Request for Proposal (RFP). Except as provided herein, the contract shall not bind, nor purport to bind, the University for

any contractual commitment in excess of the stated contract period.

2. **Contract Price:** All prices and percentages quoted by the contractor shall be firm and fixed for the contract period. The University shall neither pay nor be liable for any other additional costs. All prices for the renewal period shall remain the same unless the contractor provides sufficient justification as to why a change is necessary. The University reserves the right to accept or reject or negotiate any change.
3. **Contract Document:** 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 amendment 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 either in the RFP or the contractor's response. In all other matters not affected by the written clarification, if any, the RFP shall govern. The contractor is cautioned that his/her response shall be subject to acceptance without further clarification.
4. **Independent Contractor:** The contractor represents himself or herself to be an independent contractor offering such service 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 insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold Lincoln University, its officers, agents, employees, harmless from and against, any and all loss; cost (including attorney fees); and damages of any kind related to such matters.
5. **Coordination of Activities:** The contractor shall fully coordinate his or her activities in the performance of the contract with those of the University. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the University throughout the effective period of the contract.
6. **Required Provisions of Law:** Each and every provision of law and clause required by law to be inserted herein and the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, and upon the application of either party, the contract will forthwith be physically amended to make such insertion or correction.
7. **Temporary Suspension:** The contractor understands and agrees that the University shall not be responsible for any loss to contractor due to the temporary suspension of operation, regardless of the cause including, but not limited to, mechanical failure of equipment, power failure, weather conditions, force majeure, riots, or civil commotion.
8. **Liabilities:**
  - a. The contractor agrees that Lincoln University shall not be liable for any damages or costs or injury incurred by the contractor or his/her employees arising out of the ownership, selection, possession, leasing, rental, operation, control, use, maintenance, delivery, return, and/or installation of equipment provided by the contractor, except as otherwise provided in the contract.
  - b. The contractor shall be responsible for any and all injury or damage (including death) as a result

- of the contractor's negligence involving any equipment or service provided under the terms and conditions of the contract.
- c. The contractor shall agree to hold harmless Lincoln University, including its agents, employees, and assign, from any negligent act or omission committed by the contractor, any subcontractor or other person(s) employed by or under the supervision of the contractor under the terms and conditions of the contract and shall indemnify Lincoln University for all costs, expenses (including attorney fees), damages and payment arising out of such negligent acts.
9. **Subcontractors:** If approved by Lincoln University in writing, the contractor may subcontract for those services herein provided that any subcontracts include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and Lincoln University and to ensure that Lincoln University is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind arising from a subcontract of any matters described in the contract between Lincoln University and the contractor. The contractor shall expressly understand and agree that he shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the equipment or services required by the contract shall in no way relieve the contractor of the responsibility for providing the equipment and services as described and set forth herein.
10. **Right to Terminate Contract:**
- a. 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 terms of the contract for that work completed pursuant to the contract prior to the effective date of termination.
  - b. Lincoln University reserves the right to officially modify or cancel an RFP after issuance. Such a modification shall be identified as an amendment.
  - c. 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 price, as proposed in the sole offeror's bid. In addition, as part of such negotiations, the University requires supporting cost, pricing and other data from the sole offeror in order to determine the reasonableness and acceptability of the bid.
  - d. 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.
11. **Debt:** Missouri law prohibits the incurring of debt beyond the current year except in very limited circumstances. Consequently, the Contract between the parties, and the University's performance of its obligations under the Contract, are contingent upon the yearly availability and the Board of Curators appropriation of funds sufficient to pay the amounts coming due each year. In the event sufficient funds are not appropriated by the Board of Curators ("Event of Non-appropriation"), to fund its obligations for any specific year, it shall notify Provider of that fact. When the funded portion of the Contract is completed, the University shall cease use of the contractual services or products and make the products available to Provider for pickup. The University shall have no further obligation under the Contract nor liability for its termination. If the Contract ends because of an Event of Non-appropriation, University will not contract with any other provider prior to the original expiration date of the Contract, for the same products or services as those provided pursuant to the Contract.

## PART IV – PROPOSAL SUBMISSION

1. **Offeror's Contact:** All questions regarding the scope of work, bid process, etc., must be directed to Debra Kidwell, Director of Purchasing at (573) 681-5415. Offerors must not contact other employees of the University concerning this procurement while the bid and evaluation are in process. Failure to abide by this requirement may result in disqualification of the offeror.
2. **Clarification of Requirements:** It is the intent and purpose of the University that this request permits competitive bidding. It shall be the offeror's responsibility to advise the Director of Purchasing, at the address noted on page one (1), if any language, requirement, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this RFP to a single source. Such notification must be submitted in writing and must be received by the University no later than ten (10) days prior to the bid close date. A review of such notifications will be made.
3. **Submission of Proposals:**
  - a. Proposals must be priced, signed, sealed, and received (with all necessary attachments) in the University's Purchasing Office by the closing date and time specified. Any form containing a signature line must be signed and returned as part of the proposal. Any proposals received by the Purchasing Office after the exact closing date and time specified shall not be opened and shall not be evaluated regardless of the reason and mitigating circumstances related to its lateness or degree of lateness. A facsimile or electronic mail (e-mail) transmission is **NOT** an acceptable response to this RFP and shall not be accepted.
  - b. The offeror must respond to this RFP by submitting all data required herein in order for his/her bid to be evaluated and considered for award. Failure to submit such data shall be deemed sufficient cause for disqualification of a bid from further consideration for award of contract.
  - c. **Copies of Bids:** The offeror is requested to submit an original signature bid and two (2) copies of the original signature bid, for a total of three (3) complete bids.
4. **Non-Collusion Affidavit:** The offeror must complete, sign and return as part of the offeror's bid the Non-Collusion Affidavit attached hereto as Attachment #1.
5. **Official Position:** The offeror 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.
6. **Evaluation and Award of Contract:**
  - a. The contract shall be awarded to the "lowest and best" bid received in accordance with the stated evaluation criteria.
  - b. The following criteria and their identified weight will be used to evaluate the responses:
    - i. Program merit
    - ii. Experience in producing national programs
    - iii. Experience working with HBCUs/African American topics
    - iv. Cost
  - c. Lincoln University reserves the right to consider historic information and fact, whether gained from the offeror's bid, question and answer conference, references, and any other source, in the evaluation process.
  - d. The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the University is under no obligation to solicit such

information if it is not included with the offeror's bid. Failure of the offeror to submit such information may cause an adverse impact on the evaluation of the offeror's bid.

7. **Offeror's Experience and Reliability:** The experience and reliability of the offeror's organization is considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
  - a. Offerors should at a minimum, submit references from three higher education customers, preferably of a size similar to Lincoln University. References should include:
    - i. The name, address, phone number of the client/contracting agency, and a representative of that client/agency who may be contacted for verification of all information submitted.
    - ii. Dates of the service/contract.
    - iii. A brief, written description of the specific prior services performed and the requirements thereof.
  - b. The offeror may be asked to submit a copy of the offeror's most recent audited financial report. Such report must not be more than twelve (12) months old at the time of submission. The offeror may also be asked to provide financial statements from the last three (3) years of operation. Such statements must include, as a minimum, a consolidated balance sheet and income statement for each such year.

**PRICING PAGE**

1. Program 1: Classic Soul Christmas \$ \_\_\_\_\_  
Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Program 2: R&B music program \$ \_\_\_\_\_  
Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Program 3: Smithsonian Museum of African American History \$ \_\_\_\_\_  
Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Program 4: \_\_\_\_\_ (optional) \$ \_\_\_\_\_  
Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Program 5: \_\_\_\_\_ (optional) \$ \_\_\_\_\_  
Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Reference list (name, contact person, phone, email)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 offerer 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 of 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 an 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.