



LINCOLN UNIVERSITY  
PURCHASING DEPARTMENT  
REQUEST FOR PROPOSAL (RFP)

RFP NO.: B23-1220  
TITLE: TAX CREDIT CONSULTING SERVICES  
ISSUE DATE: JANUARY 6, 2023

REQ NO.: n/a  
BUYER: DAMON NUNN  
PHONE #: (573) 681-5415  
E-MAIL: [nunnd@lincolnu.edu](mailto:nunnd@lincolnu.edu)

RETURN PROPOSAL NO LATER THAN: JANUARY 20, 2023 AT 2 P.M. CENTRAL TIME

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

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

CONTRACT PERIOD: February 1, 2023 THROUGH JUNE 30, 2023.

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 12/30/2022). 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

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**ATTACHMENTS:**

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

**SECTION I – BACKGROUND INFORMATION**

This Request for Proposals (herein referred to as an RFP) is a request for competitive, sealed bids from qualified individuals and organizations to provide Tax Credit Consulting Services for the review and assessment for the eligibility of (ERC) Employee Retention Credits for Lincoln University of Missouri in accordance with the terms and conditions set forth herein.

Lincoln University of Missouri is a historically black, 1890 land-grant, public comprehensive institution that provides excellent educational opportunities including theoretical and applied learning experiences to a diverse population within a nurturing, student-centered environment.

Lincoln University was founded in 1866 by the men of the 62<sup>nd</sup> and 65<sup>th</sup> United States Colored Infantries and their white officers, for the special benefit of freed African Americans. Today, Lincoln University's role in the education of Missourians and others and its service to stakeholders throughout the state, the nation, and across the globe is well recognized. Lincoln University continues to serve the needs of its diverse student body through a tradition of offering innovative programs.

**Additional Information**

- The University operates on a fiscal year calendar, defined as July 1 to June 30.
- The University's General Ledger, Accounts Payable, Purchasing and Fixed Assets are run on Ellucian's Colleague Finance System, which started July 1, 2002. The Colleague modules utilized by the University are Finance, Student, Human Resources, and Project Accounting.
- The University's Office of the Controller includes Accounting Services, Grant Accounting, Student Accounts, Accounts Payable, Payroll as well as Purchasing with 20 FTE.
- Audited financial statements are available at <http://www.lincolnu.edu/web/comptroller>.

**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.

## SECTION II - SCOPE OF SERVICES

1. The Tax Credit Consulting Services shall be performed in accordance with generally accepted accounting and auditing standards, the standards for financial accounting contained in Government Auditing Standards, issued by the Comptroller General of the United States and with the provisions of Title 2 US Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
2. The objective of the selected firm shall be to provide contractual support to help Lincoln University determine its eligibility for (ERC) Employee Retention Credits based on the requirements written within the (ERC) and (IRS) Internal Revenue Service rules and laws governing eligibility of the credits utilizing the University's employee records and payroll data collected by the selected firm. Furthermore, the contractor will support completing any and all form and paperwork required for the university to claim credit. Help the university defend against any contrary ruling by the federal government that would negatively impact the claiming process.
3. The scope of services to be provided for the year ending June 30, 2023 will include the following:
  - a. Employee Records and payroll review
    - i. Data collected will consist of employee records and payroll records of Lincoln University for any years the university may be eligible
    - ii. Collection of data to include collection of employees' healthcare insurance premium payouts that occurred during the eligibility period expressed in the (ERC) Employee Retention Credit
  - b. Calculation of credits eligible to be received by the University according to the (ERC) Employee Retention Credit requirements
  - c. Selected vendor will provide legal audit defense in future years in cases of discrepancy and audit in reference to (ERC) Employee Retention Credit services
  - d. Present the finalized documents and eligibility statements to the University's Board of Curators
4. The University will provide payroll records, prepare certain paid health insurance cost reports required by the selected vendor, and other necessary correspondence as well as gather data as needed. The University will be responsible for printing and binding of the reports. The University will be responsible for submitting the final tax credit documents provided by the selected vendor to the (IRS) Internal Revenue Service.
5. As a part of the ongoing professional services during the contract period, the following should be provided at no additional cost:
  - a. Provide a written description of changes in (IRS) Internal Revenue Service code affecting (ERC) Employee Retention Credit and related business income tax compliance and tax reporting.
  - b. Provide a written description of any other federal and state regulations that may impact the University.

**SECTION III – SPECIFIC REQUIREMENTS**

1. Proposer must provide an Executive Summary to include the following.
  - a. Information that documents the capacity and reliable experience in past performances, especially those performances related to the requirements of this RFP.
  - b. An overview of experience with public educational institutions of comparable size and complexity.
  - c. An overview of experience with Missouri public institutions, examples of Employee Retention Credit team submissions completed.
  - d. Why their firm should be selected.
  - e. Written narrative that demonstrates the method or manner in which the firm proposes to satisfy the requirements of Section II of this RFP, describing the audit approach.
  - f. Number of years in business.
2. Proposer must provide credentials and qualifications of proposed staff assigned to the Employee Retention Credit team, and must include the following.
  - a. Resume or biography including educational qualifications of all proposed contractual staff.
  - b. For key personnel, provide previous relevant experience and any experience providing services to public institutions.
  - c. Professional development and training received in the last two years by each proposed staff.
  - d. The individuals indicated in the firm's initial proposal as being a part of the key personnel must be assigned to the University during the entire course of the initial engagement unless an individual on the team separates from the firm, is promoted, or the University requests a change. If either separation or promotion of a member of the key personnel occurs, the firm must replace this individual with an individual on a timely basis with like qualifications, subject to the University's prior approval.
  - e. Provide information regarding any pending legislations the firm may be involved in that could affect the university's ERC claiming efforts.
  - f. Summarize the number of clients that have been served by the firm to claim ERC and what percentage of those claims were denied.
3. Proposer must include an audited financial statement for the most current year-end. Proposer must also include a description of any litigations in which the firm is currently involved, as well as indicating any potential conflict of interest and plans for avoiding the conflict. This information should be submitted in a separate, sealed envelope labeled Financial Information. This information will be used to determine overall financial strength and will be maintained as confidential information by Lincoln University to the extent permissible by law.

**SECTION IV – SUBMISSION OF PROPOSALS AND CONTRACT AWARD**

1. **Proposers Contact:** Proposers are encouraged to submit questions by email to [nunnd@lincolnu.edu](mailto:nunnd@lincolnu.edu). All inquiries should reach the Purchasing Department on or before January 13, 2023. Proposers 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 proposal.
2. **Submission of Bids:**
  - a. Bids 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 manually signed in blue ink and returned as part of the bid. Any bids 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 proposer 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:**
    - i. The proposer is requested to submit an original signature bid and one (1) copy of the original signature bid, for a total of two (4) complete bids.
    - ii. The proposer is requested to submit a USB capable device containing an electronic copy of their proposal.
3. **Non-Collusion Affidavit:** The offeror must complete, sign and return as part of the offeror's bid the Non-Collusion Affidavit attached hereto.
4. No proposal shall be withdrawn for a period of 60 days after the scheduled time and date of opening. 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.

**SECTION V – GENERAL CONTRACTUAL REQUIREMENTS**

1. Contract Period:
  - a. 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.
  - b. Lincoln University shall have the right, at its sole option, to renew the contract for an additional one (1) year period, or any portion thereof. In the event Lincoln University exercises such right, all terms, conditions, and provisions of the contract shall remain the same and apply during the renewal period.
2. Contract Price:
  - a. 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 be in accordance with this document.
  - b. 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. 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. The University reserves the right to clarify any contractual relationship in writing with the concurrence of the vendor and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the vendor's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern. The University cautions the vendor that their proposal shall be subject to acceptance without further clarification.
5. All reports and materials developed or acquired by the selected vendor 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.
6. The University or its representative shall have access to the lead partners Documents and Work Papers at reasonable times during the contract period, and for seven years from the date of final payment. These records will be required beyond seven years if any litigation is begun or if a claim is instituted involving the (ERC) Employee Retention Credit review or the contract. In this instance, the records will be retained until the litigation or claim has been finally resolved.
7. The vendor agrees to keep all information about the University and its Financial Records, Contracts and other affairs in strict confidence. The vendor shall not assign any interest in the contract and shall not transfer any interest, whatsoever, in the contract without the prior written consent of the University.
8. The vendor covenants that they presently have 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 vendor further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in the contract.
9. Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this contract are delayed or prevented by any cause, not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, said party is unable to prevent.

10. Termination of Contract:
- a. The University shall have the right to terminate this contract at any time in the event the selected firm files a petition in bankruptcy, or is adjudicated bankrupt; or if a petition in bankruptcy is filed against the selected firm and not discharged within 30 days; or if the selected firm becomes insolvent or makes an assignment for the benefit of its creditor or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for the selected firm or its business. The selected firm and the University agree that each party is responsible for its own negligence.
  - b. Lincoln University reserves the right to terminate the contract at any time for the convenience of the University, without penalty or recourse by giving the vendor a written notice of such termination at least thirty (30) calendar days prior to termination. The vendor 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.
11. In the event that only one bid is received in response to this RFP, the University reserves the right to negotiate the terms and conditions, including price, as proposed in the sole vendor's bid. In addition, as part of such negotiations, the University reserves the right to require supporting costs, pricing and other data from the sole vendor in order to determine the reasonableness and acceptability of the bid.
12. Personnel:
- a. Respondent understands and agrees that
    - i. 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.
    - ii. 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.
    - iii. Contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
    - iv. 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.
  - b. 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
    - i. the direct subcontractor is not knowingly in violation of RSMo 285.530 (1) and
    - ii. shall not henceforth be in such violation and
    - iii. 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.



- c. Affidavit of Work Authorization and Documentation. Pursuant to 285.530 RSMo, Contractor must affirm its enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by
  - i. submitting a completed, notarized copy of ATTACHED AFFIDAVIT OF WORK AUTHORIZATION and
  - ii. providing documentation affirming Contractor's enrollment and participation in a federal work authorization program (see below) with respect to the employees proposed to work in connection with the services requested herein.
- d. E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of the following two pages of the E-Verify Memorandum of Understanding (MOU): 1) a valid, completed copy of the first page identifying the bidder/company name and 2) a valid copy of the signature page completed and signed by the bidder/an authorized representative of (company name), the Social Security Administration, and the Department of Homeland Security – Verification Division.

**SECTION VI – EVALUATION PROCESS**

The selection committee will first determine if a proposal satisfies the mandatory requirements stated in this RFP. The award of a contract shall be based on the proposal most advantageous to the University taking into consideration price, the qualifications of the firm and the staff assigned to the contract. Criteria to be evaluated in the proposal are as follows:

**a. COST – 40 points**

- i. The University analysis will be based on
  1. Fees for the initial engagement (one year) inclusive of all projected expenses related to the services being provided.
  2. Hourly rates and flat rates
  3. Percentages of eligible tax credits received by the University which correlates into the contract fee.
- ii. Final award of this contract will not be governed solely on the lowest prices submitted.

**b. NON-COST – 60 points**

- i. Demonstrated capability and capacity to perform the requested services in a highly professional and timely manner within a higher education environment as demonstrated through references from audit clients, Peer Review and other information in the proposal that demonstrates the firm's stability: **25 points**
- ii. Demonstrated adequacy of staffing with training on GASB Standards to cover the audit and tax service engagement: **10 points**
  1. Firms that do not train Managers, Partners and field staff will not be considered.
  2. Potential impact of staff turnover, training of Manager and Partner, and training of field staff in GASB.
- iii. Proven experience/expertise with public institutions with (ERC) consulting and tax services: **10 points**
- iv. Proven experience/expertise with single audit requirements under 2CFR200: **10 points**
- v. Any other information deemed relevant by the proposer which should be considered in evaluating the proposer's experience/expertise. This could include items that support the University's mission and goals, such as student internships, scholarships, etc.: **5 points**

**SECTION VII – PRICING PAGE**

Proposer must outline the fee for the services described in the Request For Proposal as follows:		
	Review	
	Period	
Review of the University's employee and payroll records in accordance with (ERC) Employee Retention Credit requirements set forth by the (IRS) Internal Revenue Service and preparation of eligibility statement	\$	
Actual out-of-pocket expenses not to exceed:	\$	
<b>TOTAL:</b>	\$	
Hourly rate to be applied should the University request additional services:	\$	
If applicable, percentage of ERC claim to be paid as a fee to contractor for completion fo services:		%

\_\_\_ Non-collusion affidavit included?

\_\_\_ Affidavit of work authorization included?

\_\_\_ Electronic media included?

**THIS PAGE MUST BE COMPLETED & INCLUDED WITH YOUR PROPOSAL**

**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 \_\_\_\_\_.

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 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 a offeror, from offeror's references, or from any other source.
- h. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.
- i. Any award of a contract shall be made by written notification from Lincoln University to the successful offeror. Lincoln University reserves the right to make awards by item, group of items, all or none, or a combination thereof on a geographic and/or statewide basis with one or more suppliers. The grouping of items awarded shall be determined by Lincoln University based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of Lincoln University.
- j. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- k. Lincoln University reserves the right to request written clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response shall be subject to acceptance or rejection without further clarification.

## **9. CONTRACT/PURCHASE ORDER**

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

## **10. INVOICING AND PAYMENT**

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

## **11. DELIVERY**

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

## **12. INSPECTION AND ACCEPTANCE**

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

## **13. WARRANTY**

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

## **14. CONFLICT OF INTEREST**

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



## **15. REMEDIES AND RIGHTS**

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

## **16. CANCELLATION OF CONTRACT**

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

## **17. COMMUNICATIONS AND NOTICES**

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

## **18. BANKRUPTCY OR INSOLVENCY**

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

## **19. INVENTIONS, PATENTS AND COPYRIGHTS**

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

## **20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION**

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

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

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

## **21. AMERICANS WITH DISABILITIES ACT**

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

## **22. TITLES**

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