From: Kubicek, Craig
To: Lauber, Joseph
Cc: Kilgore, Robin; Goins, Anthony; Curran, Dan
Subject: RE: RE: Economic Development RFP
Date: Friday, January 6, 2023 10:52:36 AM

Good Morning,

Thanks for the update and quick response.

Craig Kubicek, CPA, CFE
Deputy Auditor
Auditor of Public Accounts
Room 2303, State Capitol
Lincoln, NE 68509
phone 402-326-3063
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From: Lauber, Joseph <joseph.lauber@nebraska.gov>
Sent: Wednesday, January 4, 2023 11:56 AM
To: Kubicek, Craig <craig.kubicek@nebraska.gov>
Cc: Kilgore, Robin <robin.kilgore@nebraska.gov>; Goins, Anthony <Anthony.Goins@nebraska.gov>; Curran, Dan <Dan.Curran@nebraska.gov>
Subject: RE: Economic Development RFP

Good Morning Craig,

Thank you for bringing this to our attention. The inclusion of preferential language for HBCUs in RFP 114045 O3 was an oversight on the Department's part.

The scoring for the proposals has not yet begun and the evaluation committee will be instructed to apply no preferential treatment relating to HBCUs.

Special attention to Article I-30 will be applied during the preparation of all future bidding opportunities.

Please contact me if you have any additional questions pertaining to this matter.

Regards,

Joe

Joseph H. Lauber
Deputy Director – Operations/Chief Legal Officer

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From: Kubicek, Craig <craig.kubicek@nebraska.gov>
Sent: Tuesday, January 3, 2023 12:37 PM
To: Kilgore, Robin <robin.kilgore@nebraska.gov>
Cc: Goins, Anthony <Anthony.Goins@nebraska.gov>
Subject: Economic Development RFP

Good Afternoon,

As you may know, the Nebraska Auditor of Public Accounts (APA) has an anonymous hotline number and email for Nebraskans to raise issues about possible waste, mismanagement, or fraud within government. In connection with this, we help to provide accurate information to taxpayers and attempt to correct misperceptions about government. We try to do so in a timely manner, believing this to be a valuable service to the State's citizens.

Recently, we received some concerns regarding RFP 114045 O3 and how a provision therein for granting preference to HBCUs appears to conflict with the Nebraska State Constitution. The following is found on page 29 of the attached PDF of that RFP: "Detail how the Bidder will target regions across the U.S. to recruit students to Nebraska internships. The Department will preference, Bidders who include HBCUs."

Article I-30 ("Discrimination or grant of preferential treatment prohibited; public employment, public education, or public contracting; section, how construed; remedies.") of the Nebraska Constitution contains the following:

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

In order to assist us with the inquiry received, could you please tell me whether this constitutional prohibition against preferential treatment based on "race, sex, color, ethnicity, or national origin in the operation of . . . public contracting" was taken into consideration when including the preferential language for HBCUs in RFP 114045 O3? If so, could you please explain how such language was determined to be in accordance with Article I-30?

Thank you very much for your assistance with this inquiry.

Sincerely,

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