



# UNIVERSITY OF LOUISVILLE

## PROCUREMENT SERVICES

### **Request for Proposal - Phase I**

Two Phase Process

Phase I: Statement of Qualifications (SOQ)

Phase II: Binding Proposal Submittals (BPS)

### **P3 Concession Agreement for Utility System**



<b>PROPOSAL NO.:</b>	<b>RP-026-22</b>	<b>RETURN ORIGINAL COPY OF SOQ TO:</b>
<b>Issue Date:</b>	<b>February 1, 2022</b>	<b>UNIVERSITY OF LOUISVILLE</b>
<b>Title:</b>	<b>P3 Concession Agreement for Utility System</b>	<b>PROCUREMENT SERVICES</b>
<b>Contract Administrator:</b>	<b>Amber Horn</b>	<b>2215 S. BROOK ST, STE 107</b>
<b>Email:</b>	<b>amber.horn@louisville.edu</b>	<b>LOUISVILLE, KY 40208</b>

**IMPORTANT: SOQ MUST BE RECEIVED BY: 2/28/2022 2:00 P.M. LOUISVILLE, KY TIME.**

**NOTICE OF REQUIREMENTS**

1. Contracts resulting from this RFP must be governed by and in accordance with the laws of the Commonwealth of Kentucky.
2. Any agreement or collusion among Responding Teams or prospective Responding Teams, 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.
3. 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 who violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars or more than twenty thousand dollars.

**AUTHENTICATION OF BID 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 an officer or employee of the Responding Team Member having authority to sign on its behalf;
2. That the attached SOQ has been arrived at by the Responding Team independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other Responding Team designed to limit independent bidding or competition;
3. That the contents of the SOQ have not been communicated by the Responding Team Member or the Responding Team or the employees or agents of the Responding Team Member or the Responding Team to any person not an employee or agent of the Responding Team Member or the Responding Team or the surety on any bond furnished with the SOQ and will not be communicated to any such person prior to the official closing of the RFP;
4. That the Concessionaire to be formed by the Responding Team will be legally entitled to enter into contracts with the University of Louisville and neither the Responding Team Member nor the Responding Team is in violation of any prohibited conflict of interest, including, but not limited to, those prohibited by the provisions of KRS 45A.330 to .340, and 164.390;
5. That the Concessionaire to be formed by the Responding Team, and their affiliates, will be duly registered with the Kentucky Department of Revenue to collect and remit the sale and use tax imposed by KRS Chapter 139 to the extent required by Kentucky law and will remain registered for the duration of any contract award;
6. That I have fully informed myself regarding the subject of the statements made above and all such statements are true and accurate.

**SWORN STATEMENT OF COMPLIANCE WITH CAMPAIGN FINANCE LAWS**

In accordance with KRS 45A.110(2), the undersigned hereby swears under penalty of perjury that neither the Responding Team Member nor the Responding Team has knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to the Responding Team will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky.

**RESPONDING TEAM REPORT OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341 & 342**

The Responding Team Member and the Responding Team by signing and submitting an SOQ, 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 University by each Responding Team Member of the successful Responding Team prior to the award of a contract.

**CERTIFICATION OF NON-SEGREGATED FACILITIES**

The Responding Team Member and the Responding Team, by submitting an SOQ, certifies that the Responding Team Member and the Responding Team is in compliance with the Code of Federal Regulations Title 41 CFR § 60-1.8(b) that prohibits the maintaining of segregated facilities.

**SIGNATURE REQUIRED:** This SOQ may not be considered valid unless signed and dated by an authorized agent of each of the Responding Team Member(s) constituting the Responding Team. Type or print the signatory's name, title, address, phone number and fax number in the spaces provided. SOQs signed by an agent are to be accompanied by evidence of his/her authority unless such evidence has been previously furnished to the issuing office.

<b>DELIVERY TIME:</b>	<b>NAME OF COMPANY:</b>	<b>DUNS #</b>
<b>PROPOSAL FIRM THROUGH:</b>	<b>ADDRESS:</b>	<b>Phone/Fax:</b>
<b>PAYMENT TERMS:</b>	<b>CITY, STATE &amp; ZIP CODE:</b>	<b>E-MAIL:</b>
<b>SHIPPING TERMS: F. O. B. DESTINATION PREPAID AND ALLOWED</b>	<b>TYPED OR PRINTED NAME:</b>	<b>WEB ADDRESS:</b>
<b>FEDERAL EMPLOYER ID NO.:</b>	<b>SIGNATURE:</b>	<b>DATE:</b>

DELIVERY TIME:	NAME OF COMPANY:	DUNS #
PROPOSAL FIRM THROUGH:	ADDRESS:	Phone/Fax:
PAYMENT TERMS:	CITY, STATE & ZIP CODE:	E-MAIL:
SHIPPING TERMS: F. O. B. DESTINATION PREPAID AND ALLOWED	TYPED OR PRINTED NAME:	WEB ADDRESS:
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SHIPPING TERMS: F. O. B. DESTINATION PREPAID AND ALLOWED	TYPED OR PRINTED NAME:	WEB ADDRESS:
FEDERAL EMPLOYER ID NO.:	SIGNATURE:	DATE:



# UNIVERSITY OF LOUISVILLE

## PROCUREMENT SERVICES

### Request for Proposal (RFP) – Phase I

## 1 Introduction and Description of Project

### 1.1 Introduction

The University of Louisville (the “**University**”) appreciates your interest in the opportunity to manage and operate the University’s on-campus Utility Systems (as defined below) through a 50-year concession agreement (the “**Concession**” or “**Concession Agreement**”) of the Utility System. The University has determined that the Concession will, among other things, further its energy efficiency and sustainability goals, provide a mechanism for capital improvements as needed, permit the more efficient operation of the Utility System, and advance the overall educational purposes of the University.

### 1.2 Description of the Project

As described in the Scope of Work (“**SoW**”) provided with this request for proposals (“**RFP**”), the special purpose entity to be organized by the Responding Team selected by the University (the “**Concessionaire**”) will be responsible for the operation, maintenance, financing and periodic lifecycle improvement of the steam, chilled water, electrical, and related distribution systems (“**Utility System**”, as such term shall be further defined in the Concession Agreement) serving the University of Louisville’s Belknap Campus managing the environmental and regulatory aspects of the Utility System and for undertaking of certain capital improvements within University buildings, potentially including Energy Conservation Measures (“**ECM**”). The Concessionaire will be expected to make an up-front payment to the University at the closing under the Concession Agreement (the “**Closing Consideration**”) in exchange for the exclusive right to operate, maintain, finance, possess, control and improve the Utility System in accordance with the provisions of the Concession Agreement, including performance standards and key performance indicators to be set forth therein. The Concessionaire may also be required to procure the Utility System’s required fuel / energy needs for plant operation, at the University’s cost, to ensure reliability and to meet campus demand, the majority of which fuel and electricity supplies will likely continue to be procured through a single utility contract with Louisville Gas and Electric (to be determined as part of the development of the RFP). In return for performance of the requirements under the Concession, the Concessionaire will receive a utility fee (“**Utility Fee**”) from the University for the duration of the term. Further detail on the scope of the Concession and other contextual information is included in the SoW.

## **2 University Information**

### **2.1 General Background**

The University is a state-supported research university located in Kentucky's largest metropolitan area. It was a municipally supported public institution for many decades prior to joining the university system in 1970. The University has three campuses. The 287-acre Belknap Campus is three miles from downtown Louisville and houses eight of the university's 12 colleges and schools. The Health Sciences Center is situated in downtown Louisville's medical complex and houses the university's health-related programs and the University Hospital. The 243-acre Shelby Campus is located in eastern Jefferson County.

### **2.2 Mission Statement**

The University pursues excellence and inclusiveness in its work to educate and serve its community through:

- (a) teaching diverse undergraduate, graduate, and professional students in order to develop engaged citizens, leaders, and scholars,
- (b) practicing and applying research, scholarship and creative activity, and
- (c) providing engaged service and outreach that improve the quality of life for local and global communities.

The University is committed to achieving preeminence as a premier anti-racist metropolitan research university.

### **2.3 Vision Statement**

The University will be recognized as a great place to learn, a great place to work and a great place in which to invest because we celebrate diversity, foster equity and strive for inclusion.

### **2.4 Project Goals and Scope of Work**

The goals and scope of work for the Concession are set forth in the SoW.

## **3 Kentucky Procurement Matters**

### **3.1 Public-Private Partnership Delivery Method**

In accordance with KRS 45A.077 (*Kentucky Model Procurement Code, Public-Private Partnership delivery method of awarding state contracts for capital construction projects*) and 200 KAR 5:355 (*Public-private partnership delivery method*), pursuant to a formal determination dated January 21, 2022, the President of the University has determined that, due to the nature and circumstances of the desired Concession, a public-private partnership is the most advantageous method of awarding and administering the desired Concession. The University expects to obtain all required approvals pursuant to KRS 45A.077 and 200 KAR 5:355 prior to the issuance of the bid version of the RFP during Phase II of the RFP.

### 3.2 Competitive Negotiation

In addition, in accordance with KRS 45A.075 (*Kentucky Model Procurement Code, Methods of awarding state contracts*), KRS 45A.077 (*Kentucky Model Procurement Code, Public-Private Partnership delivery method of awarding state contracts for capital construction projects*), and 200 KAR 5:307 (*Competitively negotiated contracts*), the Chief Procurement Officer of the University has made the following determinations, which informed her decision to proceed with a competitive procurement: (i) due to the complex nature or technical detail of the procurement, specifications cannot be fairly and objectively prepared so as to permit competition in the solicitation of sealed bids; and (ii) solicitation of competitive sealed bids is not practicable.

## 4 Statement of Qualifications (SOQ)

### 4.1 Overview of Process

The University's procurement process is divided into two phases:

- (a) Phase I – Evaluation of written statements of qualifications, experience and capabilities (“**SOQ**”) of potential responding teams (“**Responding Teams**”); and
- (b) Phase II – Evaluation of binding proposal submittals (“**BPS**”) of Responding Teams for entry into the Concession Agreement.

Further details of the schedule and content of each phase are shown in the attached SoW.

Should you wish to pursue this opportunity, you are required to prepare and submit an SOQ for Phase I in accordance with the requirements and procedures contained herein. The SOQ should include the information set out below. Contextual information to support the preparation of the SOQ has been provided in the SoW.

The University will evaluate and score each responding team (a “**Responding Team**”) on the basis of that Responding Team's SOQ and the experience of the particular entities identified as members of the Responding Team (collectively the “**Responding Team Members**”), to include at a minimum:

- The entity(ies) that will deliver the outline technical scope required under the Concession and as set out in Section 3 of the SoW (collectively, the “**Operator**”); and
- The entity(ies) that will secure equity and debt financing for the closing consideration and any lifecycle work required over the Concession term (collectively, the “**Equity Provider**”).

The University may ask clarification questions of the Responding Teams to explore their qualifications further, the scope and nature of the services they would provide, and the various technical approaches they may take regarding the Concession.

All questions regarding this RFP shall be submitted in accordance with Section 8.

Following the submission and evaluation of SOQs, the University will advance a smaller group (3-5) of Responding Teams into Phase II of the RFP process as determined by the University in its sole

discretion. During Phase II, those selected Responding Teams will be provided with additional technical data, site access, the ability to submit additional due diligence questions and engage in management presentations with key University management and Utility System operational personnel. Further instructions will be provided at a later time regarding Phase II and timing to submit a BPS.

## 4.2 Evaluation Factors and Relative Weighting

The SOQ should address the following items and respond to the questions described in Section 4.4.3 below. The University is interested in receiving SOQs for the entire scope of the Concession only, which should be inclusive of all the aforementioned Utility System components, and not for portions thereof. Compliance with this requirement will be evaluated on a pass/fail basis. SOQs shall clearly demonstrate, to the satisfaction of the University, that the Responding Team possesses the understanding, skills, experience, process and routines (“**Technical Capability**”) and the credit worthiness, ability to finance, relationship with lenders, liquidity, and experience financing similar requirements (“**Financial Capability**”) to meet the requirements of the Concession Agreement, as well as every other duty, responsibility, and function the Responding Team may be authorized or directed to perform as part of the Concession Agreement.

Scoring for the SOQ in Phase I of the RFP is provided below. Additional scoring criteria for the BPS will be provided to the Responding Teams that are shortlisted for Phase II of the RFP.

### Scoring Criteria

#### **Technical Capability** **60%**

Understanding, skills, experience, process, routines, and residency status  
(based on submittals, as applicable, in Sections 4.4.1(a), (c), (d), (e), (f), (h); Section 4.4.2; and Section 14)

#### **Financial Capability** **40%**

Credit worthiness, ability to finance, relationship with lenders, liquidity, and experience financing similar requirements (based on submittals, as applicable, in Sections 4.4.1(a), (d), (g), (h); and Section 4.4.2)

### Key Dates

RFP Posted	February 1, 2022
Pre-Proposal Meeting	February 7, 2022, at 9-10:30 AM, EST via Microsoft Teams (details below)
Questions Due	February 11, 2022, at 2:00 PM, EST
SOQ Due	February 28, 2022, at 2:00 PM, EST

## 4.3 Page Limits

Included within each section or subsection (in parentheses) is an allocation of the maximum number of pages for such section or subsection in the SOQ, and if any subsection in such SOQ exceeds such allocations, the SOQ may be subject to disqualification. The page limits exclude charts and other graphics which may be included as supporting attachments.

#### **4.4 Required SOQ Contents**

##### **4.4.1 Concessionaire / Responding Team Member Overview**

- (a) Please describe the strategic rationale for pursuing the Concession demonstrating the Responding Team's understanding of the University's goals and the scope of work for the Concession (1 page)
- (b) Please provide comprehensive documentation of the proposed team description and designated roles and responsibilities of Responding Team Members (5 pages)
  - (i) Full legal names and jurisdictions of organization for each Responding Team Member
  - (ii) Organizational chart to highlight anticipated legal relationship as appropriate (*e.g.* governance and capital structure)
  - (iii) Role of each Responding Team Member
  - (iv) Third party advisors selected or expected to be engaged as part of the process
- (c) Provide comprehensive documentation of the Operator's corporate experience and operational capabilities as described below (12 pages)
  - (i) Please provide a short summary of the Operator's relevant experience with utility systems (including university or other district utility systems, if applicable) including the role played by the Operator
  - (ii) Please describe the Operator's relevant experience of the following, subject to a maximum of five projects for each item:
    - (1) Chilled water and steam production
    - (2) Operating and maintaining utility facilities located on university campuses
    - (3) Utility distribution system operation and maintenance, including tunnel systems, direct buried systems, high voltage electricity
    - (4) Environmental compliance programs and philosophy, and note any fines or penalties levied on each Responding Team Member's U.S. operations within the past ten years
    - (5) Natural disaster emergency management procedures, including specific plans that have been managed and implemented
    - (6) Fuel/energy procurement
    - (7) Implementation of ECM projects



- (iii) Please provide an overview of the corporate safety programs and safety metrics over the past five years of the Operator, and please discuss how those programs would be part of the Concession Agreement
  - (iv) Please describe the Operator's experience with preparing capital project plans, and please describe the Operator's design-build capabilities to execute on capital plans both within utility systems and within customer buildings
  - (v) Please highlight additional details on the Operator's ability to provide reliable, cost-effective service while maintaining safety, security and exceptional customer service
  - (vi) Please provide an overview of each Responding Team Member's experience with fostering economic development opportunities and subcontracting with local small businesses as required by KRS 45A.077(4)(h)
- (d) Key staff (3 pages)
  - (i) Please describe the experience and capabilities of the Operator's key staff who will be assigned to the Concession. Please submit an organization chart, resumes, and applicable operator or maintenance licenses for key staff. Describe how existing utilities staff will be integrated with the key staff to leverage experience with the existing Utility System
- (e) Existing staff (4 pages)
  - (i) The University expects that the Concessionaire will employ the University staff who currently manage the Utility System. Recognizing that University employees will have the option to remain employees of the University, retaining a non-utility position with similar pay and benefits, please confirm the intent to provide an employment package that will attract University employees to the Concessionaire, subject to the Responding Team's diligence of such employees' current terms of employment
  - (ii) Please describe the Operator's past experience and future plans in putting together a competitive employment package that will attract current employees from the University to the Concessionaire
- (f) Summary of operational strategy and approach (5 pages)
  - (i) Please describe your understanding of the University's requirements, expected operational approach and preliminary views on the Utility System
  - (ii) Please describe your approach to transitioning from the existing system to the Concession
  - (iii) Please describe your approach to staffing the Utility System including utilization of existing employees during the Concession

- (iv) Please describe your organizational approach for meeting HR, IT and accounting support needs
- (v) Please describe your energy and fuel procurement approach
- (vi) Please describe your preliminary views on the projected operating costs and capital projects set out in the SoW
- (vii) Please describe your approach to implementation of ECMs and other efficiency projects including passing the benefits of utility reductions to the University, impact on Closing Consideration and the proposed involvement of the Concessionaire in maintaining those benefits over the Concession period
- (viii) Please describe your plan for fostering economic development opportunities and involvement of small businesses as subcontractors
- (g) Financial capabilities (8 pages, excluding rating agency reports and audited financial statements)
  - (i) Please provide comprehensive documentation that addresses the financial strength of the Concessionaire to be formed, as well as each Responding Team Member, including:
    - (1) The most recent three years of audited financial statements and unaudited financial statements for 2021 if available, and a letter of financial support from each Responding Team Member's Chief Financial Officer, or equivalent, identifying any material adverse financial events that have impacted the Responding Team Member since the issuance of the last set of audited financial statements
    - (2) The most recent credit rating(s) and corresponding rating agency report(s) if the Responding Team Member is rated, or, if the Responding Team Member is not rated, some other third-party verification of credit worthiness such as a lender's letter of support
  - (ii) Please describe the expected sources of funding (including the anticipated ratio of debt to equity) for the Closing Consideration and the outline plan to finance required capital expenditure over the term of the Concession Agreement
  - (iii) Please provide a description of each Equity Provider's relevant experience in securing debt and equity finance for a maximum of four similar projects including:
    - (1) The role played by the Equity Provider in the relevant project
    - (2) Project description including nature of the project, the project owner, geographical location, length of concession, capital costs and any closing consideration paid to the project owner

- (3) The sources of finance and the ratio of debt to equity associated with the capital costs and closing consideration paid to the project owner
- (h) References (1 page)
  - (i) Please provide two references for each Responding Team Member that the University can contact regarding each Responding Team Member's relevant experience for the Responding Team Member's proposed role in the Responding Team (include the name, company/institution, phone number, and email address)

#### 4.4.2 *Required Approvals and Timing (2 pages)*

- (a) Please briefly summarize the level of review that your SOQ has received within each Responding Team Member's organization(s), and describe any required internal approvals that would be needed to submit a BPS at the end of Phase II
- (b) Please discuss or confirm your ability to meet a BPS deadline tentatively planned for the third quarter of 2022
- (c) Please discuss the estimated time needed to move from a BPS to assumption of operational responsibility at the closing under the Concession Agreement and your experience managing this type of transition with the Responding Team Members making up the Responding Team

#### 4.4.3 *University Questions and Additional Information (3 pages)*

- (a) The University plans to reallocate input utility budgets to increase the Utility Fee (and the Closing Consideration) where credible opportunities for efficiency savings are identified by Responding Teams (e.g., from ECM projects). Please advise on the following:
  - (i) Would the Responding Teams be willing to submit proposed efficiency savings projects on an interim basis and commit to inclusion in the final proposal?
  - (ii) How would Responding Teams intend to measure and validate the consumption savings achieved by the projects on an ongoing basis?
  - (iii) How much on-site diligence would be required by Responding Teams to generate proposals and estimates, and at what point in the process could this be accommodated given need of University to diligence or agree before pricing proposals are submitted?
  - (iv) What continuing involvement in the operation of the efficiency project would Responding Teams require in order to guarantee the reductions in consumption?
- (b) Please describe any specific data requirements the Responding Team will need to submit a BPS

- (c) Please identify the Responding Team's requirements for visiting the University and touring the Utility System
- (d) Please provide any additional information which you deem relevant for the University to consider as part of your SOQ (which will not be scored)

#### 4.4.4 Key Contacts (1 page)

- (a) Please provide the contact information for a key person with whom we can discuss your SOQ

## 5 No Liability for Costs

The University and its advisors are not responsible for costs or damages incurred by you, your subcontractors, or other interested parties in connection with the solicitation process, including, but not limited to, costs associated with preparing responses, qualifications, and proposals, and participating in any conferences, oral presentations, or negotiations.

## 6 Modification, Termination, and Rejection Rights

The University reserves the right (1) to modify or terminate this solicitation at any time for any reason, (2) to reject any or all SOQs, and (3) to waive minor, technical defects in any Responding Team's SOQ. The receipt of SOQs or other documents at any stage of the RFP or transaction process will in no way obligate the University to enter into a contract of any kind.

## 7 Pre-Proposal Conference

A Pre-Proposal Conference for this Request for Proposal will be held via Microsoft Teams on February 7, 2022, from 9:00 AM – 10:30 AM, EST, followed by a tour of the Utility System.

[Click here to join the meeting](#)

Or call in (audio only)

1-502-792-9582 Conference ID# 418 502 873#

The purpose of this meeting is to answer questions pertaining to this solicitation. This meeting is to assure that each potential Offeror has a complete understanding of the scope of work involved.

## 8 SOQ Submission Timing and Additional Submission Details

Please submit your SOQ for Phase I in written form, via an attachment to an e-mail **and** by sending ten (10) hard copies plus USB flash drives by mail / courier (FedEx or UPS), to the contact listed below **no later than 2:00 pm Eastern Standard Time on February 28, 2022.**

**Amber Michelle Horn  
Procurement Services  
University of Louisville  
2215 S. Brook St.**

**Louisville, KY 40208**

**E-mail: [amber.horn@louisville.edu](mailto:amber.horn@louisville.edu)**

Your SOQ will not be considered binding upon any party; however, your participation as outlined in this letter (whether or not you submit an SOQ) confirms your understanding of, and constitutes your consent to, the terms and procedures set forth in this letter.

It is the intent of the University to solicit SOQs in such a way that minimizes disruption to the operations, employees, students, and other stakeholders of the University and preserves the confidentiality of these discussions, to the extent permitted by law and as detailed below. The University requires that all communication regarding this RFP shall only be directed to the contract administrator listed above. All questions regarding this RFP must be submitted in written form **no later than 2:00 pm Eastern Standard Time on February 11, 2022**. Failure to abide by such requirement may lead to the disqualification of a Responding Team.

## **9 Conformance with Governing Law**

Responding Teams shall conform to and observe all laws, ordinances, rules and regulations of the United States of America, Commonwealth of Kentucky and all other local governments, public authorities, boards, or offices relating to the property or the improvements upon same (or the use thereof) and will not permit the same to be used for any illegal or immoral purposes, business or occupation.

## **10 Collusion among Responding Teams**

Any agreement or collusion among Responding Teams or prospective Responding Teams, 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.

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 who violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars or more than twenty thousand dollars.

## **11 Kentucky's Personal Security and Breach Investigation Procedures and Practices Act**

If you are provided access or is provided a copy(ies) of University data, you agree to secure and protect the University data (and require that of any other entity with whom it shares or gives access to University data) from unauthorized access, use, modification, disclosure, manipulation, or destruction and will use processes that meet industry standard practices for protecting a customer's information (at least as stringent as you would use for protecting its own confidential information.) By submission of an SOQ, you agree to notify University of a security breach/ security incident as specified at <https://louisville.edu/security/incident-reporting-and-response/Contractor-external-party-incident-reporting/> relating to University data that you or your agents or subcontractors has access to or is in their possession within seventy-two (72) hours or promptly of discovery of an actual or suspected breach. You also agree to cooperate with

University in complying with the response, mitigation, correction, and notification efforts including undertaking a prompt and reasonable investigation of any such incident. Upon termination or cancellation of this procurement, all data, including disks, tapes and electronics files in the possession of you or your agents, subcontractors, or other third party will be destroyed. The University acknowledges that such data communicated and/or stored in electronic form may be routinely backed up such that return or destruction is not practical and/or feasible, in which case you (or your subcontractors/agents/others with whom the information has been shared) will keep such back-up copies secure until the back-up media is recycled or destroyed.

## **12 Confidentiality**

The University recognizes your possible interest in preserving selected information and data included in the SOQ; however, the University must treat such information and data as required by the Kentucky Open Records Act, KRS 61.870, et seq. Information areas which normally might be considered proprietary, and therefore confidential, shall be limited to individual personnel data, customer references, formulae and company financial audits which, if disclosed, would permit an unfair advantage to competitors. If an SOQ contains information in these areas and you declare them to be proprietary in nature and not available for public disclosure, you shall declare in the SOQ the inclusion of proprietary information and shall noticeably label as confidential or proprietary each sheet containing such information. To the extent the University concurs, information marked "Proprietary Information" in the SOQ will not be considered public information. SOQs containing information declared by you to be proprietary or confidential, either wholly or in part, outside the areas listed above may be deemed non-responsive and may be rejected. The University's General Counsel shall review your information claimed to be confidential and, in consultation with you (if needed), make a final determination as to whether or not the confidential or proprietary nature of the information or data complies with the Kentucky Open Records Act. The University is the final authority as to the extent of material that is considered confidential.

## **13 Conflict of Interest**

You are required to disclose any potential conflict of interest. If the owner of a Responding Team or Responding Team Member is related to a University employee, that relationship must be disclosed in writing and made part of the bid response. For purposes of disclosure of a conflict, a person is a related person if related to a University employee in any of the following ways, and includes those within these categories who are referred to as adopted, step-, foster, grand-, half-, in-law, spouse of, or great-:

- (a) parent
- (b) child or ward
- (c) sibling
- (d) uncle or aunt
- (e) first cousin

- (f) nephew or niece
- (g) spouse, domestic partner, significant other

## **14 Reciprocal Preference**

In accordance with KRS 45A.494, a resident Responding Team of the Commonwealth of Kentucky shall be given a preference against a nonresident Responding Team. In evaluating proposals, the University will apply a reciprocal preference against a Responding Team submitting a proposal from a state that grants residency preference equal to the preference given by the state of the nonresident Responding Team. Residency and non-residency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively.

Any Responding Team claiming Kentucky residency status shall submit with its proposal a notarized affidavit affirming that it meets the criteria as set forth in the above reference statute.

Forms can be found at <http://louisville.edu/purchasing/forms>.

## **15 Conclusion**

Should you have any questions regarding this RFP or any other matter, please feel free to address the contact previously listed in this RFP. On behalf of the University of Louisville, we appreciate your interest in this important opportunity and look forward to receiving your SOQ.