REQUEST FOR PROPOSAL

ATTENTION: This is not an order. Read all instructions, terms and conditions carefully.

PROPOSAL NO.:	**RFP-0342**
Issue Date:	October 26, 2026
Issuing Officer:	Bekka Korosec
Email:	bekka.korosec@kctcs.edu
Schedule Name:	Online Proctoring Solution
IMPORTANT: PROPOSALS MUST BE RECEIVED BY November 23, 2026, 4:00 pm ET.	

1. It is the intention of the Request for Proposal (RFP) to enter competitive negotiation as authorized by KRS 45A.085.
2. Proposals for competitive negotiation shall not be subject to public inspection until negotiations between the purchasing agency and the successful Offeror(s) have been concluded and a contract awarded to the successful Offeror submitting the proposal determined to be the most advantageous to KCTCS according to the price and the evaluation factors set forth in the advertisement and solicitations for proposals considered.
3. An award of contract may be made upon the basis of the initial written proposals received without written or oral discussions. If applicable, contract clarifications may be included in the Notice of Award of the resulting contract.
4. Contracts resulting from this RFP shall be governed by and in accordance with the laws of the Commonwealth of Kentucky. This provision is not negotiable with any proposals submitted for consideration of award.
5. The KCTCS reserves the right to request proposal amendments or modifications after the proposal receiving date.
6. The contents of the successful proposal may become part of any contract awarded.

SOLICITATIONS MAY ALSO BE VIEWED AT OUR WEBSITE: kctcs.edu/suppliers/opportunities-to-bid.aspx. **All solicitations and contracts are subject to General Terms and Conditions of KCTCS. You may download/print a copy of these from our website** kctcs.edu/suppliers/terms-conditions.aspx. **By submitting a written proposal in response to this RFP, Offeror acknowledges the terms and conditions to be incorporated by reference in the resulting contract.**

SIGNATURE REQUIRED: This proposal cannot be considered valid unless signed and dated by an authorized agent of the Offeror. Type or print the signatory's name, title, address, phone number and email address in the spaces provided. By signing below, Offeror signatory is certifying he/she is an authorized agent of the company/firm submitting a proposal in response to this Request for Proposal.

Company Name	**Authorized Signature** **Date**
Address	**Typed or Printed Name**
City, State, Zip	**Title**
Phone Number	**Email Address**

NOTICE

1. Any agreement or collusion among offerors or prospective offerors which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to bid at a fixed price or to refrain from offering, or otherwise, is prohibited.
2. Any person who violates any provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars nor more than ten thousand dollars or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment. Any firm, corporation, or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars nor more than twenty thousand dollars.

AUTHENTICATION OF PROPOSAL AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the offeror (if the offeror is an individual), a partner, (if the offeror is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the offeror is a corporation);
2. That the attached proposal has been arrived at by the offeror independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition;
3. That the contents of the proposal have not been communicated by the offeror or its employees or agents to any person not an employee or agent of the offeror or its surety on any bond furnished with the proposal and will not be communicated to any such person prior to the official opening of the proposal:
4. That the offeror is legally entitled to enter into contracts with the Kentucky Community & Technical College System and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 45A.330 to .340, 164.390, and
5. That I have fully informed myself regarding the accuracy of the statement made above.

SWORN STATEMENT OF COMPLIANCE WITH CAMPAIGN FINANCE LAWS

In accordance with KRS45A.110(2), the undersigned hereby swears under penalty of perjury that he/she has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to a bidder will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky.

OFFEROR REPORT OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341 & 342

The offeror by signing and submitting a proposal agrees as required by 45A.485 to submit final determinations of any violations of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that have occurred in the previous five (5) years prior to the award of a contract and agrees to remain in continuous compliance with the provisions of the statutes during the duration of any contract that may be established. Final determinations of violations of these statutes must be provided to the KCTCS by the successful offeror prior to the award of a contract.

1. KCTCS OVERVIEW

The Kentucky Community and Technical College System (referred to KCTCS herein), the largest institution of higher education in the Commonwealth of Kentucky, is composed of 16 comprehensive two-year colleges with more than 70 campuses throughout the state that serve approximately 100,000 students and nearly 5,000 businesses each year in credit programs leading to certificate, diploma, and associate degrees, pre-baccalaureate education for transfer to four-year institutions, and non-credit programs, customized business and industry training, professional continuing education, and personal enrichment opportunities. KCTCS also supports the procurement efforts of the Kentucky Fire Commission throughout the Commonwealth of Kentucky.

2. STATEMENT OF INTENT AND PURPOSE

KCTCS issues this Request for Proposal to solicit proposals for qualified, experienced, financially sound, and responsible firms to perform the services in accordance with the technical specifications included herein.

3. OFFEROR QUALIFICATIONS

KCTCS will consider proposals from qualified outside Offerors who are capable of meeting the terms and conditions stated herein. The Offeror should have sufficient qualified staffing resources; demonstrate experience; be ordinarily engaged in the business of providing the requested services; and have the appropriate financial resources to provide the services specified in this RFP. The offeror must adhere to all applicable provisions of Kentucky Revised Statutes or any other applicable provisions of Kentucky law.

The Offeror may be required to submit licenses, license applications, sufficient financial information limited to the information generally available to the public, provided it satisfactorily indicates the Offeror's ability to perform as specified under a resulting contract. If the initial investigation does not reasonably satisfy KCTCS' ability to determine if the responsibilities of a contract can be performed, additional information may be requested prior to a contract award.

KCTCS reserves the right to request additional information or conduct an audit to determine the responsibility of the apparent successful Offeror relative to its ability to comply with the terms and conditions of this Request for Proposal. KCTCS reserves the right to audit the offeror relative to its ability to perform the required services.

4. SCOPE

The Kentucky Community and Technical College System's (KCTCS) Office of Procurement to Payment Services issues this Request for Proposal for a Proctoring Solution to solicit proposals from qualified, experienced, financially sound, and responsible firms to establish a contract through competitive negotiations for a new, innovative program to streamline administrative services, increase student access to online learning through KCTCS, and ensure security in the administration of course exams.

KCTCS will expect the Offeror to work directly with students to authenticate the students' identities.

At a minimum, KCTCS requires the Offeror to provide the following:

A. Verify the student identity

- The Offeror must require the student to authenticate his/her identity and enrollment in the course to begin the exam.
- The Offeror must authenticate the student's identity during the assessment.
- Authentication may take place in any capacity as long as it occurs.

B. Ensure the security of exam access

- Offeror must outline how authentication and security levels can be selected or customized per class or exam by the faculty member.
- Offeror must outline how authentication and security levels can be selected or customized by the individual college.
- The Offeror should include documentation of how KCTCS data is kept secure and confidential.
- The Offeror should include documentation of how KCTCS data is shared with faculty and colleges.
- The Offeror must describe the method used to provide the student with the exam password.

C. Ensure the security of testing materials during the exam sessions

- The Offeror must provide clear and unambiguous documentation of any breaches of academic integrity including but not restricted to, recorded evidence demonstrating academic integrity.
- The Offeror must describe the method used to ensure the security of testing materials during exam sessions.
- The Offeror must describe the method of reporting any breaches of academic integrity during the exam sessions.

D. Prohibit the use of external resources during the exam sessions

- The Offeror must ensure the student cannot access resources outside of the testing environment.
- The Offeror must provide methods to ensure the integrity of the testing environment (both the student's location and access to online materials during the exam).

E. Provide for technological adaptation that meets minimal KCTCS requirements

- The Offeror must allow for ease of integration/adaptation in the Blackboard learning management system with Ultra Base Navigation and Ultra Course modality. The solution must support the 16 Colleges that share one Blackboard instance.
- Any integration with Blackboard that uses the Learning Tools Interoperability (LTI) standard must use LTI 1.3 as supported by Blackboard.
- The Offeror must provide 24/7 registration and technology support.
- The Offeror must provide ADA compliant accessibility of the proposed proctoring solution.
- The proposed solution must be entirely browser based and support all current versions of popular web browsers (Firefox/Chrome/Safari/Edge) and one previous version.
- The proposed solution must support modern devices and operating systems students, faculty, and staff may use to access an exam: macOS (including iPad), Windows /PC, and Chrome OS (Chromebooks).
- The proposed solution must support all current versions of the Blackboard mobile app (IOS, Android) and one previous version.
- The proposed solution should allow for customization to comply with KCTCS branding guidelines.

F. Provide access to assessments offered through third-party vendors

- Allow access to exams outside LMS to a linked/integrated 3rd party vendor (such as Cengage or Pearson).

KCTCS Online may administer proctored exams in approximately 100-225 courses each semester. Projected growth is unknown. Approximate length of exams is 1 hour; with extension of time for students with accommodations. Anticipated peak times for proctoring are mid-term and finals weeks.

Note: Regarding the type of desired proctoring, all proctoring solutions and options will be considered. Understanding that non-live agent proctoring options are usually the most cost-effective, and cost will be a consideration and factor for award.

****** INDEX OF DOCUMENTS INCLUDED WITH THIS RFP******

1. **RFP-0342**
2. **Financial Cost Worksheet (separate attachment-excel)**
3. **Sample DATA SHARING AGREEMENT (separate attachment). The DSA will be negotiated between the successful Offeror and KCTCS, which will be incorporated with the final contract.**

5. SECURITY OF INFORMATION

The offeror certifies that he/she shall not at any time release or divulge any information concerning the services covered by any contract award derived from the terms of this Request for Proposal to any person or any public or private organization without prior approval of KCTCS.

6. EXTENSION TO OTHER INSTITUTIONS

The Offeror should be willing to extend the provision of services under the resulting contract to any other Kentucky public institution of higher education and Kentucky Fire Commission. Such extension will be under terms and conditions substantially the same as those in the resulting contract except that pricing will be negotiated based on then current rates for the specific level of services required. Institutions of higher education outside of the Commonwealth of Kentucky must sign a 3-party document drafted by KCTCS procurement staff to utilize the resulting contract from this RFP.

7. SUBMISSION OF OFFER

Offerors desiring to respond to this Request for Proposal must submit in the following manner:

Electronic Submission: **Upload RFP packet to Bid Locker**
Offerors can upload required documentation to Bid Locker through a web browser.

- **One original file copy of proposal with all signatures and required pages included.**
  - Click on the following link and then click on the Request for Proposal number referenced in this RFP. **https://bidlocker.us/a/kctcs/BidLocker**
- **NOTE: Do not embed links to documents inside of electronically submitted proposals. All documents must be included in full with proposal submitted as part of the total page count. Do not send files via drop box or shared links for downloading.**
- All proposal materials must be electronically submitted via Bid Locker platform by **November 23, 2026 @ 4:00 pm ET**. KCTCS encourages Offerors to upload submissions well in advance to the deadline to avoid missed submission deadlines. No exceptions will be made for delayed submissions, including technology issues. For questions regarding Bid Locker, contact the Bid Locker team per the website instructions.

Proposals will not be accepted via fax or email.

Any proposal received after 4:00 pm EST will not be considered for an award of a contract. In accordance with KRS 45A.085, there will be no public opening. However, after contract award, the solicitation file will become a public record. No pre-proposal conference is planned.

8. SCHEDULE OF EVENTS

Issue date for RFP	**October 26, 2026**
Deadline for Written Questions	**November 2, 2026, 4:00 pm ET**
RFP Due Date	**November 23, 2026 4:00 pm ET**
Offeror Presentations	***To be Scheduled if needed.**

9. ORAL PRESENTATIONS

As part of the evaluation process, after a review of the written proposals, the Offerors who submit a proposal in response to this RFP may be selected and required to give an oral presentation. All costs associated with the Offeror's required oral presentation will be solely the responsibility of the respective Offeror. Promises and commitments made by Offerors during oral presentations and demonstrations may be considered a part of the Offeror's proposal. If an oral interview session is scheduled, it will be held via Microsoft Team invitation from KCTCS.

10. RESTRICTIONS OF COMMUNICATIONS IN REGARD TO THIS RFP

From the issue date of this RFP until a contract award is made public, Offerors are forbidden to communicate about the subject of the RFP with any KCTCS administrator, faculty, staff, or member of KCTCS Leadership or Board of Regents. Offerors may communicate only with KCTCS Procurement Officials.

KCTCS reserves the right to reject the Proposal from any Offeror violating this provision.

11. QUESTIONS

All questions should be submitted in **writing** via email to the contact listed below, no later than **November 2, 2026, 4:00 pm EST**. Questions will not be answered over the phone, and phone calls with questions may not be returned. Questions pertaining to this RFP will not be accepted after the above date and time.

Bekka Korosec
Bekka.Korosec@kctcs.edu

12. MULTIPLE PROPOSAL SUBMISSIONS

Unless otherwise specified, Offerors are to only submit one (1) version of the RFP response based on the criteria outlined within the RFP. Not complying with this requirement may result in rejection of all Offeror submissions.

13. NONCONTINGENT FEES

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure the resulting contract, except bona fide employees of the Offeror or bona fide established commercial or selling agencies maintained by the Offeror for the purpose of securing business. For breach or violation of this provision, KCTCS shall have the right to reject the proposal, annul a resulting contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage, contingent fee, or other benefit.

Firm must disclose any conflict of interest regarding this solicitation. Undisclosed conflict of interest could result in rejection of proposal.

14. PREPARATION OF PROPOSALS

Offeror is expected to examine all specifications, terms, conditions, and instructions in this Request for Proposal. Failure to do so will be at the Offeror's risk.

Offeror will furnish the information required by this RFP. The Offeror must complete, sign, and submit Page 1 of this RFP document.

The proposal should be prepared simply and economically, providing a straightforward concise description of the Offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

Any proposal containing terms and conditions not in conformity with Kentucky law may be rejected.

Offeror shall include with their presentation all accompanying documentation, forms, etc. in which the Offeror would propose KCTCS to complete, agree, or sign in the event a contract is awarded from this solicitation to the Offeror.

KCTCS reserves the right to reject any proposal based on this documentation, in the event it directly conflicts or is non-conforming with the laws of the Commonwealth of Kentucky and/or KCTCS RFP terms and General Terms & Conditions.

Any submitted proposal shall remain valid twelve (12) months after the proposal due date.

15. PROPOSAL INSTRUCTIONS

Offerors should follow proposal instructions below:

- Proposals should provide a response to each of the sections below to be considered for award. Offerors should incorporate the requirements listed in the scope section of this.
- Any missing information may result in rejection of proposal or lower scoring due to incomplete information provided.
- Offerors should label or reference each requirement in the proposal explaining how the solution meets the specified requirement.
- Narratives should provide a concise and complete description of capabilities.
- The proposal should be submitted as one file unless otherwise requested within the criteria of this RFP (i.e., separate cost proposal per instructions).
- Electronic files (submitted through Bid Locker) should not contain imbedded links for additional documentation unless requested in the RFP criteria. Full response should be included in submitted proposal documents and counted in the page count.
- Each Proposal(s) should be kept to a **maximum of 75 pages.** The following required pages/information will not be included in maximum page count:
  - Signature Page (Page 1)
  - Any associated addendum issued during the solicitation process.
  - References (section B in the below criteria)
  - Fees (section G in the below criteria) – should be submitted as a separate document.

For a proposal to be considered complete, it should consist of the following:

A. Overview and Experience – Provide a general overview of the Offeror's organization and experience as it relates to providing the requested services contained herein. Include a narrative history of the organization and explain the added value that your organization provides and distinguishes it from all others.

B. References – Include no less than three (3) client references and their email contact information which may be contacted by KCTCS. References should include clients for services that are similar in scope, size, and complexity to the services requested within the scope of work in this RFP. At least one reference should be an institute of Higher Education. References may be checked but will not be scored. Each reference should include the following:

- Customer name and address;
- Contact name with email address and phone number;
- Time period in which work was performed;
- Short description of work performed.

C. Proposed Solution/Services

- Describe your strategic plan and strategies for assisting KCTCS with the requested products/services of this RFP.
- If applicable, include examples/exhibits of any reporting that would be available (included in maximum page count).
  Proposal considerations:
  - Describe how your company is able to provide 24/7 registration and technology support for all users (including both registration and proctored testing).
  - Describe your platform's ability to verify the identity of the student taking the exam and verify that the student is currently enrolled in that course.
  - Describe your platform's ability to verify that only that student completes the exam.
  - Describe how your platform syncs exam data to the LMS Blackboard gradebook.
  - Describe your platform's ability to maintain the security of the testing materials during the exam session.
  - Describe your platform's ability to ensure that students cannot access resources outside of the testing environment.
  - Describe your platform's methods for ensuring the integrity of the testing environment (both the student's location and access to online materials during the exam).
  - Describe how students access and use your platform to schedule their exam and modify that schedule.
  - Describe how your platform will provide the student with the exam password or, if another method is used, describe how students are provided limited access to the proctored assessment.
  - Describe what, if any, automated reminders your platform will send to student users regarding their appointments.
  - Describe your platform's communication to faculty regarding student usage of the proctoring solution.
  - Describe what software and hardware students need to access and use your platform.
  - Describe how faculty users access and interact with your platform to provide or modify exam information.
  - Describe how your platform provides ADA (Americans with Disability Act) compliant accessibility options for successful navigation and utilization of the proposed proctoring solution.
  - Describe how your platform is entirely browser-based and supports all current versions of popular web browsers (Chrome/Firefox/Safari/Edge) and one previous version.
  - Describe the data available regarding usage of your platform.
  - Describe your platforms analytics and reporting capabilities for key instructor-level review, as well as college-level leadership stakeholders, and KCTCS system institutional-level stakeholders.
  - Describe how your company will handle the scheduling and pricing of courses that require one proctored exam or two proctored exams.

- Describe the multiple ways in which your company can allow for payment of proctoring services (e.g., student paid, college paid, etc.).
- Describe how your platform's authentication and security levels can be selected or customized per class or exam by the faculty member.
- Describe how your platform's authentication and security levels can be selected or customized per class or exam by an individual KCTCS system college.
- Describe how your platform will maintain the security and confidentiality of all KCTCS data.
- Describe how your platform will share KCTCS data with faculty and colleges.
- Describe how your platform will provide clear and unambiguous documentation of any breaches of academic integrity including but not restricted to, recorded evidence demonstrating academic integrity.
- Describe how your platform will report any breaches of academic integrity during an exam session.
- Detail your company's Technical Support & Maintenance service.
- Demonstrate that your platform can integrate with Blackboard Ultra course modality using Blackboard-supported integration methods.
- Describe your platform's ability to support Single Sign-on Authentication. KCTCS uses SAML; InCommon membership is not required. Students must be able to launch from within the Blackboard course without a separate account or password.
- Identify the LTI version used by your integration with Blackboard and confirm that no part of the integration relies on LTI 1.0 or 1.1. If the integration does not use LTI, describe it and its current support status with Blackboard.
- Describe how scores, attempt status and integrity flags return to the Blackboard gradebook, including behavior when a session is flagged, voided or retaken.
- Describe how students and faculty launch the solution from Blackboard.
- Describe how the solution is configured for 16 Colleges sharing one Blackboard instance, including College-level settings, administrator roles, branding and reporting.
- Describe how your integration identifies courses and users, and how it handles course copy, course rollover and changes to Blackboard Course IDs.
- Describe how you test against Blackboard releases, how far in advance you notify KCTCS of changes, and the technical contact for integration incidents.
- Describe every delivery method your solution uses (browser extension, secure browser, application), the permissions and installation each requires, how each is deployed to managed College lab computers and Chromebooks.
- Provide a matrix showing which proctoring modes are supported on each device, operating system and browser, including Chromebooks and the Blackboard mobile app.
- Describe all data collected during a session (video, audio, screen activity, identification images, any facial detection or biometric analysis), where it is stored, configurable retention periods, deletion on request, sub processors, data location, and whether student data is used to train or improve any model.
- Describe how automated flags are generated and reviewed, whether a human reviews them, and how a student can request review. Confirm that flags are advisory and KCTCS faculty make integrity decisions.

- Describe the notices and consent steps students see before an exam and how KCTCS can edit them.
- Describe how your solution supports exams delivered through third-party providers (such as, but not limited to, Pearson, McGraw-Hill and Cengage) and which proctoring options work with them.
- Describe how your platform supports and handles Silent pre-installation and updates through enterprise software deployment tools (such as Microsoft Configuration Manager or Intune).
- Describe how updates are delivered and built-in automatically without interrupting an KCTCS student's exam experience.
- Describe how your platform can be accessed on student-owned devices without admin rights requirements.
- Describe how your platform offers an easy student installation process on student-owned devices that shouldn't require help from KCTCS faculty or college-level IT departments. Describe the installation process. An infographic or graphic flowchart is permitted.
- Discuss any innovative or proprietary mechanisms or new AI integrations the Offeror may bring to bear on this solution.
- Describe how your platform guarantees that in the event of a crash or power outage during a proctored exam, the engaged device will not remain in a locked-down state. Furthermore, describe how the software recovers after an interruption occurs.
- Provide details on how KCTCS faculty should be able to invoke a practice test (not tied to a specific student test attempt) to check proper functioning and operability. Specify and describe whether it depends on a Blackboard test or if other options exist.
- Describe how your platform's hardware requirements should fall within normal, reasonable specs. Provide the published minimum requirements that support the range of devices in use at the KCTCS Colleges, including Chromebooks (particularly dual-credit high school students operating off of non-KCTCS issued devices).
- Describe how your platform allows for customization to comply with KCTCS branding guidelines.

D. Implementation – Provide a detailed plan and schedule for the implementation of your solution upon successful award and contract.

E. Staffing – Provide a summary of the available staffing resources involved in the management of the solution, implementation, and continued management of the requirements of the proposal. If applicable, include training opportunities for KCTCS personnel as well as requirements of KCTCS personnel to complete implementation.

F. Additional required information:
- Location of principle office in the US that will be servicing KCTCS upon award.
- Major claims or lawsuits, if any, pending against the Offeror's firm or its principals that may impact delivery of this RFP request.
- Evidence of Errors and Omissions insurance of at least $1 million in liability limit provided by a carrier acceptable to KCTCS.
- Disclose any criminal investigation, indictment, prosecution or other proceeding that has ever been brought against your firm.
- Describe any civil litigation pending or concluded within the last three (3) years against your firm that may impair the firm's ability to provide the requested services.

- Disclose any potential conflicts of interest with providing the required services to KCTCS including any potential conflicts of interest of employees assigned to this project or involved in the preparation of the proposal. KCTCS reserves the right to disqualify a firm or cancel any contract for any potential conflict of interest raised initially and/or during the life of any contract awarded.

G. Fees – submitted on **Financial Cost Worksheet (Separate Attachment)**, please see the separate attachment for requirements.

H. Travel rates – If applicable to this platform/service, Offeror must agree to KCTCS travel rates for any travel reimbursement included in any resulting contract. Travel rates are included in attachment for review.

16. COST OF PREPARING PROPOSAL

Costs of developing the proposals are solely the responsibility of the Offeror. KCTCS will provide no reimbursement for such costs.

17. ADDENDA & AMENDMENTS

KCTCS reserves the right to request amendments or modifications after the specified proposal receipt date if in the best interest of KCTCS. In the event it is necessary to revise any part of the Request for Proposal after initial publishing to the public, the revision will be published in the same manner. Offerors must acknowledge receipt of any addenda either with proposal or by separate letter prior to the award of contract.

Any "addenda" issued by KCTCS Procurement to Payment Services shall be incorporated into any awarded contract. No RFP instructions or changes shall be binding unless documented by a proper and duly issued Addendum.

18. EXPLANATIONS

Unless it is demonstrated that an adequate response cannot be developed with the data provided in this RFP, KCTCS will not provide additional data. Proposals should be based on the data contained in this RFP. If KCTCS decides to distribute additional information, it will be distributed to all offerors in accordance with section seventeen (17).

Any explanation desired by an Offeror regarding the meaning or interpretation of the solicitation, specifications, etc., must be requested in writing by the deadline for written questions as listed in section eleven (11). Oral explanations or instructions provided to Offerors will not be binding. Any information given to a prospective Offeror concerning the solicitation will be furnished to all prospective Offerors in accordance with section seventeen (17). KCTCS reserves the right to require verification or clarification of data and information presented in the Offeror's proposal.

19. EVALUATION OF PROPOSALS

The award of this contract will be made by KCTCS Procurement to Payment Services after evaluation by the committee selected solely for this purpose. KCTCS shall conduct a comprehensive, fair, and impartial evaluation of all proposals received per the instructions of this RFP. KCTCS may reject any proposal that is incomplete or in which there are significant inconsistencies or inaccuracies. KCTCS reserves the right to reject any and all proposals.

KCTCS reserves the right to require verification or clarification of data and information presented in the Offeror's proposal. KCTCS reserves the right to request additional information, which will aid in the further evaluation of any Offeror's capabilities to provide a successful or comprehensive solution and experience. Offerors should be prepared to provide financial statements (balance sheets, statements of income, statements of changes in financial positions) if requested by KCTCS.

Please prepare your proposal addressing each of the criteria listed in section fifteen (15) of this RFP. Proposals will be evaluated using a scoring method to ascertain which proposal best meets the needs of KCTCS. The evaluations will be based on:

Technical Criterial – Maximum of 400 points. The combined technical score is the combined total points of all scored criteria in the technical proposal portion of an evaluation. Proposals must receive at least 50% of the total maximum technical evaluation points available for consideration of award.

Criteria	Maximum Points Possible
Overview and Experience ▪ Section 15.A	100 points
Proposed Solution and Services ▪ Section 15.C	100 points
Implementation Plan ▪ Section 15.D	100 points
Staffing ▪ Section 15.E	75 points
Additional Information: Location of offices in US; lawsuits and litigations; evidence of errors and omissions insurance; conflicts of interest. ▪ Section 15.F	25 points

Cost Evaluation	Maximum Points Possible
Fees – must be submitted in a separate document apart from the technical proposal criteria. ▪ Section 15.G	100 points

Criteria	Maximum Points Possible
KCTCS reserves the right to require Oral Presentations as part of this RFP process in order to verify or expand upon the proposals submitted. Promises and commitments made by Offerors during oral presentations will be considered part of the Offeror's proposal. If required, may choose to invite the top 3 highest scored Offerors for oral presentations. Scheduling will be at the discretion of KCTCS. KCTCS reserves the right to not require oral presentations.	100 points

20. <u>REJECTION OF PROPOSALS</u>

KCTCS reserves the right to reject any and all proposals, or any part thereof, or to accept any proposals or any part thereof, or to waive informalities, technicalities, defects and minor irregularities in any proposal if deemed to be in the best interest of KCTCS. Grounds for the rejection of a proposal include, but shall not be limited to:

- Failure of a proposal to conform to the essential requirements of the solicitation.

- A proposal imposing conditions which would modify the terms and conditions of the solicitation or limit the Offeror's liability to KCTCS on the contract awarded on the basis of such solicitation.
- Failure of the Offeror to sign the required documents.
- Any proposal determined by KCTCS to be unreasonable as to price.
- Proposals received that are determined to be from Offerors who are not qualified.

Technicalities or minor irregularities in a Offeror's proposal may be waived, when KCTCS determines that it will be in the their best interest to do so, are mere matters of form not affecting the material substance of a proposal or some immaterial deviation from or variation in the precise requirements of this RFP and having no or a trivial or negligible effect on price, quality, quantity or delivery of supplies or performance of the services being procured, the correction or waiver of which will not affect the relative standing of, or be otherwise prejudicial to other Offerors. KCTCS may either give an Offeror an opportunity to cure any deficiency resulting from a technical or minor irregularity in its proposal or waive such deficiency where it is advantageous to KCTCS to do so.

KCTCS reserves the right to re-issue or change the RFP, and to obtain the services by any other measures as allowed by law.

Prior to an award, KCTCS must be assured that the selected Offeror has all of the resources to successfully perform under the contract. This may include, but is not limited to, adequate number of personnel with required skills, availability of appropriate equipment in sufficient quantity to meet the on-going needs of KCTCS, financial resources sufficient to complete performance under the contract, and experience in similar endeavors. If, prior to award, KCTCS is unable to assure itself of the successful Offeror's ability to perform or the successful Offeror is not affordable to KCTCS, KCTCS has the option of requesting from the Offeror any information deemed necessary to determine the Offeror's responsibility or reject the Offeror's proposal.

21. <u>RESULTING CONTRACT</u>

The resulting contract between KCTCS and the Offeror shall include in order of precedence:

- The written contract Notice of Award (NOA) document providing description, contract period, and any applicable clarifications; attachments listed in the NOA are for reference only.
- Offeror's exceptions, if expressly accepted by KCTCS;
- The applicable RFP, bid, or other solicitation document terms;
- KCTCS General Terms and Conditions; and
- Offeror's proposal including any additional terms requested by Offeror for KCTCS to consider. Note: KCTCS may reject proposals or contract awards where any additional terms are unacceptable to KCTCS.

The resulting contract is offered by KCTCS as a government agent of the Commonwealth of Kentucky, and the order of precedence of terms is not negotiable. If a purchase order is required by the successful Offeror after contract execution, it is the responsibility of the Offeror to communicate this requirement to KCTCS.

By responding to this RFP with a proposal/offer, Offeror agrees to this precedence of order. In the event that an issue is addressed in one document that is not addressed in the other document, no conflict in language shall be deemed to occur. Where conflict occurs, the terms listed in the precedence of order shall govern.

The resulting contract will represent the entire agreement between the parties with respect to the subject matter thereof and will supersede all prior negotiations, representations or agreements,

either written or oral, between the parties hereto relating to the subject matter hereof and shall be independent of and have no effect upon any other contracts.

In accordance with KRS 45.453, payment shall be made within thirty (30) working days of receipt of goods and/or services and upon receiving an accurate invoice with acceptable documentation of completed work/completed delivery.

22. TERM OF CONTRACT

The resulting contract(s) from this RFP shall have an initial term of two (2) years. The contract may be renewed for additional periods upon mutual written agreement. Renewal shall be contingent upon KCTCS' satisfaction with the services performed and the overall performance of the Offeror. The initial term and/or renewal terms may be revised upon the sole discretion of KCTCS.

The effective date of the contract (awarded) is anticipated to be **January 2027**. However, the effective date may be determined, if in the best interest of KCTCS, to be effective upon the date of award, upon mutual agreement of the successful Offeror and KCTCS.

23. CONTRACT CHANGES

The contract, and any amendments thereto, awarded through this solicitation shall be managed by KCTCS and any modifications thereto must be mutually agreeable to both parties and executed in writing. Such modification or change of any provision in the resulting contract shall be made between the Offeror and KCTCS Procurement to Payment Services and incorporated as a written amendment to the KCTCS contract on KCTCS letterhead. Local modifications made between Offeror and individual KCTCS colleges shall not be construed as an amendment to the contract and shall not be considered binding.

24. TERMINATION OF CONTRACT

The contract resulting from this RFP shall be subject to the following termination provisions:

- for default with a ten (10) day written notice of default unless arrangements are made to cure the default to KCTCS' satisfaction within thirty (30) days of the written notice of default. If default is not cured within thirty (30) days of written notice, KCTCS may terminate the contract giving forty-five (45) days' written notice.
- non-performance
    - Failing to provide satisfactory quality of service, including, failure to maintain adequate personnel, whether arising from labor disputes, or otherwise any substantial change in ownership or proprietorship of the Offeror, which in the opinion of KCTCS is not in its best interest, or failure to comply with the terms of the resulting contract.
    - Failing to keep or perform, within the time period set forth in the resulting contract.
- for Offeror bankruptcy
    - Adjudicating as a voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section from time to time, or under any similar law or statute of the United States or any state thereof, or if an order for relief shall be entered against the Offeror in any proceeding filed by or against Offeror thereunder. In the event of any such involuntary bankruptcy proceeding being instituted against the Offeror, the fact of such an involuntary petition being filed shall not be considered an event of default until sixty (60) days after filing of said petition in order that Offeror might during that sixty (60) day period have the opportunity to seek dismissal of the involuntary petition or otherwise cure said potential default;
    - Or making a general assignment for the benefit of its creditors, or taking the benefit of any insolvency act, or if a permanent receiver or trustee in bankruptcy shall be appointed for the Offeror.
- for unavailability of funds and/or appropriations

- mutual agreement
- otherwise as specifically provided by the contract
    - Violation of, any of the covenants, conditions, provisions, or agreements of resulting contract.
- upon 30 days written notice, at the sole discretion and convenience of KCTCS
    - Offeror shall discontinue all services with respect to the resulting contract;
    - The cost of any agreed upon services provided by the contract shall be calculated at the agreed upon rate prior to the notice of termination and a fixed fee contract will be pro-rated (as appropriate).

In the event KCTCS has reason to believe Offeror will be unable to perform under the Contract, it may make a demand for reasonable assurances that Offeror will be able to timely perform all obligations under the Contract. If Offeror is unable to provide such adequate assurances, then such failure shall be an event of default and grounds for termination of the Contract according to the termination option listed herein

25. ADDITIONAL RELATED PRODUCTS OR SERVICES

KCTCS reserves the right to add additional related services/products during the term of the awarded contract upon mutual consent of KCTCS and the Offeror on pricing, performance, etc. KCTCS reserves the right to remove services/products from the contract if it is in the best interest of KCTCS to do so. Any contract changes will be incorporated as a written amendment to the contract by the KCTCS Procurement to Payment department on KCTCS letterhead.

26. METHOD OF AWARD

KCTCS may award one or more contracts to the responsive and responsible Offeror whose proposal, conforming to this solicitation, will be the most advantageous to KCTCS based on the criteria as shown in the Evaluation of Proposal section. Final determination shall be the responsibility of KCTCS. Only those proposals received which reflect a comprehensive appreciation of the requested services to KCTCS and offer a realistic solution which will benefit KCTCS will be considered for award of a contract. An award of a contract shall be made by KCTCS to the Offeror who offers the best proposal and with whom negotiations result in a contract package of greatest benefit to KCTCS based upon evaluation methods contained herein.

27. NOTICE OF AWARD

The solicitation results will be posted at the link below. No offeror should assume personal notice of the solicitation results will be provided by KCTCS.

Awarded Bids | KCTCS

28. INDEMNITY

The Offeror shall hold harmless and indemnify KCTCS against all claims, suits, actions, costs, counsel fees, expenses, damages, and judgment in decrees by reason of persons or property being damaged or injured by the Offeror during the term of the contract, whether by negligence or otherwise.

29. GOVERNING LAW

The resulting contract shall be governed and construed according to the laws of the Commonwealth of Kentucky. Any legal proceedings between KCTCS and the awarded Offeror regarding this RFP or any resultant contract shall be brought in Franklin Circuit Court administrative or judicial forums in accordance with the Kentucky Revised Statutes (KRS 45A.245). In the event that either party deems it necessary to take legal action to enforce any provision of the resulting contract, and in the event KCTCS prevails, the Offeror shall agree to pay all expenses of such action, including attorney fees and costs at all stages of litigation. Pursuant to KRS 45A.230, any

dispute arising under the contract shall be submitted to the KCTCS Associate Vice President of Business Services.

30. BREACH OF KCTCS DATA

Offeror acknowledges and agrees that, in the course of its engagement by KCTCS, Offeror may receive or have access to KCTCS Data. Offeror shall comply with the terms and conditions set forth in this Agreement and the Data Sharing Agreement between KCTCS and Offeror in its collection, receipt, transmission, access, storage, disposal, use and disclosure of such Kentucky Community and Technical College System Data and be responsible for the unauthorized collection, receipt, transmission, access, storage, disposal, use and disclosure of KCTCS Data under its control or in its possession by all Authorized Persons. Offeror shall be responsible for, and remain liable to, KCTCS for the actions and omissions of all Authorized Persons that are not Authorized Employees concerning the treatment of KCTCS Data as if they were Offeror's own actions and omissions.

In recognition of the foregoing, Offeror agrees and covenants that it shall:

- keep and maintain all KCTCS Data in strict confidence, using such degree of care as is appropriate to avoid unauthorized acquisition, access, use or disclosure;
- use and disclose KCTCS Data solely and exclusively for the purposes for which KCTCS Data, or access to it, is provided pursuant to the terms and conditions of this Agreement, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available KCTCS Data for Offeror's own purposes or for the benefit of anyone other than KCTCS, in each case, without KCTCS' prior written consent;

- not, directly or indirectly, disclose KCTCS Data to any person other than its Authorized Employees, including any, subcontractors, agents, outsourcers or auditors (an "Unauthorized Third Party"), without express written consent from KCTCS unless and to the extent required by applicable law, in which case, Offeror shall (i) notify KCTCS before such disclosure or as soon thereafter as reasonably possible; (ii) be responsible for and remain liable to KCTCS for the actions and omissions of such Unauthorized Third Party concerning the treatment of such KCTCS Data as if they were Offeror's own actions and omissions; and (iii) require the Unauthorized Third Party that has access to KCTCS Data to execute a written agreement agreeing to comply with the terms and conditions of the Contract, including, without limitation, executing a business associate agreement where applicable;

- abide by all applicable federal and state laws, rules, and regulations regarding privacy and confidentiality, including PII and otherwise; and

- limit the acquisition, access, use and disclosure of KCTCS Data to Authorized Persons only in the amount minimally necessary for Offeror to perform its obligations under this Agreement.

31. REGULATORY REQUIREMENTS AND GENERAL IT CONTROLS

Offeror shall implement administrative, physical and technical safeguards to protect data that are no less rigorous than accepted industry practices including the International Organization for Standardization's standards: ISO/IEC 27001:2013 (Information Security Management Systems – Requirements) and ISO-IEC 27002:2013 (Code of Practice for International Security Management) and shall ensure that all such safeguards, including the manner in which data is created, received, maintained, transmitted, collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.

32. AUDITING OF KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM DATA

Offeror represents and warrants that it maintains adequate internal audit functions to annually assess internal controls in its environment, and to protect the security and confidentiality of any of KCTCS' data. Offeror agrees to provide documentation regarding its internal controls to KCTCS upon request. Offeror will provide to KCTCS all internal or external audit reports, certifications, information, documentation, electronic records and data regarding Offeror's internal controls, and if requested by KCTCS, Offeror will grant KCTCS and its agents or subcontractors, the right to audit Offeror's operations, and software to confirm internal controls are present and operating.

If the information presented to KCTCS regarding Offeror's internal controls is not acceptable to KCTCS, in its reasonable discretion, Offeror agrees that it will undertake, at its sole cost and expense, an independent SSAE 16 Type II audit or comparable independent attestation to confirm Offeror's controls over its processes. Offeror shall present an action plan acceptable to KCTCS, to correct any and all portions of KCTCS' software, products, documentation, or internal controls. Offeror shall undertake all activities relating to its preparation of the action plan, and to its correction of any inadequate controls or mitigation of risks revealed by deficiencies in its internal controls at Offeror's sole cost and expense and within a reasonable time period as agreed upon by KCTCS. Should Offeror fail to provide adequate internal controls as described in the Contract, or to present an action plan acceptable to KCTCS within the mutually agreed upon time frame, KCTCS shall be entitled, in its sole discretion, to terminate the contract with no liability whatsoever to Offeror upon written notice to the Offeror.

33. CONTRACTOR PERSONNEL

Upon KCTCS' request, Offeror shall be responsible, at its sole cost and expense, for conducting full background checks on any and all employees, consultants, independent contractor, or work force members (as defined by 45 C.F.R. 160.103) that Offeror intends to utilize in providing services to KCTCS. Such background checks shall cover a period of not less than five years prior to the date the background check is initiated and shall include but is not limited to the following: comprehensive review of criminal history, drug test and screen, credit review, and a confidentiality agreement regarding access to KCTCS information signed by the individual. At KCTCS' sole and absolute discretion, the results of the background check or drug screening are unsatisfactory to KCTCS, KCTCS can refuse to accept any such proposed consultant or personnel, and Offeror shall provide KCTCS with another consultant or personnel that passes the background screening and drug testing procedures to KCTCS' satisfaction at no additional cost to KCTCS.

34. COMPENSABLE DAMAGES FOR BREACH

The Offeror agrees that the following items shall be included as compensable damages for any breach of a contract with KCTCS.

- Replacement costs.
- Cost of repeating the competitive bidding procedure expenses.
- Expenses incurred as the result of delay in obtaining replacements.

The enumeration of compensable damage contained in this section is not intended to be exclusive and will not operate to bar recovery by KCTCS for any other damages occasioned by the Offeror's breach of a contract. However, in cases where contract provides for liquidated damages, said liquidated damages shall be in lieu of all other damages, including those enumerated.

35. OFFEROR'S RESPONSIBILITY IN PERFORMING WORK

The Offeror is solely responsible for the fulfillment of the contract with KCTCS.

Offeror and its agents, subcontractors, and representatives shall be independent contractors and not act as agents of KCTCS. All persons furnished or retained by Offeror in connection with any contract shall be considered employees or agents of the Offeror.

Offeror shall control all employee misconduct while on KCTCS' premises. Any employee under the influence of alcohol or controlled substances, other than prescription medications, shall not be allowed on the premises of KCTCS and shall be permanently dismissed if found to be so.
Further, offensive language, sexual or other types of harassment of students, employees or visitors to KCTCS campus could result in immediate and permanent dismissal of the offending person(s) from the KCTCS site.

Offeror shall ensure that employees abide by any applicable KCTCS policies and regulations concerning behavior/conduct.

36. OFFEROR COOPERATION IN RELATED EFFORTS

KCTCS reserves the right to undertake or award other contracts for additional or related work to other entities. The Offeror shall fully cooperate with such other suppliers and KCTCS employees and carefully fit its work to such additional work. The Offeror shall not commit or permit any act which will interfere with the performance of work by any other supplier or by KCTCS employees. This clause shall be included in the contracts of all suppliers with whom this Offeror will be required to cooperate. KCTCS shall equitably enforce this clause to all suppliers to prevent the imposition of unreasonable burdens on any supplier.

37. PERMITS, LICENSES AND TAXES

The Offeror shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this contract is performed.

The Offeror shall pay any sales, use, personal property and other tax arising out of this contract and the transaction contemplated hereby. Any other taxes levied upon this contract, the transaction or the equipment or services delivered pursuant hereto shall be the responsibility of the Offeror.

The Offeror will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law including (but not limited to) old age pension, social security, or annuities.

38. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM BRAND STANDARD

The Offeror must adhere to all KCTCS Brand Standards. KCTCS Brand Standards are maintained by KCTCS and can be viewed at Brand Guide | KCTCS. Non-adherence to the standards can have a penalty up to and including contract cancellation. Only the KCTCS Director of Procure to Pay or designee can approve exceptions to the KCTCS standards.

Offeror warrants that its products or services provided hereunder will be in compliance with all applicable Federal disabilities laws and regulations, including without limitation the

accessibility requirements of Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194, as may be amended from time to time. For purposes of clarity, updated regulations under Section 508 standards now incorporate WCAG 2.1 , and for purposes of this agreement WCAG 2.1 Level AA compliance is expressly included. Offeror agrees to promptly respond to, resolve and remediate any complaint regarding accessibility of products or services in a timely manner and provide an updated version to Kentucky Community and Technical College System at no cost. If deficiencies are identified, KCTCS reserves the right to request from Offeror, a timeline by which accessibility standards will be incorporated into the products or services provided by Offeror and shall provide such a timeline within a commercially reasonable duration of time. Failure to comply with these requirements shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement.

Where any customized web services are provided, Offeror represents that it has reviewed the Kentucky Community and Technical College System's Web Policy KCTCS Web Services Policies | KCTCS and all products or services will comply with its published standards.

39. COPYRIGHT OWNERSHIP AND TITLE TO DESIGNS AND COPIES

Offeror and KCTCS both consider the products and results of the services to be rendered by Offeror to be a work made for hire. Offeror acknowledges and agrees that the work and all rights therein, including, without limitation, copyright, belongs to and shall be the sole and exclusive property of KCTCS. For any work that is not considered a work made for hire under applicable law, title and copyright ownership shall be assigned to KCTCS.

Title to all dies, type, cuts, artwork, negatives, positives, color separations, progressive proofs, plates, copy, and any other requirement not stated herein required for completion of the finished product for use in connection with any KCTCS job shall be the property of and owned by KCTCS. Such items shall be returned to the appropriate department upon completion and/or delivery of work unless otherwise authorized by KCTCS. In the event that time of return is not specified, Offeror shall return all such items to the appropriate KCTCS department within one week of delivery.

40. PROPRIETARY INFORMATION, DATA DUPLICATION, AND DISCLOSURE

Offeror agrees that any information disclosed from KCTCS to the Offeror for the purpose of any contract shall be used only in the performance of the contract. Offeror will keep information confidential, will not disclose it to any third party except as authorized by the Owner, and will only disclose it to those within its organization who need to use it in performance of the contract. Upon completion or termination of this contract, Offeror shall return all such information to KCTCS or make such other disposition thereof as may be directed or approved by KCTCS.

No item furnished under this contract, or tools, plans, designs, or specifications for producing the same which have been specifically designed for or by KCTCS shall be duplicated or used by Offeror. Upon completion or termination of this contract, Offeror shall return all items, tools, plans, designs, or specifications to KCTCS or make such other disposition thereof as may be directed by or approved by KCTCS.

Offeror agrees that it will not, without prior written approval of KCTCS, publicize this contract or disclose, confirm or deny any details thereof to third parties, or use KCTCS'

name in connection with Offeror's sales promotion or publicity without prior written approval of KCTCS.

Nothing in this provision shall restrict Offeror's right to use or disclose any information which is or becomes generally known to the public without breach of this provision by Offeror or is rightfully obtained without restriction from other sources.

41. OFFEROR'S RESPONSIBILITY FOR RECORDS, AUDITS AND REPORTSFOR RESULTING CONTRACT

Offeror shall retain all records and documents pertaining to the resulting contract and shall provide unlimited access, at all reasonable times and upon reasonable notice, to all accounting records and supporting documentation relating to the goods and services furnished during any contract and for a period of five (5) years thereafter, unless required to be retained for a longer period by state or federal statute. Should such audit disclose incorrect billings or improprieties, KCTCS reserves the right to charge the Offeror for the cost of the audit and pursue appropriate reimbursement.

Offeror will be responsible for providing line item usage reports to the KCTCS Director of Procure to Pay on a quarterly basis. KCTCS reserves the right to request other pertinent reports.

42. OFFEROR AND SUBCONTRACTOR RESPONSIBILITY WITH FEDERALLY FUNDED CONTRACTS

The Offeror shall comply with all applicable federal, state, and local laws, regulations, and executive orders relating to equal opportunity and non-discrimination in employment and service delivery. This includes, but is not limited to, laws prohibiting discrimination on the basis of race, color, religion, sex, national origin, age, disability, genetic information, veteran status, or any other status protected by applicable law.

The Offeror further agrees to:

a. Take affirmative steps to ensure equal opportunity in all aspects of employment and service delivery.

b. Include this clause in all subcontracts and purchase orders under this agreement.

c. Remain informed of and comply with any future amendments or new requirements issued under applicable non-discrimination laws or regulations during the term of this agreement.

d. Cooperate with any compliance reviews or investigations conducted by authorized agencies to ensure adherence to applicable non-discrimination requirements.

Failure to comply with these provisions may result in termination of this agreement, suspension of payments, or other remedies as provided by law.

43. PAYMENT CARD INDUSTRY – DATA SECURITY STANDARD REQUIREMENTS (PCI-DSS)

PCI-DSS standards are not applicable to this solicitation. This section is omitted.

44. KENTUCKY'S PERSONAL SECURITY AND BREACH INVESTIGATION PROCEDURES

To the extent Company receives Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, 61.932 and 61.933 (the "Act"), Company shall secure and protect the Personal Information by, without limitation: (i) complying with all requirements applicable to non-affiliated third parties set forth in the Act; (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as KCTCS' and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction; (iii) notifying KCTCS of a security breach relating to Personal

Information in the possession of Company or its agents or subcontractors within seventy-two (72) hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 applies and Company abides by the requirements set forth in that exception; (iv) cooperating with KCTCS in complying with the response, mitigation, correction, investigation, and notification requirements of the Act , (v) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information suffered by Company; and (vi) at KCTCS' discretion and direction, handling all administrative functions associated with notification, investigation and mitigation.

45. <u>DISASTER RECOVERY</u>

At KCTCS' request, Offeror shall prepare and submit to KCTCS for its acceptance and approval, a comprehensive disaster recovery and business resumption plan, detailing Offeror's in- place procedures for daily back-up of data and systems, storage and protection of back-up media, and contingency plans and other details regarding Offeror's disaster recovery and business resumption plan.

At least as often as once per year and at Offeror's sole cost and expense, Offeror will undertake a comprehensive test of its disaster recovery and business resumption plans in accordance with the controls listed in the disaster recovery section of the Offeror's SOC Type 2 report. Offeror will share all records, reports, internal or external audits, documentation, and all other materials regarding such testing with KCTCS.

45.02 Source Code Escrow

Offeror agrees that if Offeror is licensing, selling, renting, leasing or otherwise providing any software to KCTCS, or creating, modifying, customizing or developing any software for KCTCS under the Agreement, that Offeror will at all times during the Term of the Agreement, at its sole cost and expense, maintain the source code (and any and all updates, enhancements, changes or additions thereto) for such software in escrow, with a third party escrow agent acceptable to KCTCS.

Offeror agrees that the source code shall be placed in escrow and released to KCTCS in the event that Offeror fails to meet its obligations to KCTCS under the Agreement, fails to support the software as required under the Agreement, materially breaches the Agreement, or suffers an event of bankruptcy (collectively "Release Events").

45.03 Encryption

Offeror agrees to ensure the confidentiality and integrity of KCTCS Data in storage and in transit through the implementation of strong encryption controls that are acceptable to KCTCS. If Offeror determines that strong encryption of KCTCS Data is not appropriate, Offeror must apply compensating controls, approved by KCTCS, to ensure the confidentiality and integrity of KCTCS Data and document the rationale for the approach taken.

45.04 Retention

Immediately upon termination, cancellation or expiration of the Agreement for any reason unless Offeror is otherwise instructed by KCTCS, or upon KCTCS' written request at any time, Offeror shall return or remove and destroy any and all KCTCS Data in whatever form or medium in Offeror's possession or control of Offeror or its agents or subcontractors, and certify such complete and full return or removal and destruction of all KCTCS Data in writing.

Offeror agrees to retain data for the appropriate statutory requirements. Offeror further agrees to extend to the retained data any and all protections,

limitations, and restrictions contained in the contract and any addenda or exhibits thereto and the Data Sharing Agreement between KCTCS and Offeror, and to limit any further uses and disclosures of the retained data to the purposes of the appropriate statutory requirements for so long as Offeror retains KCTCS Data. Offeror agrees that any retained data will be destroyed at the expiration of such period according to KCTCS' direction.

Offeror's obligations under this Section shall survive the expiration or termination of this Agreement for any reason.

45.05 Offshoring

Offeror shall not transmit, export, download, store, or maintain any KCTCS Data beyond the borders of the United States of America.

46. AUTHORIZATION TO DO BUSINESS IN KENTUCKY

The successful Offeror shall affirm that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the term of any contract awarded. The Offeror shall maintain and furnish certification of authority to conduct business in the Commonwealth of Kentucky during the term of the resulting contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

Registration is not a prerequisite for responding to the RFP. The successful Offeror shall be required to register with the Secretary of State prior to conducting business on any resulting contract. Failure for the successful Offeror to register with the Kentucky Secretary of State or Offerors in bad standing at renewal time may result in cancelation of contract(s). Registration is maintained by the Secretary of State. Home Page

47. KENTUCKY RECIPROCAL PREFERENCE LAWS

In accordance with KRS 45A.490 to 45 A.494, Kentucky Resident Bidder Status or Qualified Bidder Status, a resident Offeror of the Commonwealth of Kentucky shall be given a preference against a nonresident Offeror. An affidavit for Qualified Bidder Status forms is available from KCTCS Procurement to Payment Services, upon request.

48. INTELLECTUAL PROPERTY

All intellectual property (IP) created, developed, or generated by the Offeror in connection with services rendered under this Agreement and paid for by KCTCS shall be the sole and exclusive property of KCTCS. This includes, but is not limited to, images, slogans, concepts, designs, software, documentation, and other creative or commercial outputs. KCTCS shall have the unrestricted right to use, reproduce, modify, distribute, and publicly display any IP developed under this Agreement without additional compensation or royalty obligations to the Offeror. The Offeror, including its officers, directors, agents, and employees, shall not:

48.02 Apply for ownership or registration of any IP created or obtained through performance of this Agreement.

48.03 Assert any claim of ownership over such IP.

48.04 Use any KCTCS-owned IP for any purpose other than fulfilling the obligations of this Agreement during its term.

48.05 Use any KCTCS-owned IP for any purpose after the termination or expiration of this Agreement.

48.06 These provisions shall survive the termination of this Agreement. KCTCS reserves the right to enforce its ownership rights through injunctive relief, damages, and any other remedies available under law.

49. INSURANCE

If applicable to the services being rendered and prior to the commencement of any work, the Offeror will furnish KCTCS the Certificates of Insurance (ACORD 25 or similar form) that will show it has and will maintain all insurance protection (including products and liability insurance) at the Offeror's expense. The Offeror agrees that required insurance shall not be canceled or allowed to lapse during the term of any awarded contract. All insurance carriers must have an AM Best Rating of A- or better to be filed and approved to do business in the Commonwealth of Kentucky.

Minimum liability coverage must be:

Commercial General Liability Insurance
- Must be on an Occurrence Form
- $10,000,000 Bodily Injury and Property Damage each Occurrence
- $10,000,000 General Aggregate
- $10,000,000 Personal and Advertising Injury

Cyber Security Insurance
- $3,000,000.00

Worker's Compensation and Employers Liability Insurance (state statutory limits)
- Employers Liability
  - $1,000,000 Each Accident
  - $1,000,000 Policy Limit Disease
  - $1,000,000 Each Employee Disease

Excess Umbrella Liability – Limits may be used to increase the limits for any of the above coverage to meet requirements.

Comprehensive General Liability, KCTCS must be named as an additional insured in the policy. In the event of failure by the Offeror to maintain, in force, insurance coverage acceptable to KCTCS, KCTCS will have the right to terminate this Agreement immediately upon written notice to the Offeror.

Description of Operations section of the COI, KCTCS shall be named as additional insured, include a brief description of the services being performed, and reference any contracts or agreements involved (ie Contract Number 12345):

Kentucky Community & Technical College System
300 North Main Street
Versailles, KY 40383

Any deductibles or self-insured retention in the above-described policies must be paid and are the sole responsibility of the Offeror. Coverage is to be primary and non-contributory with other coverage, if any, purchased by KCTCS. All required policies must include a Waiver of Subrogation, except Workers' Compensation, in favor of KCTCS, its trustees and employees.

Copies of the Insurance Certificates are to be furnished to the KCTCS Procurement to Payment Department. Modification of this requirement must be requested in writing with supporting statements, prior to the time of the proposal submission.

KCTCS does not agree to any waiver of insurance coverage regarding Primary and Non-Contributory insurance from Offerors.

50. EVENTS BEYOND CONTROL

Notwithstanding any provision to the contrary, KCTCS shall not be held liable or responsible for any delay or failure to perform its obligations under this Agreement or any resulting contract due to

circumstances beyond its reasonable control. Such circumstances include, but are not limited to: strikes, labor disputes, or other work stoppages; actions or directives of federal, state, or local governments; natural disasters, acts of God, or public health emergencies; breakdowns, failures, or malfunctions of equipment, machinery, or infrastructure used in the provision of services; temporary interruptions for maintenance, repair, improvement, or expansion of facilities or systems; any other event or condition that materially impairs KCTCS' ability to fulfill its obligations and could not have been reasonably anticipated or prevented. In such cases, KCTCS shall make reasonable efforts to resume performance as soon as practicable, but shall not be liable for any damages, penalties, or costs arising from such delays or failures.

51. DATA PROTECTION/TRANSFER AFTER CONTRACT CONCLUSION

The Offeror agrees that in the event of termination, cancellation or expiration of a contract resulting from this RFP, for any reason, Offeror shall either: Return or destroy, as notified by KCTCS, all Data (including sensitive data) provided to the Offeror by KCTCS. Offeror understands and agrees that in the event of a cancellation, termination, or completion of the contract without renewal, this data is to be made immediately available to KCTCS within forty eight (48) hours from the effective notice of cancellation, termination, etc. or any/all other circumstances in which this contract would conclude, and access will remain available to KCTCS for a minimum of at least 120 days thereafter.

Such Data shall include, but is not limited to, all data provided to Offeror's employees, subcontractors, agents, or other affiliated persons or entities; or in the event that returning or destroying the Sensitive Data is not feasible, provide notification of the conditions that make return or destruction not feasible, in which case, the Offeror must continue to protect all Sensitive Data that it retains and agree to limit further uses and disclosures of such Data to those purposes that make the return or destruction not feasible as Offeror maintains such Data.

52. SERVICE PERFORMANCE

All services performed under this contract shall be in accordance with the terms and provisions of the contract. It will be the responsibility of KCTCS to ensure that such services rendered are performed and acceptable.

Major deviations of services performed will not be made without the written approval of the KCTCS Procurement to Payment Services Department. Problems that arise under any aspect of performance should first be resolved between the KCTCS Contract Owner/Subject Matter Expert and the Offeror. If such problems and/or disagreements cannot be so resolved they should be referred to the Director/Manager of Procurement to Payment Services, KCTCS for settlement by either party in writing.

53. SUBCONTRACTING

No part of the operation may be subcontracted without prior written approval of KCTCS Procurement to Payment Services, or unless approved prior to the award of the contract. All agreed upon subcontracted arrangements shall be reflected in contract language in writing. No payments will be made to subcontractors directly by KCTCS.

54. CONTRACT ASSIGNMENT

The Offeror is prohibited from assigning, transferring, or subletting the contract or its rights, title or interest or its power to execute the contract to any other person, company or corporation without written approval of KCTCS Procurement to Payment Services. In the event of a change in company ownership, KCTCS reserves the right to re-advertise the contract.

55. ACCESS TO RECORDS

The Offeror, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The Offeror also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

56. PUBLIC INFORMATION

KCTCS is a governmental entity subject to disclosure obligations under KRS 61.870 through 61.884 or successor legislation. Information clearly marked "confidential" under this agreement shall be treated as information identified by the Offeror as confidential, trade secret, commercially sensitive information and shall not be disclosed except as provided by law.

57. DISCLOSURE OF OFFEROR'S RESPONSE

The RFP specifies the format, required information and general content of proposals submitted in response to this RFP. KCTCS will not disclose any portions of the proposals prior to contract award to anyone outside of KCTCS Procurement to Payment Services, KCTCS Administrative staff, representatives of the State of Kentucky or Federal Government (if required) and the members of the committee evaluating the proposals. After a contract is awarded in whole or part, KCTCS shall have the right to duplicate, use or disclose all proposal data submitted by Offerors in response to this RFP as a matter of public record.

KCTCS shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of proposal will not affect this right.

58. GENERAL TERMS & CONDITIONS SOLICITATIONS & CONTRACTS

The General Conditions and Instructions for Solicitations and Contracts, hereby incorporated into the resulting contract by reference, shall be an integral part of this solicitation and resulting contract. The General Terms and Conditions may not be repeated in each Solicitation. Therefore, it is the bidder's responsibility to access the General Terms and Conditions at the KCTCS Website: https://systemoffice.kctcs.edu/suppliers/index.aspx, or request a copy by contacting the Purchasing Officer listed in this RFP. By submitting a proposal to KCTCS an offeror agrees to these conditions and to comply with the information and instructions contained herein. Proposals submitted that include any additional Offeror terms or conditions or contain terms and conditions in conflict with the Statutes of the Commonwealth of Kentucky or KCTCS terms and conditions may be rejected. Offerors should refrain from imposing conditions that would modify the terms and conditions of the solicitation or limit the bidder's liability to KCTCS on the contract awarded on the basis of such Invitation.

59. ADA COMPLIANCE

When applicable (e.g., webpages, digital content, or technology services), the Offeror's products and services must comply with the Americans with Disabilities Act (ADA) Title II regulations, including the 2024 update requiring conformance with the Web Content Accessibility Guidelines (WCAG) 2.1, Level AA. In addition, all deliverables must meet the applicable standards under the ADA Standards for Accessible Design, Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and Section 255 of the Communications Act, as amended, along with any associated regulations.

60. CYBER SECURITY

Offeror shall use commercially reasonable efforts (i) to keep its systems and networks secure (including, but not limited to its e-mail systems) and (ii) to prevent any hacking or data breaches thereof, or other activities that may compromise its systems or networks. Offeror agrees to send KCTCS a written report via email or secure link that includes a System & Organization Controls Type II Report (SOC Type II) providing evidence of penetration testing and vulnerability assessments for services and/or systems that manage KCTCS data. Within two (2) business days of the date Offeror discovers or reasonably should have discovered that any of its systems and/or networks have been hacked, breached, or otherwise compromised, Offeror will (a) send KCTCS a written report via e-mail including a System & Organization Controls Type II Report (SOC Type II), describing the nature of such activities to permit KCTCS an opportunity to take any necessary preventive measures and (b) use commercially reasonable efforts to respond to the activities on an urgent basis to reduce, stop, or prevent any impact to KCTCS. KCTCS will not be liable for the activities of any third party who hacks, breaches, or compromises Offeror's systems and/or networks, and Offeror understands and agrees that if KCTCS makes an errant payment due to the hacking, breach, or compromised supplier system or network, KCTCS will **not** be required to re-issue the payment.

61. KCTCS SUPPLIER REGISTRATION

If applicable and upon award, the **AWARDED OFFEROR** must register through the KCTCS Supplier Registration Portal (new suppliers only) so KCTCS may obtain full contact information for ordering and payment**.** KCTCS supplier registration is **not** required to respond to this solicitation.

62. DANGER OF PROCRASTINATION

It is in the best interests of Offerors to submit their proposals far enough in advance of the proposal deadline to avoid any hinderances out of the control of the Offeror, Bid Locker, or KCTCS. Such impediments could include, extremely heavy Internet traffic, phone line disruption, busy circuits, unexpected computer outages or weather-related challenges. KCTCS assumes no responsibility for impediments out of its control and encourages Offerors to submit early to avoid any possibility their proposals may be late. No exceptions will be made for delayed submissions including technology issues, incomplete submissions. Offerors should contact Bid Locker directly per the information contained within Bid Locker for concerns or issues on the platform.