

Lincoln University Board of Curators
June 14, 2021
OPEN SESSION

1. Call To Order:

The Lincoln University Board of Curators Open Session was officially called to order by Board President Victor B. Pasley at 3:00 p.m., on Monday, June 14, 2021, in the Board Room, 201 Young Hall, on the Lincoln University campus, Jefferson City, Missouri. Due to the COVID-19 pandemic, the Board meeting was held in person and via zoom.

1. A. Roll Call: Curators present were: Vernon V. Bracy, Stacia R. Bradley Brown, Everidge Cade, Richard G. Callahan, Don W. Cook, Sr., Frank J. Logan, Sr., Victor B. Pasley, Richard R. Popp, and Terry Rackers. Rose Ann Ortmeyer recorded the minutes.

2. Other Business:

There was no Other Business for discussion in Open Session.

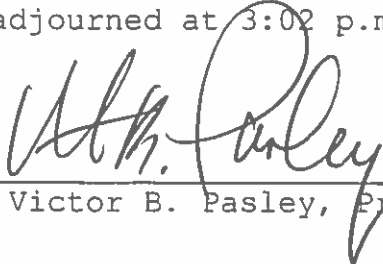
3. Motion for Adjournment/Closed Session:

Curator President Pasley asked that the Board be given the authority to commence a closed meeting, possible closed vote, and possible closed record as follows: (11) "Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;" and (14) "Records which are protected from disclosure by law;" and other matters for which a closed meeting is authorized pursuant to Section 610.021 RSMo.

Curator Callahan so moved. Curator Rackers seconded the motion. Motion carried as follows:

Curator Bracy	Yes	Curator Bradley Brown	Yes
Curator Cade	Yes	Curator Callahan	Yes
Curator Cook	Yes	Curator Logan	Yes
Curator Pasley	Yes	Curator Popp	Yes
Curator Rackers	Yes		

The Open Session of the Lincoln University Board of Curators adjourned at 3:02 p.m.



Victor B. Pasley, President



Richard G. Callahan, Secretary

Lincoln University Board of Curators

June 14, 2021

OPEN SESSION - Part II

1. Call To Order:

Part II of The Lincoln University Board of Curators Open Session was officially called to order by Board President Victor B. Pasley at 3:25 p.m., on Monday, June 14, 2021, in the Board Room, 201 Young Hall, on the Lincoln University campus, Jefferson City, Missouri.

1. A. Roll Call: Curators present were: Vernon V. Bracy, Stacia R. Bradley Brown, Everidge Cade, Richard G. Callahan, Don W. Cook, Sr., Frank J. Logan, Sr., Victor B. Pasley, Richard R. Popp, and Terry Rackers.

Rose Ann Ortmeyer recorded the minutes.

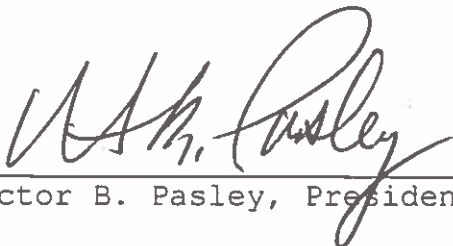
2. Search Firm Services - Request for Proposal (RFP):

Curator Everidge Cade, Chair of the Presidential Transition Committee, reviewed the attached Request for Proposal (RFP) for Search Firm Services. The following amendments were made to the Request for Proposal: The issue date was changed to June 16, 2021; Section VI - Submission of Proposals and Contract Award - paragraph 3.4 - One (1) Original Document and four (4) copies; and the deadline date and time was changed to Thursday, July 29, 2021 at 2 p.m. Curator Callahan moved for approval of the amendments to the Request for Proposal. Curator Cade seconded the motion. The amendments were approved. Curator Callahan moved for approval of the Request for Proposal as amended. Curator Rackers seconded the motion. Motion carried.

3. Adjournment:

Curator Callahan moved for adjournment of the Open Session of the Lincoln University Board of Curators. Curator Rackers seconded the motion. Motion carried.

The Open Session adjourned at 3:30 p.m.



Victor B. Pasley, President



Richard G. Callahan, Secretary



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

RFP NO.: B22-1207
 TITLE: SEARCH FIRM SERVICES
 ISSUE DATE: JUNE 16, 2021

REQ NO.: n/a
 BUYER: Rose Ann Ortmeyr
 PHONE #: (573) 681-5044
 E-MAIL: ortmevr@lincolnu.edu

RETURN PROPOSAL NO LATER THAN: JULY 29, 2021 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 Office of the President of Lincoln University (820 Chestnut St.) by the return date and time.

RETURN PROPOSAL TO: (courier service)
 Ms. Rose Ann Ortmeyr
 Executive Assistant
 Office of the President
 LINCOLN UNIVERSITY
 820 CHESTNUT ST.
 JEFFERSON CITY, MO 65101

The respondent 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 respondent further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The respondent 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 respondent 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

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ATTACHMENTS:

- NON COLLUSION AFFIDAVIT
- AFFIDAVIT OF WORK AUTHORIZATION
- TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL

SECTION I – NOTICE TO RESPONDENTS

Lincoln University requests proposals for the search firms to conduct a search for Lincoln University's executive level positions of: (1) President and (2) Vice President of Academic Affairs and Provost, RFP B22-1207, which will be received by the undersigned at the Office of the President, Lincoln University, until **JULY 29, 2021 at 2:00 pm CT**. **Lincoln University assumes no responsibility for Respondent's on-time receipt at the designated location for proposal opening.**

If you have any questions regarding the RFP, please send them to:

Ms. Rose Ann Ortmeyer
Executive Assistant
Office of the President
Lincoln University
820 Chestnut Street
Jefferson City, MO 65101
ortmeyr@lincolnu.edu

All questions regarding the RFP must be received in writing by email no later than Friday, July 16, 2021 at 3:00 p.m. CT. Please include "LU EXECUTIVE SEARCH" in the subject line of any email.

All firms selected for consideration must be available in person to make a brief presentation to the Lincoln University Board of Curators on Wednesday, September 8, 2021.

Lincoln University reserves the right to waive any informality in Request for Proposals and to reject any or all Request for Proposals.

THE CURATORS OF LINCOLN UNIVERSITY

SECTION II – BACKGROUND INFORMATION

This Request for Proposals (herein referred to as a RFP) is a request for competitive, sealed bids from qualified individuals and organizations to provide the services of searching for a President and a Vice President of Academic Affairs and Provost for Lincoln University in accordance with the terms and conditions set forth herein.

About Lincoln University

Set upon nearly 160 acres in Jefferson City, the state capital of Missouri, Lincoln University challenges and nurtures a diverse body of traditional and non-traditional students with a broad range of academic preparation and skills within a student-centered environment. Lincoln University is a historically black, public, comprehensive, land-grant institution, founded in 1866 by the soldiers of the 62nd and 65th United States Colored Infantries at the close of the Civil War. The University's enrollment averages approximately 3,000 students from 36 states and over 30 countries. Lincoln University offers seven undergraduate degrees in more than 50 areas of study, and graduate programs in selected disciplines that prepare our students to live confidently and successfully in their communities and the evolving global village. The University provides a true college experience with opportunities for student involvement in academic bowls, fine and performance arts, on-campus radio and television studios, a student newspaper, student government, intercollegiate and intramural athletic teams and more than 50 organizations, including fraternities, sororities and social or service organizations. The University also is home to an active student union; up-to-date computer laboratories; a health services clinic and state-of-the-art campus library.

Additional information about Lincoln University is available through the University's web site at www.lincolnu.edu.

SECTION III - SCOPE OF SERVICES

1. Lincoln University invites proposals from executive search firms to provide search services to assist in recruiting candidates for Lincoln University's positions of President and Vice President of Academic Affairs and Provost. Only firms who have substantial experience and a proven track record of conducting successful searches for similar positions in this field will be considered.
2. The services that will be required shall include:
 - Solicit input from the Executive Search Committee through meetings and/or interviews to understand the role, responsibilities, qualifications, and appropriate experience needed for the position.
 - Develop a recruitment strategy, process, and timetable for completion of the work in consultation with the Executive Search Committee.
 - Develop a precise and attractive Position Profile Statement for each position for public distribution.
 - Source job candidates through numerous networks to attract qualified candidates for both positions, proactively reaching out to candidates in the marketplace, including those not actively seeking a new position, accessing the firm's network of qualified C suite level candidates, and other best practice recruitment strategies utilized in the industry.
 - Assess the qualifications of interested candidates against those required in the search specifications. Conduct rigorous screening and recommend potential candidates for interviews with the Executive Search Committee and Board of Curators.
 - Support the Executive Search Committee through a multi-level interview process (if necessary), reference-checking, and hiring process.
3. The Executive Search Committee is asking for assistance to:
 - develop an appropriate job description for both positions
 - identify a pool of qualified and interested candidates for each of the positions
 - assist with interviewing candidates
 - conduct comprehensive background investigations on the finalists selected
4. Contractor will be required to separately submit an initial slate of qualified candidates for both positions to the Executive Search Committee by no later than November 1, 2021. Such initial slate shall consist of no less than three (3) qualified candidates for each position. Lincoln University reserves the right to reject the candidates provided by contractor for each position if such candidates are not deemed qualified by the Executive Search Committee. If the initial slate of candidates for either position is rejected by the Executive Search Committee, contractor shall submit an additional slate of no less than three (3) candidates for any position for which the initial slate was rejected by no later than December 31, 2021.
4. The Executive Search Committee expects to conduct its search beginning in September 2021.

SECTION IV – SPECIFIC REQUIREMENTS

1. Proposal Format: All proposals shall be submitted as *Best and Final Offers*. Each written offer shall include all requirements, terms and conditions, and shall not assume that an opportunity will exist to add such requirements, terms or conditions.
2. Proposal Details
 - 2.1 Details: The proposal should reflect experience with public university searches and an understanding of the special needs of Lincoln University. This includes:
 - A two to three page letter proposal reflecting the approach and process to be taken.
 - Any related experience in public sector searches.
 - Any related experience in HBCU searches.
 - Attached resume/s of any person/s who will conduct the searches for either position.
 - The flat fee cost to be charged to perform the services herein for both positions.
 - Details on how quickly a selected firm is able to begin the search after September 8, 2021.
 - 2.2. References: Respondent shall provide the names, positions, and telephone numbers of three (3) references of large institutions of higher education who have contracted with the respondent's firm in the past five (5) years.
 - 2.3. Proposal Results: Complete records of all proposals and awards will be maintained in Lincoln University's Office of the President under the control of the Executive Assistant, Rose Ann Ortmeyer. All proposal documents will be made available for public examination after the evaluation committee has completed its review, selection and award.
 - 2.4. Period of Firm Proposal: All proposals must remain in effect for a minimum period of 120 days following the RFP opening date on July 29, 2021 in order to allow for sufficient time for evaluation, approval, and issuance of award notice. The successful proposal will remain firm for the duration of any resulting award and extensions.

SECTION V – GENERAL CONTRACTUAL REQUIREMENTS

1. **Purpose:** The purpose of these specifications is to require the furnishing of the highest quality equipment, supplies, material and/or service in accordance with the specifications. These documents, and any subsequent addenda, constitute the complete set of specification requirements and proposal response forms.
2. **Contract Term and Contract Price:**
 - a. The contract term will begin on or about September 8, 2021 and continue until contractor has provided the scope of services to be provided under this contract pursuant to a timeline agreeable to the University.
 - b. All prices quoted by the respondent shall be firm and fixed. The University shall neither pay nor be liable for any other additional costs.
 - c. Any letters of engagement must reference this RFP and must be accompanied by a Lincoln University purchase order prior to the performance of the work.
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.
4. **Clarification:** The University reserves the right to clarify any contractual relationship in writing with the concurrence of the contractor and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the contractor's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern. The University cautions the contractor that their proposal shall be subject to acceptance without further clarification.
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 Board of Curators and incorporated in a written amendment to the contract approved by Lincoln University prior to the effective date of such modification.
6. **Property of Lincoln University:** All reports and materials developed or acquired by the contractor as a direct requirement specified in the contract shall become the property of the University. No reports or material prepared, as required by the contract, shall be released to the public without the prior written consent of the University.
7. **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.
8. **Conflict of Interest:** The contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The contractor further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in the contract.
9. **Contractor Liabilities:** The contractor agrees to defend, indemnify, and save harmless The Curators of Lincoln University, their Officers, Agents, Employees and Volunteers, from and against all loss or expense from any cause of action arising from the contractor's operations. The contractor agrees to investigate, handle, respond to and provide defense for and defend against any such liability,

claims, and demands at the sole expense of the contractor or at the option of the University, agrees to pay to or reimburse the University for the defense costs incurred by the University in connection with any such liability claims, or demands.

The parties hereto understand and agree that the University is relying on, and does not waive or intend to waive by any provision of this contract, any monetary limitations or any other rights, immunities, and protections provided by the State of Missouri, as from time to time amended, or otherwise available to the University, or its officers, employees, agents or volunteers.

10. Assignments:

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

10.2. 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.

11. 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.

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 Office of the President 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.

13. Contract Award: The successful respondent(s) shall enter into a contract prepared by the University. The Contract Documents shall include the Advertisement for Request for Proposals, Specifications and Addenda, Exhibits, Request for Proposal Form, Form of Contract, Statement of Work, Letter of Award, University Purchase Order, and Form of Performance Bond, if required.

14. 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.

14.1. 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.

14.2. 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.

- 14.3. 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.

15. Personnel:

15.1. Respondent understands and agrees that

- a. Contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the University has reasonable cause to believe that contractor has knowingly employed individuals who are not eligible to work in the United States, the University shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state. The University may also withhold up to twenty-five percent of the total amount due to contractor.
- c. Contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
- d. Contractor shall maintain enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services included herein.

15.2. Subcontractors. Pursuant to RSMo 285.530 (1) no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. In accordance with RSMo 285.525 to 285.550, a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates RSMo 285.530 (1), if the contract binding the contractor and subcontractor affirmatively states that

- a. the direct subcontractor is not knowingly in violation of RSMo 285.530 (1) and
- b. shall not henceforth be in such violation and
- c. the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

16. 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.

17. 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.

18. 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.

19. 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.

19.1. 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.

19.2. 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.

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

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

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

b. 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

The above coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.

19.3. Contractor may satisfy the minimum liability limited required for Commercial General Liability or Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability.

19.4. Contractor also agrees to maintain Workers' Compensation in accordance with Missouri State Statutes.

19.5. If capturing, transmitting or accessing PII, PHI or PCI, then contractor must also include Data Breach coverage of \$1,000,000 per occurrence.

19.6. 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, its officers and employees, as additional named insureds and require the insurer to notify the University immediately in the event that the insurance coverage is canceled.

19.7. 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.

19.8. Failure to maintain the required insurance in force may be cause for contract termination. In the event the contractor fails to maintain and keep in force the required insurance or to

- obtain coverage from its subcontractors, if applicable, the University shall have the right to cancel and terminate the contract without notice.
- 19.9. 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.
20. **Governing Laws and Regulations:** Any contract issued as a result of this RFP shall be construed according to the laws of the State of Missouri. Additionally, the selected contractor 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.
21. **Taxes:** The selected contractor shall assume and pay all taxes and contributions including, but not limited to, State, Federal and Municipal which are payable by virtue of the furnishing and delivery of item(s) specified herein.
22. **Sovereign Immunity:** The Curators of Lincoln University, due to its status as a state entity and its entitlement to sovereign immunity, is unable to accept contract provisions, which require the Curators to indemnify another party (537.600, RSMo). Any indemnity language in proposed terms and conditions will be modified to conform to language that the Curators are able to accept.
23. **Appropriation:** The Curators of Lincoln University is a public corporation and, as such, cannot create indebtedness in any one year (the fiscal year beginning July 1 to June 30) above what it can pay out of the annual income of said year as set forth in 172.250, RSMo. Therefore, if the University determines it has not received adequate appropriations, budget allocations or income to enable it to meet the terms of this contract, the University reserves the right to cancel this contract with 30 days' notice.
24. **Equal Opportunity and Non-Discrimination:** 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 any recipients of services, or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. The contractor shall comply with federal laws, rules, and regulations applicable to subcontractors of government contracts including those relating to equal employment of minorities, women, persons with disabilities, and certain veterans. Contract clauses required by the United States Government in such circumstances are incorporated herein by reference.
25. **Applicable Laws and Regulations:** Lincoln University serves from time to time as a contractor for the United States government. Accordingly, the provider of goods and/or services shall comply with federal laws, rules and regulations applicable to subcontractors of government contracts including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29 USC 706 and Executive Order 11758), and certain veterans (38 USC 4212 formerly [2012]) contracting with business concerns with small disadvantaged business concerns (Publication L. 95-507). Contract clauses required by the Government in such circumstances are incorporated herein by reference.
26. **Anti-Discrimination Against Israel Act:** If this contract involves the acquisition or disposal of services, supplies, information technology, or construction and has a total potential value of

\$100,000 or more, and if respondent is a company with ten (10) or more employees, then respondent certifies that it, and any company affiliated with it, does not boycott Israel and will not boycott Israel during the term of this contract. In this paragraph, the terms “company” and “boycott Israel” shall have the meanings described in Section 34.600 of the Missouri Revised Statutes.

27. **Applicable Health Related Laws and Regulations:** If these specifications or any resulting contract involves health care services or products, respondent agrees to maintain, and will further assure such compliance by its employees or subcontractors, the confidential nature of all information which may come to respondent with regard to patients of the University. All services provided pursuant to this contract shall be provided in accordance with all applicable federal and state laws including The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, sections 261-264 (the Administrative Simplification sections) and the regulations promulgated pursuant thereto and regulations of the Joint Commission on Accreditation of Healthcare Organization and The Centers for Medicare & Medicaid Services (CMS).
28. **Inventions, Patents, and Copyrights:** The selected contractor shall pay for all royalties, license fees, patent or invention rights, or copyrights and defend all suits or claims for infringements of any patent or invention right or copyrights involved in the items furnished hereunder. The contractor shall defend, protect, and hold harmless the University its officers, agents, servants and employees against all suits of law or in equity resulting from patent and or copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

Copyrights for any item developed for Lincoln University shall be the property of the University and inure to its benefit and the contractor shall execute such documents as Lincoln University may require for the perfection thereof.

29. **Contractor Gifts:** The selected contractor shall refrain in offering any offers of gifts to Lincoln University and all University employees or agents.
30. **Warranty and Acceptance:** 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 or adopted by the University, (2) be fit and sufficient for the purpose expressed in the RFP, (3) be merchantable, (4) be of good materials and workmanship, (5) be free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the University's acceptance of or payment for such equipment, supplies, and/or services.

No equipment, supplies, and/or services received by the University pursuant to a contract shall be deemed accepted until the University has had a reasonable opportunity to inspect said equipment, supplies and/or services. All equipment, supplies, and/or services which do not comply with 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.

31. **Supplier Diversity:** Lincoln University is a diverse community and recognizes the importance of supplier diversity in our business and procurement practices and welcomes the development, utilization of certified Minority, Women, Veteran and Service Disabled Veteran-owned Business Enterprise (MBE/WBE/VBE/SDVBE). Lincoln University encourages the participation of MBE/WBE/VBE/SDVBES in its procurement process both at the prime vendor level as well as at the subcontractor level. During a proposal review, the University will assign points for supplier diversity participation and consider as a part of the overall bid evaluation.

SECTION VI – SUBMISSION OF PROPOSALS AND CONTRACT AWARD

1. Respondent's Contact: All questions regarding the scope of work, bid process, etc., must be in writing and directed to Rose Ann Ortmeyr, Executive Assistant, at ortmeyr@lincolnu.edu. Respondents 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 respondent.
2. Clarification of Requirements: It is the intent and purpose of Lincoln University that this request permits competitive bidding. It shall be the Respondent'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 the Office of the President of Lincoln University not later than one (1) week prior to the bid closing date. A review of such notifications will be made.
3. Submission of Bids:
 - 3.1. Bids must be priced, signed, sealed, and received (with all necessary attachments) in the University's Office of the President by the closing date and time specified. Any form containing a signature line must be manually signed in **blue ink** and returned as part of the bid. Any bids received by the Office of the President 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.
 - 3.2. The proposer must respond to this RFP by submitting all data required herein in order for his/her/its 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.
 - 3.3. Accompanying Documents: The following documents and forms should accompany any offer submitted, and may be considered by the Executive Search Committee in evaluation and scoring. The forms are also available at <https://www.lincolnu.edu/web/purchasing/vendor-forms>.
 - a. Vendor Registration Form
 - b. W-9 Form
 - 3.4. Proposal Specifications and Assembly:
 - a. One (1) Original Document – with original signatures and noted *ORIGINAL. Double sided printing is encouraged when appropriate.*
 - b. Plus four (4) Copies of Original Document – (copies of original submittal including any additional materials/enclosures provided) clearly noted COPY on the cover. Double sided printing is encouraged whenever appropriate for the submittal.
 - c. Plus one (1) Electronic Copy on a thumb drive - file shall be provided as a single .pdf.
 - d. Page Limit – None, if not otherwise specified herein this document.
 - e. Page Size – 8 ½ x 11; oversized or pullout pages must be folded down to meet this size.
 - f. Binding – It is preferred that all submittals be submitted using comb binders that shall be neat and appropriate for the document's thickness. NO 3-RING BINDERS.
4. Non-Collusion Affidavit: The respondent must complete, sign and return as part of the respondent's bid the Non-Collusion Affidavit attached hereto.

5. Affidavit of Work Authorization: The respondent must complete, sign and return as part of the bid the Affidavit of Work Authorization.
6. No proposal shall be withdrawn for a period of 120 days following the RFP opening date on July 29, 2021. Lincoln University reserves the right to waive any informalities in any proposal and to reject any and all proposals without any statement or reason thereof. Final acceptance shall be subject to the parties entering into a written agreement including the terms thereof.
7. Confidentiality of documents: Documents in the possession of, or available to the Curators of Lincoln University are available to the public under the provisions of Chapter 610 RSMo. unless exempted by section 610.021 RSMo., or some other applicable law, therefore, any agreement by the University to keep any documents or information confidential is subject to and limited by applicable law.
8. Complete Set of Specifications: The RFP document and any attachments constitute the complete set of specifications and Request for Proposal response forms. No verbal or written information that is obtained other than through this RFP or its addenda shall be binding on the University. No employee of the University is authorized to interpret any portion of this RFP or give information as to the requirements of the RFP in addition to that contained in or amended to this written RFP document.
9. Form of Submission: Respondent shall furnish information required by the solicitation in the form requested. The University reserves the right to reject proposals with incomplete information or which are presented on a different form. All proposals shall be signed, in the appropriate location, by a duly authorized representative of the Respondent's organization. Signature on the proposal certifies that the Respondent has read and fully understands all RFP specifications, plans, and terms and conditions.
 - 8.1. By submitting a proposal, the Respondent agrees to provide the specified equipment, supplies and/or services in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein. Furthermore, the Respondent certifies that: (1) the proposal is genuine and is not made in the interest of or on behalf of any undisclosed person, firm, or corporation, and is not submitted in conformity with any agreement or rules of any group, association, or corporation; (2) the Respondent has not directly or indirectly induced or solicited any other Respondent to submit a false or sham proposal; (3) the Respondent has not solicited or induced any person, firm, or corporation to refrain from responding; (4) the Respondent has not sought by collusion or otherwise to obtain any advantage over any other Respondent or over the University.
 - 8.2. Modifications or erasures made before proposal submission must be initialed in ink by the person signing the proposal. Proposals, once submitted, may be modified in writing prior to the exact date and time set for the RFP closing. Any such modifications shall be prepared on company letterhead, signed by a duly authorized representative, and state the new document supersedes or modifies the prior proposal. The modification must be submitted marked "Proposal Modification" and clearly identifying the RFP title, RFP number and closing date and time. Proposals may not be modified after the RFP closing date and time. Telephone and facsimile modifications are not permitted.
 - 8.3. Proposals may be withdrawn in writing, on company letterhead, signed by a duly authorized representative and received at the designated location prior to the date and time set for RFP closing. Proposals may be withdrawn in person before the RFP closing upon presentation of proper identification.

SECTION VII – EVALUATION PROCESS

1. Evaluation and Award:

- 1.1. Any clerical errors, apparent on its face, may be corrected by the University before contract award. Upon discovering an apparent clerical error, the University shall contact the respondent and request clarification of the intended proposal. The correction shall be incorporated in the notice of award. The University reserves the right to request clarification of any portion of the respondent's response in order to verify the intent. The respondent is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- 1.2. The University reserves the right to make an award to the responsive and responsible respondent whose product or service meets the terms, conditions, and specifications of the RFP and whose proposal is considered to best serve the University's interest.

2. Criteria: The award will be based on the following criteria:

- Experience of the firm for type of search
- Proven track-record on successful searches
- Staff assigned to the search
- Cost

Note: The University may nominate for consideration, interview, and select candidates for the President or Vice President of Academic Affairs and Provost positions in addition to only candidates recommended by the firm who is awarded this bid.

- ### 3. Pre-Award Negotiations: After the proposals are opened, but prior to award, the University may elect to conduct negotiations with the highest ranked respondents for purposes of:
- Resolving minor differences and information
 - Clarifying necessary details and responsibilities
 - Emphasizing important issues and points
 - Receiving assurances from respondents

ATTACHMENT

State of _____)

County of _____)

NON COLLUSION AFFIDAVIT

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing bid (such persons, firms and corporations hereinafter being collectively referred to as the Offeror), being duly sworn, on his oath says that to the best of his belief and knowledge no person, firm or corporation, nor any person duly representing the same joint and participating in the submission of the foregoing bid, has directly or indirectly entered into any arrangement or agreement with any other offerors, or with any public officials of the State of Missouri, or any employee thereof, or any person, firm or corporation under contract with the State of Missouri, whereby the Offeror, in order to induce the acceptance of forgoing bid by said State of Missouri, has paid or is to pay to any other offeror or to any of the aforementioned persons any sum of money or has given or is to give to any other offeror or to any of the aforementioned persons any sum of money or has given or is to give to any of the aforementioned person anything of value whatever, and that the offeror has not, directly or indirectly, entered into any arrangement or agreement with any other offeror or offeror which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing bid.

Name and Title_____
Company_____
Date

Subscribed and sworn to before me, a Notary Public in and for said County and State, on this _____ day of _____, 20____.

Witness my hand and Notaries Seal.
My commission expires:

Notary Public

ATTACHMENT
AFFIDAVIT OF WORK AUTHORIZATION

Comes now _____ as _____ first being duly
(NAME) (OFFICE HELD)

sworn on my oath, affirm _____ is enrolled and will continue to
(COMPANY NAME)

participate in a federal work authorization program in respect to employees that will work
in connection with the contract services related to _____ for the duration of
(BID NUMBER)

the contract, if awarded in accordance with RSMo Chapter 285.530 (2). I also affirm that
_____ does not and will not knowingly employ a person who is an
(COMPANY NAME)

unauthorized alien in connection with the contracted services related to _____
(BID NUMBER)

for the duration of the contract, if awarded.

In Affirmation thereof, the facts stated above are true and correct (The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo).

Signature (person with authority) Printed Name

Title Date

Subscribed and sworn to before me this _____ of _____. I am
(DAY) (MONTH, YEAR)

Commissioned as a notary public within the County of _____, State of
(NAME OF COUNTY)

_____, and my commission expires on _____.
(NAME OF STATE) (DATE)

Signature of Notary Date

**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 an 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 an 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.