



INVITATION FOR BIDS

Date of Notice: May 4, 2023

Closing Date: June 1, 2023, 12:00 p.m.

Authority: K.S.A. 12-5377

Issuing Office: Legislative Division of Post Audit
800 SW Jackson St, Ste 1200
Topeka, KS 66612

Post Auditor: Chris Clarke

Telephone: 785-431-0370

E-Mail Address: chris.clarke@lpa.ks.gov

Web Address: www.kslpa.org

Bid Item: Audit Services – Performance Audit of the Kansas 911 System

Scope: The contract shall include 1) a determination of the status of 911 service implementation, 2) whether the moneys received by Public Safety Answering Points pursuant to the Kansas 911 Act are being used appropriately, 3) whether the amount of moneys collected through the Kansas 911 Act are adequate.

The bidder shall be responsible for monitoring Legislative Post Audit’s website on a regular basis for any notices, changes, or amendments.

DEFINITIONS

1. “911 Coordinating Council” means the council created by K.S.A. 12-5364 that monitors the delivery of 911 services, develops strategies for future enhancements to the 911 system, and distributes available grant funds to Public Safety Answering Points.
2. “Audit documentation” means the records of the contractor’s work that documents reviews, tests, and analyses performed, together with the rationale for conclusions reached, and that document the contractor’s adherence to field work standards, including those related to planning, internal controls and related risk assessments, and irregularities, illegal acts, and other noncompliance.
3. “Audit finding” means deficiencies which the contractor is required to report in accordance with applicable audit standards.
4. “Audit report” means the written report of any audit or audit work conducted under the Legislative Post Audit Act.
5. “Auditee” means the Kansas 911 system.
6. “Contract Audit Committee” means the committee provided for by K.S.A. 46-1120, composed of the Chairperson of the Legislative Post Audit Committee, the Vice-Chairperson of the Legislative Post Audit Committee, and a third member of the Legislative Post Audit Committee designated by a majority vote of that Committee, the Secretary of Administration, and the Post Auditor or designee.
7. “Contract period” begins upon execution of the contract and continues until all the work is finished, accepted by Legislative Post Audit, and final payment paid and received.
8. “Legislative Post Audit Act” means K.S.A. 46-1101 et seq.
9. “Performance Audit” means an audit that provides findings or conclusions based on an evaluation of sufficient, appropriate evidence against criteria.
10. “Public Safety Answering Points” or “PSAP” means 911 call answering point operated by a city or county.

1. INSTRUCTIONS

1.1. Bid Item: Audit Services – Performance Audit of the Kansas 911 System:

The Bid Item, indicated on the first page of this proposal, has been assigned to this Invitation for Bids and must be shown on all correspondence or other documents associated with this Invitation for Bids and must be referred to in all communications.

1.2. Cost of Preparing Proposals:

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

1.3. Submitting Proposals:

Two (2) copies of the bid proposal are required. Both copies are to be mailed or delivered in one sealed envelope to:

Nicole Blanchett, Office Manager
Legislative Division of Post Audit
800 S.W. Jackson Street, Suite 1200
Topeka, Kansas 66612-2212

The bidder shall be responsible for ensuring that bids are received by the closing date and time. Delays in mail delivery or any other means of transmittal, including couriers or agents of the issuing entity shall not excuse late bid submissions. Faxed, e-mailed or telephoned proposals are not acceptable.

The face of the envelope must say, “BID PROPOSAL” and must clearly identify the bid item, “Audit Serviced – Performance Audit of the Kansas 911 System,” the time and date of the deadline for receipt of bid proposals, the proposing firm and office, and the name and telephone number of the person authorized by the firm to answer questions concerning the bid proposal.

Proposals received prior to the closing date shall be kept secured and sealed until closing. The State of Kansas shall not be responsible for the premature opening of a proposal or for the rejection of a proposal that was not received prior to the closing date because it was not properly identified on the outside of the envelope. Late proposals may be retained unopened in the file or may be returned to the bidder. Late proposals shall not be considered.

1.4. Modifying Proposals:

A bidder who wishes to modify a proposal must submit a written request to the Post Auditor at Legislative Post Audit at any time prior to the closing date and time for receipt of proposals. An authorized representative of the bidding firm must sign the modification.

1.5. Withdrawing Proposals:

A bidder who wishes to withdraw a proposal must submit a written request to the Post Auditor at Legislative Post Audit. An authorized representative of the bidding firm must sign the withdrawal.

1.6. Pre-Bid Conference:

A Pre-Bid Conference will convene on May 18, 2023 at 1:00 p.m. in Room 546-S of the Statehouse, 300 SW 10th Ave, Topeka, KS 66612. Bidders are prohibited from electronically recording these meetings. The meeting will have a WebEx for remote participation.

Attendance is not required at the pre-bid conference but is strongly encouraged. All questions requesting clarification of the Invitation for Bids to be addressed at the pre-bid conference must be submitted in writing to the Post Auditor prior to May 11, 2023. Impromptu questions will be permitted and spontaneous unofficial answers provided; however, bidders should clearly understand that the only official answer or position of Legislative Post Audit will be in writing. Questions and answers shall be posted on Legislative Post Audit's website following the pre-bid conference.

Failure to notify the Post Auditor of any conflicts or ambiguities in the Invitation for Bids shall result in items being resolved in the best interest of the State of Kansas. Any modification to this Invitation for Bids as a result of the pre-bid conference, as well as written answers to written questions, shall be made in writing by addendum with notification provided to potential bidders who received the original notice of Invitation for Bids from Legislative Post Audit. Only written communications are binding.

1.7. Other Communications:

All inquiries, written or verbal, shall be directed only to the Post Auditor reflected on Page 1 of this proposal. There shall be no communication with any other State of Kansas employee or any of the members of the Contract Audit Committee regarding this Invitation for Bids. Violations of this provision by bidder or State of Kansas personnel may result in the rejection of the proposal.

1.8. Bid Proposal Content and Format:

In order to be considered for selection, bid proposals must be completely responsive to this Invitation for Bids.

1.8.1 Bid Proposal Format:

In order to permit effective comparisons of competing bid proposals, the following format should be followed as closely as possible.

- **Technical information** – Indicate briefly how your office intends to meet the requirements stated in this Invitation for Bids.
- **Financial information** – Submit fee information for the proposed work in the table in the financial information form.

1.8.2 Firm and Staff Qualifications Information:

Provide the information requested on the attached Firm and Staff Qualifications Evaluation forms in accordance with the instructions provided. Legislative Post Audit may require supporting documentation for any information submitted.

1.8.3 Disclosure of Proposal Content and Confidential and Proprietary Information:

All proposals become the property of the State of Kansas. The Open Records Act (K.S.A. 45-215 et seq) of the State of Kansas requires public information be placed in the public domain at the conclusion of the selection process and be available for examination by all interested parties. No proposals shall be disclosed until after a contract award has been issued. Legislative Post Audit reserves the right to destroy all proposals if the Invitation for Bids is withdrawn, a contract award is withdrawn, or in accordance with Kansas law.

Trade secrets or confidential and proprietary information legally recognized as such and protected by law may be requested to be withheld if clearly labeled "Confidential and Proprietary" on each individual page and provided as separate from the main proposal. Pricing information is not considered confidential or proprietary, nor can the bidder's entire proposal response package be considered confidential or proprietary. The bidder shall provide detailed written documentation justifying why this material should be considered "Confidential and Proprietary". Legislative Post Audit reserves the right to accept, amend or deny such requests for maintaining information as confidential and proprietary in accordance with Kansas law.

The State of Kansas does not guarantee protection of any information which is not submitted as required.

1.8.4 Amendments:

Changes to this Invitation for Bids shall be issued only by Legislative Post Audit in writing and will be posted to Legislative Post Audit's website. The bidder shall be responsible to check the website periodically for updates and amendments.

1.8.5 Exceptions:

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

1.8.6 Authorized Signature:

Each proposal shall give the complete legal name and mailing address of the bidder and be signed by an authorized representative by original signature with his or her name and legal title printed below the signature line.

1.9. Additional Resources for Preparing Bid Proposals:

1.9.1. Previous Fees:

Fees for the 2016 contract were \$115,000.

Fees for the 2018 contract were \$142,500.

Note, the scope for this proposed audit is much smaller than either of the 2 prior audits, as described in section 4.3.

1.9.2. Recent Audit Reports and Audit Documentation:

To facilitate preparation of bid proposals, bidders may review records. Bidders may review the audit documentation associated with prior audit reports. Arrangements to review audit documentation may be made only through the Post Auditor.

Copies of prior audit reports are available electronically at the sites listed below. Paper copies of prior audit reports may be obtained through Legislative Post Audit.

- 2007 Performance audit *Wireless Enhanced 911: Reviewing Implementation of the 2004 Act* (<http://www.kslpa.org/media/files/reports/media/files/temp/07pa06a.pdf>)
- 2008 Performance audit *Wireless Enhanced 911: Reviewing Implementation of the 2004 Act* (<http://www.kslpa.org/media/files/reports/media/files/temp/08pa16a.pdf>)
- 2014 Performance audit *The Kansas 911 Act: Reviewing Implementation of the 2012 Act* (<http://www.kslpa.org/media/files/reports/r-14-002.pdf>)
- 2016 Performance audit *The Kansas 911 Act: Reviewing Implementation of the 2012 Act* (<http://www.kslpa.org/media/files/reports/media/files/temp/r-16-021.pdf>)
- 2018 Performance audit *Audit of the Kansas 911 System* (<https://www.kslpa.org/audit-report-library/kansas-911-system/>)

1.9.3. Information About the Kansas 911 System:

The 911 Coordinating Council has posted some documents to its website regarding the Kansas 911 system. Bidders are encouraged to review these documents to aid in gaining an understanding of the Kansas 911 system and the migration to NG911.

- More information about NG911 can be found here: <http://www.kansas911.org/services/>

2. BID PROPOSAL EVALUATION AND SELECTION PROCESS

2.1. Bid Proposal Opening:

Bids will be opened on June 1, 2023 at 3:00 p.m. in room 546-S of the Statehouse. Only the names of those who submitted proposals and the total amount of the bid shall be announced at the time of bid opening. Interested bidders or their representatives may be present at the announcement via WebEx or at the following location:

Kansas Statehouse
300 SW 10th St, Room 546-S
Topeka, KS 66612

Bid results will not be given to individuals over the telephone or email. Results may be obtained after contract finalization by making a written request to the Post Auditor.

Copies of individual proposals may be obtained under the Open Records Act by sending a written request to the Post Auditor. Legislative Post Audit will estimate the cost of reproducing those records, if any, according to its fee schedule. Information in proposal files shall not be released until a contract has been executed or all proposals have been rejected.

2.2. Bid Proposal Evaluation:

The evaluation by Legislative Post Audit shall be done in accordance with the bid proposal evaluation system adopted by the Contract Audit Committee. Proposals will be the primary source of information used in the evaluation process. Therefore, applicants are requested and advised to be as complete as possible in their response.

Legislative Post Audit may inform the Contract Audit Committee members of other information in addition to that contained in the bid proposals including, but not limited to, the bidder's past performance on audit contracts. Contract Audit Committee members may consider any additional information even though the additional information is not considered in the overall scoring of the bid proposal. Legislative Post Audit also may:

- Contact any bidder to clarify any response;
- Contact any users of a bidder's services;
- Solicit information from any available source concerning any aspect of the proposal;
- Seek and review any other information deemed pertinent to the evaluation process.

The Legislative Post Audit Act requires the evaluation of bid proposals received and the selection of three to five bidders which are, in the opinion of the Post Auditor, qualified to perform the audit work. A list of those bidders selected shall be submitted to the Contract Audit Committee. Legislative Post Audit shall rank the selected bidders and the Contract Audit Committee may conduct discussions with each of the bidders so listed.

2.3. Mandatory Items:

There are six mandatory items that will be considered in evaluating each bid proposal. If any of these mandatory items are determined to be not favorable, the bid proposal shall be judged as not qualified for further consideration:

1. The bidder's proposed audit approach must meet the requirements of the Invitation for Bids.
2. The bidder must be independent in fact and in appearance from the State of Kansas and its component unit, the 911 Coordinating Council. The bidder shall disclose all instances where it provides any non-audit services to the State of Kansas, the 911 Coordinating Council, or any Public Safety Answering Points (PSAPs) as an attachment to the bid document, or affirm that it does not provide any non-audit services to the State of Kansas, the 911 Coordinating Council, or any of the PSAPs.
3. The bidder must not have any other conflicts of interest or potential conflicts of interest in fact or in appearance. The bidder shall disclose all instances where the bidder has any other conflicts of interest or potential conflicts of interest in fact or in appearance or affirm that it does not have any conflicts of interest or potential conflicts of interest in fact or in appearance.
4. The bidder must have arrived at prices in the bid proposal independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices with any other bidder or firm. The bidder must not have disclosed prices which have been included in the bid proposal and shall not disclose the prices prior to award directly or indirectly to any other firm. The bidder must not have made any attempt and shall make no attempt to induce any other bidder or firm to submit or not to submit a bid proposal for the purpose of restricting competition. The bidder shall affirm these statements in its bid proposal.
5. The bidder must acknowledge amendments to the Invitation for Bids, if any. The bidder shall provide a signed copy of the amendments, if any, as an attachment to the bid document.
6. The bidder must be conversant with 911 systems, equipment, and the Next Generation 911 (NG911) related services. The bidder shall include a description of its experience or expertise in these areas as part of the bid proposal.

2.4. Scale-Evaluated Items:

In addition to the mandatory items, three scale-evaluated items will be considered in evaluating each bid proposal. The purpose of the scoring is to organize the bids and give the Contract Audit Committee members a basis for comparison. The Contract Audit Committee is not obligated and, in fact, often does not choose the highest-scoring firm.

For all three scale-valuated items, the evaluation is based on the bidder's score relative to the best-scoring bid.

1. The qualifications of the firm submitting the bid proposal (25% of the bid evaluation). These qualifications are based on the number of certain types of audits conducted by that firm during the most recent five years. That evaluation is made based on information provided by the

submitting firm on the appropriate form included in this package.

2. Staff qualifications of certain key personnel that would be assigned to the audit (50% of the bid evaluation). These key personnel are the managing partner, the project manager, and the supervisor. That evaluation is made based on information provided by the submitting firm on the appropriate form included in this package.
3. The proposed fees (25% of the bid evaluation).

2.5. Awarding the Contract:

The final evaluation and award will be made by the Contract Audit Committee on a date and time to be determined in the Statehouse, 300 SW 10th Ave, Topeka, KS 66612. Bidders are prohibited from electronically recording these meetings.

Bidders should be prepared to answer questions or provide additional information as requested by the Contract Audit Committee. If information is requested, the Contract Audit Committee is not required to request the information of all bidders. Appearance before the Contract Audit Committee is optional. However, Contract Audit Committees reserve the right to consider the bidder's answers to committee members' questions in the selection of a contractor. A WebEx will be established for remote attendance.

In order to be considered for selection, bid proposals must be completely responsive to this Invitation for Bids. Emphasis should be on completeness and clarity of content. The Contract Audit Committee has the right to rely on any prices provided by bidders. The bidder shall be responsible for any mathematical errors. The Contract Audit Committee reserves the right to reject proposals which contain errors.

The award shall be made in the best interest of the State of Kansas as determined by the Contract Audit Committee. The Contract Audit Committee is not bound to award the contract to the bidder achieving the best result from the evaluation.

2.6. Additional Requirements:

1. The bidder must not have any delinquent taxes due the State of Kansas. The bidder shall submit a tax clearance certificate.
2. The bidder must have a secure means of transferring information and documents between it and each individual agency under audit. The bidder shall provide a description of this secure means of transferring information and documents and how this will be administered to Legislative Post Audit.

2.7. Contract Formation:

The successful bidder will be required to enter into a written contract with Legislative Post Audit. No contract shall be considered to have been entered into until all statutorily required signatures and certifications have been rendered and a written contract has been signed by the successful bidder and the Post Auditor.

If Legislative Post Audit is unable to enter into a contract with any of the selected bidders, the Contract Audit Committee shall request the Legislative Post Auditor to provide another list of bidders to be reviewed by the Contract Audit Committee and, upon receipt of such list, the Contract Audit Committee shall repeat the process.

The bidder may decline to sign a contract after selection by the Contract Audit Committee.

3. TERMS AND CONDITIONS

3.1. Contract Documents:

The State of Kansas DA-146a (Contractual Provisions Attachment, Rev 06/12), this Invitation for Bids and any amendments to the Invitation for Bids, the bid proposal and any amendments to the bid proposal of the contractor, and the engagement letter of the contractor, shall be incorporated by reference into the written contract, which shall compose the complete understanding of the parties. Whenever the term “State,” “Agency,” or word of like effect are used in the Contractual Provisions Attachment, such reference shall be deemed to apply to Legislative Post Audit. The term “contractor” shall mean the contractor selected at the bid award meeting.

Any conflict in the provisions of the contract and the documents incorporated herein by reference shall be determined and resolved by applying the following priority order:

- Form DA-146a;
- written modifications to the executed contract signed by the parties;
- written contract signed by the parties;
- amendments to the Invitation for Bids;
- the Invitation for Bids;
- the contractor’s written proposal submitted in response to the Invitation for Bids;
- the contractor’s written engagement letter signed by the parties.

The contract and the documents described above which are incorporated by reference constitute the entire contract of the parties hereto. The written contract in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. The contract between the parties shall be independent of and have no effect on any other contracts of either party.

3.2. Modifications and Oral Agreements:

No oral agreements will be effective to alter the contract. The contract can only be amended by written agreement signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

3.3. Term of Contract:

Subject to termination as stated herein or a subsequent amendment to the contract, the term of work under the contract shall begin upon execution of the contract by the parties, and continues until all the work is finished, accepted by Legislative Post Audit, and final payment is paid and received.

3.4. Termination Right:

3.4.1. Termination Other Than for Cause:

Notwithstanding any other provisions of the contract, the Legislative Post Auditor reserves the right to terminate the contract for any reason at any time without cause or penalty by giving ten days advance notice thereof in writing to the contractor. In the event of the termination of the contract, the contractor also agrees that the State of Kansas shall not be obligated to pay for any deliverable not already completed and delivered to the State of Kansas prior to termination date. In the event of termination, all finished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared for Legislative Post Audit under the contract, become property of Legislative Post Audit upon payment for services rendered through the termination date.

3.4.2. Termination for Cause:

The Legislative Post Auditor may terminate the contract, or any part of the contract, for cause under any one of the following circumstances:

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

The Legislative Post Auditor shall provide the contractor with written notice of the conditions endangering performance. If the contractor fails to remedy the conditions within ten days from the receipt of the notice (or such longer period as Legislative Post Audit may authorize in writing), the Legislative Post Auditor shall issue the contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three days of the date of the notice.

3.5. Partial Performance:

Should the contractor fail to comply with the provisions of the contract to the satisfaction of the Post Auditor, payment for portions of the contract will be withheld until such time as the contract terms have been implemented. This condition also allows for administrative, contractual, and legal remedies as determined appropriate by the Attorney General of the State of Kansas where it appears that the contractor has violated, breached, or defaulted on the contract terms.

3.6. Staff Qualifications:

The contractor shall warrant that all persons assigned by it to the performance of the contract shall be employees of the contractor or specified subcontractor and shall be fully qualified to perform the work required.

Failure of the contractor to provide qualified staffing at the level required by the contract specifications may result in termination of the contract or damages. Substitutions for the individuals listed in the bid proposal shall be allowed only upon the written approval of the Post Auditor. The person substituted shall have substantially the same qualifications as or better qualifications than the person replaced as rated by the bid proposal. The contractor shall, on request by Legislative Post Audit, provide Legislative Post Audit with a resume of any member of its staff or subcontractor's staff assigned to or proposed to be assigned to any aspect of the performance of the contract.

During the course of the contract, Legislative Post Audit reserves the right to approve or disapprove the contractor's staff assigned to the contract. Upon the written request of the Post Auditor, any employee of the contractor or subcontractor who, in the opinion of the Post Auditor, is unacceptable shall be removed from work under the contract. In the event that any employee of the contractor or subcontractor is removed pursuant to a written request from the Post Auditor, the contractor shall fill the vacancy with a replacement reasonably acceptable to the Post Auditor in a manner which does not adversely impact the timely performance under the contract.

3.7. Responsibility for Services:

The contractor shall be responsible for all services under the contract whether or not the contractor produced them.

3.8. Subcontractors:

Any subcontract to which Legislative Post Audit has consented shall be in writing and shall be attached to the contract as an exhibit and shall in no way limit the terms and conditions of the contract. No substitutions may be made after the award or amendment of the contract as described in this section below.

Contractor is allowed to subcontract part of the contract if the contractor has provided adequate information about the subcontractor, including staff and office qualifications, and described specifically what areas the subcontractor will audit, in the bid proposal.

The contractor is also allowed to subcontract part of the contract after the award of the contract if deemed necessary by the contractor and is approved in writing by the Legislative Post Auditor. Any subcontractor shall be approved in writing and such writing shall be signed by the parties and attached to the contract as an amendment. The contractor shall provide information about the subcontractor, including staff and office qualifications, and describe specifically what areas the subcontractor will audit. If the Post Auditor does not approve the subcontractor, then the contractor shall conduct the audit work.

All terms, conditions, and requirements of the contract shall apply without qualification to any services performed or goods provided by any subcontractor. All subcontract agreements shall contain provisions for Legislative Post Audit's access to the subcontractor's books, documents and records and for

inspections of its work by Legislative Post Audit. No subcontract agreement or delegation of work shall relieve or discharge the contractor from any obligation, provision or liability under the contract. Any action of a subcontractor which, if done by the contractor, would constitute a breach of the contract shall be deemed a breach by the contractor and have the same legal effect.

The State of Kansas requires tax clearance certificates for all subcontractors be submitted with the bid proposal, and that the bidder additionally provide subcontractor(s) legal company name, contact information and tax ID number (FEIN/TIN) as well.

3.9. Assignment:

The contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under the contract without the prior written consent of the Post Auditor. The Post Auditor may reasonably withhold consent for any reason. The assignment, conveyance, encumbrance or other transfer by the contractor without the prior written consent of the Post Auditor may result in termination of the contract.

3.10. Conflict of Interest:

The contractor shall not knowingly employ, during the period of the contract or any extensions to it, any State of Kansas, 911 Coordinating Council or PSAP employee who is providing services involving the contract or services similar in nature to the scope of the contract to the State of Kansas, the 911 Coordinating Council, or any PSAP. Furthermore, the contractor shall not knowingly employ, during the period of the contract or any extensions to it, any State of Kansas employee who has participated in the making of the contract until at least two years after such employee's termination of employment with the State of Kansas.

If the contractor becomes aware of any non-audit relationships with any State of Kansas agency, employee, component unit, or subrecipient, or if the contractor becomes aware of any conflict of interest or potential conflict of interest in fact or in appearance, the contractor will notify the Post Auditor within five business days by providing to the Post Auditor a written description of the facts and circumstances. Failure to disclose any such situation or any potential conflict of interest may result in termination of the contract.

3.11. Confidentiality:

In accordance with K.S.A. 46-1127(b), the contractor shall be subject to the same duty of confidentiality applicable to the Legislative Post Auditor and officers and employees of Legislative Post Audit under K.S.A. 46-1106.

In accordance with K.S.A. 46-1128(a), each audit report, finding, conclusion, opinion, or recommendation shall be confidential until distribution of the report at the next scheduled meeting of the Legislative Post Audit Committee or at the next scheduled meeting of another legislative committee held after distribution of the report to the members of such committee as authorized by the Legislative Post Audit Committee. The contractor shall refer to Legislative Post Audit any questions or requests for reports other than those specified in the Scope of Work section below, which occur before the final audit report is presented at a meeting of the Legislative Post Audit Committee.

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

The contractor agrees that acquiring or possessing confidential information, as defined in K.S.A. 45-221 et seq., or any other state or federal law, specifically including personally identifiable information such as names, addresses, or social security numbers, shall be restricted to those situations in which possession of such information is necessary for implementation of the audit plan.

3.12. HIPAA Confidentiality:

Per the Health Insurance Portability and Accountability Act (1996) (HIPAA), the agency is a covered entity under the act and therefore the contractor is not permitted to use or disclose health information in ways that the agency could not. This protection continues as long as the data is in the hands of the contractor.

The contractor shall establish and maintain procedures and controls acceptable to the agency to protect the privacy of members' information. Unless the contractor has the member's written consent, the contractor shall not use any personally identifiable information obtained for any reason other than that mandated by the contract.

3.13. Inspection:

Failure to adequately inspect the premises, prior audit documentation and reports, or other resources or to understand the scope of work shall not relieve the contractor from furnishing without additional cost to the State of Kansas any materials, equipment, supplies or labor that may be required to carry out the intent of the contract. Submission of a proposal shall be construed as evidence that the bidder has made necessary examination, inspection and investigation.

3.14. Submission of the Bid:

Submission of the bid will be considered presumptive evidence that the bidder is conversant with local facilities and difficulties, the requirements of the documents and of pertinent professional or regulatory bodies, State of Kansas and/or local codes, state of labor and material markets, and has made due allowances in the proposal for all contingencies. Later claims for labor, work, materials, equipment, and tax liability required for any difficulties encountered which could have been foreseen will not be recognized and all such difficulties shall be properly taken care of by contractor at no additional cost to the State of Kansas.

3.15. Price Adjustments:

Prices shall remain firm through the completion of the contract. The price shall reflect all deliverables including, but not limited to, report drafts, status reports, site visits, fieldwork, presentations, travel, and expenses associated with deliverables. The price shall also include all costs and expenses associated with the contractor's attendance at and participation in any public meetings held following the submission of the contractor's final reports to present, explain or discuss the reports. Also, the price shall include all costs and expenses associated with any quality control review conducted by any oversight agency for audit, any professional or regulatory body of the audit in the contract.

If the contractor is contacted by any regulatory agency or other agency for information regarding the State of Kansas, the contractor shall notify the Post Auditor in writing within five business days. The contractor shall not charge for any additional work unless both parties have agreed to additional fees in writing in the form of an amendment to the contract.

Any increase in the work processes or services provided by the contractor without a written amendment to the contract signed in advance by the parties shall be at the contractor's own risk. The cost and expense will be the responsibility of the contractor, and the contractor shall not submit a claim for compensation for work, materials, or equipment in connection with such changes.

Any substantial delay in the contractor's performance that is due to the auditee's failure to comply with the provisions of section 3.21 shall be borne by the contractor unless the contractor notifies the Post Auditor in writing that additional fees may be necessary to complete the scope of work. The cost and expense of any such delay shall be the responsibility of the contractor unless otherwise provided for by written amendment to the contract.

3.16. Billing and Payment:

Final payment shall be made in accordance with the Prompt Payment Act after all of the following have occurred:

- The contractor has delivered the final audit report to the Legislative Post Audit.
- The contractor has delivered a complete, legible copy of the audit documentation to Legislative Post Audit.
- The staff of Legislative Post Audit has completed a review of the final audit report and the audit documentation.
- The staff of Legislative Post Audit has mailed a letter accepting the audit to the contractor.
- The contractor has billed Legislative Post Audit for the final payment.

Progress payments may be allowed on the contract. However, they shall be made no more often than once per month. Progress payments shall be based on the contractor's estimate of the current percentage of completion. Audit documentation may be reviewed Legislative Post Audit to support the contractor's estimated percentage of completion.

Limits have been set on the total amount of payment that shall be made by certain points in the audit process per the table below:

Point in the Audit Process	Maximum
Upon completion of fieldwork	75%
Upon acceptance of the final audit report	90%

Upon acceptance of the audit documentation	100%
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The final payment shall be made the earlier of completion of review and acceptance of the audit documentation by Legislative Post Audit or 30 days after the receipt of a complete, legible set of the final audit documentation by Legislative Post Audit. However, should Legislative Post Audit determine that the contractor failed to comply with the contract provisions, payment for portions of the contract may be withheld until such time as Legislative Post Audit determines that the contractor is in full compliance with the contract provisions. The withholding of any payment, or portion thereof, does not waive but shall be in addition to any administrative, contractual, or legal remedies that Legislative Post Audit may pursue as it determines is appropriate. Where it appears that the contractor has violated, breached, or defaulted on the contract terms, Legislative Post Audit agrees that it will not exercise its discretion in an arbitrary or capricious manner. Legislative Post Audit will provide to the contractor with the notice of rejection a list of the specifications, terms, conditions or other items that the contractor must rework, revise, change or complete for Legislative Post Audit to accept the audit. The contractor shall be responsible for all material errors and omissions in the performance of the contract and shall correct the errors and omissions at no additional cost to the state, state agencies or Legislative Post Audit.

3.17. Audit Documentation:

The audit documentation remains the exclusive property of the contractor.

The Open Records Act (K.S.A. 45-215 et seq) of the State of Kansas requires public information be placed in the public domain and be available for examination by all interested parties. The copy of the audit documentation delivered to Legislative Post Audit is subject to the Open Records Act. Requests for access to or copies of the audit documentation shall be referred to Legislative Post Audit as the applicable public agency under the Act.

Trade secrets or confidential and proprietary information legally recognized as such and protected by law may be requested to be withheld if clearly labeled "Confidential and Proprietary" on each individual document. To be withheld from the public domain, the contractor must follow the instructions herein. The contractor's entire set of audit documentation will not be considered confidential or proprietary. The contractor shall provide detailed written documentation justifying why this material should be considered "Confidential and Proprietary." Legislative Post Audit reserves the right to accept, amend or deny such requests for maintaining information as confidential. and proprietary in accordance with Kansas law. Legislative Post Audit does not guarantee protection of any information which is not submitted as required.

3.18. Quality Control Review:

In the event a quality control review is conducted on the audit under the contract by any professional or regulatory body during the contract period or after, the contractor shall notify the Post Auditor within five business days of the contractor receiving notice of the quality control review. The contractor agrees that the results, including any written reports, of said review shall be released to the Post Auditor within five business days of receiving such results. Written reports shall be clearly marked "Confidential and Proprietary." Legislative Post Audit will consider these reports confidential and not a public record under the provisions of the Open Records Act (K.S.A. 45-215 et seq.).

3.19. Employment of Counsel and Resolution of Litigation and Legal Fees:

In the event of litigation involving the audit regarding the services provided by the contractor (hereinafter referred to as “litigation”), the State of Kansas, or the contractor, the contractor shall:

- Promptly notify Legislative Post Audit after learning of any litigation related to the audit;
- Cooperate fully by providing Legislative Post Audit with all non-confidential relevant information and documents within its control as requested;
- Reasonably assist the State of Kansas in the defense of any litigation.

In the event the State of Kansas, any agency, committee or employee is the sole named defendant in litigation, such party shall have discretion to defend, settle, compromise or otherwise resolve such litigation.

In the event the contractor or any of its staff is the sole named defendant in any litigation related to the contract, the contractor shall keep Legislative Post Audit informed of the status of the litigation and any decision to settle, compromise or otherwise resolve the litigation if such litigation, settlement or compromise could have a financial impact on the State of Kansas. Any settlement, compromise or other resolution which has a financial impact on the State of Kansas shall be approved in writing by the State of Kansas, which such approval shall not be unreasonably withheld.

In the event the State of Kansas and the contractor are codefendants in any litigation, the parties will cooperate fully with each other to defend, settle, compromise or otherwise resolve such litigation consistent with the terms of the contract.

In the event any entity other than the State of Kansas or the contractor is named as a defendant in litigation, the State of Kansas can elect to defend, settle, compromise or otherwise resolve such litigation with respect to those other entities.

The contractor shall be responsible for all the State of Kansas’ reasonable attorney’s fees, costs and expenses related to the contractor’s negligence or breach of the contractor’s obligations or duties under the contract. The contractor waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on the contractor in the manner authorized by applicable law or court rule.

The State of Kansas, its agencies and employees reserve the right to select and retain counsel.

The provisions of this section shall survive termination or expiration of the contract.

3.20. Notice to Auditees:

The contractor shall provide adequate notice of at least two weeks to the auditee prior to the beginning of fieldwork. In addition, the contractor shall notify Legislative Post Audit when fieldwork begins.

3.21. Auditee Responsibilities:

The auditee is responsible for:

- Making all files and records available to the contractor;
- Preparing all schedules required by the contractor;
- Making work space available for the contractor;
- Providing assistance to the contractor (i.e.: answer questions, gather documentation from files);
- Providing a written response to the contractor addressing the audit findings to be included in the final audit report within one week of receiving the draft report

If audit work performed by the contractor is substantially delayed due to the auditee's failure to comply with the provisions of this section, the contractor may notify the Post Auditor in writing that additional fees may be necessary to complete the scope of work. Any such additional fees shall be negotiated by the Post Auditor and the contractor and shall be incorporated into the contract by written amendment executed in accordance with the terms and conditions of the contract.

3.22. Contractor Project Manager:

The contractor shall designate a project manager who shall be the contact with Legislative Post Audit. The Project Manager will oversee all activities of the contractor required by the contract.

3.23. Legislative Post Audit Liaison:

The Legislative Post Auditor will be a liaison to the contractor throughout the audit. The contractor shall include the Post Auditor in scheduling all entrance, update, or exit conferences with any State of Kansas agency or component unit.

Prior to the contractor contacting any State of Kansas agency or related entity for the first time, the contractor shall give notice to the Post Auditor. The Post Auditor shall send an introduction letter to the agency head and copy agency staff that are determined to be audit contacts.

3.24. Contract Administration:

The contract shall be administered for the State of Kansas by Legislative Post Audit, who shall be responsible for matters relating to the contract.

3.25. Compliance with Laws:

The contractor shall be responsible for complying with applicable federal, state, and local laws and regulations.

3.26. Federal False Claim Act:

To the maximum extent permitted by law, the contractor agrees to not seek and waives any right to accept any relief or award from any charge or action, under both the Federal False Claims Act and the Kansas False Claims Act, against the State of Kansas before any federal, state, or local administrative agency or federal state or local court whether filed by the contractor or on the contractor's behalf using any information obtained in the course of the audit engagement.

3.27. Indemnity:

The contractor shall indemnify and hold harmless Legislative Post Audit and the State of Kansas officers or employees for any payment made or action if it is determined that such payment or action was caused directly or indirectly by:

- A negligent act or omission by the contractor;
- A criminal, fraudulent or dishonest act by the contractor; or
- Any disregard of the contractor's obligations or any fiduciary duty under the contract.

3.28. Validity and Waiver:

The invalidity in whole or in part of any provision of the contract shall not affect the validity of other provisions. A waiver of a breach of any provision or performance guaranty of the contract shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of the contract. The failure of the parties to enforce at any time or from time to time any provision of the contract shall not be construed as a waiver thereof. No contract term or condition shall be held to be waived, modified or deleted except by a written amendment signed by the parties.

3.29. Proof of Insurance:

The contractor shall have general professional liability insurance or specific professional liability insurance in an amount sufficient for this engagement. Evidence of this coverage shall be made available to Legislative Post Audit before contract execution.

3.30. Personnel, Supplies and Equipment, Materials and Workmanship:

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

3.31. Publications:

None of the provisions of the contract shall be construed to prohibit the publication by the contractor of any reports, information, data or other documents prepared or assembled by the contractor under the contract; EXCEPT, as follows:

- No reports, maps, or other documents produced in whole or in part under the contract shall be the subject of an application for copyright by or on behalf of the contractor.
- Contents of the audit may not be released in violation of the Legislative Post Audit Act or Legislative Post Audit Committee Rules.
- No reports, maps, or other documents may be used as or within advertisements or marketing material for the contractor.

3.32. Notices:

All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") which may be required or desired to be given by either party to the other shall be in writing and shall be made by: (1) personal delivery, (2) United States mail, postage prepaid, return receipt requested, (3) overnight delivery, prepaid, or (4) e-mail with a read receipt requested.

Notices to the State of Kansas shall be addressed as follows:

Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson Street, Suite 1200
Topeka, KS 66612

3.33. Force Majeure:

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

3.34. Independent Contractor:

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

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

3.35. Antitrust:

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

3.36. Third Party Beneficiaries:

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

3.37. Captions:

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

3.38. Severability:

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

3.39. Debarment of State of Kansas Contractors:

Any contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this

Agreement may be barred for up to a period of three years, pursuant to K.S.A. 75-37,103, or have its work evaluated for pre-qualification purposes. The contractor shall disclose any conviction or judgment for a criminal or civil offense of any employee, individual or entity which controls a company or organization or will perform work under this Agreement that indicates a lack of business integrity or business honesty. This includes: (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a State of Kansas contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in disqualification of the bid or termination of the contract.

3.40. Worker Misclassification:

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

3.41. Injunctions:

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

3.42. Acceptance:

No contract provision or use of items by Legislative Post Audit shall constitute acceptance or relieve the contractor of liability in respect to any expressed or implied warranties.

3.43. Ownership:

All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the contractor under the contract shall be owned by the auditee. The contractor may not release any materials without the written approval of the auditee.

3.44. Certification Individual or Company Not Currently Engaged in a Boycott of Israel:

In accordance with K.S.A. 75-3740e and 75-3740f, the State of Kansas shall not enter into a contract with any Company to acquire or dispose of services, supplies, information technology or construction, unless such Company submits a written certification that such Company is not currently engaged in a boycott of Israel.

The attached certification must be signed and included with the bid documents.

4. SCOPE OF WORK

4.1. Introduction:

In 2012, the Wireless Enhanced 911 Act was modified and renamed the Kansas 911 Act. In addition to several funding changes, the Kansas 911 Act established a 26-member 911 Coordinating Council. The council is responsible for monitoring the delivery of 911 services, developing strategies for future system enhancements, and distributing available grant funds to Public Safety Answering Points (PSAP).

K.S.A. 12-5377(c) requires an audit of the 911 system at least once every five years to determine the status of 911 service implementation, whether the moneys received by PSAPs are being used appropriately, and whether the amount of moneys collected through the act are adequate. The current audit shall be completed and the report presented to the Legislative Post Audit Committee on or before December 31, 2023.

4.2. General Requirements:

4.2.1. Deliverables: Quality Control Review (QCR):

The contractor shall provide audit documentation, access to the contractor's staff, office space, and any additional items needed to complete any QCR should this audit be selected for a QCR by an oversight agency for audit or any professional or regulatory body.

4.2.2. Deliverables: Planning and Concluding Meetings:

Prior to the contractor contacting any agency or beginning any fieldwork, the contractor and Legislative Post Audit shall hold a planning meeting. Items to be discussed shall include the work plan, findings from Legislative Post Audit performance audits that may be of interest to the contractor, protocol for contacting agencies and holding entrance and exit meetings, and other subjects as deemed necessary.

Upon completion of the report and audit documentation reviews, the contractor, Legislative Post Audit and the 911 Coordinating Council shall hold a concluding meeting. Items to be discussed shall include the results of the report and audit documentation reviews, and the results of the surveys of audited agencies, what worked well during the current audit and what could be improved in future audits.

4.2.3. Deliverables: Work Plan:

The contractor shall provide Legislative Post Audit an outline audit work plan showing the audit areas. This work plan shall also include tentative dates for the start and completion of field work and a listing of the staff assigned to the audit. Any significant deviation from the submitted work plan shall be in writing and signed by the parties. The work plan shall be provided prior to commencing audit work.

4.2.4. Deliverables: Entrance and Exit Meetings:

Prior to the contractor beginning any fieldwork, the contractor shall hold an entrance meeting with Legislative Post Audit and members of the 911 Coordinating Council. Items to be discussed at the entrance meeting shall include the work plan, fieldwork dates, key staff that need to be available during fieldwork, documents that need to be available, and other subjects as deemed necessary.

No later than one week after the end of fieldwork, the contractor shall hold an exit meeting with Legislative Post Audit and members of the 911 Coordinating Council. Items to be discussed at the exit meeting shall include the findings, expectations for the corrective action plan, a debrief of the engagement including things that went well and things that could be improved, and any other subject that is deemed necessary.

4.2.5. Deliverables: Status Reports:

The contractor shall provide progress reports to Legislative Post Audit on the first Monday of every month from the time field work begins until the project is completed. However, progress reports may be provided more frequently. The contractor shall notify Legislative Post Audit of any difficulties encountered, the status of the audit including estimated completion dates, the status of any audit findings, and any other issues.

4.2.6. Deliverables: Draft Audit Report:

The contractor shall provide an electronic copy of the draft audit reports to Legislative Post Audit no later than November 1, 2023.

Legislative Post Audit and members of the 911 Coordinating Council shall review the draft report and provide comments to the contractor within one week of receiving the draft report. The contractor shall incorporate changes agreed upon by the contractor, Legislative Post Audit, and the 911 Coordinating Council into the final report.

The Kansas 911 Coordinating Council shall provide a written response to the contractor within one week of receiving the draft report. The contractor shall include the Kansas 911 Coordinating Council's written response in the final audit report.

4.2.7. Deliverables: Final Audit Report:

The contractor shall provide an electronic copy of the final audit reports to Legislative Post Audit no later than November 15, 2023. Scanned in versions of hard copies shall not be accepted by Legislative Post Audit. The final audit report copy shall allow Legislative Post Audit to add a cover and transmittal letters.

Legislative Post Audit shall be solely responsible for answering all questions and for distributing all reports other than those to be provided under this Scope of Work Section, until the final audit report is presented at the Legislative Post Audit Committee meeting.

4.2.8. Deliverables: Report to the Legislative Post Audit Committee:

The contractor shall appear before the Legislative Post Audit Committee and any other legislative committees as deemed necessary by the Post Auditor to present the final audit report. It is anticipated that there will be no more than two additional appearances in front of other legislative committees.

4.2.9. Deliverables: Audit Documentation:

The contractor shall deliver to Legislative Post Audit one complete, legible copy of the audit documentation generated by the contractor in the conduct of the audit within 60 days after issuance of the final audit report. Audit documentation shall be in an electronic format agreed to by the contractor and Legislative Post Audit. The contractor shall submit the audit documentation via a secure means.

4.3. Evaluation of the Kansas 911 Act:

4.3.1. Status of 911 Service Implementation:

The audit shall include a determination of the status of migration to NG911 as of July 1, 2023. As part of the evaluation, the contractor will interview 911 Coordinating Council members to determine the status of the state-hosted NG911 platform and the timetable for implementing the various features of the NG911 system, such as text-to-911, texting while roaming, location identification, multi-media messaging, geospatial call routing, translation services, and other i3 services.

For any PSAPs that have indicated they do not plan to join the state-hosted NG911 platform, the contractor shall determine how they intend to replace their legacy system with another system to migrate to NG911, how they intend to access ESInet call routing, a timetable for this migration and access, and the projected cost of the migration and access. (at this time, indications are all PSAPs plan to join the system). Note: at this time there are 0 or 1 PSAPs who are not on the system.

4.3.2. Use of Moneys Received by PSAPs:

The audit shall include a determination of whether moneys received by PSAPs pursuant to the Kansas 911 Act are being used appropriately. In making this determination, the contractor will review state statutes to identify allowable uses for moneys distributed under the act. The contractor will work with the 911 Coordinating Council and the Local Collection Point Administrator to collect information on PSAP expenditures for calendar year 2021 including information reported in the 911 Coordinating Council's annual reports for that year. The contractor will review sufficient documentation of purchases and expenditures made by PSAPs to conclude whether they conformed to state law. The contractor will also determine whether the reports from the PSAPs to the 911 Coordinating Council accurately reflect the funds received, disbursed, and beginning and ending balances. The contractor will verify the amount collected with the vendor, verify the LCPA distributed the funds among the PSAPs in accordance with statute.

4.3.3. Adequacy of Funding:

The audit shall include a determination of whether the amount of moneys collected pursuant to the Kansas 911 Act is adequate. In this determination, the contractor will work with the 911 Coordinating Council and PSAP officials to determine the projected annual revenue and expenditures for NG911 services for Kansas PSAPs. Based on the results, the contractors will determine whether current funding levels appear to be adequate to complete migration to NG911 services and then maintain and support NG911 services including accessing ESInet call routing for Kansas PSAPs.

CERTIFICATION PURSUANT TO K.S.A. 75-3740f

In accordance with K.S.A. 75-3740e and 75-3740f, and in the interest of the state's economic policy, it is hereby certified that the company listed below is not currently engaged in a boycott of goods or services from Israel that constitutes an integral part of business conducted or sought to be conducted with the State of Kansas.

Signature, Title of Contractor

Date

Printed

Name of Company