



**SEDGWICK COUNTY, KANSAS**  
***DIVISION OF FINANCE***  
**PURCHASING DEPARTMENT**  
525 N. Main, Suite 823 ~ Wichita, KS 67203  
Phone: 316 660-7255 Fax: 316 383-7055

<http://www.sedgwickcounty.org/finance/purchasing.asp>

**REQUEST FOR PROPOSAL**  
**#15-0078**  
**VOTING SYSTEM**

September 16, 2015

Dear Vendors,

Sedgwick County, acting as a Lead Agent is soliciting proposals for the procurement of new voting systems for use by participating counties in the State of Kansas. If your firm is interested in submitting a response please do so in accordance with the instructions contained within the attached Request for Proposal.

A handwritten signature in black ink that reads "Kimberly Evans". The signature is written in a cursive, flowing style.

Kimberly Evans  
Purchasing Agent

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## **I. Purpose and Objectives**

Sedgwick County, Kansas (hereinafter referred to as “Sedgwick County” or “County”) acting as the Lead Agent with participation from the counties of Johnson, Shawnee and Wyandotte, Kansas (all hereinafter referred to as “The Counties”) is soliciting proposals from qualified vendor(s) for the replacement of their current voting systems with voting system(s) that is/are compliant with Federal and State requirements as promulgated by the Help America Vote Act of 2002 and the laws of the State of Kansas. It will secure sources for tabulation systems, support equipment, consumables, implementation services and maintenance services to be used by said counties in the conduct of Federal, State and Local elections. If the project proceeds, the vendor(s) shall be responsible for complete replacement, installation, training, testing, and maintenance, including bridge maintenance for existing systems if necessary, in The Counties no later than March 1, 2017, pending final approval of funding. Training for voters is not in the scope of this RFP, but may be negotiated in individual county contracts.

## **II. Submittals**

Carefully review this Request for Proposal. It provides specific technical information necessary to aid participating firms in formulating a thorough response. Should you elect to participate, submit one (1) original and one (1) electronic copy (USB drive preferred, Word or PDF document) of the entire proposal document with any supplementary materials to:

Kimberly Evans  
Sedgwick County Purchasing Department  
525 N. Main, Suite 823  
Wichita, KS 67203

SUBMITTALS are due **NO LATER THAN 1:45 p.m. CDT** October, 27 2015. Responses must be sealed and marked on the lower left-hand corner with the firm name and address, proposal number, and proposal due date. Late or incomplete responses will not be accepted and will not receive consideration for final award.

Proposal responses will be acknowledged and read into record at bid opening which will occur at 2:00 p.m. CDT, on the due date. No information other than the respondent’s name will be disclosed at bid opening.

## **III. About this Document**

This document is a Request for Proposal. It differs from a Request for Bid or Quotation in that The Counties are seeking a solution, as described on the cover page and in the following Background Information section, not a bid or quotation meeting firm specifications for the lowest price. As such, the lowest price proposed will not guarantee an award recommendation. As defined in Charter Resolution No. 65, Competitive Sealed Proposals will be evaluated based upon criteria formulated around the most important features of the product(s) and/or service(s), of which quality, testing, references, service, availability or capability, may be overriding factors, and price may not be determinative in the issuance of a contract or award. The proposal evaluation criteria should be viewed as standards that measure how well a vendor’s approach meets the desired requirements and needs of The Counties. Criteria that will be used and considered in evaluation for award are set forth in this document. The Counties will thoroughly review all proposals received. The Counties will also utilize its best judgment when determining whether to schedule a pre-proposal conference, before proposals are accepted, or meetings with vendors, after receipt of all proposals. A Purchase Order/Contract will be awarded to a qualified vendor submitting the best proposal. **The Counties individually reserve the right to select, and subsequently recommend for award, the proposed service(s) and/or product(s) which best meets their respective and required needs, quality levels and budget constraints. Each County separately retains its own ability to contract with whichever vendor it deems appropriate pursuant to its own purchasing policies and procedures. This Request for Proposal is not intended to subject any of The Counties besides Sedgwick County to Sedgwick County’s bidding requirements. Each County also retains the right not to select any vendor through this process. Any agreements that may arise from this Request for Proposal would be separately approved by each County individually, and subject to each county’s contractual conditions.**

The nature of this work is for a public entity and will require the expenditure of public funds and/or use of public facilities, therefore the successful proposer will understand that portions (potentially all) of their proposal may become public record at any time after receipt of proposals. Proposal responses, purchase orders and final contracts are subject to public disclosure after award. All confidential or proprietary information should be clearly denoted in proposal responses

and responders should understand this information will be considered prior to release, however no guarantee is made that information will be withheld from public view.

#### **IV. Background**

With a voting population of approximately 832,965 registered voters, the Counties have a combined total of 1,296 precincts, 369 polling places, and 287 districts. Voting is conducted by mail-in ballot, early voting at vote centers, or on Election Day at specifically designated polling sites. Some elections are conducted by mail-in ballot only. At least one (1) General Election is conducted in each county every year, and a Partisan Primary Election is conducted every two (2) years. Additional elections are held as required for Special Elections and Non-Partisan Primary Elections.

The scope of the project is to include proper removal and disposition of existing equipment and supply of all new equipment, training, testing, maintenance of new equipment, and providing or contracting for bridge maintenance if necessary of existing equipment until replacement is complete. Additionally, the project scope will include a discussion of the systems and its components, minimum life expectancy, and all specific periodic maintenance required to meet or exceed that life expectancy.

The Counties are seeking all equipment and services necessary to implement and support the voting system through two (2) statewide elections in each county. It is the responsibility of the vendor to propose services necessary to implement their voting system.

The current voting systems in use in The Counties are aging and running on hardware that in some cases is out of warranty and out of production. The mechanical and electronic components of the system increasingly require more frequent maintenance and repair. The software utilizes operating system software that is no longer supported and database management software that has unacceptable limitations.

The objective of this project is to replace the aging system with a newer, more efficient and more capable system that will enable The Counties to continue to conduct elections and remain in compliance with all applicable laws and regulations. The voting system must meet specific regulatory requirements and include functionality, components, storage capabilities, and maintenance features that support and enable the essential election processes listed below.

- Ballot preparation and distribution of ballots
- Precinct, Advance, Early and Absentee Voting
- Vote tabulation and reporting

The selected system must address the basic characteristics attributed to a proper system:

The anonymity of a voter's ballot must be preserved

The system must be comprehensible and easy to use by the entire voting population, regardless of age, infirmity, or disability.

The voting system is the total combination of mechanical, electromechanical, and electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) used to define ballots; cast and count votes; report or display election results; connect the voting system to the voter registration system; and maintain and produce any audit trail information.

The voting system must include voting devices that are accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation in the voting process (including privacy and independence) as for other voters.

The system must include components for presenting ballots to voters and capturing votes, including voting devices and associated support and privacy components that constitute voting booths. Throughout this document, voting device is defined as the device used by a voter to record his/her vote. It includes the recording device, the voting booth, all electrical cords and other necessary wires and cables, a suitable power failure back-up system, and any necessary controlling unit, peripheral devices, or equipment.

The voting system must also provide options for the pre-election set-up and testing of voting devices, opening and closing of polls, regular voting, accessible voting, curbside voting, pertinent types of absentee, advance, early and provisional balloting, and vote tabulation and election reporting at the precinct, district, county, and state levels to include individual race reports, and reports of ballots cast with a break down by precinct and equipment type. Reports must be available in formats suitable for transfer to the Kansas Secretary of State and county website reporting software.

The voting system must have the ability to audit results by race, including blank, under-voted and over-voted ballots as well as the ability to interface with existing ballot on demand (BOD) printers currently in use in the counties (OKIDATA BOD PRINTERS) and, where applicable, existing electronic poll books (KNOWiNK Poll Pad and Election Administrators (EA) electronic poll books).

All data produced by the voting system, including but not limited to all logs, results, ballot data, and reports, will belong solely to the county making the purchase of the voting system. Ownership of all data, materials and documentation originated and prepared for “The Counties” pursuant to this RFP shall belong exclusively to the County for which it was prepared.

## Goals

The Counties seek to achieve the following goals by implementing the new solution:

- Boost system overall throughput for vote capture both in the speed at which ballots are processed as well as increased efficiencies in adjudication; seeking to realize significant improvements over current system capacity.
- Make the tabulation of votes speedier and realize improved efficiency in vote tabulation and results reporting.
- Diminish the possibility for election worker / human error.
- Maintain high standards for ballot design and production by allowing and supporting the ballot design principals outlined in EAC publication “Effective Designs for the Administration of Federal Elections” ([http://www.eac.gov/assets/1/Page/EAC\\_Effective\\_Election\\_Design.pdf](http://www.eac.gov/assets/1/Page/EAC_Effective_Election_Design.pdf)).
- Enhance audit capabilities, transparency and openness to public scrutiny.
- Upgrade reporting capabilities.
- Improve system administration.
- Upgrade ADA accessibility and curbside voting features over current system.
- Enhance overall voter experience and promote voter confidence through increased efficiency, transparency and accountability for elections, reconciliation and reporting of results.
- Reduce the limitations set by the current system(s) for number of precincts, districts, ballot styles and candidates.
- Better system integration with VR database and existing election management software.

## **V. Scope of Work**

This section of the RFP enumerates features and functions considered essential to counties in Kansas.

### **Statement-Warranty Maintenance and Support**

The vendor shall provide a warranty and maintenance agreement through the completion of one federal election cycle, which for the purposes of this RFP is defined as the end of the year of the certification of the first general election in which congressional offices appear on the ballot, beginning on the date of acceptance by each county of the individual pieces of equipment for all hardware and software regardless of whether this warranty period for any piece of hardware or software shall extend beyond the term of the initial contract. The vendor shall provide a detailed description of all maintenance activities; supply channels and parts depots; listing of all repair parts including prices available for purchase, typical daily or monthly support activities; and the principle period of maintenance. The above must be supported with an organizational chart of the vendor's headquarters support operation, the proposed support organization for this project including names, titles and experience levels for key personnel, and the escalation procedures for reporting problems.

### **Statement-New Materials, Supplies or Equipment:**

All equipment provided by the contractor must be newly manufactured, not reconditioned or refurbished in any way. Equipment and software must be of fully-released versions and models. All must be in production by their respective manufacturers at the time of the proposal. Hardware and software must not include any components that are conceptual, in-design, in pre-production testing, or in "beta" testing. The contractor must provide all necessary equipment, peripherals and accessories, hardware connector cables, cabling, operating system software, software applications, training, and technical support that provides for fully functioning voting systems in each county

The Contractor must provide services such as project management, hardware and software installation and readiness testing, on-site and remote technical support, hardware maintenance and repair, and voting system operation and support training.

**Each section requires the Proposer to provide their response in the form of an attachment, attachments within the Proposal response must be clearly labeled as indicated herein.**

#### ***i. Mandatory System Requirements / Certification (Pass/Fail)***

Please provide documentation for each of the following:

- A. The Proposer shall provide evidence to verify an application for certification of the proposed voting system has been filed with the Kansas Secretary of State in **Attachment A**. Evidence of certification of the voting system by the Kansas Secretary of State must be provided prior to the commencement of contract negotiations.
- B. The Proposer shall submit proof that the proposed voting system has been submitted to a US Election Assistance Commission (EAC) accredited Voting System Test Laboratory (VSTL) for testing and Federal EAC Certification in **Attachment B**.

#### ***ii. Desired System Requirements***

Vendors are asked to respond to this section in **Attachment C** by indicating whether each of the functions in items #1 – 55 below will be supported within the standard product or not. For those that are not standard, please indicate by item number the function for which you have a functional equivalent or no cost modification that will address the need. Please provide an explanation on how you will achieve the requirement. Also indicate if the

modification will become part of the standard product. Separately, list the item numbers of functions that will require modification for a fee that will be listed in the cost proposal. Exclusively identifying costs for these requirements in the cost proposal by Requirement number will allow for evaluation of the need of the particular item and whether or not they will be exercised in the final statement of work.

**All requirements listed in Desired System Requirements will be supported;**

**Yes   No   \_   Yes, with exceptions noted below   \_**

Items below require modification of the application or special development for no additional charge;

Item Number \_\_\_\_      Solution alternative or description of modification to be made

Items below require modification of the application or special development for additional charge;

Item Number \_\_\_\_      Solution alternative or description of modification to be made

### **General System Functionality**

1. Ability to process voted ballots up to 20 days before Election Day and suppress election results until close of polls on Election Day.
2. Ability to conduct testing of the voting system as required by Kansas Statute (K.S.A. 25-4410(b) and K.S.A. 25-4411(b)) without interruption of active voting or ballot tabulation that may be in progress at the time of testing.
3. Enable The Counties to independently program media; create, design, produce and tabulate ballots in house, and report results without vendor involvement or additional costs.
4. Ability to output ballot files in .pdf format for printing by third-party service providers or other County systems such as existing Ballot on Demand printers.
5. Ability to manipulate font type and size and all ballot text and images during ballot layout and to visually inspect the ballot design for both paper based and electronic ballots on host computer terminal without the need to create a memory card/stick.
6. Ability for each county to independently create audio files for accessible ballots in standard .wav format with the use of direct voice recording and text to speech.
7. Minimum of 5 character spaces for county assigned Ward/Precinct IDs.

### **Security and Accuracy**

8. The voting solution shall control logic and data processing methods to detect and report errors and provide correction method.
9. The voting solution shall permit diagnostic testing on demand of all the major components within each unit in preparation for an election and in election mode.
10. The voting solution shall provide for safeguards and security against any evidence of tampering, theft or damage of all units.

11. The voting solution shall provide for security procedures system-wide from turn on to turn off.
12. The voting solution shall prevent operation of functions in an improper sequence.
13. The voting solution shall prevent modification of the voter's vote after the ballot is cast.
14. The voting solution shall include an audit log that contains sufficient information to allow the auditing of all operations related to ballot tabulation, results consolidation and report generation. The system audit log shall be created and maintained by the system in the sequence in which operations were performed. The system audit log shall be able to be located, read and printed only by an authorized system administrator. Audit logs must include, but are not limited to, the following:
  - i. An identification of the program and version being run.
  - ii. An identification of the election file being used,
  - iii. A record of all options entered by the operator,
  - iv. A record of all actions performed by the system or subsystems,
  - v. A record of all tabulation and consolidation input in the form of a readily accessible audit log and,
  - vi. A record of all ballot or system over-rides performed.

### **Vote Recording**

15. The voting solution shall accurately record, report and provide a detailed record of each vote cast.
16. The system shall prevent or adequately notify voters casting blank ballots and ballots which contain under votes and over votes, provide the option to override the message and cast the ballot as marked, and provide the voter with the option for remedial action or correction. These notifications should be customizable by the county without vendor involvement required or additional costs incurred.
17. The voting solution shall provide for the storage, tabulation and accurate counting of write-in votes, sorting of ballots which contain write-in votes, and immediate results reporting for marked write-in votes with specific name tallying at a later time.
18. The voting solution shall capture the image of the write-in names listed by the voter for contests where write-in candidates are permitted.
19. The voting solution shall accommodate districts where multiple votes are cast for more than one candidate in a race.
20. The voting solution shall provide an ability to perform recounts.
21. In the event of a failure in tabulating unit, the system shall allow for a graceful shutdown in the case of failure without the loss or compromise of any voting data and the system shall log said failure and shutdown.
22. The voting solution shall address provisional ballots, including the casting of the provisional ballot, including accessibility/ADA options, and the recording and tabulating of such ballots. The voting solution shall be able to separate provisional ballots from non-provisional ballots. Results from provisional ballots shall be easily integrated with Election Day results and advance voting results, once those provisional ballots have been determined to be eligible for counting, for the purpose of producing total election results.
23. All tabulating units must provide for printed summary reports of votes cast on each unit by extracting information from a memory device or data storage device.



24. The voting solution shall provide for the recording, tabulation and reporting of votes cast in split precincts where all voters residing in one precinct are not voting the same ballot style.
25. The voting solution shall provide for the recording and tabulation of votes cast in combined precincts where more than one precinct is voting at the same location on either the same ballot style or a different ballot style.
26. The voting solution shall be capable of providing for “ranked choice voting”, “straight party voting”, “mixed ticket voting”, and “scratch voting”, and the voting solution shall accurately record and tabulate such votes.
27. The voting solution shall provide an advance and early voting capability that shall be integrated with the entire voting solution. The devices that produce or process the advance and early ballots shall be programmed from the same database and election definition that is used to program the precinct voting units. The reporting and tallying system for the remote advance and early ballot system shall be capable of tallying the advance and early votes and allocating these votes back to the voter’s precinct. The advance and early results shall be easily integrated with Election Day results in a timely manner for the purpose of producing total election results.
28. The voting solution shall provide for voting units that have:
  - The capability of storing and presenting to the voter any ballot style in use in any given jurisdiction
  - The ability to maintain all ballot style combinations for a county or jurisdiction on a single voting unit
  - The ability to rotate candidate names by race, ward, and precinct as required by Kansas Statutes and Regulations
29. The voting solution shall provide for voting units that are capable of scanning one-sided ballots, two-sided ballots, and multiple-page ballots while recording the event as one ballot cast.
30. The voting solution shall provide that each voter’s ballot is secret and the voter cannot be identified by image, code or other methods. The voting solution shall protect the secrecy of the vote such that the vote may not be observed during the voter’s selection of preferences, during the casting of ballot, and as the ballot is transmitted for recording on a storage device.

### **Ease of Use**

31. The voting solution shall permit voters to cast ballots quickly and easily without the loss of security and accuracy while minimizing the number of screens necessary to view and cast the ballot.
32. The voting solution shall provide a method of producing official sample ballot information for storage on a website and for reproduction and distribution.
33. The voting solution shall produce or display ballots that are easy to read, intuitive and follow a logical progression including the design tools adopted by the Ballot Design Initiative by the Center for Civic Design. (<http://civicdesign.org/fieldguides/designing-usable-ballots/>)
34. The voting machines should be configured to operate without assistance provided by the poll worker in either activating the device or selecting the accessibility feature(s) for the voter, and should not require the purchase of additional hardware or peripheral devices.
35. The voting solution should be capable of supporting both Latin and character-based languages.
36. The system must include minimal, easy to follow instructions for the voter. These instructions should be customizable by the county without vendor involvement required or additional costs incurred.

37. The voting solution shall accommodate voters with disabilities by providing non-visual access that includes audible speech and/or touch controls, visual access that includes zoom functions and high-contrast functions, and the ability to utilize both the visual and non-visual functions simultaneously. Additionally, the voting solution shall provide accessibility for people with upper body impairments.
38. If the voting solution includes a voter verifiable paper ballot, it should include an independent means for voters with disabilities to verify their ballot.
39. The voting solution shall provide units that are easy for poll workers and election officials to use, store, transport and operate. This includes:
  - Devices should be easily transportable, without damage to internal components.
  - Devices should provide poll workers with a method to immediately detect if a voting unit is not operating properly.
  - Devices should be “tamper-evident” while in storage or the polling location.
40. All rechargeable batteries in voting system tabulation equipment must be user serviceable and available as a non-proprietary/“off-the-shelf” item.
41. All voting systems shall provide a contingency to permit continued normal operation of polling site equipment, in the event of loss of AC power, for a minimum of 2 consecutive hours.
42. The system shall allow for compatibility and ability to interoperate between polling place voting equipment and the Electronic Poll books of The Counties choice.
43. The system shall allow .xml export in the common data format (CDF) created by IEEE P1622 and shall have the capability to import and export information to and from election management tools via .txt, .csv, .xls, or .xlsx files, including but not limited to:
  - a. Political subdivision data including Precincts, District Types, District Names and District Relationships
  - b. Candidate filing data
  - c. Voter registration counts
  - d. Ballot Questions/Referendums
  - e. Parties
  - f. Offices
  - g. Polling Places and Relationships
  - h. Ballot Style Names

### **Vote Tabulation and Reporting**

44. The voting solution shall provide for the following records regarding the opening and closing of the polls on any devices used for tabulating or recording votes:
  - Identification of election, including opening and closing dates and times;
  - Identification of each unit;
  - Identification of ballot format;
  - Identification of candidate and/or issue, verifying a zero start;
  - Identification of all ballot fields and all special voting options, and
  - Summary report of votes cast on each device or ability to extract such.
45. The print or extraction functions shall ensure that:

- Printing of results reports is prevented before the sequence of events required for the closing of polls is completed;
  - Results data, including write-in votes, over votes and under votes, can be extracted from a memory device to a central unit;
  - Poll opening reports shall have all system audit information required;
  - No loss of data occurs during the generation of reports;
  - The integrity and security of data can be maintained according to the time frame for federal, state and local elections;
  - All reports generated by tabulators and all ballots generated by ballot marking devices are printed in a manner that does not fade, smear, or degrade for a minimum of a 22 month period that begins upon the certification of election results;
  - All ballot and system over-rides are tracked and available via audit reports.
46. The voting solution shall be capable of producing the reports including vote totals and precinct information in various formats including but not limited to .pdf, .txt, .csv, and .xml export in the common data format created by IEEE P1622.
  47. The voting solution shall have the ability to report election results to a website, as well as to extract data for publishing to websites in various formats including but not limited to .asc, .pdf, .txt, and .csv.
  48. The voting solution shall allow for access by an authorized system administrator to election results after the closing of the polls and prior to the publication of the official canvass of the vote.
  49. The voting solution shall provide print out results containing candidates and/or issues in alphanumeric format next to the vote totals. If the unit is a machine based tabulation device, each unit shall have the ability to print out these results from the individual unit.
  50. The voting system tabulation equipment must possess the capability of processing a ballot with a blank second or back page if no election data flows to the second or back page.
  51. The voting system tabulation equipment shall possess the capability of sorting write-ins, blanks, and over-votes on central count ballot scanner(s).
  52. The voting system shall have the ability to capture write-in vote results and images on host reporting computer and to report write-in votes cast by race and precinct within a Ward or Precinct.
  53. The voting system tabulation equipment shall possess the capability of processing ballots up to 19 inches.
  54. Central count ballot scanners should have the ability to scan and tabulate any and all paper ballots produced by the voting system.
  55. The voting system tabulation equipment must possess the capability to distinguish common acceptable marks in addition to the prescribed marks on a ballot (i.e. a commonly accepted “X” in place of the prescribed fully shaded oval). Further, the system must possess the capability to process normal variations in printing and scanning without requiring adjustment of the mark reading thresholds.

*Evaluation Criteria:*

- *Proposal provides clear evidence that the ballot design and handling capabilities of the system are sufficient to meet The Counties needs.*

- *Proposal describes these aspects of the solution and will support The Counties goals and requirements as described.*

END OF SECTION

### iii. Professional Services

Vendors are asked to respond to this section in **Attachment D** by indicating whether each of the functions in items #56 - 66 below will be supported within the standard product or not. For those that are not standard, please indicate by item number the function for which you have a functional equivalent or no cost modification that will address the need. Please provide an explanation on how you will achieve the requirement. Also indicate if the modification will become part of the standard product. Separately, list the item numbers of functions that will require modification for a fee that will be listed in the cost proposal. Exclusively identifying costs for these requirements in the cost proposal by Requirement number will allow for evaluation of the need of the particular item and whether or not they will be exercised in the final statement of work.

**In Attachment F, include the response to the following statement for Professional Services below. Please refer to individual item numbers (#56 - # 66) when noting exceptions.**

**All requirements listed will be supported;**  
 Yes No ☐ Yes, with exceptions noted below ☐

Items below require modification of the application or special development for no additional charge;

Item Number \_\_\_\_\_ Solution alternative or description of modification to be made

Items below require modification of the application or special development for additional charge;

Item Number \_\_\_\_\_ Solution alternative or description of modification to be made

### **Training & Documentation**

56. The vendor shall provide an extensive training program on all phases and processes needed to operate all aspects of the voting solution. This training shall be sufficient to the point that local election personnel shall be able to operate the system without continuous support from a vendor. Training shall cover all aspects of using the voting solution.
57. Training materials shall include manuals, videos and other written materials and shall be customized for election officials and poll workers.
58. A complete training schedule for local election officials shall be provided to the Counties within 30-days of signing a contract.

### **Hardware/Software/Firmware Support, Upgrade & Patching**

59. Vendor shall provide one year of Annual Post-Warranty Hardware Maintenance and Support. In addition, Vendor shall provide, as a part of the bid, options for purchase of years two through five for Annual Post-Warranty Hardware Maintenance and Support.

60. All repairs must have a minimum one (1) year warranty to include shipping, parts and labor.
61. Vendor shall provide one year of Annual Post-Warranty Firmware Licensing, Maintenance, and Support. In addition, Vendor shall provide as a part of the proposal, options for purchase of years two through five for Annual Post-Warranty Firmware Licensing, Maintenance, and Support.
62. Vendor shall provide one year of Annual Post-Warranty Software Licensing, Maintenance, and Support. In addition, Vendor shall provide as a part of the proposal, options for purchase of years two through five for Annual Post-Warranty Software Licensing, Maintenance, and Support.
63. During the term of the contract, the vendor shall provide all certified software upgrades, as well as certified hardware and software patches to repair defects in the system, at no charge.
64. During the contract period, the vendor shall make systems modifications that are necessary to comply with the updates or changes to the Voting Systems Standards required by HAVA or other applicable federal & state laws at no charge.
65. Vendor shall identify and submit modifications made for State re-qualification testing if necessary, at no charge.
66. All user-serviceable parts must be available for purchase by each county for a minimum of 12 years from the submission date of this RFP and shall include a one (1) year warranty including shipping.

#### **Support, Maintenance & Contract**

67. Vendor shall provide on-site support in each county to include a minimum of one person on-site the day before, the day of, and the day after the first two (2) state-wide elections.
68. Vendor shall provide technical and on-going support through the use of a “help desk” that is available from 8 AM to 5 PM local time, Monday through Friday and is available from 5 am local time until 5 hours after the close of polls during any statewide election and its associated Advance / Early voting period. Said “help desk” will be staffed during these hours by specialists with technical and operational knowledge of all voting system components. Additionally, vendor shall have a technical specialist on-call outside of these hours during the period from initiation of the contract through certification of canvass of the first Statewide General Election in which this voting system is utilized.

#### *Evaluation Criteria:*

- *The proposal describes how the training provided will ensure that County staff are able to successfully operate the system.*
- *Proposal clearly demonstrates how the proposer will provide ongoing support and services to enable The Counties to successfully conduct elections.*

END OF SECTION

#### iv. Vendor Product Information

In **Attachment E**, please provide a thorough discussion of your product's features and functions including throughput for central count scanning, Election Day voting efficiencies to reduce voter wait time and enhancements which provide transparency and openness to public scrutiny. Include a discussion of what happens during a power outage.

The vendor should submit detailed product information regarding features, functions, and advantages over competing products. Additionally, the vendor should include a thorough discussion of the system's, and its components', minimum life expectancy, and all specific periodic maintenance required to meet or exceed that life expectancy including the vendor's plan to ensure availability of replacement parts for said minimum life expectancy.

Vendors must provide information regarding performance and voter throughput based on vendor real world reported experiences and thoroughly explain the basis of the calculations made to arrive at these figures.

Vendor shall base all calculations and recommendations on estimated maximum of 7,100 registered voters per Polling Site (largest polling site) and a multi-page two-sided ballot which is 17 inches in length.

**Documentation-Mark all required documentation with indicated attachment numbers as listed below.**

Please provide copies of the following information in the proposal for each component of the voting system.

- Sample System Administration/Operator's Manual or user manuals detailing system functionality **(Attachment 1)**
- Typical Operations and Procedures Guide **(Attachment 2)**
- Include a detailed list of available reports and examples of some of the reports. Label and attach the list and sample reports. **(Attachment 3)**
- Sample Training Handbook, Poll worker User Guide and Quick Reference Guide **(Attachment 4)**
- Environmental requirements for storage, transportation, and operation, including temperature range, humidity range and electrical supply requirements **(Attachment 5)**
- Recommended preventative maintenance schedule for all aspects of the voting solution and a price list of all voting system user-serviceable replacement/repair parts available for purchase **(Attachment 6)**
- Amount of sustained operation time the scanning equipment is capable of providing and how it is delivered. Include average rate and maximum number of ballots counted per hour for previously folded ballots in 14 inch, 17 inch and 19 inch sizes. **(Attachment 7)**
- Provide an architecture diagram that identifies all software, hardware and networking components used in operation of the system including ballot design, ballot scanning and tabulation, and results reporting. Include all third-party software components such as operating systems, DBMS, browsers, report writing tools, etc. Label and attach the diagram to your proposal response. **(Attachment 8)**
- Provide a diagram of the entire system that indicates where batteries are present, the expected life span of those batteries given "typical use", user-serviceability and replacement cost. **(Attachment 9)**
- Provide the full **Technical Data Package (TDP)** submitted to the EAC and EAC lab. **(Attachment 10)**
- Provide a copy of the Certificate of Conformance/Scope of Certification documents from the EAC, if these were obtained. **(Attachment 11)**
- Technical specifications and minimum configuration requirements for all hardware components that make up the total of your proposed solution. Indicate the recommended number of each component type based on the size of The Counties. Provide software and firmware documentation, information, and materials, including the following: **(Attachment 12)**
  - A copy of the release software, firmware, utilities, hardware, and instructions required to install, operate and test the voting system.
  - System flow chart describing information flow, entry and exit points, and the relationship of programs, device drivers, data files, and other program Components.

- Identification of version, release, and modification levels of all software and firmware components.

## **Administrative**

Please provide copies of the following information.

- Sample Contract (**Attachment 13**)
- Sample Hardware Maintenance Agreement (**Attachment 14**)
- Sample Firmware Maintenance Agreement (**Attachment 15**)
- Sample Software Maintenance Agreement (**Attachment 16**)
- Sub-Contractor Agreements (**Attachment 17**)

## *Evaluation Criteria:*

- *The proposal describes in detail the range of voting solution functions and demonstrates that the system capabilities meet The Counties requirements.*
- *Proposal plainly defines systems performance markers, specifications and requirements.*

END OF SECTION

**v. Project Management**

The Counties expect detailed management of the implementation, training and support activities. In this section, the vendor shall provide information organized into the following sections:

The vendor shall present its approach and capability to control and deliver the equipment proposed in **Attachment F**.

The vendor shall describe the project organization structure, listing all key personnel functions. Consideration will be given to the named personnel and their placement in the project structure, title, qualifications, and experience. The evaluation will include project staff experience. Consequently, *vendors shall not include the resume of staff that will not be actively involved in the project*. The project manager whose resume is included in the proposal will be evaluated and is expected to be available to the project. Changes to project management once the project has begun can only be made with the written approval of the Counties. In addition, supporting rationale shall be provided to show that the organization is adequate to support the overall effort and to justify the number and allocation of personnel involved.

The vendor shall present a master integrated schedule depicting all activities and milestones from contract award to installation and cutover. This section shall also contain a matrix that lists tasks and identifies the corresponding "owner." The Counties' tasks shall be identified as well as those of any subcontractor(s). The thoroughness and clarity of this schedule will be examined carefully.

A proposed deliverables schedule which must be provided as a separate document in this section but reflects the master integrated schedule must also be provided.

Following the selection of a contractor, but before work is authorized, a series of project milestones and deliverables with corresponding payment events will be established. These deliverables must be completed work segments with a useful work product for which a payment can be made.

Vendors have the sole responsibility for ensuring any system developed and/or installed as part of this RFP is fully and adequately operational and can be easily maintained. This includes any technical expertise in any area needed as part of this RFP. Vendors are required to identify all resources they intend to request of The Counties or of the County Offices. The type of staff and the estimated number of hours of involvement shall be detailed. The size and type of physical space needed for work area, equipment staging, training, or other purpose must be identified. The Counties expect to provide no equipment other than that which is procured as part of this project or to support the components of this project which is not expressly listed in this proposal other than existing electronic poll books. Any assistance provided by The Counties does not diminish the fact that the vendor has sole responsibility to ensure all equipment delivered operates properly.

Vendors shall describe their approach to formal review meetings with The Counties, the organization of the typical meeting, and methods for documenting and approving all meeting notes. In addition a discussion of the approach to problem resolution and change order procedures is required.

**vi. Training**

Vendors shall provide a detailed description of all education and training required for County staff to operate the equipment to include: a description of all classes, typical classroom environment, student/instructor ratio, and instructors' qualifications. List the locations of training centers available and discuss your ability to provide on-site education at a number of locations considered sufficient for training all users.

**vii. Policy and Procedures Documentation**



The Counties recognize that the success and security of an election depends not only on the voting equipment but on the pre and post-election activities that must be managed carefully. Such policy and procedure best practices are considered a key deliverable for each type of voting device and tabulation system offered.

This documentation must be sufficient to allow county election staff to maintain and prepare for an election, operate and test during an election and collect and report information at the close of an election. This documentation should describe in detail each activity performed and how it contributes to the systems use and security.

*Evaluation Criteria:*

- *Proposal clearly demonstrates how the proposer will provide support and services to enable The Counties to smoothly transition to the new voting system and to continue to successfully conduct elections.*
- *The proposal provides a thorough training plan and documentation schema.*
- *The proposal clearly conveys an implementation plan, timeline and resource requirements.*

END OF SECTION

**viii. Questionnaire (Respond as Attachment G)**

1. How does this voting system address security and prevent and/or identify tampering for programmable media and equipment during and after deployment of voting machines? Can your system ensure the security, accuracy and reliability of election data? If so, describe the process for doing so.
2. Is there a testing process in place to ensure the accuracy of results on Election Day? If so, describe the process.
3. Are there any documented issues with this voting system? If so, describe how those impact users of this system. Is there any current litigation in progress involving this voting system, and if so, please explain. Did any functional failures occur during certifications testing, and if so, explain how those functional failures were addressed.
4. Describe any anticipated hardware, software and/or firmware upgrades. When do you anticipate the new hardware/software/firmware being certified for use?
5. If third-party hardware and/or software is required to implement this voting system, how will the relationship with those third-parties be managed? If so, describe.
6. What is the amount of sustained operational time the voting machines and scanning equipment are capable of providing? Describe how this is delivered.
7. Are there any district, precinct, race or candidate number limitations in the proposed voting system? If so, describe.
8. Is there a limit on the number of ballot styles or ballot length the voting system can manage for each election? If so what is that limitation?
9. Can the system handle multiple precincts splits? If so, describe any limitations that may exist.
10. Is there a maximum number of targets (such as boxes, ovals, or arrows) available for each ballot size? Can the target size and placement be manipulated?
11. Are there any options and restrictions in this voting system that may exist regarding the size of the ballot? Provide range of ballot dimensions, including the smallest and largest ballot dimensions.
12. In this voting system, can ballots make use of multiple fonts? Is there any limit as to the number or type of fonts that can be used on a ballot? Can very large and/or very small fonts be used? Can shading, colors, and graphic features such as boxes or lines be used to enhance ballot appearance and readability?
13. Are there any restrictions on how ballots are fed into the ballot scanning device(s)? Does the size or use of single/double-sided or multi-page ballots affect this?
14. Describe vendor options, requirements, and recommendations for printing ballots. Do you require the Counties use a specific vendor or can each county select its own vendor for the printing of ballots? Is there the ability to print ballots directly from the ballot layout system to ballot stock? If so, describe this functionality and its requirements.
15. Are there any physical requirements regarding the ballot such as the paper type and weight or type of ink that must be used, etc.? If so, provide details.
16. Can the ballot design be transferred from this voting system to a ballot printer? If so describe the process and options available.
17. How does this voting system address ballot rotation for candidate names? What options are available within this voting system for ballot rotation of candidate names?
18. Can this voting system handle alternate voting techniques such as preference voting or ranked choice voting? Elaborate on how this is accomplished.
19. Describe how provisional balloting is handled by this voting system, including accessible provisional ballot options and provisional ballot security.
20. Describe the reporting capabilities of this voting system.
21. Describe the process by which write-in votes are tallied and reported by this voting system, including all processes necessary to tally and consolidate write-in votes by precinct and race, and all reporting options available.
22. What is the minimum, average and maximum rate of ballots counted per hour broken down by ballot size, based on real world tabulation observations for previously folded ballots on a single central count tabulator? Describe any pre-processing of ballots required or recommended before scanning including but not limited to sorting, inspection, and flattening of the previously folded ballots.

23. In your system do folded ballots (either and/or both horizontally or vertically) affect the ability of vote counting devices to read ballots? If so describe how this problem is addressed/resolved.
24. How are ballots that need adjudication identified and, if necessary, separated? Describe the adjudication process utilized by this voting system.
25. How does your system cope with the variety of marks often used by voters on paper ballots other than the prescribed marks (i.e. marking an oval with an X or a dot instead of filling in the target as instructed)? Please describe the types of marks, both inside and outside the target area that this system is able to accurately tabulate, what determines if a mark is tabulated, how these marks are distinguished from unacceptable marks, and what happens when a mark is not deemed acceptable by the system.
26. Are there environmental considerations, i.e., heating/cooling, power, lighting, etc. required for the counting room? If so, describe.
27. Does this voting system offer a website reporting option? If so, explain.
28. Does this voting system allow for compatibility and the ability to interoperate between polling place voting equipment and Electronic Poll Books of The Counties choice for ballot style selection or other functions? If so, describe this process. If not, please provide an explanation of how your company is prepared to work with Electronic Poll Book vendors to ensure that compatibility and interoperability is attained. Provide the specifications necessary for integration with the Counties existing electronic poll books.
29. Some counties utilize the KNOWiNK Poll Pad and/or Election Administrator's electronic poll books. Proposers should describe how their system is compatible with, and will interoperate with these electronic poll books without the loss of any of the system features. A wireless (Bluetooth) interface is preferred for electronic poll book printers.
30. What resources do you expect the County to provide during the installation process? If any are required, specify those resources required and the estimated number of hours needed.
31. Discuss how the integration of future technology is addressed in the voting system and how your company is prepared to provide for future technology at the request of its customers.
32. What is the largest jurisdiction to which your company has successfully deployed the voting system products? Please explain how your company is prepared to support jurisdictions the size of each of The Counties?

*Evaluation Criteria:*

- *An unambiguous picture emerges showing how the proposed solution operates with a view on how it will evolve in the future.*
- *Proposal describes how these aspects of the solution will support The Counties' goals and requirements.*
- *Proposal provides clear evidence that the ballot design and handling capabilities of the system are sufficient to meet the Counties needs.*
- *Proposal manifestly shows the ballot tabulation process is fast, accurate and adept at handling exceptions.*
- *The proposal describes in detail the range of reporting functions and demonstrates that the reporting capabilities meet the County's requirements.*

END OF SECTION

## **VI. Sedgwick County's Responsibility**

Sedgwick County will be responsible for:

- This Request for Proposal process with collaborative effort from all involved parties;
- Providing appropriate contacts within the organization for project implementation;
- Contract approval and service agreements for Sedgwick County. All other jurisdictions will be responsible for obtaining approval to execute contracts with selected vendor(s) and negotiating and maintaining their own service agreements as indicated by their individual policies and procedures.

## **VII. Proposal Terms**

### **A. Questions and Contact Information**

Any questions regarding this document must be submitted in writing to Kimberly Evans at [kimberly.j.evans@sedgwick.gov](mailto:kimberly.j.evans@sedgwick.gov) by 5:00 p.m. (CDT) Monday September 28, 2015. Any questions of a substantive nature will be answered in written form as an addendum and posted on the purchasing website at <http://www.sedgwickcounty.org/finance/purchasing.asp>, under view current RFQs and RFPs to the right of the RFP number by 5:00 p.m. (CDT) Monday October 5, 2015. Vendors are responsible for checking the web site and acknowledging any addendums on their response form.

### **B. Minimum Firm Qualifications**

This section lists the criteria to be considered in evaluating the ability of firms interested in providing the service(s) and/or product(s) specified in this RFP. Firms must meet or exceed these qualifications to be considered for award. Specific responses to each must be provided as part of your response.

1. Vendor Corporation name and principal office address and phone number
2. Local office address and phone number if different;
3. Description of the organization, date established, legal status
4. A certificate of good standing from the state in which the organization is incorporated AND in the State of Kansas where applicable.
5. Ownership (public, partnership, subsidiary, etc.)
6. Number of personnel, full and part-time, assigned to this project by function and job title
7. Number of employees directly involved in election management system development and implementation
8. Number of election management system installations
9. Location of the project within the vendor's organization
10. Organizational chart
11. Corporate revenue for 2015 and projected for 2016
12. Name, business address, email address and phone number of person responsible for proposal;
13. Name, business address, email address and phone number of person responsible for day-to-day operations of this project;
14. List any litigation or ethical proceedings brought against your firm in the past three years;
15. Certification of liability protection (insurance coverage for libel, contract liability, errors and omissions, and litigation).

A complete list of all jurisdictions using the proposed voting systems in the United States must be provided. Referenced contacts must include the following information:

1. Jurisdiction name.
2. Address.
3. Size of jurisdiction in number of eligible voters.
4. Indicate project start and finish dates.
5. Brief description of project including the hardware and software configuration.

6. Contact information:

- a. Name
- b. Title
- c. Phone number
- d. Address
- e. Email address

C. Selection Criteria

The Counties may make award to one or more vendors to fulfill an initial requirement to outfit each of The Counties with HAVA compliant voting systems. It is entirely possible that the purchase of all voting systems will be secured from a single vendor. However, please note that The Counties may elect to purchase additional equipment to fill their respective needs. Nothing in the overview process detailed below will subvert the ability for each County to independently review and approve any purchase arising from this Request for Proposal. As a result, the overview and ratings process included within this Request for Proposal is not necessarily exclusive as to other means of weighing and reviewing the proposals that are submitted.

**MULTI-TIERED PROCUREMENT OVERVIEW**

- In the first step, The Counties will evaluate written proposals and make a determination of competitive range.
- In the second step, The Counties will evaluate an on-site product demonstration and oral evaluation.
- In the third step, The Counties may, at The Counties sole discretion, exercise the option for Discussions and Best and Final Offers (BAFO).

Evaluation of proposals received in response to the RFP will be conducted comprehensively, fairly and impartially. Structured quantitative scoring methods will be used to maximize the objectivity of the evaluation. The evaluation committee of designated reviewers shall review and evaluate proposals. The committee will be composed of individuals with experience in, knowledge of, and program responsibility for program service and financing.

Each evaluator shall independently assign a score to each evaluation criterion based on the written proposals. Then the evaluators shall meet at a Proposal Evaluation Session and share their key findings from each Proposal individually. After sharing their findings, each evaluator shall be given an independent opportunity to revise their draft scores and to finalize them. Final scoring by each evaluator will then be summed.

NEXT PAGE

### ***Written Proposal Instructions and Questions***

All Proposers must complete the requirements/questions under Section V. Proposers failing to achieve 70% of the total points will not be considered further for an award under this procurement.

**Failure to comply with these instructions may result in the rejection of the proposal.**

The written proposal is divided into 7 sections, with points allocated as follows:

<b>Refer to</b>	<b>Description</b>	<b>Points Possible</b>
<b>P. 21 – B &amp; P. 29 VIII. 1&amp;3</b>	<b>Executive Summary (Minimum Firm Qualifications, response to Purpose and Objective, and Areas of Concern)</b>	<b>10</b>
<b>P. 6 - 11</b>	<b>System Requirements</b>	<b>60</b>
P. 6	<b>Minimum Qualifications / Certification</b>	<b>Pass/Fail</b>
P. 7	General System Functionality	12
P. 7-8	Security & Accuracy	12
P. 8-9	Vote Recording	12
P. 9-10	Ease of Use	12
P. 10-11	Vote Tabulation & Reporting	12
<b>P. 12-13</b>	<b>Professional Services</b>	<b>20</b>
P. 12	Training, Documentation & Support	8
P. 12-13	Hardware/Software/Firmware Support, Upgrade & Patching	4
P. 13	Support, Maintenance & Contract	8
<b>P. 14-15</b>	<b>Vendor Product Information</b>	<b>20</b>
<b>Appendix G</b>	<b>Cost Proposal</b>	<b>40</b>
<b>P. 16-17</b>	<b>Project Management / Planning</b>	<b>20</b>
<b>P. 18-19</b>	<b>Questionnaire</b>	<b>30</b>
<b>Total</b>		<b>200</b>

The two (2) highest scoring Proposers will comprise the Competitive Range for the On-Site Product Demonstration and Oral Evaluation. The Counties, at The Counties sole discretion, may decide to increase or decrease the Competitive Range based on the following considerations:

1. The Counties may increase the number of Proposers in the Competitive Range if The Counties determine that there is a natural break in the scores of Proposers indicating a number of Proposers greater than two (2) are closely competitive and have a reasonable chance to be the Most Advantageous Proposer.
2. The Counties may decrease the number of Proposers in the Competitive Range if The Counties determine that fewer than two (2) Proposers have a reasonable chance to be the Most Advantageous Proposer.
3. All Proposers, whose Proposals met the minimum requirements will receive written notice that they have been determined to be within the Competitive Range. Proposers within the Competitive Range will continue to the next step of evaluation, as outlined below.

Example: Proposer A submits a proposal and receives the following scores from the evaluators:

Rater A:	170 Points
Rater B:	141 Points
<u>Rater C:</u>	<u>110 Points</u>
Total Points:	421 Points

(Minimum necessary:  $200 \text{ possible points} \times 3 \text{ evaluators} \times 70\% = 420 \text{ Points}$ )

As a result, Proposer A has met the minimum requirements to provide these services, since their total point score of 421 exceeds the minimum number of points required to qualify, 420.

If the total points earned had been less than 420 points, then Proposer A would not have been considered further for an award under this RFP. This example is provided for reference of point calculation only and in no way reflects the actual number of anticipated evaluators.

### **On-Site Demonstrations**

In the second step of the evaluation process, Selected Qualified Proposers will be asked to participate in an on-site product demonstration and oral evaluation in each of Johnson, Sedgwick, Shawnee and Wyandotte Counties. Proposers will be required to conduct an on-site demonstration of the proposed solution to evaluators at no charge to The Counties as part of the evaluation process. Proposer shall not demonstrate any software/functions or features that are not included in the proposed solution. Proposer shall populate the demonstration system with sufficient data to demonstrate the required functionality. On-site Demonstration Requirements can be found in **Appendix C**.

Scheduling of product demonstration and oral evaluation will be by rank with the Proposer with the lowest scoring Proposal scheduled as Proposer A and the Proposer with the highest Proposal scheduled as Proposer B. Additional instructions will be provided to Proposers determined to be within Competitive Range at the time of scheduling.

**On-site Product demonstrations and oral evaluations will be scheduled by each county with each Selected Qualified Proposer during the evaluation period. All On-site Product demonstrations and oral evaluations must be completed prior to the end of the evaluation period.**

In the event that The Counties must re-schedule, a representative of The Counties will contact proposers no less than ten (10) days in advance of the scheduled date. In the event that a Proposer fails to attend the scheduled demonstration, the Proposer will receive a default score of 10% of the total possible points for the demonstration and will be disqualified from further steps in the process.

The evaluation panel may invite others including, but not limited to, potential software end-users, County management, and outside experts to view the product demo to provide input to the evaluation panel.

The Counties reserve the right to create audio and video recordings of the product demos and oral evaluations.

The topics for the Proposers to use during the oral evaluation are provided in **Appendix D**. No additions, deletions or substitutions may be made to written Proposals during the product demonstrations and oral evaluations. After evaluating the written proposals, The Counties will submit clarifying questions, in advance, to the proposers who are invited to attend the Product Demonstration and Oral Evaluation.

Each of The Counties will allow the invited proposers to setup equipment for the product demonstration a day prior to the scheduled evaluation meeting. Each of The Counties intends to start with the product demonstration and may also ask clarifying questions regarding the demonstration or implementation scenarios provided as a part of the oral evaluation. After the product demonstration, the proposer will be asked to present a brief overview of their proposal and respond to



the clarification questions previously provided. The Counties will have the opportunity to ask additional clarifying questions based upon the day's activities.

A total of 200 points is available for the Demonstration and Oral Evaluation. Proposers will be asked to present a demonstration of the proposed solution, following the script defined elsewhere in the RFP. A total of 100 points will be allocated to the demonstration.

The demonstration is divided into the following categories with points allocated as follows:

<b>Section Description</b>	<b>Possible Points</b>
<b>1. Creating an election from data provided in the RFP and generating ballot styles.</b>	<b>20</b>
<b>2. Demonstration of precinct voting machines and ballot tabulation using a marked set of test ballots.</b>	<b>20</b>
<b>3. Performance of ADA accessible ballot functions.</b>	<b>20</b>
<b>4. Demonstration of report generation and results reporting.</b>	<b>20</b>
<b>5. Demonstration of Central Count system tabulation using a marked set of test ballots.</b>	<b>20</b>
<b>TOTAL</b>	<b>100</b>

The oral evaluation will be based on the same categories as the written proposal, and a total of 100 points will be allocated to the Oral Evaluation.

<b>Selection Description</b>	<b>Possible Points</b>
<b>1. Executive Summary (Vendor Qualifications)</b>	<b>5</b>
<b>2. System Requirements</b>	<b>30</b>
<b>3. Professional Services</b>	<b>10</b>
<b>4. Vendor Product Information</b>	<b>10</b>
<b>5. Cost Proposal</b>	<b>20</b>
<b>6. Questionnaire</b>	<b>15</b>
<b>7. Project Management / Planning</b>	<b>10</b>
<b>Total</b>	<b>100</b>

Each evaluator shall independently assign a score to each evaluation criterion based on the product demonstration and oral evaluation. Then the evaluators shall meet at a Proposal Evaluation Session and share their key findings from each demonstration individually. After sharing their findings, each evaluator shall be given an independent opportunity to revise their draft scores and to finalize them. Final scoring by each evaluator will then be summed. The finalized scores will be added to the score for the written Proposal.

At that time, The Counties may choose to make a final selection and award to the responsible Proposer(s) whose Proposal(s) The Counties determines is most advantageous to The Counties based on the evaluation process and evaluation factors described in this RFP or may, in its sole discretion, choose to exercise its option for Discussions and Best and Final Offer (BAFO) proposals as described in **Appendix E**.

The review committee will select the proposals which appear most beneficial. These proposers may be asked to provide a presentation to the review committee during the evaluation period. No negotiations, decisions, or actions shall be initiated by firm as a result of any verbal discussion with any County employee prior to the opening of responses to this document. The Counties reserve the right to select, and subsequently recommend for award, the proposed equipment/service which best meets their required needs, quality levels, and budget constraints.

*Those submitting proposals do so entirely at their expense. There is no expressed or implied obligation by The Counties to reimburse any individual or firm for any cost incurred in preparing or submitting proposals, providing additional information when requested by The Counties or for participating in any selection interviews.*

#### D. Request for Proposal Timeline

The following dates are provided for information purposes and are subject to change without notice. Contact Kimberly Evans [Kimberly.J.Evans@sedgwick.gov](mailto:Kimberly.J.Evans@sedgwick.gov) or the Purchasing Department at (316) 660-7255 to confirm any and all dates.

Distribution of Request for Proposal to interested parties	<b>September 15, 2015</b>
Clarification, Information and Questions submitted in writing by 5:00 p.m. CDT	<b>September 28, 2015</b>
Addendum Issued	<b>October 5, 2015</b>
Sealed Proposal due before 1:45pm CDT	<b>October 27, 2015</b>
Evaluation Period	<b>October 28-December 2, 2015</b>
Board of Bids and Contracts Recommendation (Sedgwick County)	<b>December 3, 2015</b>
Board of County Commission Award (Sedgwick County)	<b>December 9, 2015</b>

**On-site Product demonstrations and oral evaluations will be scheduled by each County with each Selected Qualified Proposer during the evaluation period. All On-site Product demonstrations and oral evaluations must be completed prior to the end of the evaluation period.**

#### E. Contract Period and Payment Terms

A contract will be entered into upon approval from the Board of County Commissioners and signed legal contract. The contract will continue until all services are completed upon agreement of both parties. A maintenance contract will take effect following final completion of the project.

The County reserves the right to cancel the contract and discontinue services with a thirty (30) day written notice as a result of the failure of the contracted proposer to provide acceptable services and reports as delineated in the response to this document, or if determined that services can be provided by County or other sources.

#### **SEDGWICK COUNTY PAYMENT AND INVOICE PROVISIONS**

[http://www.sedgwickcounty.org/purchasing/payment\\_and\\_invoice\\_provisions.pdf](http://www.sedgwickcounty.org/purchasing/payment_and_invoice_provisions.pdf)

#### F. Insurance Requirements

<b>Worker's Compensation:</b>	
Applicable State Statutory Employer's Liability	
<b>Employer's Liability Insurance:</b>	\$100,000.00
<b>Contractor's Liability Insurance:</b>	
Form of insurance shall be by a Commercial General Liability and include Automobile comprehensive/liability	
<b>Bodily Injury:</b>	
Each Occurrence	\$500,000.00
Aggregate	\$500,000.00

<b>Property Damage:</b>	
Each Occurrence	\$500,000.00
Aggregate	\$500,000.00
<b>Personal Injury:</b>	
Each Person Aggregate	\$500,000.00
General Aggregate	\$500,000.00
<b>Automobile Liability-Owned, Non-owned and Hired</b>	
Bodily Injury Each Person	\$500,000.00
Bodily Injury Each Occurrence	\$500,000.00
<b>Professional Liability</b>	\$500,000.00

Liability insurance coverage indicated below must be considered as primary and not as excess insurance. Contractor shall furnish a certificate evidencing such coverage, with County listed as an additional insured, except for professional liability, workers' compensation and employer's liability. Certificate shall be provided with bid/proposal submittals. Certificate shall remain in force during the duration of the project/services and will not be canceled, reduced, modified, limited, or restricted until thirty (30) days after County receives written notice of such change. All insurance must be with an insurance company with a minimum BEST rating of A-VIII and licensed to do business in the State of Kansas. It is the responsibility of Contractor to require that any and all approved subcontractors meet the minimum insurance requirements. Contractor shall obtain the above referenced certificate(s) of insurance, and in accordance with this Agreement, provide copies of such certificates to County.

#### G. Indemnification

To the fullest extent of the law, the provider, its subcontractor, agents, servants, officers or employees shall indemnify and hold harmless The Counties, including, but not limited to, their respective elected and appointed officials, officers, employees and agents, from any and all claims brought by any person or entity whatsoever, arising from any act, error, or omission of the provider during the provider's performance of the agreement or any other agreements of the provider entered into by reason thereof. The provider shall indemnify and defend The Counties, including, but not limited to, their respective elected and appointed officials, officers, employees and agents, with respect to any claim arising, or alleged to have arisen from negligence, and/or willful, wanton or reckless acts or omissions of the provider, its subcontractor, agents, servants, officers, or employees and any and all losses or liabilities resulting from any such claims, including, but not limited to, damage awards, costs and reasonable attorney's fees. This indemnification shall not be affected by any other portions of the agreement relating to insurance requirements. The provider agrees that it will procure and keep in force at all times at its own expense insurance in accordance with these specifications.

#### H. Confidential Matters and Data Ownership

The successful proposer agrees all data, records and information of The Counties, which the proposer, its agents and employees, which is the subject of this proposal, obtain access, remains at all times exclusively the property of The Counties. The successful proposer agrees all such data, records, plans and information of The Counties constitutes at all times proprietary information of The Counties. The successful proposer agrees that it will not disclose, provide, or make available any of such proprietary information in any form to any person or entity. In addition, the successful proposer agrees it will not use any names or addresses contained in such data, records, plans and information for the purpose of selling or offering for sale any property or service to any person or entity who resides at any address in such data. In addition, the successful proposer agrees it will not sell, give or otherwise make available to any person or entity any names or addresses contained in or derived from such data, records and information for the purpose of allowing such person to sell or offer for sale any property or service to any person or entity named in such data. Successful proposer agrees it will take all reasonable steps and the same protective precautions to protect The Counties' proprietary information from disclosure to third parties as with successful proposer's own proprietary and confidential information. **Proposer agrees that all data, regardless of form that is generated as a result of this Request for Proposal is the property of Sedgwick County.**

I. Sedgwick County Proposal Conditions

<http://www.sedgwickcounty.org/purchasing/RfqRfq/rfpcond.pdf>

J. General Contract Provisions

Sedgwick County General Contract Provisions

[http://www.sedgwickcounty.org/purchasing/General\\_Contractual\\_Provisions\\_2015.pdf](http://www.sedgwickcounty.org/purchasing/General_Contractual_Provisions_2015.pdf)

Shawnee County General Contract Provisions

See **Appendix H.**

Wyandotte County Contract Provisions

See **Appendix I**

Johnson County Contract Provisions

See **Appendix J**

#### **VIII. Required Response Content**

All proposal submissions shall include the following:

1. A response to the Purpose and Objectives must be provided. In your response please indicate your understanding of this information and whether or not the vendor takes exception to any of it.
2. All information, as requested in this Request for Proposal shall be provided in the format requested (review each section/subsection for required format) and clearly marked with the assigned attachment nomenclature in your response package.
3. A list of high-risk areas that are reasons for concern such as schedule deadlines, incompatible technologies, or overly tight specifications. Any request to delete, change, or relax a requirement must be fully supported in this section. Vendors will not be evaluated on this paragraph. These concerns will be addressed with the vendor during negotiations.

**IX. Proposal Response Form Page**

**REQUEST FOR PROPOSAL  
#15-0078  
VOTING SYSTEM**

The undersigned, on behalf of the Proposer , certifies that: (1) this offer is made without previous understanding, agreement or connection with any person, firm, or corporation submitting a proposal on the same project; (2) is in all respects fair and without collusion or fraud; (3) the person whose signature appears below is legally empowered to bind the firm in whose name the Proposer is entered; (4) they have read the complete Request for Proposal and understands all provisions; (5) if accepted by the County, this proposal is guaranteed as written and amended and will be implemented as stated; and (6) mistakes in writing of the submitted proposal will be their responsibility.

NAME \_\_\_\_\_

DBA/SAME \_\_\_\_\_

CONTACT \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_ HOURS \_\_\_\_\_

STATE OF INCORPORATION or ORGANIZATION \_\_\_\_\_

COMPANY WEBSITE ADDRESS \_\_\_\_\_ E-MAIL \_\_\_\_\_

NUMBER OF LOCATIONS \_\_\_\_\_ NUMBER OF PERSONS EMPLOYED \_\_\_\_\_

TYPE OF ORGANIZATION: Public Corporation \_\_\_\_\_ Private Corporation \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_

LLC \_\_\_\_\_ LLP \_\_\_\_\_ Not For Profit Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Other (Describe): \_\_\_\_\_

BUSINESS MODEL: Small Business \_\_\_\_\_ Manufacturer \_\_\_\_\_ Distributor \_\_\_\_\_ Retail \_\_\_\_\_

Dealer \_\_\_\_\_ Other (Describe): \_\_\_\_\_

Not a Minority Owned Business: \_\_\_\_\_ Minority-Owned Business: \_\_\_\_\_ Certification # \_\_\_\_\_

African American \_\_\_\_\_ Asian \_\_\_\_\_ Hispanic \_\_\_\_\_ Native American \_\_\_\_\_ Other \_\_\_\_\_ Woman-Owned Business \_\_\_\_\_

**ARE YOU REGISTERED TO DO BUSINESS IN THE STATE OF KS:** \_\_\_\_\_ Yes \_\_\_\_\_ No

**ACKNOWLEDGE RECEIPT OF ADDENDA:** All addendum(s) are posted to our RFQ/RFP web page and it is the vendor's responsibility to check and confirm all addendum(s) related to this document by going to [www.sedgwickcounty.org/finance/purchasing.asp](http://www.sedgwickcounty.org/finance/purchasing.asp) .

NO. \_\_\_\_\_, DATED \_\_\_\_\_; NO. \_\_\_\_\_, DATED \_\_\_\_\_; NO. \_\_\_\_\_, DATED \_\_\_\_\_

In submitting a response to this document, vendor acknowledges acceptance of all sections of the entire document and has clearly delineated and detailed any exceptions.

Signature \_\_\_\_\_ Title \_\_\_\_\_

Print Name \_\_\_\_\_ Dated \_\_\_\_\_

**Appendix A**  
Voting Statistics by County

<b>County</b>	<b>Registered Voters</b>	<b>Precincts</b>	<b>Precinct Splits/Parts</b>	<b>Districts</b>	<b>Election Day Polling Sites</b>	<b># of Voters @ Largest Polling Site</b>	<b>Early Vote Centers</b>
Johnson	385,000	495	594	63	175	4,304	4
Sedgwick	270,612	440	590	120	64	7100	16
Shawnee	105,954	248	300	66	100	2,248	1
Wyandotte	71,399	113	134	38	30	3,000	2

**Appendix B**  
**Current Voting Systems by County**

<b>County</b>	<b>Vendor</b>	<b>Central Count Scanner</b>	<b>Number</b>	<b>Precinct Scanner</b>	<b>Number</b>	<b>DRE/Ballot Marking Device</b>	<b>Number</b>	<b>EMS</b>
Johnson	ES&S	850	1	Accu-Vote OS	10	TSX	2,407	GEMS
Sedgwick	ES&S	M-650	2	M-100	74	iVotronic	614	Unity
Shawnee	Premier (ES&S)	N/A	0	Accu-Vote	194	TSX	220	GEMS
Wyandotte	Premier	None	0	Accu-Vote OS	150	TSX	140	GEMS



## **Appendix C**

### **On-Site Demonstration Requirements**

**Finalists will be provided with a past election setup from each county for vendor demonstration no later than October 23, 2015. This information is to be used to produce an On-Site Demonstration Election for each county using that county's election information.**

**The expectations of the vendor demonstrations will include:**

- Create an election using import files in .txt format exported from Voter Registration Database (VR) where possible.
- Import files and demonstrate that all information imported correctly by generating ballot styles.
- Demonstrate how information is added to the system to create an election database.
  - Demonstrate adding:
    - Districts
    - Precincts
    - Precinct splits
    - Contests
    - Candidates
    - Measures
  - Demonstrate editing all of the above
- Demonstrate creating an election using a saved election as a template
- Generate the ballots styles required for this election.
  - Demonstrate the steps involved in generating the ballot styles.
  - Demonstrate the steps involved in correcting an error such as a misspelled name found after all the styles have been generated.
  - Demonstrate placement of races on the ballots.
  - Demonstrate options for text within the voting area of the ballot.
  - Demonstrate options for text and/or barcodes outside the voting area of the ballot.
  - Demonstrate options for creating multipage ballots.
  - Demonstrate how your system accommodates additional text with candidate names.
- Demonstrate creating and exporting files suitable for printing ballots either with a printing vendor or the County's ballot on demand system.
- Create a marked set of test ballots using the election defined in the previous step to demonstrate the items below. You may print, mark and fold the ballots in advance of the demo. Scanning and tallying of the ballots on both precinct tabulators and central count tabulators must take place during the demo.
- Define a clear winner in each race.
- Include errors in the test ballots to demonstrate:
  - Under-votes
  - Over-votes
  - Blank Ballots
  - Write-ins

- Badly damaged ballots
  - Unclear markings
  - Random markings
  - Different pen colors and marking devices
- Provide an expected summary of votes received for each candidate in each race including write-in votes by race.
  - Produce an Audit trail of election setup (including rotation) for both paper and machine.
  - Run the test ballots through the scanning hardware using folded ballots.
    - Demonstrate any special features unique to your system.
    - Demonstrate integration functionality with electronic poll books.
    - Demonstrate scanning and tallying by batch and by precinct or ballot style.
    - Demonstrate how your system reacts to physical ballot jams.
    - Demonstrate how ballots that need adjudication are identified and separated.
    - Demonstrate any capabilities to read bar-coded information on the ballot.
    - Demonstrate how your system handles and tallies write-in votes.
    - Demonstrate how the system produces an abstract of write-in votes cast by race.
    - Demonstrate how results are tallied.
    - Demonstrate that the results are as expected.
    - Show the report options after ballots have been tallied.
    - What report formats are available?
    - Are they customizable?
    - What reports are available for shared races?
  - Demonstration of operation of machine based tabulation devices, Ballot Marking Devices and similar equipment must also take place during the demonstration.
  - Demonstration of ADA accessible functionality of precinct voting equipment must be included in the demo.
  - Produce audit trail for all precinct tabulators and central count devices.
  - Demonstrate how results from central count and precinct tabulators are combined and exported in all available file formats for Website Results Posting and reporting to the Kansas Secretary of State.

#### *Evaluation Criteria*

- *Proposer demonstrates that the solution can successfully perform all of the tasks specified in the demonstration script.*
- *Demonstration provides evidence that the solution can successfully fulfill the County's goals and requirements.*

## **Appendix D**

### **Oral Evaluation Information**

1. Please present an overview of your proposed solution. The presentation should cover all of the categories addressed in the written proposal. The presentation should take no longer than 45 minutes. The presentation may take less time as long as all of the specified categories are addressed.
2. Please present your responses to any clarifying questions submitted by the County prior to the evaluation.
3. The remainder of the time allotted for the oral evaluation will be reserved for any additional clarifying questions that the County may have.

#### *Evaluation Criteria:*

- *Presentation addresses all of the specified categories.*
- *Presentation demonstrates the proposer's ability to provide a solution that meets the County's needs.*

## **Appendix E**

### **Optional Discussions and Best and Final Offer (BAFO) Proposals**

At the conclusion of the preceding steps, The Counties may, at their sole discretion, engage in oral or written discussions with all remaining proposers still determined to be within competitive range regarding their Proposals. The Counties may conduct discussions for the following purposes:

1. Identifying content considered deficient.
2. Seeking additional information or clarification, or
3. Any other purpose to permit each of The Counties to obtain the best Solution specific to their requirements.

Discussions with each Proposer will be based on what is determined by The Counties to be necessary to fulfill their needs for obtaining the best Solution. Discussions may vary with each Proposer. The Counties may terminate discussions with Proposers at any time. The Counties will, however, offer each Proposer the same opportunity to discuss their Proposals before notice is given as to the due date and time for submission of BAFO Proposals.

Following discussions, The Counties will provide notice to the Proposers of the date and time by which the Proposers will submit their BAFO Proposals, the BAFO requirements and the criteria and scoring by which the BAFO Proposals will be evaluated.

Evaluations of the BAFO Proposals will then be conducted by the evaluation panel in accordance with the evaluation criteria so provided resulting in a final score for each Proposer. In the evaluation of BAFO proposals each evaluator will have available the scores that the evaluator assigned in prior steps. However the evaluators will not be bound by their prior scores. The BAFO scoring will be based on the BAFO proposal together with information gathered in the remote and on-site demonstrations.

After evaluation of the BAFO Proposals, each county will follow the established procedure in that county to issue a Notice of Intent to award the contract to the Proposer with the highest scoring BAFO Proposal.

## **Appendix F**

### **Glossary of Terms**

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- a. **BAFO**—Best and Final Offer.
- b. **Ballot Marking Device (BMD)**—a device that allows voters to electronically mark the ballots with their selections.
- c. **Ballot Style Indicator**—A unique number to designate a ballot with content specific to a precinct or part thereof.
- d. **Business Day(s) and Working Day(s)**—Have the same meaning which is the official Working Days of the week to include Monday through Friday. Official Working Days exclude State Holidays (see definition of “Normal State Business Hours” below).
- e. **Change Request (CR)**—A change request is a formal written document, presented by the Contractor to the Procurement Officer to evaluate and potentially authorize a change in scope to the project. No changes to the scope shall occur without a Change Request signed by SBE. What/Who is “SBE”?
- f. **Contractor**—The selected Offeror(s) that is awarded a Contract as a result of this RFP.
- g. **The Counties and the County**- any or all of the following: Johnson County, Sedgwick County, Shawnee County and Wyandotte County, Kansas.
- h. **County Election Officer (CEO)**—The Election Directors who oversee the conduct of elections held in their respective jurisdictions.
- i. **Delivery Date**: The time in days from the receipt of a county purchase order or contract, not time in days from the date of the bid opening.
- j. **Early Voting**—Ability of voters to cast ballots in person before Election Day.
- k. **EAC**—US Election Assistance Commission.
- l. **Election Cycle** – The time period which begins Jan. 1 prior to a Primary Election and ends at the end of the year in which that year’s General Election results are certified.
- m. **Fixed Price (FP)**—A contract is appropriate for use when the extent and type of work necessary to meet requirements can be reasonably specified and the cost can be reasonably estimated, as is generally the case for construction or standard commercial products. A fixed-price type of contract is the only type of contract that can be used in competitive sealed bidding.
- n. **Firmware**—Computer programs embedded in non-volatile memory.
- o. **Fully Loaded Prices**—For the purpose of this RFP, Fully Loaded Prices shall mean prices and rates that include all direct and indirect costs associated with providing all goods, services and equipment required by this RFP. No other amounts will be paid to the Contractor including overtime amounts.
- p. **General Election**—Election usually held the first Tuesday after the first Monday in November where candidates are actually elected to office.
- q. **High Speed Scanning (HSS) device**—A document scanner capable of imaging batches of ballots at high speed that is normally used at the office of a CEO.
- r. **Indefinite Delivery Indefinite Quantity**—A type of contract that provides for an indefinite quantity of supplies or services during a fixed period of time.
- s. **LAN**—Local Area Network.

- t. **Lease**—Defines the word “Lease” to mean that The Counties will receive and use the hardware and software for the defined Contract Duration in consideration of a fixed schedule of payments. The Counties will maintain Care, Custody and Control of, but will not own, the VSS Components during the course of the Contract. At the end of the contract period, the Contractor will retrieve the hardware and software.
- u. **Local Time**—Time in the Central Time Zone as observed by the State of Kansas. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- v. **Normal Business Hours**—Normal business hours are 8:00AM – 5:00PM Monday through Friday except State Holidays.
- w. **Precinct Based Scanning (PBS) Device**—An electronic voting system that uses an optical scanner or digital imaging to read votes cast on marked paper ballots and tally the results.
- x. **Primary Election**—A Primary Election narrows the field for the General Election. Election held the 1st Tuesday in August of each year. Primary Elections in even numbered years are Partisan Primaries, while Primary Elections in odd numbered years are Nonpartisan Primaries.
- y. **Preventative Maintenance**—Scheduled or periodic maintenance procedures specified by the Contractor to ensure the VSS Components are operational and available for the Contract Duration.
- z. **PEP**—Problem Escalation Procedure.
- aa. **Procurement or Procure**—For the purposes of this RFP, the terms Procurement and Procure shall refer to all of the following Contract Types:
  - a. Lease
  - b. Purchase
- bb. **Project Manager**—The individual responsible for directing the work of the project team in a leadership capacity.
- cc. **Proposal**—As appropriate, either or both of a Proposer’s Technical or Financial Proposal.
- dd. **Proposer**—An entity that submits a Proposal in response to this RFP.
- ee. **Purchase**—The Counties defines the word “Purchase” to mean that each county will receive, use and own the hardware and software.
- ff. **Repair**—Perform problem determination, fix, restore service or replace all VSS Components including hardware, software and firmware as necessary to ensure the VSS Components are operational and available for the Contract Duration.
- gg. **Split Precinct**—A split precinct is one in which some of the voters in the precinct vote in one election district and other voters vote for the same type of office, but in a different election district.
- hh. **User Acceptance Testing (UAT)**—A process of verifying that the VSS solution works based upon the requirements of this RFP.
- ii. **Voter-Verifiable Paper Record**—A paper ballot prepared by the voter for the purpose of being read by a PBS.
- jj. **Voting System**— A specific combination of mechanical, electromechanical, and electronic equipment used to define ballots, cast and count votes, report or display election results, connect the voting system to the voter registration system, and maintain and produce any audit trail information.
- kk. **VS EMS**—the voting system’s election management system.
- ll. **VSS Component**—includes all elements of the proposed VSS including hardware and software (i.e. PBS, HSS, BMD, and VS EMS).

- mm. **VSS Device**—includes only hardware elements of the proposed VSS (i.e. PBS, HSS, and BMD).
- nn. **VSTL**—Voting System Test Laboratory. A laboratory federally-accredited to test voting systems to US Elections Assistance Commission (EAC) approved voting system standards.
- oo. **VVSG**—Voluntary Voting System Guidelines. Voluntary voting system standards developed, adopted, and published by the EAC.

## Appendix G

### Cost Proposal

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Vendor's Name: \_\_\_\_\_

Date Prepared: \_\_\_\_\_

*Note: Other Kansas governmental units may purchase or lease under the contracts resulting from this RFP.*

#### Instructions:

- Vendor's cost proposal must be submitted on this form.
- During the contract period, should lower pricing be provided to another entity, the lower pricing must also be provided for The Counties.
- Unless you specifically provide otherwise, The Counties will consider all proposed costs to be fixed.
- Each item required by the proposal must be individually priced (i.e. priced per single unit) and be able to be ordered individually.
- Vendor's cost proposal represents the not-to-exceed cost to The Counties.
- Vendor's not wishing to offer a volume discount should provide the same unit price for each quantity ordered in the space provided.
- All unit prices shall remain firm for the initial term of the executed agreement, with the exception that should offeror during the term of the agreement offer to another buyer pricing for like or similar quantity, products or services at price more favorable than those given to the Counties, that offeror shall offer same pricing to Counties effective on the date offered to other buyer.
- Unit Prices shall include all costs and, unless otherwise specified, shall be F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destinations").
- Proposer is responsible for verifying that their cost submission is accurate and complete.

Because of the dynamic nature of election technology, the Counties are seeking proposals for three separate payment options: purchase, lease and lease with the option to purchase. Proposals should provide complete pricing details and services that will be included in lease agreements. If the Proposer cannot provide leasing options, please note that clearly in the proposal. Inability to provide lease options is not a primary reason for a proposal being rejected.



## HARDWARE

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The Proposer must provide three separate payment options for the hardware:

- 1) purchase;
- 2) lease; and
- 3) lease with an option to purchase.

Under the third option, the lease would last one calendar year from receipt of the hardware or until the end of the current election cycle, whichever was later. At the end of the lease period, lessee could, in its sole discretion:

- 1) extend the lease for subsequent one-year terms, or
- 2) purchase the equipment by a balloon payment, due to vendor within 45 days of the end of the lease period.

### 1. ADA / HAVA Compliant Voting Machines / Ballot Marking Devices

#### a. Purchase

**Volume Discount Provision:** Under the contract, each purchase shall be made at the initial quantity Unit Price. However, the total number of Voting Machines ordered by any Kansas governmental entity under a contract resulting from this RFP shall determine the current quantity Unit Price. For a period of 10 years from the last signature date of the first signed contract resulting from this RFP, on February 1 of each year a rebate shall be paid by vendor to each purchasing county (or any other Kansas governmental entity) for the difference between the initial quantity Unit Price paid to vendor and the current quantity Unit Price as of December 31 of the previous year. The initial quantity Unit Price will be reset to the current quantity Unit Price upon payment of the rebate. This shall apply to every Voting Machine ordered by a Kansas governmental entity under a contract resulting from this RFP.

For example, if a county participating in this RFP buys the first 1400 units at the initial quantity Unit Price \$X for quantity 1001-2000, and subsequently additional Units are ordered by other Kansas governmental entities so that the total number of Units ordered by all Kansas governmental entities is 2050 units and the current quantity Unit Price is \$Y for quantity over 2000, then vendor will rebate to that county ( $\$X - \$Y \times 1400$  number of units) on February 1 of the year after the new unit pricing quantity is reached.

ADA / HAVA Compliant Voting Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-1000	\$ _____
1001-2000	\$ _____
2001-3000	\$ _____
3001+	\$ _____

ADA / HAVA Compliant Voting Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-1000	\$ _____
1001-2000	\$ _____
2001-3000	\$ _____
3001+	\$ _____

b. Lease

**Volume Discount Provision:** Under the contract, each purchase shall be made at the initial quantity Unit Price. However, the total number of Voting Machines ordered by any Kansas governmental entity under a contract resulting from this RFP shall determine the current quantity Unit Price. For a period of 10 years from the last signature date of the first signed contract resulting from this RFP, on February 1 of each year a rebate shall be paid by vendor to each purchasing county (or any other Kansas governmental entity) for the difference between the initial quantity Unit Price paid to vendor and the current quantity Unit Price as of December 31 of the previous year. The initial quantity Unit Price will be reset to the current quantity Unit Price upon payment of the rebate. This shall apply to every Voting Machine ordered by a Kansas governmental entity under a contract resulting from this RFP.

For example, if a county participating in this RFP buys the first 1400 units at the initial quantity Unit Price \$X for quantity 1001-2000, and subsequently additional Units are ordered by other Kansas governmental entities so that the total number of Units ordered by all Kansas governmental entities is 2050 units and the current quantity Unit Price is \$Y for quantity over 2000, then vendor will rebate to that county ( $\$X - \$Y \times 1400$  number of units) on February 1 of the year after the new unit pricing quantity is reached.

Vendor's Annual Lease Unit Price must include all necessary software, and service for both hardware and software.

ADA / HAVA Compliant Voting Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-1000	\$ _____
1001-2000	\$ _____
2001-3000	\$ _____
3001+	\$ _____

ADA / HAVA Compliant Voting Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-1000	\$ _____
1001-2000	\$ _____
2001-3000	\$ _____
3001+	\$ _____

Annual Lease Unit Price may not escalate by more than 1% per year for each year of the contract, including extensions.

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c. Lease with an Option to Purchase

**Volume Discount Provision:** Under this scenario, the volume discount rebate would work the same as described in No. 1 and No. 2 above. However, under the lease (with an option to purchase) there would be two rebates, one for the lease payment and one for the balloon payment.

Vendor's Annual Lease Unit Price must include all necessary software, and service for both hardware and software.

The Purchase Unit Price (balloon payment) must include a fully paid up perpetual software license and an annual service agreement (covering both hardware and software).

ADA / HAVA Compliant Voting Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

1. <u>Quantity</u>	<u>Annual Lease Unit Price</u>	Purchase Unit Price (balloon payment)
1-1000	\$ _____	\$ _____
1001-2000	\$ _____	\$ _____
2001-3000	\$ _____	\$ _____
3001+	\$ _____	\$ _____

ADA / HAVA Compliant Voting Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

2. <u>Quantity</u>	<u>Annual Lease Unit Price</u>	Purchase Unit Price (balloon payment)
1-1000	\$ _____	\$ _____
1001-2000	\$ _____	\$ _____
2001-3000	\$ _____	\$ _____
3001+	\$ _____	\$ _____

Annual Lease (with an Option to Purchase) Unit Price may not escalate by more than 1% per year for each year of the contract, including extensions.

## 2. Precinct Tabulation Machines

### a. Purchase

**Volume Discount Provision:** Under the contract, each purchase shall be made at the initial quantity Unit Price. However, the total number of Voting Machines ordered by any Kansas governmental entity under a contract resulting from this RFP shall determine the current quantity Unit Price. For a period of 10 years from the last signature date of the first signed contract resulting from this RFP, on February 1 of each year a rebate shall be paid by vendor to each purchasing county (or any other Kansas governmental entity) for the difference between the initial quantity Unit Price paid to vendor and the current quantity Unit Price as of December 31 of the previous year. The initial quantity Unit Price will be reset to the current quantity Unit Price upon payment of the rebate. This shall apply to every Voting Machine ordered by a Kansas governmental entity under a contract resulting from this RFP.

For example, if a county participating in this RFP buys the first 200 units at the initial quantity Unit Price \$X for quantity 1-300, and subsequently additional Units are ordered by other Kansas governmental entities so that the total number of Units ordered by all Kansas governmental entities is 750 units and the current quantity Unit Price is \$Y for quantity over 700, then vendor will rebate to that county  $(\$X - \$Y \times 200 \text{ number of units})$  on February 1 of the year after the new unit pricing quantity is reached.

Precinct Tabulation Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-300	\$ _____
301-500	\$ _____
501-700	\$ _____
701+	\$ _____

Precinct Tabulation Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-300	\$ _____
301-500	\$ _____
501-700	\$ _____
701+	\$ _____

b. Lease

**Volume Discount Provision:** Under the contract, each purchase shall be made at the initial quantity Unit Price. However, the total number of Voting Machines ordered by any Kansas governmental entity under a contract resulting from this RFP shall determine the current quantity Unit Price. For a period of 10 years from the last signature date of the first signed contract resulting from this RFP, on February 1 of each year a rebate shall be paid by vendor to each purchasing county (or any other Kansas governmental entity) for the difference between the initial quantity Unit Price paid to vendor and the current quantity Unit Price as of December 31 of the previous year. The initial quantity Unit Price will be reset to the current quantity Unit Price upon payment of the rebate. This shall apply to every Voting Machine ordered by a Kansas governmental entity under a contract resulting from this RFP.

For example, if a county participating in this RFP buys the first 200 units at the initial quantity Unit Price \$X for quantity 1-300, and subsequently additional Units are ordered by other Kansas governmental entities so that the total number of Units ordered by all Kansas governmental entities is 750 units and the current quantity Unit Price is \$Y for quantity over 700, then vendor will rebate to that county  $(\$X - \$Y \times 200 \text{ number of units})$  on February 1 of the year after the new unit pricing quantity is reached.

Vendor's Annual Lease Unit Price must include all necessary software, and service for both hardware and software.

Precinct Tabulation Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-300	\$ _____
301-500	\$ _____
501-700	\$ _____
701+	\$ _____

Precinct Tabulation Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
1-300	\$ _____
301-500	\$ _____
501-700	\$ _____
701+	\$ _____

Annual Lease Unit Price may not escalate by more than 1% per year for each year of the contract, including extensions.

c. Lease with an Option to Purchase

**Volume Discount Provision:** Under this scenario, the volume discount rebate would work the same as described in No. 1 and No. 2 above. However, under the lease (with an option to purchase) there would be two rebates, one for the lease payment and one for the balloon payment.

Vendor's Annual Lease Unit Price must include all necessary software, and service for both hardware and software.

The Purchase Unit Price (balloon payment) must include a fully paid up perpetual software license and an annual service agreement (covering both hardware and software).

Precinct Tabulation Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Annual Lease Unit Price</u>	<u>Purchase Unit Price (balloon payment)</u>
1-300	\$ _____	\$ _____
301-500	\$ _____	\$ _____
501-700	\$ _____	\$ _____
701+	\$ _____	\$ _____

Precinct Tabulation Unit – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>Quantity</u>	<u>Annual Lease Unit Price</u>	<u>Purchase Unit Price (balloon payment)</u>
1-300	\$ _____	\$ _____
301-500	\$ _____	\$ _____
501-700	\$ _____	\$ _____
701+	\$ _____	\$ _____

Annual Lease (with an Option to Purchase) Unit Price may not escalate by more than 1% per year for each year of the contract, including extensions.

### 3. Central Count

**Volume Discount Provision:** Under the contract, each purchase shall be made at the initial quantity Unit Price. However, the total number of Voting Machines ordered by any Kansas governmental entity under a contract resulting from this RFP shall determine the current quantity Unit Price. For a period of 10 years from the last signature date of the first signed contract resulting from this RFP, on February 1 of each year a rebate shall be paid by vendor to each purchasing county (or any other Kansas governmental entity) for the difference between the initial quantity Unit Price paid to vendor and the current quantity Unit Price as of December 31 of the previous year. The initial quantity Unit Price will be reset to the current quantity Unit Price upon payment of the rebate. This shall apply to every Voting Machine ordered by a Kansas governmental entity under a contract resulting from this RFP.

For example, if a county participating in this RFP buys the first 2 units at the initial quantity Unit Price \$X for quantity 2-4, and subsequently additional Units are ordered by other Kansas governmental entities so that the total number of Units ordered by all Kansas governmental entities is 7 units and the current quantity Unit Price is \$Y for quantity over 5, then vendor will rebate to that county  $(\$X - \$Y \times 2 \text{ number of units})$  on February 1 of the year after the new unit pricing quantity is reached.

Central Counter – Model: \_\_\_\_\_ (Proposer fills in model number)

<u>7. Quantity</u>	<u>Purchase Unit Price</u>
Each	\$ _____
2-4	\$ _____
5+	\$ _____

<u>8. Quantity</u>	<u>Annual Lease Unit Price</u>
Each	\$ _____
2-4	\$ _____
5+	\$ _____

<u>9. Quantity</u>	<u>Annual Lease Unit Price</u>	<u>Purchase Unit Price (balloon payment)</u>
Each	\$ _____	\$ _____
2-4	\$ _____	\$ _____
5+	\$ _____	\$ _____

Annual Lease Unit Price may not escalate by more than 1% per year for each year of the contract, including extensions.



Separate pricing for software, if hardware is purchased.

A. Software Licenses

Software – Model: \_\_\_\_\_(Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
Enterprise Wide License	\$ _____

Software – Model: \_\_\_\_\_(Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
Enterprise Wide License	\$ _____

Software – Model: \_\_\_\_\_(Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
Enterprise Wide License	\$ _____

Software – Model: \_\_\_\_\_(Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
Enterprise Wide License	\$ _____

Software – Model: \_\_\_\_\_(Proposer fills in model number)

<u>Quantity</u>	<u>Unit Price</u>
Enterprise Wide License	\$ _____

A. Peripheral Equipment  
Please itemize all peripheral below.

Description:	Unit Price:
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$

A. Service Agreement

Separate pricing for software/hardware Service Agreement, if hardware is purchased.

Annual cost: \$\_\_\_\_\_.

Annual cost of Service Agreement may not escalate by more than 1% per year for each year of the contract, including extensions.

Proposer must include a copy of their Service Agreement with the proposal.

If applicable, provide the discount percentage for prepaid multi-year Service Agreement:

	2-year Prepaid	3-year Prepaid	5-year Prepaid
Discount off Annually Renewable Service Agreement	_____%	_____%	_____%

**A.** Implementation Expenses

Please itemize all implementation expenses below, including planning and analysis, design and development, testing, deployment and support, and reimbursable expenses (e.g. travel). Please include a total of implementation expenses expected.

Total Implementation Expenses: \$ \_\_\_\_\_

A. Training Expenses

Please itemize all training expenses below, including reimbursable expenses (e.g. travel). Please include a total of training expenses expected.

Total Training Expenses:     \$\_\_\_\_\_

Will Proposer compensate The Counties for trade-ins of existing equipment (e.g. precinct counters, central counters, ballot boxes, DRE units and their respective memory cards)?

Yes ☐ No ☐

Will Proposer buy back ancillary supplies from The Counties (e.g. ink cartridges and paper rolls)?

Yes ☐ No ☐

Please provide buy back quotes or trade-in values by individual unit for the following:

	<u>Total</u>
1.) Accu-vote TSx tablets	\$_____
2.) Printers and Stands for Accu-vote TSx	\$_____
3.) Memory cards for Accu-vote TSx	\$_____
4.) Accu-vote 2000 precinct counters	\$_____
5.) Accu-vote 2000 central counters	\$_____
6.) Memory cards for Accu-vote 2000	\$_____
7.) Ballot boxes for Accu-vote 2000	\$_____
8.) iVotronic Voting Machines w/ ADA and RTAL	\$_____
9.) Model-100 Precinct Scanners with ballot boxes	\$_____
10.) Model-650 Central Counters	\$_____

### A. Consumable Supplies

Itemize quantity and price for the following consumable supplies: thermal paper, printer ribbons, marking pens, and other supplies necessary to operate the election equipment system. Please include a total consumable supply estimate per 1,000 voters per election.

Description:	Unit Price:
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
Total Consumable Supply Estimate per Election:	\$

## B. Maintenance Supplies – PAGE 56

Itemize quantity and price for the following maintenance supplies: fuses, batteries, memory devices, and other supplies necessary to maintain the election equipment system. Please include a total consumable supply estimate per unit over a 10 year period.

Description and Equipment Type:

Unit Price:

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

Total Maintenance Supply Estimate per unit in 10 year period: \$



[illegible]

Separately, list the item numbers from the list of Desired Systems Requirements on pages 7 – 11 of functions that will require modification for a fee in order to meet the desired system requirements. Exclusively identifying costs for these requirements in this cost proposal by Requirement number will allow for evaluation of the need of the particular item and whether or not they will be exercised in the final statement of work.

Item # and description of modification:

Cost:

[illegible]

Separately, list the item numbers from the list of Professional Services on pages 12 – 14 of goods and/or services that will incur a separate fee in order to meet the requirements of this RFP. Exclusively identifying costs for these goods and/or services in this cost proposal by Requirement number will allow for evaluation of the need of the particular item and whether or not they will be exercised in the final statement of work.

Item # and description of goods/services incurring fees:

Cost:

[illegible]

ATTACHMENT TO  
SHAWNEE COUNTY CONTRACT C \_\_\_\_\_

**CONTRACTUAL PROVISIONS ATTACHMENT**

The undersigned parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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.
2. **AGREEMENT WITH KANSAS LAW.** It is agreed by and between the undersigned that all disputes and matters whatsoever arising under, in connection with or incident to this contract shall be litigated, if at all, in and before a Court located in the State of Kansas, U.S.A., to the exclusion of the Courts of any other states or country. All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **TERMINATION DUE TO LACK OF FUNDING APPROPRIATION.** Shawnee County is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 *et seq.* If, in the judgment of the Financial Administrator, Audit-Finance Office, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, County may terminate this agreement at the end of its current fiscal year. County agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year. In the event this agreement is terminated pursuant to this paragraph, County will pay to the contractor all regular contractual payments incurred through the end of such fiscal

year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the County or the contractor.

4. **DISCLAIMER OF LIABILITY.** Neither the County of Shawnee nor any department thereof shall hold harmless or indemnify any contractor for any liability whatsoever.
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 of 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 in 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; (f) if the contracting agency determines that the contractor has violated applicable provisions of ADA, that violation shall constitute a breach of contract; (g) if (e) or (f) occurs, the contract may be cancelled, terminated or suspended in whole or in part by the County.

Parties to this contract understand that subsections (b) through (e) of this paragraph number 5 are not applicable to a contractor who employs fewer than four employees or whose contract with the County totals \$5,000 or less during this fiscal year.

6. **ACCEPTANCE OF CONTRACT.** This contract shall not be considered accepted, approved or otherwise effective until the required approvals and certifications have been given and this is signed by the Board of County Commissioners of the County of Shawnee, Kansas.
7. **ARBITRATION, DAMAGES, WARRANTIES.** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the County shall not agree to pay attorney fees and late payment charges; and no provisions will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **REPRESENTATIVE'S AUTHORITY TO CONTRACT.** By signing this document, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this document on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **RESPONSIBILITY FOR TAXES.** The County 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.
10. **INSURANCE.** The County shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the County 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 vendor or lessor shall bear the risk of any loss or damage to any personal property to which vendor or lessor holds title.

**VENDOR/CONTRACTOR:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BOARD OF COUNTY COMMISSIONERS  
SHAWNEE COUNTY, KANSAS**

Kevin J. Cook, Chair

Date: \_\_\_\_\_

**ATTEST:**

Cynthia A. Beck, Shawnee County Clerk

**Exhibit A**

**UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS.**  
**CONTRACTUAL PROVISIONS ATTACHMENT**

Important: This form contains mandatory contract provisions for the Unified Government of Wyandotte County/Kansas City, Kansas hereinafter "the Unified Government") and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor-contractor's standard contract form, then that form must be altered to contain the following provision:

“The provisions found in Contractual Provisions Attachment which is attached hereto are hereby incorporated in this contract and made a part hereof.”

1. **Controlling Provisions.** The terms of this Contractual Provisions Attachment prevail and control over the terms of any other conflicting provision in any other document relating to the Agreement in which this attachment is incorporated.
2. **Governing Law.** This Agreement is subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Cash Basis Law.** This Agreement is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 and amendments thereto. Any automatic renewal of the terms of the Agreement shall create no legal obligation on the part of the Unified Government. The Unified Government is obligated only to pay periodic payments or monthly installments under the Agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during the Unified Government's current budget year or b) funds made available from any lawfully operated revenue producing source.
4. **Disclaimer of Liability.** The Unified Government shall not hold harmless nor indemnify the Contractor for any liability whatsoever.
5. **Anti-Discrimination Requirements.**

During the performance of this Agreement, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, age, national origin, or ancestry. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, religion, color, sex, disability, age, national origin, or ancestry. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for

## **EXHIBIT “A”**

### **Unified Government of Wyandotte County/Kansas City, Kansas Contractual Provisions Attachment**

training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Unified Government setting forth the provisions of this nondiscrimination clause.

- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, disability, age, national origin, or ancestry.
- c. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor.
- d. The Contractor shall assure that it and all subcontractors will implement the certificate of compliance in connection with this Agreement.
- e. If the Contractor shall fail, refuse, or neglect to comply with the terms of these contractual conditions, such failure shall be deemed a total breach of the contract and such Agreement may be terminated, canceled, or suspended, in whole or in part, and the Contractor may be declared ineligible for any further Unified Government contracts for a period of up to one year. Provided that, if a contract is terminated, canceled, or suspended for failure to comply with this section, the Contractor shall have no claims for damages against the Unified Government on account of such termination, cancellation, or suspension or declaration of ineligibility.
- f. The Contractor shall assure that it is in compliance and shall maintain sufficient records to document that, under all aspects of this Agreement, it has acted in a manner which is in full compliance with the applicable sections of the Equal Employment section of this Agreement and the following, as applicable: Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*), and amendments thereto; Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e *et seq.*), and amendments thereto; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 *et seq.*), and amendments thereto; the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*), and amendments thereto; the Kansas Act Against Discrimination K.S.A. 44-1001 through 1004), and amendments thereto; Article 11 of the Unified Government Procurement Code and Regulations, and amendments thereto; and Sections 18-66 and 18-87 of the 1986 Code of Ordinances of Kansas City, Kansas, and amendments thereto. Such records shall at all times remain open to inspection by an individual designated by the Unified Government for such purpose.

## **EXHIBIT “A”**

### **Unified Government of Wyandotte County/Kansas City, Kansas Contractual Provisions Attachment**

- g. The Contractor and the Unified Government, in carrying out this Agreement, shall also comply with all other applicable existing federal, state, and local laws relative to equal opportunity and nondiscrimination, all of which are incorporated by reference and made a part of this Agreement.
- h. The Contractor will be required to conform to Affirmative Action and Equal Employment Opportunity requirements prior to the execution of this Agreement.

#### **6. Termination for Default.**

- a. If the Contractor refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, or commits any other substantial breach of this Agreement, the Procurement Officer may notify the Contractor in writing of the delay or nonperformance and, if not cured in ten days or any longer time specified in writing by the Procurement Officer, such officer may terminate the Contractor's rights to proceed with the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform.
- b. The Unified Government shall pay the Contractor the costs and expenses and reasonable profit for services performed by the Contractor prior to receipt of the notice of termination; however, the Unified Government may withhold from amounts due the Contractor such sums as the Procurement Officer deems to be necessary to protect the Unified Government against loss caused by the Contractor because of the default.
- c. Except with respect to defaults of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this Agreement in accordance with its terms if the Contractor has notified the Procurement Officer within 15 days of the cause of the delay and the failure arises out of causes such as acts of God, acts of the public enemy, act of the Unified Government and any other governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, or other labor disputes. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the contract requirements. Upon request of the Contractor, the Procurement Officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform

## **EXHIBIT “A”**

### **Unified Government of Wyandotte County/Kansas City, Kansas Contractual Provisions Attachment**

was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the Agreement, the time for completion of the Agreement shall be revised accordingly.

- d. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and both the Unified Government and the Contractor agree, the rights and obligations of the parties shall be the same as if the notice of termination had not been issued.
- e. The following acts committed by the Contractor will constitute a substantial breach of the agreement and may result in termination of the agreement.
  - (1) If the Contractor is adjudged bankrupt or insolvent;
  - (2) If the Contractor makes a general assignment for the benefit of his creditors;
  - (3) If a trustee or receiver is appointed for the Contractor;
  - (4) If the Contractor files a petition to reorganize under bankruptcy or applicable laws;
  - (5) If the Contractor repeatedly fails to supply services required under the Agreement;
  - (6) If the Contractor disregards the authority of the Procurement Officer.

Acts other than those specified may constitute substantial breach of this Agreement.

#### **7. Termination for Convenience.**

- a. The Procurement Officer may, when the interests of the Unified Government so require, terminate this contract in whole or in part, for the convenience of the Unified Government. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.
- b. The Contractor shall incur no further obligations in connection with the



## **EXHIBIT "A"**

### **Unified Government of Wyandotte County/Kansas City, Kansas Contractual Provisions Attachment**

terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified.

- c. The Procurement Officer shall pay the Contractor the following amounts:
  - (1) All costs and expenses incurred by the Contractor for work accepted by the Unified Government prior to the Contractor's receipt of the notice of termination, plus a reasonable profit for said work.
  - (2) All costs and expenses incurred by the Contractor for work not yet accepted by the Unified Government but performed by the Contractor prior to receipt of the notice of termination, plus a reasonable profit for said work.
- d. Anticipatory profit for work and services not performed by the Contractor shall not be allowed.

#### **8. Disputes.**

- a. All controversies between the Unified Government and the Contractor which arise under, or are by virtue of, this Agreement and which are not resolved by mutual agreement, shall be decided by the Procurement Officer in writing, within 30 days after a written request by the Contractor for a final decision concerning the controversy; provided, however, that if the Procurement Officer does not issue a written decision within 30 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Contractor may proceed as if an adverse decision had been received.
- b. The Procurement Officer shall immediately furnish a copy of the decision to the Contractor by certified mail, return receipt requested, or by any other method that provides evidence of receipt. Any such decision shall be final and conclusive, unless fraudulent, or the Contractor brings an action seeking judicial review of the decision in the Wyandotte County District Court.
- c. The Contractor shall comply with any decision of the Procurement Officer and proceed diligently with performance of this Agreement pending final resolution by the Wyandotte County District Court of any controversy arising under, or by virtue of, this Agreement, except where there has been a material breach of the Agreement by the Unified Government; provided, however, that in any event the Contractor Shall proceed diligently with the performance of the Agreement where the Purchasing Director has made a written determination that continuation of work under the contract is essential to the public health and safety.

## **EXHIBIT “A”**

### **Unified Government of Wyandotte County/Kansas City, Kansas Contractual Provisions Attachment**

9. **Representations.**

The Contractor makes the following representations:

- a. The price submitted is independently arrived at without collusion.
  - b. It has not knowingly influenced and promises that it will not knowingly influence a Unified Government employee or former Unified Government employee to breach any of the ethical standards set forth in Article 12 of the Procurement Code.
  - c. It has not violated, and is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in §12-106 (Gratuities and Kickbacks) of the Procurement Code.
  - d. It has not retained and will not retain a person to solicit or secure a Unified Government contract upon 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 for the purpose of securing business.
10. **Interest Payable on Claims.** Pursuant to Section 9-301 (Interest) of the Procurement Code, interest on amounts ultimately determined to be due to a contractor of the Unified Government shall be payable at the statutory rate applicable to judgments from the date the claim arose through the date of decision or judgment, whichever is later.
11. **Payment of Taxes.** The Unified Government shall not be responsible for, nor indemnify the Contractor for any federal, state, or local taxes which may be imposed or levied upon the subject matter of this Agreement. The Contractor shall pay the Unified Government occupation tax prior to execution of the Agreement.
12. **Representative's Authority to Contract.** The person signing this Agreement is duly authorized by the Contractor to execute the documents on behalf of the Contractor and to bind the Contractor.
13. **Modification of Agreement** This Agreement may be modified or amended only in writing executed by both parties.
14. **Independent Contractor Relation.** Nothing in this Agreement shall be construed to create a relationship of employer and employee or principal and agent or any other relationship

## **EXHIBIT "A"**

### **Unified Government of Wyandotte County/Kansas City, Kansas Contractual Provisions Attachment**

other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of this Agreement. Nothing in this Agreement shall create any right or remedies in any third party. The parties agree that no persons supplied by the Contractor are employees of the Unified Government and that no right of the Unified Government's civil service, retirement, or personnel rules accrue to such persons. The Contractor shall have the total responsibility for all salaries, wages, workers' compensation insurance, unemployment compensation, bonuses, retirement benefits, withholdings, other benefits, and any taxes and premiums for such items, and the Contractor shall hold the Unified Government harmless with respect thereto.

15. **Availability of Records and Audit.** The Contractor agrees to maintain books, records, documents, and other evidence pertaining to the costs and expenses of the services provided under the Agreement (hereinafter collectively called "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this Agreement. The Contractor agrees to make available at the offices of the Unified Government at all times during the term of the Agreement any of the records for inspection, audit, or reproduction by any authorized representative of the Unified Government. Except for documentary evidence delivered to the offices of the Unified Government, the Contractor shall preserve and make available to persons designated by the Unified Government its records for a period of three years from the date of the termination of the Agreement or until all audit questions have been resolved, whichever period of time is longer.
16. **Assignment** Neither the Contractor nor the Unified Government shall, sell, transfer, assign, or otherwise dispose of any rights or obligations created by this Agreement without the written consent of the other party.
17. **No Limit of Liability** Nothing in this Agreement shall be construed to limit the Contractor's liability to the Unified Government as such liability may exist by or under operation of law.

**JOHNSON COUNTY KANSAS**  
**TREASURY AND FINANCIAL MANAGEMENT, PURCHASING DIVISION**  
**STANDARD TERMS AND CONDITIONS**

**1. TERMINOLOGY/DEFINITIONS**

Whenever the following words and expressions appear in the solicitation document or any amendment hereto, the definition or meaning described below shall apply.

- a. **Agency and/or Department** means the statutory unit of County government in Johnson County, Kansas for which the equipment, supplies, and/or services are being purchased by the Treasury and Financial Management, Purchasing Division.
- b. **Amendment** means a written, official modification to a solicitation document or to a contract.
- c. **Attachment** applies to all forms which are included with a solicitation document to incorporate any informational data or requirements related to the Performance Requirement.
- d. **Bid Opening Date and Time** and similar expressions mean the exact deadline required by the solicitation document for the physical receipt of sealed invitation for Bid/Request for Proposal by the Treasury and Financial Management, Purchasing Division.
- e. **Bidder** means the person or organization that responds to a solicitation document by submitting a bid/proposal with price to provide the equipment, supplies, and/or services as required in the solicitation document.
- f. **Board of County Commissioners or BOCC** means the governing body of Johnson County, Kansas.
- g. **Buyer** means the procurement staff member of the Treasury and Financial Management, Purchasing Division. The **Contact Person** as referenced herein is usually the Buyer.
- h. **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.
- i. **Contractor** means a person or organization who is a successful bidder as a result of a bid/proposal and who enters into a contract.
- j. **County** means Johnson County, Kansas.
- k. **Exhibit** applies to forms which are included with a bid/proposal for the bidder to complete and return with the sealed response prior to the specified opening date and time.
- l. **Invitation for Bid (IFB)/Request for Proposal (RFP)** means the procurement document issued by the Treasury and Financial Management, Purchasing Division, to potential bidders for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- m. **May** means that a certain feature, component, or action is permissible, but not required.
- n. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid/proposal being considered non-responsive and not evaluated any further.
- o. **Shall** has the same meaning as the word **must** and is an obligation to the condition.
- p. **Should** means that a certain feature, component and/or action is desirable and not mandatory.

**2. OPEN COMPETITION**

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the Treasury and Financial Management, Purchasing Division, in writing if any language, specifications or requirements of a bid/proposal appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the bid/proposal to a single source. Any and all communication from bidders regarding specifications, requirement, competitive bid process, etc., must be directed to the buyer from the Treasury and Financial Management, Purchasing division as indicated on the first page of the bid/proposal. Such communication should be received at least seven calendar days prior to the official bid opening date.

Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the bid/proposal, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the bid/proposal, any questions received by the Treasury and Financial Management, Purchasing Division, less than seven calendar days prior to the bid/proposal opening date may not be answered.

- b. Bidders are cautioned that the only official position of the County is that position which is stated in writing and issued by the Treasury and Financial Management, Purchasing Division, in the bid/proposal or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- c. The Treasury and Financial Management, Purchasing Division, monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anti-competitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Kansas Attorney General's Office for appropriate action.
- d. The Treasury and Financial Management, Purchasing Division, reserves the right to officially modify or cancel a bid/proposal after issuance. Such a modification shall be identified as an **amendment**.

**3. PREPARATION OF BID/PROPOSAL**

- a. Bidders **must** examine the entire bid/proposal carefully. Failure to do so shall be at bidder's risk.
- b. Unless otherwise specifically stated in the bid/proposal, all specifications and requirements constitute minimum requirements. All bids/proposals must meet or exceed the stated specifications/requirements.
- c. Unless otherwise specifically stated in the bid/proposal, any manufacturer's names, trade names, brand names, information and/or catalog number listed in a specification and/or requirement are for informational purposes only to indicate level of quality required and are not intended to limit competition. The bidder 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 bid. In addition, the bidder 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. Bids which do not comply with the requirements and specifications are subject to rejection.

- d. Bids lacking any written indication of intent to bid an alternate brand or to take an exception shall be received and considered to be in complete compliance with the specifications and requirements as listed in the bid/proposal.
- e. All equipment and supplies offered in a bid must be new and of current production and available for marketing by the manufacturer unless the bid/proposal clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- f. Firm fixed prices shall include all packing, handling and shipping charges FOB destination, freight allowed unless otherwise specified in the Invitation for Bid.
- g. The firm fixed prices bid shall remain valid for 90 days from bid opening unless otherwise indicated. If the bid is accepted, prices shall be firm for the specified contract period.

#### **4. SUBMISSION OF BIDS/PROPOSALS**

- a. A bid/proposal submitted by a bidder must (1) be signed by a duly authorized representative of the bidder's organization, (2) contain all information required by the bid/proposal, (3) be priced as required, Invitations for Bid only (4) be sealed in an envelope or container, and (5) be mailed or hand-delivered to the Treasury and Financial Management, Purchasing Division, and officially clocked in no later than the exact opening time and date specified on the bid/proposal. Facsimile transmitted bids/proposals will not be accepted.
- b. The sealed envelope or container containing a bid/proposal should be clearly marked on the outside with (1) the official bid/proposal number and (2) the official opening date and time. Different bids should not be placed in the same envelope, although copies of the same bid may be placed in the same envelope.
- c. A bid may only be modified or withdrawn by signed, written notice which has been received by the Treasury and Financial Management, Purchasing Division, prior to the official opening date and time specified. A bid may also be withdrawn or modified in person by the bidder 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 bid shall not be honored.

#### **5. BID/PROPOSAL OPENING**

- a. Bid openings are public on the opening date and at the opening time specified on the bid/proposal document. In the case of Invitations for Bid, prices shall be read at the bid opening.
- b. It is the bidder's responsibility to ensure that the bid is delivered by the official opening date and time to the Treasury and Financial Management, Purchasing Division. Late bids will not be considered regardless of the degree of lateness or the reason related thereto, including causes beyond the control of the bidder. Late bids shall not be opened, and will be returned unopened.

#### **6. EVALUATION/AWARD**

- a. Any pricing information submitted by a bidder but not reflected on the pricing page shall be subject to evaluation if deemed by the Treasury and Financial Management, Purchasing Division, to be in the best interests of the County.
- b. Unless otherwise stated in the bid/proposal, cash discounts for prompt payment of invoices shall not be considered in the evaluation of prices. However, such discounts are encouraged to motivate prompt payment.
- c. Awards shall be made to the bidder whose bid (1) complies with all mandatory specifications and requirements of the bid/proposal and (2) is the lowest and best bid, considering price, responsiveness and responsibility of the bidder, and all other evaluation criteria specified in the bid/proposal.
- d. When evaluating a bid, the County reserves the right to consider relevant information and fact, whether gained from a bid, from a bidder, from bidder's references, or from any other source.
- e. Any award of a contract shall be made by written notification from the Treasury and Financial Management, Purchasing Division.
- f. All bids and associated documentation which were submitted on or before the official opening date and time will be considered open records pursuant to the State of Kansas open record law.
- g. The Treasury and Financial Management, Purchasing Division, reserves the right to request written clarification of any portion of the bidder's response in order to verify the intent of the bidder. The bidder is cautioned, however, that bidder's response shall be subject to acceptance without further clarification.
- h. The Treasury and Financial Management, Purchasing Division, reserves the right to award by item, groups of items or on all or none basis. Also, the right to reject any or all bids or proposals in part or its entirety, to waive any minor technicality or irregularities of bids/proposals received.
- i. In the event of a discrepancy between the unit price and the extension, the unit price shall prevail.
- j. Bidders who protest the conditions, specifications or scope of services, or other requirements contained in this solicitation are encouraged to review the County's Administrative Purchasing Policies and Procedures located at the County's website at <http://treasurer.jocogov.org/fin/purchasing.aspx>.

#### **7. CONTRACT/PURCHASE ORDER**

- a. By submitting a bid/proposal, the bidder agrees to furnish any and all equipment, supplies and/or services specified in the bid/proposal, pursuant to all requirements and specifications contained herein.
- b. A binding contract shall include: (1) The bid/proposal and any amendment thereto, (2) the contractor's response to the bid/proposal, and (3) the County's acceptance of the bidder's response in writing.
- c. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment.

#### **8. INVOICING AND PAYMENT**

- a. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the Treasury and Financial Management, Purchasing Division.
- b. Payment for all equipment, supplies, and services shall be made in arrears. Johnson County shall not make any advance deposits unless provided in the solicitation document.
- c. The County assumes no obligation for equipment and supplies shipped in excess of the quantity ordered. Any unauthorized quantity is subject to the County's rejection and shall be returned at the contractor's expense.
- d. The County and its agencies are exempt from state and local sales and use taxes by KSA 79-3606. Situs of all transactions under the order(s) that shall be derived from the bid request shall be deemed to have been accomplished within the State of Kansas.

## **9. DELIVERY**

- a. 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.
- b. Prior to delivery of equipment, each unit must be completely serviced and lubricated in accordance with factory service specifications. Successful bidder is responsible to furnish any equipment needed for unloading of equipment at the F.O.B. destination point.

## **10. INSPECTION AND ACCEPTANCE**

- a. No equipment, supplies, and/or services received by an agency of the County pursuant to a contract shall be deemed accepted until the agency 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 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. The County 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. The County's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies available to the County.

## **11. WARRANTY**

The contractor expressly warrants that all equipment, supplies, and/or services in accordance with generally accepted industry standards, practices and principles applicable to the work and shall: (1) conform to each and every specification, drawing, sample or other description which was furnished or adopted by the Treasury and Financial Management, Purchasing Division, (2) be fit and sufficient for the purpose expressed in the Invitation for Bid/Request for Proposal, (3) be of good materials and workmanship, (4) be free from defect, and (5) vendor shall replace a defective product at its own cost.

## **12. CONFLICT OF INTEREST**

The contractor hereby covenants that at the time of the submission of the bid/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 this contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

## **13. CANCELLATION/TERMINATION OF CONTRACT**

- a. In the event of material breach of the contractual obligations by the contractor, the Treasury and Financial Management, Purchasing Division, may cancel the contract. At its sole discretion the Treasury and Financial Management, Purchasing Division, 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 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, the Treasury and Financial Management, Purchasing Division will issue a notice of cancellations terminating the contract immediately.
- c. If the Treasury and Financial Management, Purchasing Division, cancels the contract for breach, the Treasury and Financial Management, Purchasing Division, 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 the Treasury and Financial Management, Purchasing Division, deems appropriate and back charge the contractor for any additional costs incurred thereby.
- d. The Treasury and Financial Management, Purchasing Division, reserves the right to terminate the contract at any time for the convenience of the County, without penalty or recourse, by giving the contractor a written notice of such termination at least 30 calendar days prior to termination. The contractor shall be entitled to receive just and equitable compensation for the work completed pursuant to the contract prices prior to the effective date of termination.
- e. The contract is subject to the provisions of the Kansas Cash Basis Law, *K.S.A. 10-1101 et seq.*, and amendments thereto, (the "Act"). By virtue of this Act, the County is obligated only to pay periodic payments as contemplated by the contract as may lawfully be made from funds budgeted and appropriated for that purpose during the County's current budget year (i.e., January 1 to December 31) or from funds made available from any lawfully operated revenue producing source. Should the County fail to budget, appropriate or otherwise make available funds for payments due under the contract in any budget year, the contract shall be deemed terminated on the last day of the then current budget year for which appropriations were received, without penalty or expense to the County of any kind whatsoever."

## **14. COMMUNICATIONS AND NOTICES**

Any notice or other communication to the contractor shall be made in writing, delivered personally, or by United States mail, postage prepaid, to the address listed in the contractor's bid.

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

The contractor shall defend, protect, and hold harmless the County, 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.

## **16. NON-DISCRIMINATION IN EMPLOYMENT**

In accordance with K.S.A. 44-1030, the contractor agrees that:

- a. The contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry;
- b. In all solicitations or advertisements for employees, the contractor shall include the phrase "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");
- c. If the contractor fails to comply with the manner in which it reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the County;

- d. If the contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the County; and
- e. The contractor shall include the provisions of subsections a. through d. (immediately above) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- f. The provisions of this Section shall not apply to the contractor if the contractor employs fewer than four employees during the term of the present contract or the present contract cumulatively totals \$5,000 or less during the fiscal year of the County.

**17. 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).

**18. GOVERNING LAW**

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

**19. HOLD HARMLESS**

The contractor agrees to protect, defend, indemnify and hold the BOCC, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of the error, omission, recklessness, negligent act or willful misconduct of the contractor. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury or of any other tangible or intangible personal or administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his/her sole expense and agrees to bear all other costs and expenses related thereto, even if such claim is groundless, false or fraudulent.

**20. 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.

**21. RIGHT TO EXAMINE AND AUDIT RECORDS**

The Contractor agrees that the County, or any of its authorized representatives, shall have access to and the right to examine and audit any and all books, documents, papers and records of the Contractor hereunder, or any change order or contract modification thereto, or with compliance with any clauses thereunder. Such records shall include hard copy as well as computer readable data. The Contractor shall require all of its payees including but not limited to, subcontractors, insurance agents or material suppliers to comply with the provisions of this clause by including the requirements hereof in a written agreement between the Contractor and payee. Further, the Contractor agrees to cooperate fully and will cause all related parties and will require all of its payees to cooperate fully in furnishing or making available to the County any and all such books, documents, papers, and records.

**22. HIPAA COMPLIANCE**

The contractor agrees to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the privacy and security regulations promulgated under Title II, Subtitle F, §§ 261-264 of HIPAA, the administrative regulations issued by the Department of Health and Human Services ("DHHS") as found in 45 C.F.R. Parts 160 through 164 (the "HIPAA or DHHS regulations"), and the Health Information Technology for Economic and Clinical Health Act, Public Law 11-005 (the "HITECH Act"), as such laws and regulations may be amended from time to time, and enter into a Business Associate Contract with the County, as may be required, so as to provide necessary reasonable assurances to the County that the contractor as an Business Associate will comply with the portions of those laws and regulations made applicable to business associates by HIPAA and the HITECH Act."