

KIDGLOV: DEPARTMENT OF HEALTH AND HUMAN SERVICES PROPOSAL

PART 1 – CORPORATE OVERVIEW

KidGlov: 1120 P Street, Suite 2 Lincoln, NE 68508

Turn a Message into a Movement

There's an old saying that "to handle something with kid gloves" means to treat it with special care. The name KidGlov embodies our style of business—to strategically advance your initiatives for success while working with you side-by-side. It's how we take a message and turn it into a movement. From implementing traditional marketing and advertising services to delivering unexpected brand experiences, KidGlov tailors, patterns and buttons up fresh, creative ideas to fit you and your mission with perfection.

Our team has the ability, capacity and skill to deliver the scope of your project and meet your requirements. We have a reputation of working alongside our clients to ensure the best possible outcome for all of our clients' needs. Our character, integrity, reputation and experience are an extension of every single KidGlov member as well as the vendors we have chosen to work with throughout the years. We take great pride in our work and our ability to perform our duties on time and on budget.

After working in senior leadership at a large national agency, as president of a small regional agency and marketing director of a large local organization, Lyn Wineman formed Wineman Communications Group (now KidGlov) in May 2010. As KidGlov's president and chief strategist, Lyn has helped many national and regional brands advance.

With over 20 years of experience, Jen Landis, vice president executive creative director, has also played a leadership role at a local advertising agency working with national, regional and local brands. Through skilled practice, she has the knack for leading creative teams to accomplish great results on modest budgets.

Vice president account director Katie Ripa rounds out the KidGlov team, bringing over 15 years of marketing strategy experience. Katie has the tools to help clients in all aspects of their business, as she is armed with expertise in marketing, public relations and corporate communications.

With over 20 years of experience, KidGlov writer/producer Kelly Lytle has done a lot of public education on medical topics to increase the foundation of donor recruitment and awareness. Her expertise in donor recruitment, marketing strategy and the medical field is a huge asset to our team.



The KidGlov team has worked with a number of Nebraska's favorite brands including:

- Associated General Contractors
- Boys Town
- BuildOurNebraska.com
- CenterPointe (Including Crisis Talk)
- Children's Center for the Child & Community
- College of Saint Mary
- Food Bank of Lincoln
- Friendship Home
- Give to Lincoln Day
- HopeSpoke (The new Child Guidance Center)
- Lincoln Community Foundation
- Lincoln Electric System
- Lincoln YMCA
- Matt Talbot Kitchen & Outreach
- MembersOwn Credit Union
- National Association of Case Management
- Nebraska Community Foundation
- Nebraska Department of Health and Human Services
- Nebraska Health Care Association
- Nebraska Hospital Association
- Boys Town National Research Hospital
- Immanuel
- Great Plains Regional Medical Center
- Nebraska Family Help Line
- Nebraska Main Street Network
- PromiseShip
- Prosper Lincoln
- Region V Services
- St. Monica's
- Tabitha
- Papillion Community Foundation
- YWCA Grand Island



PART 2 – TECHNICAL APPROACH

KidGlov would like to partner with you to provide strategic marketing to carry out a campaign that raises awareness about the benefits of organ and tissue donation to Nebraska residents. If KidGlov is chosen as your partner, we will put our strategic minds to use reviewing the current media plan and making recommendations to reduce the cost with the least possible impact on results.

Objectives

- Create a results-oriented strategic marketing campaign.
- Increase awareness among Nebraska residents.
- Develop a plan to increase donors statewide.

Strategic Approach

According to Donate Life America, 145.5 million American adults have taken the action to register as organ, eye and tissue donors, and there are currently 115,000 Americans waiting for a lifesaving organ transplant.

In late 2017, DLA commissioned a survey which indicated that although most adults believe they can donate a kidney to a relative, a friend or a stranger, most vastly overestimate the risks involved.

- Thirty percent of those surveyed thought the risk of death during donation surgery was 5-15 percent, and 31 percent had no idea. FACT: the risk is .03 percent.
- Thirty-one percent of those surveyed believed the risk of the donor needing a replacement kidney later in life is 5-20 percent, and 34 percent surveyed had no idea. FACT: the risk is less than 1 percent.
- Eighty-six percent were likely to donate a kidney to a family member, 74 percent to a close friend, 51 percent to an acquaintance and 30 percent to a stranger.

According to the Health Resources and Services Administration:

- Twenty people die each day waiting for a transplant.
- Every 10 minutes another person is added to the waiting list.
- Ninety-five percent of U.S. adults support organ donation, but only 58 percent are actually signed up as donors.
- One person can donate up to eight lifesaving organs.



According to Live on Nebraska there are seven key reasons people do not donate:

- Age
- Health
- Substance abuse
- Expense to family
- Religious beliefs
- Reduces life-saving efforts
- Desire to have an open casket funeral

You already know these statistics. The key to maximizing the effectiveness of the Nebraska Organ & Tissue Donation campaign is using this data to formulate our marketing strategies as follows:

1. Our most cost-effective approach will be to **activate the 37 percent of the Nebraska adult population who support organ donation, but who have not yet signed up as donors** (See HSRA statistics above). This audience already believes in donation, they just need to be prompted to complete their intention. To fully convert, we need to place our messaging as close to the point of action as possible.
2. Many people register for organ donation when they renew their driver's license, and most people renew their license very close to the deadline—at the end of the month on designated birth years. We will not have enough budget to continuously run our statewide campaign, yet **we can target our messages to people who have a renewal birthday and weight our spend toward the end of the month** when they will most likely be rushing to renew.
3. We can **coordinate with the Department of Motor Vehicles to place organ donation messages within the area where driver license testing and renewal occurs**. If we do not capture our audience at this point of decision, it might be another five years before we have an opportunity to activate them again.
4. We can also **encourage online registration with a digital campaign** that links directly to an online registry.

Our campaign would include the following tactical elements:

1. Refreshed creative. The current campaign elements have been running for years, and a new creative approach will bring new energy and increased participation.
2. Digital marketing, including digital display ads and social media posts, will link to online registries and encourage registration with driver license renewal.
3. Posters placed within the DMV Driver Licensing Offices will prompt registration at the point of decision.



4. We will carry the refreshed campaign creative into the DHHS landing page for consistency and improved conversion.

In year one, the budget will be split equally between creative and media. In subsequent years the successful creative elements will be repurposed and a higher percentage of the budget will be invested in media.

Media Plan Approach

KidGlov will work in conjunction with Sandra Cranny and Sierra Frauen at SD Media, LLC, on the following steps to ensure your media plan is set up to maximize exposure to your targeted audiences through the upcoming year. Partnering with SD Media and KidGlov gives you the region's top strategists and media negotiator at your disposal. We would work together on a very thoughtful and strategic approach to your media plan.

Sierra Frauen has worked on this campaign at a previous employer and is well versed in your current media spend, which allows us to maximize your designated dollars and obtain the best results. Her expertise combined with her knowledge of your organization gives our team the necessary background to jumpstart your campaign.

Step 1: Onboarding/Discovery

The first step would be for us to gain a better understanding of your past results and activities to frame an approach for communications. Onboarding activities include meeting with key people, reviewing all previous plans and research and generally getting up to speed on your marketing goals, objectives and strategies.

Timeline: Complete within one week of receiving materials.

Deliverable: No specific deliverable, as this would be used to inform all other deliverables.

Step 2: Target Profiles

Refresh or create any/all target audience profiles needed to inform the plan. This includes demographic profiles, psychographic/lifestyle profiles and geographic profiles.

Timeline: Complete within five business days.

Deliverable: Recommended geographic markets and target audiences within those markets.

Step 3: Media Usage vs. Cost Analysis

Analyze media usage (using the target profiles) to determine potential reach, frequency and cost per thousand of each viable media type.

Timeline: Complete within 10 business days.



Deliverable: Recommendation of media mix for each activity and/or target audience.

Step 4: Proposed Media Plan Overview

Create preliminary flowchart outlining tactics, timing, markets and estimated costs for approval.

Timeline: Complete within five business days.

Deliverable: Plan timing and budgets for approval.

Step 5: RFP Process

RFPs for all approved media types would be developed along with the consideration set of media partners to send the RFP to.

We would request significant added value (generally a minimum of a 1-to-1 dollar value) for all paid schedules. As an alternative, for broadcast (radio and TV) we have used the Nebraska Broadcasters Association package in the past. This eliminates all planning for broadcast, which saves some time on the front end. There is a significant downside to the program, though. Stations deliver spots as available, so only unsold inventory is up for grabs, and frequently this causes us to lose out on key stations and programs. Additionally, once a contract has been signed, we aren't allowed to purchase any schedules on Nebraska radio or television stations.

For television we prefer to make buys quarterly to account for programming changes and seasonal viewing shifts. We can make annual buys if desired but would still want to revisit those buys quarterly.

We generally allow at least five business days for the media to provide initial proposals. Then it would likely take another two weeks to review and negotiate to get the proposals in a form to share with you.

Timeline: Two weeks.

Deliverable: Proposal overview for review and discussion.

Step 6: Media Partner Selection

We would then select the final partners for each program and market and make any necessary adjustments to the plan.

Timeline: One week.

Deliverable: Final approved plan.



Step 7: Plan Execution

This step includes creating insertion orders, contracts, working through placement and providing materials to media outlets.

Timeline: Two to three days

Deliverable: Executed plan.

Step 8: Plan Stewardship

Monitoring success and making adjustments along the way is an extremely important part of any plan. This is where you will see the true value of having the expertise of KidGlov and SD Media. Too often, plans are put in place and just allowed to run their course.

Here is what you can expect to happen on your behalf throughout the year. You can choose to be as involved as you would like. We could review the analytics and recommended adjustments with you on a regular basis or KidGlov and SD Media could consult and take care of this step for you. To give you an idea of the possibilities:

- For television, we would do monthly post-buy analysis.
- For radio, we would monitor schedules monthly for fair rotation and even coverage of each station's total audience. We would also request makegoods for any spots that ran incorrectly.
- For out-of-home and print, we would require completion photos, electronic tear sheets or other proof of performance as available.
- For digital elements, we would initially look at reporting daily, then weekly, then monthly in order to optimize response and effectiveness. Reporting would be shared with you as requested, but at least monthly.

Timeline: Ongoing.

Deliverable: Reporting, management and stewardship documentation.



PART 3 – BUDGET PROPOSAL

Budget

1. Discovery Session

We must first learn from those who live it every day what will speak to this audience and the key points we must address to educate the target audiences. We will begin our process by holding a discovery meeting with key stakeholders and compiling these results to help us determine the most effective messages, imagery and marketing.

Discovery session \$2,500

2. Marketing Campaign

From our learning, we will create a campaign concept that includes messaging and imagery. The campaign will consist of two digital ad options, 10 social media posts, one poster, and landing page updates.

Marketing campaign creation \$17,500

3. Media

This would include the creation of a flighted schedule targeting three to four key periods of the year—providing for at least quarterly exposure. The flights would be a mix of display and social media. Targeting would be determined during the media RFP process.

Media buying, coordination and reporting..... \$20,000

Timing

In total we would need four to five weeks after beginning our work to get to a fully executed plan. This could be expedited if needed to achieve continuity, or an interim plan could be placed for the first month to allow for the full process to be executed.



ADDITIONAL TEAM INFORMATION:

Meet Your KidGlov Team

With the KidGlov team you are getting top notch creative and media strategy to give you the best possible exposure. Our team works with many organizations, so we know how to manage budgets of all sizes to help clients achieve their goals. Lyn Wineman, KidGlov president and chief strategist, would serve as the lead strategist. Katie Ripa, account director, would be the primary contact for your account. Sandra Cranny and Sierra Frauen, media specialists with SD Media, will lead the media planning and placements. Creative efforts will be led by Jen Landis. Other talented team members would be pulled in to assist as needed.



Lyn Wineman—President: Chief Strategist

Lyn is a marketing veteran with over 30 years of experience. She now leads a diverse team of passionate and talented professionals to drive growth through strategic branding and marketing communications.

In addition to founding KidGlov, Lyn has played key leadership roles including: president, Pickering Creative Group; senior vice president, Swanson Russell Associates; marketing director, Tabitha; and president, Lincoln Chapter of the American Marketing Association.

Lyn has extensive brand advancement experience. She has been instrumental in branding efforts for regional and national organizations such as Immanuel, PromiseShip, Lincoln Community Foundation, CenterPointe, St. Monica's, Lancaster Event Center/Super Fair, MembersOwn Credit Union, Farmers & Merchants Bank, Union Bank and Bryan Health.

Lyn has been inducted into the Lincoln Chapter of the American Marketing Association Hall of Fame and was recognized as Marketer of the Year. She has been recognized by the Lincoln Journal Star Inspire Salute to Women in Leadership for Excellence in Entrepreneurship. In 2018 Lyn was awarded the Advertising Federation of Lincoln's silver medal for lifetime achievement.

She is a leader within the community and has served as president of the Lincoln Midwest Ballet Company Board and member of the Red Cross Board.





Sandra Cranny: Media Specialist



“Just because it hasn’t been done doesn’t mean we can’t do it.” That sentence sums up Sandy’s outlook and attitude toward connection strategy and media planning. And both clients and creatives love her for it.

Not long ago, advertisers had only a few options for message placement. She’s happy to see that things have changed. Nowadays the options are limitless, with online, social, email and mobile opportunities taking center stage. Today where we engage is just as relevant (and Sandy might argue more relevant) as messaging.

Sandy enjoys keeping up with all of the emerging choices so she can work with clients to take full advantage of what’s out there. She makes sure clients’ messages get noticed by the right people at the right place during the right time. And if a team happens to come up with a placement idea that hasn’t been done before, Sandy will find a way to make it happen.



Jen Landis—Vice President: Executive Creative Director

Jen’s positivity, creativity and passion for advertising are infectious. With a cup of paper and pencil in hand, she advances big ideas in the most eye pleasing ways.

With more than 20 years of experience in marketing and advertising, Jen brings a full palette of creative thinking to her work. Before coming to idGlov, Jen was senior interactive art director at Swanson Russell where she played a key role in creating their in-house video and motion graphics group.

Over the years, Jen has lent her artistic hands to these local iconic brands: Runza, Union Bank & Trust, Foundation for Lincoln Public Schools, Camp Summergold and TEDxYouth. She has also found time to complete her Master of Fine Arts degree from the University of Nebraska—Lincoln.





Katie Ripa—Vice President: Account Director

Katie has a passion for people—being around them, learning about them and helping them. She loves developing brands and working with businesses to maximize their marketing strategies and improve their businesses every day.

Katie brings over 15 years of marketing communications and brand advancement experience. Prior to joining KidGlov, she was in charge of the brand management and marketing strategies for Exmark Manufacturing; business development representative for BVH Architects; and business development representative for E&A Consulting Engineers.

In addition, Katie is a leader in the community, where her passion for working with people and bettering the community shines through. Katie currently serves on the Lincoln Children’s Zoo Board of Directors Executive Council and is chair of the Trinity Child Care Parent Association. She was the chair of the Lincoln’s Young Professionals Group Leadership Council, served as the president of the Lincoln Marketing Association, Lincoln Chamber of Commerce Board Member, president of UpDowntowners, and was also a member of the Lincoln Public Schools Superintendent’s Facility Advisory Committee.



Kelly Lytle: Copywriter

Kelly’s passion has always been words: speaking them, writing them and, on occasion, even eating them. Throw them together with strategic insight, marketing experience, occasional dashes of humor and strong coffee, and you have what she calls “the alchemy of copywriting.”

For more than 20 years, Kelly has honed her word wielding skills as a copywriter for brands such as Chick-fil-A, Perrigo Pharma, Alegant Health (now CHI Health), CLAAS, Valmont, AIM Institute, Mosaic, First National Bank and Leo A. Daly. She’s also held positions in marketing strategy and management in nonprofit and for-profit settings, domestically and internationally. Kelly is devoted to diversity and has brought brand voices to life across many industries, from health care to manufacturing, agriculture to high tech, international development to consumer goods, and more.





Sierra Frauen: Media Specialist

Sierra has over eight years of experience in media planning/buying for digital and traditional media. She has managed advertising media budgets for local, regional and national clients across all media. She has worked on several campaigns for DHHS, including Organ and Tissue Donation awareness, the CDC-sponsored Rx Awareness campaign, and recruitment initiatives. She has additional experience with multi-market Nebraska plans for clients such as Amigos/Kings Classic, ALLO Communications, and Nebraska Tourism Commission.



PROJECT MANAGEMENT PROCESS AND QUALITY CONTROL

We provide “KidGlov” service to our clients. In addition to creative strategies that advance your objectives, we make the experience enjoyable as well. We know that good project management and a trusting relationship produce positive energy that leads to successful marketing work.

Additionally, your marketing materials are a direct reflection of your organization. They represent the quality of your service and reputation. We employ great measures to help you ensure an end product that is deserving of your brand.

KidGlov project management and quality control measures include:

- Experienced team members who have been in your shoes and know how to manage a project.
- Project management software (FunctionPoint) that is used for project scheduling, budgeting and detail management.
- Daily stand-up meetings to discuss project priorities and timelines.
- Daily creative resource meetings to manage workflow.
- Weekly in-person or phone meetings to update status and share information.
- Professional proofreading, copy and design stages.
- Final sign-off by key team members before releasing files.
- Web testing procedures.
- Print proofing procedures.

THANK YOU

We would LOVE the opportunity to partner with you. When we created our KidGlov brand, it was with the hope that we could work with organizations that serve our community – just like you. We welcome any questions you have about our process and budget. We look forward to hearing from you.



Form A
Bidder Point of Contact
Request for Proposal Number 6215 Z1

Form A should be completed and submitted with each response to this solicitation. This is intended to provide the State with information on the bidder's name and address, and the specific person(s) who are responsible for preparation of the bidder's response.

Preparation of Response Contact Information	
Bidder Name:	KidGlov
Bidder Address:	1120 P Street, Suite 2 Lincoln, NE 68508
Contact Person & Title:	Katie Ripa, Vice President Account Director
E-mail Address:	Katie.ripa@kidglov.com
Telephone Number (Office):	402-440-4098
Telephone Number (Cellular):	402-440-4098
Fax Number:	N/A

Each bidder should also designate a specific contact person who will be responsible for responding to the State if any clarifications of the bidder's response should become necessary. This will also be the person who the State contacts to set up a presentation/demonstration, if required.

Communication with the State Contact Information	
Bidder Name:	KidGlov
Bidder Address:	1120 P Street, Suite 2 Lincoln, NE 68508
Contact Person & Title:	Katie Ripa, Vice President Account Director
E-mail Address:	Katie.ripa@kidglov.com
Telephone Number (Office):	402-440-4098
Telephone Number (Cellular):	402-440-4098
Fax Number:	N/A

REQUEST FOR PROPOSAL FOR CONTRACTUAL SERVICES FORM

BIDDER MUST COMPLETE THE FOLLOWING

By signing this Request for Proposal for Contractual Services form, the bidder guarantees compliance with the procedures stated in this Solicitation, and agrees to the terms and conditions unless otherwise indicated in writing and certifies that bidder maintains a drug free work place.

Per Nebraska's Transparency in Government Procurement Act, Neb. Rev Stat § 73-603 DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska Contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

 X NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this Solicitation.

 I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. § 73-107 and wish to have preference, if applicable, considered in the award of this contract.

 I hereby certify that I am a blind person licensed by the Commission for the Blind & Visually Impaired in accordance with Neb. Rev. Stat. §71-8611 and wish to have preference considered in the award of this contract.

FORM MUST BE SIGNED USING AN INDELIBLE METHOD (NOT ELECTRONICALLY)

FIRM:	KidGlov
COMPLETE ADDRESS:	1120 P Street, Suite 2 Lincoln, NE 68508
TELEPHONE NUMBER:	402-440-4098
FAX NUMBER:	N/A
DATE:	03.03.20
SIGNATURE:	
TYPED NAME & TITLE OF SIGNER:	Katie Ripa, Vice President Account Director

II. TERMS AND CONDITIONS

Bidders should complete Sections II through VI as part of their proposal. Bidders should read the Terms and Conditions and should initial either accept, reject, or reject and provide alternative language for each clause. The bidder should also provide an explanation of why the bidder rejected the clause or rejected the clause and provided alternate language. By signing the solicitation, bidder is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the proposal. The State reserves the right to negotiate rejected or proposed alternative language. If the State and bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the proposal. The State of Nebraska is soliciting proposals in response to this solicitation. The State of Nebraska reserves the right to reject proposals that attempt to substitute the bidder’s commercial contracts and/or documents for this solicitation.

Bidders should submit with their proposal any license, user agreement, service level agreement, or similar documents that the bidder wants incorporated in the Contract. The State will not consider incorporation of any document not submitted with the bidder’s proposal as the document will not have been included in the evaluation process. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the Addendum to Contract Award have been negotiated and agreed to, the Addendum to Contract Award shall be interpreted as follows:

1. If only one Party has a particular clause then that clause shall control;
2. If both Parties have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Parties have a similar clause, but the clauses conflict, the State’s clause shall control.

A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The contract resulting from this solicitation shall incorporate the following documents:

1. Request for Proposal and Addenda;
2. Amendments to the solicitation;
3. Questions and Answers;
4. Bidder’s proposal (Solicitation and properly submitted documents);
5. The executed Contract and Addendum One to Contract, if applicable; and,
6. Amendments/Addendums to the Contract.

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to the executed Contract with the most recent dated amendment having the highest priority, 2) executed Contract and any attached Addenda, 3) Amendments to solicitation and any Questions and Answers, 4) the original solicitation document and any Addenda, and 5) the bidder’s submitted Proposal.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State of Nebraska.

B. NOTIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Contractor and State shall identify the contract manager who shall serve as the point of contact for the executed contract.

Communications regarding the executed contract shall be in writing and shall be deemed to have been given if delivered personally or mailed, by U.S. Mail, postage prepaid, return receipt requested, to the parties at their respective addresses set forth below, or at such other addresses as may be specified in writing by either of the parties. All notices, requests, or communications shall be deemed effective upon personal delivery or five (5) calendar days following deposit in the mail.

Either party may change its address for notification purposes by giving notice of the change, and setting forth the new address and an effective date.

C. BUYER'S REPRESENTATIVE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The State reserves the right to appoint a Buyer's Representative to manage [or assist the Buyer in managing] the contract on behalf of the State. The Buyer's Representative will be appointed in writing, and the appointment document will specify the extent of the Buyer's Representative authority and responsibilities. If a Buyer's Representative is appointed, the Contractor will be provided a copy of the appointment document, and is required to cooperate accordingly with the Buyer's Representative. The Buyer's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

D. GOVERNING LAW (Statutory)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this agreement must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state and federal laws, ordinances, rules, orders, and regulations.

E. BEGINNING OF WORK

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:

KR			
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The bidder shall not commence any billable work until a valid contract has been fully executed by the State and the awarded bidder. The awarded bidder will be notified in writing when work may begin.

F. AMENDMENT

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

This Contract may be amended in writing, within scope, upon the agreement of both parties.

G. CHANGE ORDERS OR SUBSTITUTIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The State and the Contractor, upon the written agreement, may make changes to the contract within the general scope of the solicitation. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the contract shall not be deemed a change. The Contractor may not claim forfeiture of the contract by reasons of such changes.

The Contractor shall prepare a written description of the work required due to the change and an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in the Contractor's proposal, were foreseeable, or result from difficulties with or failure of the Contractor's proposal or performance.

No change shall be implemented by the Contractor until approved by the State, and the Contract is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the contract and law.

H. VENDOR PERFORMANCE REPORT(S)

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The Department of Health and Human Services may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

I. NOTICE OF POTENTIAL CONTRACTOR BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

If Contractor breaches the contract or anticipates breaching the contract, the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

J. BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the Contractor, the State may contract the service from other sources and hold the Contractor responsible for any excess cost occasioned thereby. OR In case of breach by the Contractor, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the contractor. The State may recover from the Contractor as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the contract price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Contractor's breach.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies and protections.

K. NON-WAIVER OF BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

L. SEVERABILITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within	NOTES/COMMENTS:

		Solicitation Response (Initial)	
KR			

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

M. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

1. GENERAL

The Contractor agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials (“the indemnified parties”) from and against any and all third party claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses (“the claims”), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Contractor, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. INTELLECTUAL PROPERTY (Optional)

The Contractor agrees it will, at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to, the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the Contractor or its employees, Subcontractors, consultants, representatives, and agents; provided, however, the State gives the Contractor prompt notice in writing of the claim. The Contractor may not settle any infringement claim that will affect the State’s use of the Licensed Software without the State’s prior written consent, which consent may be withheld for any reason.

If a judgment or settlement is obtained or reasonably anticipated against the State’s use of any intellectual property for which the Contractor has indemnified the State, the Contractor shall, at the Contractor’s sole cost and expense, promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State’s behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State’s election, the actual or anticipated judgment may be treated as a breach of warranty by the Contractor, and the State may receive the remedies provided under this solicitation.

3. PERSONNEL

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker’s compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor’s and their employees, provided by the Contractor.

4. SELF-INSURANCE

The State of Nebraska is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 – 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (§ 81-8,294), Tort (§ 81-8,209), and Contract Claim Acts (§ 81-8,302), as

outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

5. ALL REMEDIES AT LAW

Nothing in this agreement shall be construed as an indemnification by one Party of the other for liabilities of a Party or third parties for property loss or damage or death or personal injury arising out of and during the performance of this contract. Any liabilities or claims for property loss or damages or for death or personal injury by a Party or its agents, employees, contractors or assigns or by third persons, shall be determined according to applicable law.

6. The Parties acknowledge that Attorney General for the State of Nebraska is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

N. ATTORNEY'S FEES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney's fees and costs, if the other Party prevails.

O. ASSIGNMENT, SALE, OR MERGER

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Either Party may assign the contract upon mutual written agreement of the other Party. Such agreement shall not be unreasonably withheld.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

P. CONTRACTING WITH OTHER NEBRASKA POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. §81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be

contractually obligated or liable for any contract entered into pursuant to this clause. A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.

The Contractor may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State shall be notified if a contract is executed based upon this contract.

Q. FORCE MAJEURE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Neither Party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or manmade event outside the control and not the fault of the affected Party (“Force Majeure Event”). The Party so affected shall immediately make a written request for relief to the other Party, and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted Party’s own employees will not be considered a Force Majeure Event.

R. CONFIDENTIALITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

S. OFFICE OF PUBLIC COUNSEL (Statutory)

If it provides, under the terms of this contract and on behalf of the State of Nebraska, health and human services to individuals; service delivery; service coordination; or case management, Contractor shall submit to the jurisdiction of the Office of Public Counsel, pursuant to Neb. Rev. Stat. §§ 81-8,240 et seq. This section shall survive the termination of this contract.

T. LONG-TERM CARE OMBUDSMAN (Statutory)

Contractor must comply with the Long-Term Care Ombudsman Act, per Neb. Rev. Stat. §§ 81-2237 et seq. This section shall survive the termination of this contract.

U. EARLY TERMINATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The contract may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the contract at any time.
2. The State, in its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Contractor. Such termination shall not relieve the Contractor of warranty or other service obligations incurred under the terms of the contract. In the event of termination the Contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
 - a. if directed to do so by statute;
 - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
 - c. a trustee or receiver of the Contractor or of any substantial part of the Contractor's assets has been appointed by a court;
 - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Contractor, its employees, officers, directors, or shareholders;
 - e. an involuntary proceeding has been commenced by any Party against the Contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Contractor has been decreed or adjudged a debtor;
 - f. a voluntary petition has been filed by the Contractor under any of the chapters of Title 11 of the United States Code;
 - g. Contractor intentionally discloses confidential information;
 - h. Contractor has or announces it will discontinue support of the deliverable; and,
 - i. In the event funding is no longer available.

V. CONTRACT CLOSEOUT

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Upon contract closeout for any reason the Contractor shall within 30 days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State;
2. Transfer ownership and title to all completed or partially completed deliverables to the State;
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by contract or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
4. Cooperate with any successor Contractor, person or entity in the assumption of any or all of the obligations of this contract;

5. Cooperate with any successor Contactor, person or entity with the transfer of information or data related to this contract;
6. Return or vacate any state owned real or personal property; and,
7. Return all data in a mutually acceptable format and manner.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or personal property, or information or data owned by the Contractor for which the State has no legal claim.

III. CONTRACTOR DUTIES

A. INDEPENDENT CONTRACTOR / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

It is agreed that the Contractor is an independent contractor and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Contractor is solely responsible for fulfilling the contract. The Contractor or the Contractor’s representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Contractor uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Contractor's proposal shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

All personnel assigned by the Contractor to the contract shall be employees of the Contractor or a subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor’s employees, including all insurance required by state law;
3. Damages incurred by Contractor’s employees within the scope of their duties under the contract;
4. Maintaining Workers’ Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Contractor’s employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor’s employees)

If the Contractor intends to utilize any subcontractor, the subcontractor's level of effort, tasks, and time allocation should be clearly defined in the bidder’s proposal. The Contractor shall agree that it will not utilize any subcontractors not specifically included in its proposal in the performance of the contract without the prior written authorization of the State.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or subcontractor employee.

Contractor shall insure that the terms and conditions contained in any contract with a subcontractor does not conflict with the terms and conditions of this contract.

The Contractor shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

B. EMPLOYEE WORK ELIGIBILITY STATUS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at <http://das.nebraska.gov/materiel/purchasing.html>
2. The completed United States Attestation Form should be submitted with the solicitation response.
3. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
4. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State of Nebraska, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Contractor shall insert a similar provision in all Subcontracts for goods and services to be covered by any contract resulting from this solicitation.

D. COOPERATION WITH OTHER CONTRACTORS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals, and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

E. DISCOUNTS

Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the proposal. Cash discount periods will be computed from the date of receipt of a properly

executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

F. PRICES

Prices submitted on the Budget Proposal form, Project Rates rate card, once accepted by the State, shall remain fixed for the first three years of the contract. Any request for a price increase subsequent to the first three years of the contract shall not exceed five percent (5%) of the price proposed for the period. Increases shall not be cumulative and will only apply to that period of the contract. The request for a price increase must be submitted in writing to the Department of Health and Human Services a minimum of 120 days prior to the end of the current contract period. Documentation may be required by the State to support the price increase.

The State reserves the right to deny any requested price increase. No price increases are to be billed to any State Agencies prior to written amendment of the contract by the parties.

The State will be given full proportionate benefit of any decreases for the term of the contract.

G. COST CLARIFICATION

The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any proposal where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

H. PERMITS, REGULATIONS, LAWS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Contractor shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the execution of the contract. The Contractor must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

I. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The State shall have the unlimited right to publish, duplicate, use, and disclose all information and data developed or obtained by the Contractor on behalf of the State pursuant to this contract.

The State shall own and hold exclusive title to any deliverable developed as a result of this contract. Contractor shall have no ownership interest or title, and shall not patent, license, or copyright, duplicate, transfer, sell, or exchange, the design, specifications, concept, or deliverable.

J. INSURANCE REQUIREMENTS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:

KR			
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The Contractor shall throughout the term of the contract maintain insurance as specified herein and provide the State a current Certificate of Insurance/Acord Form (COI) verifying the coverage. The Contractor shall not commence work on the contract until the insurance is in place. If Contractor subcontracts any portion of the Contract the Contractor must, throughout the term of the contract, either:

1. Provide equivalent insurance for each subcontractor and provide a COI verifying the coverage for the subcontractor;
2. Require each subcontractor to have equivalent insurance and provide written notice to the State that the Contractor has verified that each subcontractor has the required coverage; or,
3. Provide the State with copies of each subcontractor's Certificate of Insurance evidencing the required coverage.

The Contractor shall not allow any Subcontractor to commence work until the Subcontractor has equivalent insurance. The failure of the State to require a COI, or the failure of the Contractor to provide a COI or require subcontractor insurance shall not limit, relieve, or decrease the liability of the Contractor hereunder.

In the event that any policy written on a claims-made basis terminates or is canceled during the term of the contract or within one (1) years of termination or expiration of the contract, the contractor shall obtain an extended discovery or reporting period, or a new insurance policy, providing coverage required by this contract for the term of the contract and one (1) years following termination or expiration of the contract.

If by the terms of any insurance a mandatory deductible is required, or if the Contractor elects to increase the mandatory deductible amount, the Contractor shall be responsible for payment of the amount of the deductible in the event of a paid claim.

Notwithstanding any other clause in this Contract, the State may recover up to the liability limits of the insurance policies required herein.

1. WORKERS' COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this contract the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under this contract and, in case any such work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the Subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. **The policy shall include a waiver of subrogation in favor of the State. The COI shall contain the mandatory COI subrogation waiver language found hereinafter.** The amounts of such insurance shall not be less than the limits stated hereinafter. For employees working in the State of Nebraska, the policy must be written by an entity authorized by the State of Nebraska Department of Insurance to write Workers' Compensation and Employer's Liability Insurance for Nebraska employees.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain during the life of this contract such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect Contractor and any Subcontractor performing work covered by this contract from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this contract, whether such operation be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an **occurrence basis**, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury, and Contractual Liability coverage. **The policy shall include the State, and others as required by the contract documents, as Additional Insured(s). This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory. The COI shall contain the mandatory COI liability waiver language found hereinafter.** The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned, and Hired vehicles.

REQUIRED INSURANCE COVERAGE		
COMMERCIAL GENERAL LIABILITY		
General Aggregate		\$2,000,000
Products/Completed Operations Aggregate		\$2,000,000
Personal/Advertising Injury		\$1,000,000 per occurrence
Bodily Injury/Property Damage		\$1,000,000 per occurrence
Medical Payments		\$10,000 any one person
Damage to Rented Premises (Fire)		\$50,000 each occurrence
Contractual		Included
XCU Liability (Explosion, Collapse, and Underground Damage)		Included
Independent Contractors		Included
Abuse & Molestation		Included
<i>If higher limits are required, the Umbrella/Excess Liability limits are allowed to satisfy the higher limit.</i>		
WORKER'S COMPENSATION		
Employers Liability Limits		\$500K/\$500K/\$500K
Statutory Limits- All States		Statutory - State of Nebraska
USL&H Endorsement		Statutory
Voluntary Compensation		Statutory
COMMERCIAL AUTOMOBILE LIABILITY		
Bodily Injury/Property Damage		\$1,000,000 combined single limit
Include All Owned, Hired & Non-Owned Automobile liability		Included
Motor Carrier Act Endorsement		Where Applicable
UMBRELLA/EXCESS LIABILITY		
Over Primary Insurance		\$2,000,000 per occurrence
MANDATORY COI SUBROGATION WAIVER LANGUAGE		
"Workers' Compensation policy shall include a waiver of subrogation in favor of the State of Nebraska."		
MANDATORY COI LIABILITY WAIVER LANGUAGE		
"Commercial General Liability & Commercial Automobile Liability policies shall name the State of Nebraska as an Additional Insured and the policies shall be primary and any insurance or self-insurance carried by the State shall be considered secondary and non-contributory as additionally insured."		

3. EVIDENCE OF COVERAGE

The Contractor shall furnish the Contract Manager, with a certificate of insurance coverage complying with the above requirements prior to beginning work at:

Agency: DHHS Organ and Tissue Donation
 Attn: Program Manager
 301 Centennial Mall South
 Lincoln, NE 68509

These certificates or the cover sheet shall reference the RFP number, and the certificates shall include the name of the company, policy numbers, effective dates, dates of expiration, and amounts and types of coverage afforded. If the State is damaged by the failure of the Contractor to maintain such insurance, then the Contractor shall be responsible for all reasonable costs properly attributable thereto.

Reasonable notice of cancellation of any required insurance policy must be submitted to the contract manager as listed above when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

4. DEVIATIONS

The insurance requirements are subject to limited negotiation. Negotiation typically includes, but is not necessarily limited to, the correct type of coverage, necessity for Workers' Compensation, and the type of automobile coverage carried by the Contractor.

K. ANTITRUST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

L. CONFLICT OF INTEREST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

By submitting a proposal, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this Request for Proposal or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its proposal a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

M. ADVERTISING

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

The Contractor agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods or services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

N. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Statutory)

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or services provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the Contractor's performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

O. DISASTER RECOVERY/BACK UP PLAN

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within	NOTES/COMMENTS:

		Solicitation Response (Initial)	
KR			

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

P. DRUG POLICY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

Q. WARRANTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
KR			

Despite any clause to the contrary, the Contractor represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to the State, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse the State all fees paid to Contractor for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

IV. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Neb. Rev. Stat. §§81-2403 states, “[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency.”

B. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor

C. INVOICES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
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Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. If an invoice is due at the same time as a bi-annual narrative report, invoice processing will be held until a satisfactory narrative report is received. Invoices shall be submitted quarterly via email to the contract manager.

The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

D. PAYMENT (Statutory)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2403). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

E. LATE PAYMENT (Statutory)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408).

F. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

G. RIGHT TO AUDIT (First Paragraph is Statutory)

The State shall have the right to audit the Contractor's performance of this contract upon a thirty (30) days' written notice. Contractor shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. §84-304 et seq.) The State may audit and the Contractor shall maintain, the Information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Contractor shall make the Information available to the State at Contractor's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Contractor so elects, the Contractor may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract,

regardless of the form or the Information, how it is stored, or who possesses the Information. Under no circumstance will the Contractor be required to create or maintain documents not kept in the ordinary course of contractor's business operations, nor will contractor be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to contractor.

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative within Solicitation Response (Initial)	NOTES/COMMENTS:
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The Parties shall pay their own costs of the audit unless the audit finds a previously undisclosed overpayment by the State. If a previously undisclosed overpayment exceeds one-half of one percent (0.5%) of the total contract billings, or if fraud, material misrepresentations, or non-performance is discovered on the part of the Contractor, the Contractor shall reimburse the State for the total costs of the audit. Overpayments and audit costs owed to the State shall be paid within ninety (90) days of written notice of the claim. The Contractor agrees to correct any material weaknesses or condition found as a result of the audit.