

Consulting Services to Perform Audit of Kansas Department of Labor and the Unemployment Insurance System for Fraudulent Claims and Improper Payments

REQUEST FOR PROPOSAL (RFP)

Date Posted: August 2, 2021

Closing Date: September 24, 2021, 5:00 pm

Contacts: Thomas A. Day, Director
Office of Legislative Administrative Services
Tom.Day@las.ks.gov
785.296.2391

Jason Long, Senior Assistant Revisor of Statutes
Office of Revisor of Statutes
Jason.Long@rs.ks.gov
785.296.2321

Contracting Entities: Unemployment Compensation Modernization and Improvement Council (Council) on Behalf of Kansas Legislature and Kansas Department of Labor (KDOL)

Item: Consulting Services to Perform Audit of Kansas Department of Labor and the Unemployment Insurance System for Fraudulent Claims and Improper Payments

Bid Guarantee: No Monetary Bid Guarantee Required

Request for Proposal recently posted to the Kansas Legislature's website. The Request for Proposal can be downloaded by going to the following website: <http://kslegislature.org/li/>

It shall be the bidder's responsibility to monitor the website on a regular basis for any changes/amendments.

Questions requesting clarification of the bid must be submitted in writing to the contacts listed above
Before the close of business on Tuesday, September 14, 2021

Answers to the questions will be available on the Legislature's website <http://kslegislature.org/li/>

It shall be the responsibility of all participating bidders to acquire any and all additional information as it is posted to the website. Bidders not initially invited to participate in this Bid Event must notify the contacts listed above of their intent to bid at least 24 hours prior to the closing date/time.

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SIGNATURE SHEET

Item: Consulting Services to Perform Audit of Kansas Department of Labor Legacy Information Technology System

Agencies: Unemployment Compensation Modernization and Improvement Council on Behalf of Kansas Legislature and Kansas Department of Labor

Closing Date: September 24, 2021, 5:00pm

By submission of a bid and the signatures affixed thereto, the bidder certifies all products and services proposed in the bid meet or exceed all requirements of this specification as set forth in the request and that all exceptions are clearly identified.

Legal Name of Person, Firm or Corporation _____

Mailing Address _____ City & State _____ Zip _____

Office Phone Number _____ Local Number _____

Cell Phone Number _____ Fax Number _____

Tax Number _____

CAUTION: If your tax number is the same as your Social Security Number (SSN), you must leave this line blank. DO NOT enter your SSN on this signature sheet. If your SSN is required to process a contract award, including any tax clearance requirements, you will be contacted by the Office of Legislative Administrative Services.

E-Mail _____

Signature _____ Date _____

Typed Name _____ Title _____

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

Bidding Process Contact Name _____

Mailing Address _____ City & State _____ Zip _____

Office Phone Number _____ Local Number _____

Cell Phone Number _____ Fax Number _____

E-Mail _____

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CERTIFICATION OF COMPANY

NOT CURRENTLY ENGAGED IN A BOYCOTT OF GOODS or SERVICES FROM ISRAEL

In accordance with K.S.A. 75-3740e and K.S.A. 75-3740f, the State of Kansas shall not enter into a contract with a Company to acquire or dispose of goods or services with an aggregate price of more than \$100,000, unless such Company submits a written certification that such Company is not currently engaged in a boycott of goods or services from Israel that constitutes an integral part of business conducted or sought to be conducted with the State.

As a Contractor entering into a contract with the State of Kansas, it is hereby certified that the Company listed below is not currently engaged in a boycott of Israel as set forth in K.S.A. 75-3740e and K.S.A. 75-3740f.

Signature, Title of Contractor

Date

Printed

Name of Company

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TAX CLEARANCE INSTRUCTIONS

A “Tax Clearance” is a comprehensive tax account review to determine and ensure that the account is compliant with all primary Kansas Tax Laws administered by the Kansas Department of Revenue (KDOR) Director of Taxation. Information pertaining to a Tax Clearance is subject to change(s), which may arise as a result of a State Tax Audit, Federal Revenue Agent Report, or other lawful adjustment(s).

To obtain a Tax Clearance Certificate, you must:

- Go to <http://www.ksrevenue.org/taxclearance.html> to request a Tax Clearance Certificate
- Return to the website the following working day to see if KDOR will issue the certificate
- If issued an official certificate, print it and attach it to your bid proposal
- If denied a certificate, engage KDOR in a discussion about why a certificate was not issued

Contractors must submit a current Tax Clearance Certificate.

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

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

Information about Tax Registration can be found at the following website:

<http://www.ksrevenue.org/busregistration.html>

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1. Bidding Instructions

1.1. Bid Event ID/Reference Number

The Request for Proposal name, indicated in the header of this page, has been assigned to this RFP and MUST be shown on all correspondence or other documents associated with this RFP and MUST be referred to in all verbal communications. All inquiries, written or verbal, shall be directed only to the contacts listed on Page 1 of this proposal.

1.2. Questions/Addenda

Questions requesting clarification of the bid event must be submitted in WRITING (Via email is requested) to the Contacts prior to the close of business on **September 14, 2021**.

Failure to notify the Contacts of any conflicts or ambiguities in this bid event may result in items being resolved in the best interest of the State. Any modification to this bid event shall be made in writing by addendum and mailed to all vendors who received the original request. Only Written communications are binding.

Answers to the questions will be available on the Legislature's website <http://kslegislature.org/li/>

It shall be the responsibility of all participating bidders to acquire any and all addenda and additional information as it is made available from the web site cited above. Bidders must check the website periodically for any additional information or instructions.

1.3. Pre-Bid Conference

Pre-Bid Conference shall be held on Wednesday, September 8, 2021, at 10:00 am, Room 159-S, Statehouse, 300 SW 10th Avenue, Topeka, Kansas.

Attendance is not required at the pre-bid conference but is strongly encouraged. All questions requesting clarification of the RFP to be addressed at the pre-bid conference must be submitted in writing to Tom Day prior to 5:00 pm, September 7, 2021. Impromptu questions will be permitted at the conference; however, bidders should clearly understand that all official answers will be those provided by the Council in writing. Questions and answers shall be posted on the Legislature's website <http://kslegislature.org/li/> following the pre-bid conference.

1.4. Appearance Before Council

Any, all, or no bidders may be required to appear before the Unemployment Compensation Modernization and Improvement Council (Council) to explain the bidder's understanding and approach to the project and/or respond to questions from the Council concerning the proposal; or, the Council may award without conducting negotiations, based on the initial proposal. The Unemployment Compensation Modernization and Improvement Council reserves the right to request information from bidders as needed. If information is requested, the Council is not required to request the information of all bidders.

Bidders selected to participate in negotiations may be given an opportunity to submit a revised technical and/or cost proposal/offer to the Council, subject to a specified cut off time for submittal of revisions. Negotiation meetings before the Unemployment Compensation Modernization and Improvement Council shall be held in executive session pursuant to K.S.A. 75-4319, and amendments thereto. Bidders

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are prohibited from electronically recording these meetings. All information received prior to the cut off time will be considered part of the bidder's revised offer.

No additional revisions shall be made after the specified cut off time unless requested by the Unemployment Compensation Modernization and Improvement Council.

1.5. Notices

All notices, demands, requests, approvals, reports, instructions, consents, or other communications (collectively "notices") that may be required or desired to be given by either party to the other shall be IN WRITING and addressed as follows:

Unemployment Compensation Modernization and Improvement Council
c/o Legislative Administrative Services
RFP Consulting Services Audit of Kansas Department of Labor
Statehouse, Room 551-S
300 SW Tenth Avenue
Topeka, Kansas 66612

1.6. Cost of Preparing Proposal

The cost of developing and submitting the proposal is entirely the responsibility of the bidder. This includes costs to determine the nature of the engagement, preparation of the proposal, submitting the proposal, negotiating for the contract and other costs associated with this RFP.

1.7. Preparation of Proposal

Prices are to be entered in spaces provided on the cost proposal form if provided herein. Computations and totals shall be indicated where required. In case of error in computations or totals, the unit price shall govern. The Unemployment Compensation Modernization and Improvement Council has the right to rely on any prices provided by bidders. The bidder shall be responsible for any mathematical errors. The Unemployment Compensation Modernization and Improvement Council reserves the right to reject proposals that contain errors.

All copies of cost proposals shall be submitted in a separate sealed envelope or container separate from the technical proposal. The outside shall be identified clearly as "Cost Proposal" or "Technical Proposal" with the Bid Event title and closing date.

A proposal shall not be considered for award if the price in the proposal was not arrived at independently and without collusion, consultation, communication, or agreement as to any matter related to price with any other bidder, competitor, or public officer/employee.

Technical proposals shall contain a concise description of bidder's capabilities to satisfy the requirements of this RFP with emphasis on completeness and clarity of content. Repetition of terms and conditions of the RFP without additional clarification shall not be considered responsive.

1.8. Signature of Proposals

Each proposal shall give the complete legal name and mailing address of the bidder and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line. If the contract's contact will be a different entity, indicate that individual's contact information for communication purposes. Each proposal shall include the bidder's tax number.

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1.9. Acknowledgment of Amendments

All bidders shall acknowledge receipt of any amendments to this bid event by returning a signed hard copy with the bid. Failure to acknowledge receipt of any amendments may render the proposal to be non-responsive. Changes to this bid event shall be issued only by the Unemployment Compensation Modernization and Improvement Council in writing.

1.10. Modification of Proposals

A bidder may modify a proposal by letter or by email transmission at any time prior to the closing date and time for receipt of proposals.

1.11. Withdrawal of Proposals

A proposal may be withdrawn on written request from the bidder to the Unemployment Compensation Modernization and Improvement Council Contacts prior to the closing date.

1.12. Competition

The purpose of this bid event is to seek competitive responses. The bidder shall advise the Unemployment Compensation Modernization and Improvement Council Contacts if any specification, language, or other requirement inadvertently restricts or limits bidding to a single source. Notification shall be in writing and must be received by the Unemployment Compensation Modernization and Improvement Council no later than five (5) business days prior to the bid closing date. The Council reserves the right to waive minor deviations in the specifications that do not hinder the intent of this bid event.

1.13. Evaluation of Proposals

Award shall be made in the best interest of the State as determined by the Unemployment Compensation Modernization and Improvement Council. Although no weighted value is assigned, consideration may focus toward but is not limited to:

- Cost. Bidders are not to inflate prices in the initial proposal as cost is a factor in determining who may receive an award or be invited to formal negotiations. The State reserves the right to award to the lowest responsive bid without conducting formal negotiations.
- Adequacy and completeness of proposal
- Bidder's understanding of the project
- Compliance with the terms and conditions of the RFP
- Experience in providing like services
- Qualified staff
- Appropriate methodology planned to accomplish tasks
- Response format as required by this RFP

1.14. Acceptance or Rejection

The Unemployment Compensation Modernization and Improvement Council reserves the right to accept or reject any or all proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this RFP; and unless otherwise specified, to accept any item in a proposal.

1.15. Proposal Disclosures

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At the time of closing, only the names of those who submitted proposals shall be made public information. No price information will be released. A List of Bidders may be obtained in the following manner:

1. Attending the public meeting of the Unemployment Compensation Modernization and Improvement Council, OR
2. Requesting a List of Bidders via E-mail to legserv@las.ks.gov or in writing to the following address. Include the RFP name in all requests.

Unemployment Compensation Modernization and Improvement Council
c/o Legislative Administrative Services
RFP Consulting Services Audit of Kansas Department of Labor
Statehouse, Room 551-S
300 SW Tenth Avenue
Topeka, Kansas 66612

Requests for additional bid information are to be processed via Kansas Open Records Act Requests.

1.16. Disclosure of Proposal Content and Proprietary Information

All proposals become the property of the Unemployment Compensation Modernization and Improvement Council. The Open Records Act (K.S.A. 45-215 et seq) of the State of Kansas requires public information be placed in the public domain at the conclusion of the selection process and be available for examination by all interested parties. No proposals shall be disclosed until after a contract award has been issued. The Council reserves the right to destroy all proposals if the RFP is withdrawn, a contract award is withdrawn, or in accordance with Kansas law. Late Technical and/or Cost proposals will be retained unopened in the file and not receive consideration or may be returned to the bidder.

Trade secrets or proprietary information legally recognized as such and protected by law may be requested to be withheld if clearly labeled "Proprietary" on each individual page and provided as separate from the main proposal. Pricing information is not considered proprietary and the bidder's entire proposal response package will not be considered proprietary.

All information requested to be handled as "Proprietary" shall be submitted separately from the main proposal and clearly labeled, in a separate envelope or clipped apart from all other documentation. The bidder shall provide detailed written documentation justifying why this material should be considered "Proprietary". The Unemployment Compensation Modernization and Improvement Council reserves the right to accept, amend or deny such requests for maintaining information as proprietary in accordance with Kansas law.

The Unemployment Compensation Modernization and Improvement Council does not guarantee protection of any information that is not submitted as required.

1.17. Exceptions

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

1.18. Notice of Award

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An award is made on execution of the written contract by all parties.

1.19. News Releases

Only the Council is authorized to issue news releases relating to this bid event, its evaluation, award and/or performance of the resulting contract.

2. Proposal Response

2.1. Submission of Proposals

Bidder's proposal shall consist of:

- One (1) original and THIRTEEN (13) copies of the Technical Proposal, including the signed Event Details document, applicable literature and other supporting documents;
- One (1) original and THIRTEEN (13) copies of the Cost Proposal (please do not duplicate and resubmit the Event Details and supporting documents with the Cost Proposal);
- Two (2) electronic / software version(s) of the technical and cost proposals are required. That is two each for a total of four. This shall be provided on CD or flash drive, in Microsoft® Word, Excel or searchable PDF®. Technical and cost responses shall be submitted on separate media.

All copies of cost proposals shall be submitted in a separate sealed envelope or container separate from the technical proposal. The outside shall be identified clearly as "Cost Proposal" or "Technical Proposal" with the RFP title and closing date.

Bidder's proposal, sealed securely in an envelope or other container, shall be received no later than 5:00 pm, Central Time, on the closing date, addressed as follows:

Unemployment Compensation Modernization and Improvement Council
c/o Legislative Administrative Services
RFP Consulting Services Audit of Kansas Department of Labor
Statehouse, Room 551-S
300 SW Tenth Avenue
Topeka, Kansas 66612

It is the bidder's responsibility to ensure bids are received by the closing date and time. Delays in mail delivery or any other means of transmittal, including couriers or agents of the issuing entity shall not excuse late bid submissions.

Faxed, e-mailed or telephoned proposals are not acceptable unless otherwise specified.

Proposals received prior to the closing date shall be kept secured until closing. The Council shall not be responsible for a proposal that was not received prior to the closing date because it was not properly identified on the outside of the envelope or container. Late Technical and/or Cost proposals will be retained in the file and not receive consideration or may be returned to the bidder.

2.2. Proposal Format

Bidders are instructed to prepare their Technical Proposal following the same sequence as this RFP.

2.3. Transmittal Letter

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All bidders shall respond to the following statements:

- (a) the bidder is the prime contractor and identifying all subcontractors;
- (b) the bidder is a corporation or other legal entity;
- (c) no attempt has been made or will be made to induce any other person or firm to submit or not to submit a proposal;
- (d) the bidder does not discriminate in employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin or disability;
- (e) no cost or pricing information has been included in the transmittal letter or the Technical Proposal;
- (f) the bidder presently has no interest, direct or indirect, that would conflict with the performance of services under this contract and shall not employ, in the performance of this contract, any person having a conflict;
- (g) the person signing the proposal is authorized to make decisions as to pricing quoted and has not participated, and will not participate, in any action contrary to the above statements;
- (h) whether there is a reasonable probability that the bidder is or will be associated with any parent, affiliate, or subsidiary organization, either formally or informally, in supplying any service or furnishing any supplies or equipment to the bidder that would relate to the performance of this contract. If the statement is in the affirmative, the bidder is required to submit with the proposal, written certification and authorization from the parent, affiliate or subsidiary organization granting the State and/or the federal government the right to examine any directly pertinent books, documents, papers and records involving such transactions related to the contract. Further, if at any time after a proposal is submitted, such an association arises, the bidder will obtain a similar certification and authorization and failure to do so will constitute grounds for termination for cause of the contract at the option of the State;
- (i) bidder agrees that any lost or reduced federal matching money resulting from unacceptable performance in a contractor task or responsibility defined in the RFP, contract or modification shall be accompanied by reductions in state payments to Contractor; and
- (j) the bidder has not been retained, nor has it retained a person to solicit or secure a state contract on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the bidder for the purpose of securing business.

For breach of this provision, the Unemployment Compensation Modernization and Improvement Council shall have the right to reject the proposal, terminate the contract for cause and/or deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

2.4. Bidder Information

The bidder must include a narrative of the bidder's corporation and each subcontractor if any. The narrative shall include the following:

- (a) date established;
- (b) ownership (public, partnership, subsidiary, etc.);
- (c) number of personnel, full and part time, assigned to this project by function and job title;
- (d) resources assigned to this project and the extent they are dedicated to other matters;
- (e) organizational chart;
- (f) list of state agencies in Kansas that bidder has provided consulting services in the past 10 years;
- (g) financial statement may be required.

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2.5. Qualifications

A description of the bidder's qualifications and experience providing the requested or similar service shall be submitted with the Technical Proposal. The bidder must be an established firm recognized for its capacity to perform. The bidder must have sufficient personnel to meet the deadlines specified in the bid event.

2.6. Experience

All bidders must have a minimum of three years continuous active participation in the applicable industry, providing services comparable in size and complexity to those specified herein.

2.7. Timeline/Availability

The availability and capacity for implementing services upon notification of need must be submitted with the bid.

2.8. Methodology

Bidders shall submit with the bid, a detailed explanation of the methodology for implementing services.

2.9. References

Provide three references who have contracted for similar services from the bidder in the last five years. References shall show firm name, contact person, address, e-mail address and phone number. Bidder's employees shall not be shown as references.

2.10. Bidder Contracts

Bidders must include with their RFP response, a copy of any contracts, agreements, licenses, warranties, etc. that the bidder would propose to incorporate into the contract generated from this Bid Event. (State of Kansas form DA-146a remains a mandatory requirement in all contracts.)

2.11. Alternate Proposals/Equivalent Items

Bids on goods and services comparable to those specified herein are invited. Whenever a material, article or piece of equipment is identified in the specifications by reference to a manufacturer's or vendor's name, trade name, catalog number, etc., it is intended to establish a standard, unless otherwise specifically stated. Any material, article or equipment of other manufacturers or vendors shall perform to the standard of the item specified. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be furnished at no expense to the State and if not destroyed in the evaluation process, shall be returned at bidder's expense, if requested.

The State of Kansas reserves the right to determine and approve or deny "equivalency" in comparison of alternate bids.

2.12. Technical Literature

All Technical Proposals shall include specifications and technical literature sufficient to allow the State to determine that the equipment/services meet(s) all requirements. If a requirement is not addressed in the technical literature, it must be supported by additional documentation and included with the bid. Proposals without sufficient technical documentation may be rejected.

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2.13. Human Trafficking

The State of Kansas, as a matter of public policy, encourages anyone doing business with the State of Kansas to take steps to discourage human trafficking. If prospective bidders/vendors/Contractors have any policies or participate in any initiatives that discourage human trafficking the prospective bidder/vendor/Contractor is encouraged to submit same as part of their bid response.

2.14. Data Sharing Agreement

In furtherance of securing the confidentiality of data provided by the State, the selected bidder will be subject to the terms and conditions of a data sharing agreement between the bidder and the State, which may be incorporated into the audit services contract.

3. Terms and Conditions

3.1. Contract

The successful bidder will be required to enter into a written contract with the Unemployment Compensation Modernization and Improvement Council and the Kansas Department of Labor. The contractor agrees to accept the provisions of Form DA 146a (Contractual Provisions Attachment), which is incorporated into all contracts with the State and is incorporated into this bid event.

3.2. Contract Documents

This bid event, any amendments, the response and any response amendments of the Contractor, and the State of Kansas DA-146a (Contractual Provision Attachment) shall be incorporated into the written contract, which shall compose the complete understanding of the parties.

In the event of a conflict in terms of language among the documents, the following order of precedence shall govern:

- Form DA 146a;
- written modifications to the executed contract;
- written contract signed by the parties;
- the Bid Event documents, including any and all amendments; and
- Contractor's written offer submitted in response to the Bid Event as finalized.

3.3. Captions

The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

3.4. Contract Formation

No contract shall be considered to have been entered into by the State until all statutorily required signatures and certifications have been rendered and a written contract has been signed by the contractor.

3.5. Statutes

Each, and every, provision of law and clause required by law to be inserted in the contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the contract shall be amended to make such insertion or correction.

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3.6. Governing Law

This contract shall be governed by the laws of the State of Kansas and shall be deemed executed in Topeka, Shawnee County, Kansas.

3.7. Jurisdiction

The parties shall bring any, and all, legal proceedings arising hereunder in the State of Kansas District Court of Shawnee County, unless otherwise specified and agreed upon by the State of Kansas. Contractor waives personal service of process, all defenses of lack of personal jurisdiction and forum non conveniens. The Eleventh Amendment of the United States Constitution is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this Agreement shall be deemed a waiver of the Eleventh Amendment.

3.8. Mandatory Provisions

The provisions found in Contractual Provisions Attachment (DA 146a) are incorporated by reference and made a part of this contract.

3.9. Termination for Cause

The Unemployment Compensation Modernization and Improvement Council may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

- the Contractor fails to make delivery of goods or services as specified in this contract;
- the Contractor provides substandard quality or workmanship;
- the Contractor fails to perform any of the provisions of this contract, or
- the Contractor fails to make progress as to endanger performance of this contract in accordance with its terms.

The Unemployment Compensation Modernization and Improvement Council shall provide the Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as the State may authorize in writing), the Unemployment Compensation Modernization and Improvement Council shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

3.10. Termination for Convenience

The Unemployment Compensation Modernization and Improvement Council may terminate performance of work under this contract in whole or in part whenever, for any reason, the Council shall determine that the termination is in the best interest of the State of Kansas. In the event the Unemployment Compensation Modernization and Improvement Council elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least 30 days prior to the termination date. The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.

3.11. Rights and Remedies

If this contract is terminated, the State, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed,

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any completed materials. The State shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

In the event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to or goods were accepted by State subject to any offset by State for actual damages including loss of federal matching funds.

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

3.12. Debarment of State Contractors

Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this Contract may be barred for a period up to three (3) years, pursuant to K.S.A. 75-37,103, or have their work evaluated for pre-qualification purposes pursuant to K.S.A. 75-37,104.

3.13. Antitrust

If the Contractor elects not to proceed with performance under any such contract with the State, the Contractor assigns to the State all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and the State of Kansas relating to the particular products or services purchased or acquired by the State pursuant to this contract.

3.14. Hold Harmless

The Contractor shall indemnify the Unemployment Compensation Modernization and Improvement Council against any, and all, loss or damage to the extent arising out of the Contractor's negligence in the performance of services under this contract and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

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

3.15. Force Majeure

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

3.16. Assignment

The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the Unemployment Compensation Modernization and Improvement Council. The Council may reasonably withhold consent for any reason.

This contract may terminate for cause in the event of its assignment, conveyance, encumbrance, or other transfer by the Contractor without the prior written consent of the Unemployment Compensation Modernization and Improvement Council.

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3.17. Third Party Beneficiaries

This contract shall not be construed as providing an enforceable right to any third party.

3.18. Waiver

Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by the Council shall not constitute a waiver.

3.19. Injunctions

Should the Council be prevented or enjoined from proceeding with the acquisition before or after contract execution by reason of any litigation or other reason beyond the control of the Council, Contractor shall not be entitled to make or assert claim for damage by reason of said delay.

3.20. Staff Qualifications

The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

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

3.21. Subcontractors

The Contractor shall be the sole source of contact for the contract. The Unemployment Compensation Modernization and Improvement Council will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the contract shall apply without qualification to any services performed or goods provided by any subcontractor.

3.22. Independent Contractor

Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation, social security, income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

3.23. Worker Misclassification

The Contractor and all lower tiered subcontractors under the Contractor shall properly classify workers as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding. Failure to do so may result in contract termination.

3.24. Immigration and Reform Control Act of 1986 (IRCA)

All contractors are expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with certain limitations, requires the verification of the

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employment status of all individuals who were hired on or after November 6, 1986, by the Contractor as well as any subcontractor or sub-contractors. The usual method of verification is through the Employment Verification (I-9) Form.

With the submission of this bid, the Contractor hereby certifies without exception that such Contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at the Council's option, may subject the contract to termination for cause and any applicable damages.

Unless provided otherwise herein, all contractors are expected to be able to produce for the Council any documentation or other such evidence to verify the Contractor's IRCA compliance with any provision, duty, certification or like item under the contract.

3.25. Proof of Insurance

Upon request, the Contractor shall present an affidavit of Worker's Compensation, Public Liability, and Property Damage Insurance to the Unemployment Compensation Modernization and Improvement Council.

3.26. Conflict of Interest

The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the State and providing services involving this contract or services similar in nature to the scope of this contract to the State. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any state employee who has participated in the making of this contract until at least two years after his/her termination of employment with the State.

3.27. Nondiscrimination and Workplace Safety

The Contractor agrees to abide by all federal, state and local laws, and rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws or rules or regulations may result in termination of this contract.

3.28. Confidentiality

The Contractor may have access to private or confidential data maintained by State to the extent necessary to carry out its responsibilities under this contract. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 45-215 et seq.) in providing services under this contract. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained, or used, in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Contractor agrees to return any or all data furnished by the State promptly at the request of State in whatever form it is maintained by Contractor. On the termination or expiration of this contract, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by State, shall destroy or render it unreadable.

Unemployment Compensation (UC) information is defined as state UC agency records that pertains to the administration of state UC law, and such information is usually received directly from claimants or employers. UC information is confidential and not subject to disclosure or redisclosure unless certain

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circumstances apply. If there is a permissible disclosure of confidential UC information, UC grant funds are generally not allowed to pay for the costs of making such disclosure unless the disclosure is necessary for proper administration of the UC program.

Under federal and state law, recipients of confidential UC information will be required to safeguard the disclosed information against unauthorized access, disclosure, or redisclosure. Certain recipients of confidential UC information will also be required to enter into a written, enforceable agreement with the state UC agency, and the entered-into agreement must contain, at a minimum, federally-required terms and conditions. Recipients of confidential UC information are further subject to state law penalties for unauthorized disclosure of confidential UC information.

To administer the state UC program, KDOL also receives information from federal agencies through entered-into data-sharing agreements. That data requires written permission from those federal agencies prior to redisclosure of such data to KDOL contractors. Permission provided is also limited to certain purposes. If not granted the permission by the federal agency, KDOL is not permitted to provide this information to contractors.

Further, to administer the state UC program, the UC information KDOL receives contains personally identifiable information. State laws govern the safeguarding of that information and actions that must occur when there is an unauthorized disclosure. Vendor compliance can be accomplished by entering into a written data-sharing agreement with KDOL. If such information can be permissibly provided under federal and state laws to the contractor, KDOL's data-sharing agreement identifies these applicable laws as well as the manner in which such data can be disclosed, utilized, and safeguarded by the contractor.

3.29. Environmental Protection

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

3.30. Prohibition of Gratuities

Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

3.31. Retention of Records

Unless the Council specifies in writing, a different period of time, the Contractor agrees to preserve and make available at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

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The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of state and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post contract period. Delivery of and access to the records shall be within five (5) business days at no cost to the Council.

3.32. Off-Shore Sourcing

All work performed by Contractor pursuant to the terms and conditions of this Request for Proposal shall be performed in the United States and no part of such work shall be sourced to a location outside of the United States.

3.33. Payment

Payment Terms are Net 30 days based on each invoice submitted.

Payment schedule shall be on a frequency mutually agreed upon by both the agency and the Contractor.

3.34. Accounts Receivable Set-Off Program

If, during the course of this contract, the Contractor is found to owe a debt to the State of Kansas, a state agency, municipality, or the federal government, agency payments to the Contractor may be intercepted/setoff by the State of Kansas. Notice of the setoff action will be provided to the Contractor. Pursuant to K.S.A. 75-6201 et seq, Contractor shall have the opportunity to challenge the validity of the debt. The Contractor shall credit the account of the agency making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes Contractors against debts owed by the Contractors to the State of Kansas, state agencies, municipalities, or the federal government. Payments setoff in this manner constitute lawful payment for services or goods received. The Contractor benefits fully from the payment because its obligation is reduced by the amount subject to setoff.

3.35. Federal, State and Local Taxes

Unless otherwise specified, the contracted price shall include all applicable federal, state, and local taxes. The Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Contract. The State of Kansas is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the contracted price. Upon request, the Council shall provide to the Contractor a certificate of tax exemption.

The Council makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

3.36. Required Reports

The Contractor shall be required to file a preliminary report to the Unemployment Compensation Modernization and Improvement Council by May 1, 2022, and a final report by September 1, 2022. The reports shall be made publicly available by the Council. The preliminary report should include, but not limited to, an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims and the external perimeter housing the claims systems, as well as an evaluation of the Kansas Department of Labor's response to claims. Reports shall also include information on the progress regarding the Secretary's implementation of all program integrity elements

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and guidance issued by the United States Department of Labor and the National Association of State Workforce Agencies. Electronic files shall be e-mailed to the Unemployment Compensation Modernization and Improvement Council in .pdf format. The email address will be provided to the successful contractor.

3.37. Debarment of State Contractors

Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this Agreement may be barred for up to a period of three (3) years, pursuant to K.S.A. 75-37,103, or have its work evaluated for pre-qualification purposes. Contractor shall disclose any conviction or judgment for a criminal or civil offense of any employee, individual or entity that controls a company or organization or will perform work under this Agreement that indicates a lack of business integrity or business honesty. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in the termination of the contract.

The Contractor certifies that neither it, its principals, or any subcontractor that the Contractor will utilize in furtherance of this agreement are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Agreement by any federal department or agency.

3.38. Materials and Workmanship

The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by this Contract, within the time specified, in accordance with the provisions as specified.

3.39. Implied Requirements

All products and services not specifically mentioned in this contract, but which are necessary to provide the functional capabilities described by the specifications, shall be included.

3.40. Information/Data

Any, and all, information/data required to be provided at any time during the contract term shall be made available in a format as requested and/or approved by the Unemployment Compensation Modernization and Improvement Council.

3.41. Integration

This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This Agreement between the parties shall be independent of and have no effect on any other contracts of either party.

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3.42. Modification

This contract shall be modified only by the written agreement and approval of the parties. No alteration or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

3.43. Severability

If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected and each provision of this contract shall be enforced to the fullest extent permitted by law.

3.44. Accessibility

The Contractor agrees that the services to be provided under this Contract shall comply with applicable state and federal law. This includes Section 508 of the Rehabilitation Act of 1973 and any amendments thereto, (29 U.S.C. § 794d), and its implementation of Electronic and Information Technology Accessibility Standards (36 CFR § 1194).

3.45. Restricted Use Information

“Restricted Use Information” means information provided to the Contractor by or at the direction of the Unemployment Compensation Modernization and Improvement Council, or to which access was provided to the Contractor by or at the direction of the Council, in the course of the Contractor’s performance under this Agreement that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit report information, biometric or health data, answers to security questions and other personal identifiers).

3.46. Award

Award will be based on overall bid(s) in the best interest of the State of Kansas.

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4. SPECIFICATIONS

PURPOSE OF REQUEST FOR PROPOSAL

The purpose of this Request for Proposal (RFP) is to provide information to assist the Unemployment Compensation Modernization and Improvement Council to examine the effects on the Kansas Department of Labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020, through March 31, 2022, and the response by the Kansas Department of Labor to such fraudulent claims and improper payments during that period. The Council shall select an independent firm to conduct the audit. The auditor shall have access to all confidential documents.

The Kansas Department of Labor is responsible for paying the costs of the audit.

Required Areas to be Addressed

(Language of Scope of Audit Taken From 2021 Senate Substitute for Substitute for House Bill 2196.

Information regarding Bill may be viewed at:

http://kslegislature.org/li/b2021_22/measures/hb2196/)

SCOPE OF WORK – BASE BID

The audit shall examine the effects on the Kansas Department of Labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020, through March 31, 2022, and the response by the Kansas Department of Labor to such fraudulent claims and improper payments during that period.

The scope of the audit shall include, but not be limited to:

- 1) an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims and the external perimeter housing the claims systems, as well as an evaluation of the Kansas Department of Labor's response to claims. (due May 1, 2022)
- 2) the amounts and nature of improper payments and fraudulent claims, fraud processes and methods and the possibility of recovery of any improper payments. The term "improper payment" means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements and includes any payment to an ineligible recipient. Distinguish improper payment from fraudulent claims. Compile, assess and evaluate a statistically significant, projectable, and time-line controlled sample of State Unemployment Insurance Trust Fund funded programs of fraudulent claims and improper payments. Statistically significant and projectable sampling shall be made for each quarter of calendar years 2020 and 2021, and the first quarter of calendar year 2022. (due September 1, 2022)
 - a. address whether such improper payments were made pursuant to pandemic-related federal unemployment compensation programs or the state's traditional unemployment compensation program.
 - b. address whether such claims were made prior to or after the implementation of multi-factor authentication methods by the Kansas Department of Labor.

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- c. assessment of the frequency of claimant profile password changes, PIN resets and whether common PINs are allowed (1111, 1234, etc).
 - d. assessment of the claimant payment method used for such claims and payments.
 - e. assessment of the amount of such payments that may have been avoided if the unemployment waiting week had not been waived as of March 31, 2020.
 - f. assessment of the factors used by the Kansas Department of Labor to flag a claim for fraud and the effectiveness and accuracy of each such factor.
- 3) an evaluation that provides likelihood of a data breach within the Kansas Department of Labor, being a contributing factor to any fraudulent payments, improper network architecture allowing a potential breach to have occurred and a timeline of relevant events. Examine additional possible avenues for which fraudulent activities could have occurred within the Unemployment Insurance Program to include, but not limited to, the human factor related to fraud and data breaches. This evaluation should include a review of whether the Kansas Department of Labor had controls to ensure staff were properly background checked and trained in IT security to ensure the security of sensitive unemployment insurance information and whether those controls followed during the COVID-19 pandemic. (due September 1, 2022)
- 4) information on the progress regarding the secretary's implementation of all program integrity elements and guidance issued by the United States Department of Labor and the National Association of State Workforce Agencies (due September 1, 2022). Those elements include:
 - i. Social security administration cross-matching for the purpose of validating social security numbers supplied by a claimant.
 - ii. checking of new hire records against the national directorate of new hires to verify eligibility.
 - iii. verification of immigration status or citizenship and confirmation of benefit applicant information through the systematic alien verification for entitlement program.
 - iv. comparison of applicant information to local, state and federal prison databases through incarceration cross-matches.
 - v. detection of duplicate claims by applicants filed in other states or other unemployment insurance programs through utilization of the interstate connection network, interstate benefits cross-match, the state identification inquiry state claims and overpayment file and the interstate benefits 8606 application for overpayment recoveries for Kansas claims filed from a state other than Kansas.
 - vi. identification of internet protocol addresses linked to multiple claims or to claims filed outside of the United States.
 - vii. use of data mining and data analytics to detect and prevent fraud when a claim is filed, and on an ongoing basis throughout the lifecycle of a claim, by using current and future functionalities to include suspicious actor repository, suspicious email domains, foreign internet protocol addresses, multi-state cross-match, identity verification, fraud alert systems and other assets provided by the unemployment insurance integrity center.

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SCOPE OF WORK – ADDITIONAL ITEMS

- 1) Assessment of the phone system used by the Kansas Department of Labor to respond to claimant and assist claimants in filing claims.
- 2) Assessment of the number of unique individual claimants receiving benefits by unemployment compensation program in 2020 and 2021 and the total number of claims, and amount of benefits, paid to each individual.
- 3) Assessment of the employer claim counts and charges for the five years preceding 2020 and claims in 2020 and 2021, with an examination of employers showing large increases in 2020 and 2021 to determine how many fraudulent claims were not flagged for fraud. Examine fictitious employer scheme fraud claims for the five years preceding 2020 and including 2020 and 2021. Fictitious employer schemes may include, but not limited to, creation of fictitious companies, use of post office box addresses, no actual employees, business operations or normal business expenses.
- 4) Make recommendations for future Unemployment Insurance Systems and Practices.
- 5) Examine and note timeframes of leadership and personnel changes at the Kansas Department of Labor. Examine administration changes, and whether policies, security, protocols, and guidelines changed. Assess crucial milestones and the impact they had on fraudulent and improper payment claims. Examination and notation of timeframes and crucial milestones shall be for the period between March 15, 2020 and March 31, 2022.

REPORT DEADLINES

The independent firm shall make a preliminary report to the Council by May 1, 2022, and a final report by September 1, 2022, that shall be made publicly available by the Council.

For this contract, engagement of awarded Contractor shall be done based on specified due dates of reports. The independent firm shall make a preliminary report to the Council by May 1, 2022, and a final report by September 1, 2022, that shall be made publicly available by the Council.

CONTENTS OF THE PROPOSAL

Each responder shall provide a technical proposal in a tabular format in the order specified below:

- Provide affidavit stating the name, title, address, email address, and telephone number for all individuals who may be assigned to work on the project. Summarize the individual's relevant experience, including level of responsibility. Include work status (citizenship or work permit), security level, and that a completed satisfactory criminal history, and employment background check has been made of each individual who may be assigned to the project. The individual charged with overall responsibility should be clearly identified and should be available to make any oral presentation, if requested.
- Provide a minimum of three references, including contact names and telephone numbers.
- Describe your firm's procedure and policy for providing continuing, uninterrupted service if staffing changes occur or if the requested scope of services is significantly increased. In addition,

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describe your procedure for replacing personnel assigned to the project.

- Explain the nature and extent of familiarity and experience regarding the stated scope of work to be performed in this request for proposal.
- Provide a narrative describing the manner in which you will provide the required services.
- Provide a list of similar engagements, where the firm has completed in the past ten years. Include a brief analysis of each engagement and the evaluation outcomes for each study.

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Cost Sheet (continued)

Other Costs not shown above (please be specific)

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

List Hourly Rates for each Principal, Associate, Administrative Staff, and Subcontractor:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

6. Contractual Provisions Attachment

DA-146a Rev. 07/19

6.1. Terms Herein Controlling Provisions

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

6.2. Kansas Law and Venue

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

6.3. Termination Due To Lack Of Funding Appropriation

If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

6.4. Disclaimer Of Liability

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

6.5. Anti-Discrimination Clause

The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase ""equal opportunity employer""; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute

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a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

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

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

6.6. Acceptance Of Contract

This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

6.7. Arbitration, Damages, Warranties

Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

6.8. Representative's Authority To Contract

By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

6.9. Responsibility For Taxes

The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

6.10. Insurance

The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.

6.11. Information

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

6.12. The Eleventh Amendment

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

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6.13. Campaign Contributions / Lobbying

Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.