

KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION

REQUEST FOR PROPOSALS

for

Guaranteed Energy Savings Contracts

School District Name: Price Contract

School District Address: KEDC

Project: Guaranteed Energy Savings Performance Contract

RFP Post Date: June 21, 2018

RFP Due Date: August 1, 2018, 2:00 PM Eastern

Contact Name: Sam Atkins

Contact Title: Chief Development Officer

Contact Address: 904 Rose Road Ashland, KY 41102

Contact Phone: (606) 928-0205

Contact Email: sam.atkins@kedc.org

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1. ANNOUNCEMENT

1.1 The Kentucky Educational Development Corporation will receive Proposals from Qualified Providers for services to be provided under KRS 45A.352 – Guaranteed energy savings contracts involving local public agencies.

1.2 The intended Project is for the identification, design and implementation of energy conservation measures on a guaranteed energy savings contract basis.

1.3 Interested and Qualified Providers can receive a copy of the official Request for Proposals (RFP) by submitting a one-page letter of interest to:

KEDC
Attention: Sam Atkins
904 Rose Rd
Ashland, KY 41102-7104
Fax: (606) 928-3785

1.4 An authorized representative of KEDC will receive sealed proposals until **2:00 PM Eastern on August 1, 2018** at the following address:

KEDC
904 Rose Rd.
Ashland, KY 41102-7104
Phone: (606) 928-0205

Proposals received after the date and time set for the opening will not be accepted. Proposals received after the time designated will not be opened by KPC. KPC and the Board of Directors cannot assume responsibility for any delay as a result of failure of the mail or delivery services to deliver proposals on time. (Please note that FED EX does not guarantee delivery time to KPC/KEDC because they classify KEDC as being in a rural area.)

1.5 Proposals shall comply with the format requested.

1.6 Proposals shall be enclosed in sealed envelopes or containers. Clearly label all proposals **GUARANTEED ENERGY SAVINGS CONTRACT PROPOSAL** on the outside of the package or container. **Faxed or emailed submissions will NOT be accepted.**

1.7 Responding providers will be required to meet 702 KAR 4:160 and certain qualifications set out in the RFP and which include the following:

- A. Evidence of experience providing guaranteed energy savings contract services in accordance with KRS 45A.352;
- B. Evidence of ability to provide required insurance;

- C. Evidence of ability to provide required Performance and Payment Bonds;
 - D. Ability to provide experienced office and field staff and design professional support;
 - E. Completion of KDE Non-Collusion Affidavit
- 1.8 Questions concerning the RFP or the project should be addressed to the contact person identified on cover sheet.
- 1.9 Ownership of all data, materials, and documentation originated and pursuant to the RFP shall be subject to public inspection in accordance with prevailing public access laws.
- 1.10 The Owner reserves the option of electing not to move forward with the project if the selection committee determines it is not in the best interest of the district.
- 1.11 Contract Period:
- A. The contract period will end on September 30, 2020 plus any extensions. The contract may be extended on a biennium basis by KEDC not to exceed ten years in total including the first contract period.
 - B. KEDC shall notify the RESPONDENT in writing of its intent to extend or not to extend the contract by March 1 of each renewal year.
 - C. Respondent shall submit in writing by April 15 that it either does or does not intend to extend the contract.
 - D. Any necessary price increases or decreases should be submitted in writing to KEDC by April 15 for the extended year. If price increases submitted are deemed excessive by KEDC then KEDC shall have cause to not extend the contract. Price change notifications will follow the same pattern as above for any years in which this contract is extended.
 - E. KEDC reserves the right to extend the term for up to 180 days to continue a source of supply until new or replacement contracts are completed.
 - F. Since this bid request is subject to multiple contracts being accepted, KEDC reserves the right to renew and/or solicit additional bids.
 - G. Any contract extension is contingent upon written agreement of KEDC and the RESPONDENT.
 - H. The bid will not be automatically extended beyond any current period unless expressly approved by KEDC. KEDC reserves the right on any contract extension to revise, update, or supplement the contract terms and conditions including the assessment of administrative fees to the contractor as needed to cover the cost of KEDC servicing the bid contract, bidding program, or procurement service for the members.
- 1.12 This RFP is subject to KRS 45A.455 prohibition against conflict of interest, and gratuities and kickbacks.

2. INSTRUCTIONS TO RESPONDENTS

2.1 Preparation of Proposal:

- A. The respondent is expected to comply with all specifications, terms, conditions, and instructions contained in this RFP. Failure to do so will be cause for rejection.
- B. The Proposal should be prepared simply and economically, providing a straightforward concise description of the proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content. Each copy of the Proposal, and all documentation submitted with the Proposal, should be bound in a single volume where practical. The Owner will not be responsible for any costs incurred by respondent in preparing or presenting the Proposal.
- C. Any exceptions taken to the terms and conditions of this RFP shall be clearly identified. If no exceptions are listed it will be concluded that the respondent will meet, in every detail, the conditions stipulated in this RFP.
- D. Recheck bid for possible errors; KPC will not accept any alterations or corrections, including signatures, once the bid opens. No bid may be altered, or amended after the specified time and date set for the bid opening. The KEDC Board or its designee reserves the right to waive defects and informalities in bids, to reject any or all bids, or to accept any bid as may be deemed to its interest.
- E. KEDC may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.
- F. KPC reserves the right to award contracts to multiple RESPONDENTS.
- G. Additional discounts and/or special pricing are encouraged and may be accepted when consistent with other terms and conditions of the contract and offered equally to all members.
- H. RESPONDENT shall provide each item on this contract to all KPC members at the same price, assuming equal quantities and purchases made within the same timeframe. RESPONDENTS shall not submit multiple discount levels for the same product by KPC member (i.e., regional bidding is NOT permissible).

- ### 2.2 Bid Protest Procedures: The KEDC Board of Directors or its designee, shall have authority to determine protests and other controversies of actual or prospective bidders in connection with the solicitations or selection for award of a contract.

Any actual or prospective bidder, who is aggrieved in connection with solicitation

or selection for award of a contract, may file protest with the Office of the Executive Director of KEDC. A protest or notice of other controversy must be filed promptly within two (2) calendar weeks after award of bid. All protests or notices of other controversies must be in writing and addressed to:

Executive Director
KEDC
904 Rose Road
Ashland, KY 41102
(606) 928-0205

The KEDC Board of Directors or its designee shall issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision of the KEDC Board of Directors shall be final and conclusive.

2.3 Late Proposal, Modification, or Withdrawal:

- A. Proposals received after the designated date and time will not be accepted and will be returned unopened.
- B. Proposals may be modified or withdrawn by written notice received prior to deadline for receipt of the Proposal without prejudice. A Proposal also may be withdrawn in person by a respondent or his authorized representative, provided his identity is made known and he signs a receipt for the Proposal, but only if the withdrawal is made prior to the deadline set for receipt of the Proposal.

2.4 Number of Copies: The respondent shall furnish Five (5) copies, minimum, of the completed RFP package. In addition the respondent shall submit a digital copy of the proposal on a portable USB memory drive.

2.5 Form of Agreement: The form of agreement to be used shall be the current American Institute of Architects (AIA) document(s) required by 702 KAR 4:160.

2.6 Conditions:

- A. The selected provider shall furnish all utilities required for the provider's on-site office and/or operations for the duration of the contract.
- B. The selected provider shall furnish Payment and Performance Bonds, from a bonding institution listed in the current edition of the Federal Register, in an amount equal to 100% of the Proposal price as surety for the faithful performance of this contract. Bonds shall be kept in force for the duration of the contract; and, executed by a resident agent of the Commonwealth of Kentucky; and, be in compliance with applicable Kentucky Revised Statutes.

- C. Existence of insurance required hereunder shall be established by the furnishing of Certificates of Insurance issued by insurers duly licensed within the Commonwealth of Kentucky. Insurance shall be in force on the date of execution of the Contract and continued for a period equal to the duration of the project.
- D. Provider shall include design professional services as required by KRS 322 and KRS 323. Provider's design consultants shall maintain Professional Liability Insurance as stated in the AIA Document A141TM – 2004, Standard Form of Agreement Between Owner and Design-Builder – KDE Version, and related Exhibits required by 702 KAR 4:160.
- E. Insurance shall include coverage as stated in the AIA Document A141TM – 2004, Standard Form of Agreement Between Owner and Design-Builder – KDE Version, and related Exhibits required by 702 KAR 4:160.

2.7 Resident Bidder Status: The scoring of cost is subject to Reciprocal preference for Kentucky resident bidders *Vendors not claiming resident bidder status need not submit the corresponding affidavit.

KRS 45A.490 Definitions for KRS 45A.490 to 45A.494.

As used in KRS 45A.490 to 45A.494:

- (1) "Contract" means any agreement of a public agency, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item; and
- (2) "Public agency" has the same meaning as in KRS 61.805.

KRS 45A.492 Legislative declarations.

The General Assembly declares:

- (1) A public purpose of the Commonwealth is served by providing preference to Kentucky residents in contracts by public agencies; and
- (2) Providing preference to Kentucky residents equalizes the competition with other states that provide preference to their residents.

KRS 45A.494 Reciprocal preference to be given by public agencies to resident bidders -- List of states -- Administrative regulations.

- (1) Prior to a contract being awarded to the lowest responsible and responsive bidder on a contract by a public agency, a resident bidder of the Commonwealth shall be given a preference against a nonresident bidder registered in any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder.
- (2) A resident bidder is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:
 - (a) Is authorized to transact business in the Commonwealth; and
 - (b) Has for one (1) year prior to and through the date of the advertisement, filed Kentucky corporate income taxes, made payments to the Kentucky unemployment insurance fund established in KRS 341.490, and maintained a Kentucky workers' compensation policy in effect.

(3) A nonresident bidder is an individual, partnership, association, corporation, or other business entity that does not meet the requirements of subsection (2) of this section.

(4) If a procurement determination results in a tie between a resident bidder and a nonresident bidder, preference shall be given to the resident bidder.

(5) This section shall apply to all contracts funded or controlled in whole or in part by a public agency.

(6) The Finance and Administration Cabinet shall maintain a list of states that give to or require a preference for their own resident bidders, including details of the preference given to such bidders, to be used by public agencies in determining resident bidder preferences. The cabinet shall also promulgate administrative regulations in accordance with KRS Chapter 13A establishing the procedure by which the preferences required by this section shall be given.

(7) The preference for resident bidders shall not be given if the preference conflicts with federal law.

(8) Any public agency soliciting or advertising for bids for contracts shall make KRS 45A.490 to 45A.494 part of the solicitation or advertisement for bids.

The reciprocal preference as described in KRS 45A.490-494 above shall be applied in accordance with 200 KAR 5:400.

An offeror claiming Kentucky resident bidder status shall complete the attached Required Affidavit for Bidders, Offerors, and Contractors Claiming Resident Bidder Status. KEDC reserves the right to request documentation supporting a claim of resident bidder status. Failure to provide such documentation upon request shall result in disqualification of the offeror or contract termination.

A nonresident offeror shall submit its certificate of authority to transact business in the Commonwealth as filed with the Commonwealth of Kentucky, Secretary of State. The location of the principal office identified therein shall be deemed the state of residency for that offeror. If the offeror is not required by law to obtain said certificate, the state of residency for that offeror shall be deemed to be that which is identified in its mailing address as provided in its proposal.

2.8 Pre-qualification:

A. Physical Facilities - RESPONDENT must have the warehouse facilities required to safely and securely store the products required by these specifications. KEDC reserves the right to pre-qualify any or all bidders and to reject any bidder not meeting the requirements in the areas of warehouse facilities and equipment.

B. Financial Capacity - The potential bidder shall have financing adequate to purchase items in the most economical quantities. References may be requested to document adequate financial capacity.

2.9 Accounting Practices: During the life of any contract awarded as a result of this RFP, the RESPONDENT must clearly demonstrate the capacity to provide accurate,

reliable, and timely reports in terms of invoices, statements, credits, and usage data. Further, they must demonstrate the ability and capability to provide any and all data necessary to accomplish an accurate and time efficient audit of cost on items being purchased under the cost process. Discounts, rebates and credits shall be clearly identified on each invoice to KPC members.

2.10 Compliance with State and Federal Laws:

- A. Any contracts resulting from this solicitation shall be governed under the laws of the Commonwealth of Kentucky.
- B. Any suit, action or other proceeding regarding the execution, validity, interpretation, construction, or performance of this agreement brought against KEDC/KPC shall be filed in the Boyd County Circuit Court of the Commonwealth of Kentucky.
- C. Any suit, action or other proceeding regarding the execution, validity, interpretation, construction, or performance of this agreement brought against a KPC member shall be filed in the appropriate local jurisdiction of said member.
- D. The RESPONDENT shall be in compliance and will comply with any and all local, state, and federal laws and regulations related to the awarded contract and the rendering of goods and /or services including but not limited to:
 - a. The Civil Rights Act of 1964 as amended;
 - b. The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3);
 - c. The Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5);
 - d. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5);
 - e. Section 306 of the Clean Air Act (42 U.S.C.) 187 [h], Section 508 of the Clean Water Act (33 U.S.C. 1368, Executive Order 11738 and Environmental Protection Agency (EPA) regulations, (40 CFR Part 15);
 - f. The Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

- 2.11 Liability: The RESPONDENT agrees to protect, defend, and save harmless KEDC, KPC, and members from any suits or demands for payment that may be brought against it for the use of any patented material, process, article, or device that may enter into the manufacture, construction, or form a part of the work covered by either order or contract; and awarded bidder further agrees to indemnify and save harmless KEDC, KPC, and members from suits or actions of every nature and description brought against it for, or on account of any injuries or damages received or sustained by any party or parties by, or for any of the acts of the bidders, his servants or agents. The RESPONDENT will hold KEDC and participating

members harmless for all damages resulting from consumption of products delivered under this contract when such damages are attributed to foreign materials or other defects in products delivered by the RESPONDENT.

- 2.12 Non-Assignability of Awarded Contract: RESPONDENT cannot convey this contract to its successors or assigns without the prior, express approval of the Board of Directors of KEDC or its designee.
- 2.13 Quantities: It shall be understood that participation in any resulting price contract by KPC members is strictly voluntary and members will have no obligation to purchase from the awarded RESPONDENT.
- 2.14 Notices: Notices under this Agreement are sufficient if given by nationally recognized overnight courier service, certified mail (return receipt requested), facsimile or electronic mail with electronic confirmation, or personal delivery to the other party if given to the last known address. Notice is effective: (a) when delivered personally, (b) three business days after sending by certified mail, (c) on the business day after sending by a nationally recognized courier service, or (d) on the business day after sending by facsimile or electronic mail with electronic confirmation to the sender. A party may change its notice address by giving notice in accordance with this section.
- 2.15 Severability: If any provision of this Agreement is determined by any court or governmental authority to be unenforceable, the parties intend that this Agreement be enforced as if the unenforceable provisions were not present and that any partially valid and enforceable provisions be enforced to the extent that they are enforceable.
- 2.16 No Waiver: A party does not waive any right under this Agreement by failing to insist on compliance with any of the terms of this Agreement or by failing to exercise any right hereunder. Any waivers granted hereunder are effective only if recorded in a writing signed by the party granting such waiver.
- 2.17 Cumulative Rights/Construction: The rights and remedies of the parties under this Agreement are cumulative, and either party may enforce any of its rights or remedies under this Agreement or other rights and remedies available to it at law or in equity.
- 2.18 Installation: For all installation services provided under this bid the bidder agrees to complete all work within the guidelines set forth. KPC reserves the right to inspect all work performed under this contract. KPC will correct or require correction of substandard work at the bidder's expense.

Substandard work is a default of the bid contract and grounds for immediate termination of the contract.

- 2.19 Warranty: RESPONDENT shall make available and honor all manufacturer's warranties, standard and extended for all materials provided under this price

contract.

- 2.20 Recalls: RESPONDENT shall notify KPC and its members immediately of any product recalls. RESPONDENT will issue a credit or comparable substitute for any delivered, recalled product at the member's discretion. All costs associated with voluntary and involuntary product recalls shall be borne by RESPONDENT.
- 2.21 Product and Safety Information: RESPONDENT shall provide upon request by any member, the most recent MSDS information sheets for any products the RESPONDENT may deliver to said member.
- 2.22 Surcharges: Fuel surcharges or other similar surcharges are not permissible.
- 2.23 Contract Suspension: KPC may, at its sole discretion, suspend the awarded contract for a period of up to 90 days to investigate alleged instances of material breach of contract or material non-compliance. The RESPONDENT will not accept new orders from KPC members while suspended. However, the RESPONDENT may complete orders already in process. Breach of contract, default, or noncompliance renders the awarded contract null and void. The RESPONDENT agrees that they have no legal recourse of any nature against KEDC, KPC, or member entities except for payment of goods, supplies and services that are due for prior purchases sold under the awarded contract. The decision of KPC regarding suspension and/or termination is final.
- 2.24 Termination for Convenience: KPC reserves the right to terminate any contract at any time, completely or in part, by thirty (30) day written notice to Contractor. Upon receipt by the Contractor of the "notice of termination", the Contractor shall discontinue all services with respect to the applicable contract. KPC or the participating member, after deducting any amount(s) previously paid, shall pay for all services rendered or goods supplied by the Contractor, as well as any reasonable costs incurred by Contractor up to the time of termination but not including Contractor's loss of profit. The cost of any agreed upon services provided by the Contractor will be calculated at the agreed upon rate prior to "notice of termination" and a fixed fee contract will be pro-rated (as appropriate).
- 2.25 Termination for Non-Performance (Default): KPC may terminate the resulting contract for non-performance, as determined by KPC, for such causes as:
- A. Failing to provide satisfactory quality of service, including, failure to maintain adequate personnel, whether arising from labor disputes, or otherwise any substantial change in ownership or proprietorship of the Contractor, which in the opinion of KPC is not in its best interest, or failure to comply with the terms of this contract;
 - B. Failing to keep or perform, within the time period set forth herein, or violation of, any of the covenants, conditions, provisions or agreements herein contained;

- C. Adjudicating as voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section from time to time, or under any similar law or statute of the United States or any state thereof, or if an order for relief shall be entered against the Contractor in any proceeding filed by or against contractor thereunder. In the event of any involuntary bankruptcy proceeding being instituted against the Contractor, the fact of such an involuntary petition being filed shall not be considered an event of default until sixty (60) days after filing of said petition in order that Contractor might during that sixty (60) day period have the opportunity to seek dismissal of the involuntary petition or otherwise cure said potential default; or
 - D. Making a general assignment for the benefit of its creditors, or taking the benefit of any insolvency act or, if a permanent receiver or trustee in bankruptcy shall be appointed for the Contractor.
- 2.26 Demand for Assurances: In the event KPC has reason to believe Contractor will be unable to perform under the Contract, it may make a demand for reasonable assurances that Contractor will be able to perform all obligations under the Contract in a timely manner. If Contractor is unable to provide adequate assurances, then such failure shall be an event of default and grounds for termination of the Contract.
- 2.27 Notification of Default: KPC will provide ten (10) calendar days written notice of default. Unless arrangements are made to correct the non-performance issues to KPC's satisfaction within ten (10) calendar days, KPC may terminate the contract by giving thirty (30) days' notice, in writing, of its intent to cancel this contract.
- 2.28 Compensable Damages for Breach: The Contractor agrees that the following items shall be included as compensable damages for any breach of a contract with KPC.
- A. Replacement costs
 - B. Cost of repeating the competitive bidding procedure expenses
 - C. Expenses incurred as the result of delay in obtaining replacements.

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

- 2.29 Piggyback Clause: KPC reserves the right to extend the terms, conditions, and prices of the awarded bidder to other Institutions who express an interest in participating in any contract that results from this bid. Each of the piggyback Institutions will issue their own purchasing documents for purchasing of goods and services. The respondent agrees that KEDC shall bear no responsibility or liability for any agreements between the respondent and the other Institution(s) who desire to exercise this option. Piggyback contracts may not extend beyond the contact date established by KPC. Participation by other institutions may not result in a material change to the contract.
- 2.30 Attorney Fees: In the event that either party deems it necessary to take legal action to enforce any provision of the contract, each party shall be responsible for their own expenses of such action, including attorney fees and costs at all stages of litigation.

3. PROJECT DESCRIPTION

This solicitation constitutes a Request for Proposal (RFP) from qualified organizations pursuant to KRS 45A.352 (Guaranteed energy savings contracts involving local public agencies), hereinafter referred to as "RESPONDENT", to provide Energy Savings Performance Contract (ESPC) services to Kentucky public schools through KPC. KPC's objective in issuing this RFP is to provide a means in which to select one or more qualified providers to offer ESPCs to public schools served by KPC. The contract shall follow the requirements of the KY ESPC statute and applicable sections of Kentucky Department of Education (KDE). Contract should be in accordance with all Kentucky Statutes and Regulations.

KPC reserves the right to reject any and all proposals and to be the sole judge of the value and merit of the proposals offered.

Responses to this solicitation shall be submitted in accordance with the instructions provided herein. All inquiries and questions regarding this solicitation should be directed to KPC contact person for this proposal:

Sam Atkins
904 Rose Rd.
Ashland, KY 41102

- 3.1 Respondent Information: KPC invites any qualified providers to respond to this solicitation. RESPONDENT must be responsible, regularly and practically engaged in providing the services requested, and possess ample resources for providing the services identified.
- 3.2 Payments and Administrative Fee:

- A. Each member shall be responsible for making payment to the RESPONDENT. Normally, members pay bills only after approval from the member board, which meets monthly. KEDC reserves the right to negotiate upon mutual agreement to serve as Purchasing Agent for any Contract including charging an additional administrative fee to the contractor beyond the two percent (2%) fee detailed below.
- B. The RESPONDENT will remit to KEDC an administrative fee of 2% for ALL work performed under this contract payable quarterly on the schedule below.
- C. It is the RESPONDENT's responsibility to track and report all purchases made by KPC members.
- D. The contractor will remit payment to KEDC on a quarterly basis by the 25th day of the next month accompanied by an electronic sales report showing total amounts for all purchases made by members under this contract during the period of the bid.

| <u>Period</u> | <u>Reporting and Payment Schedule</u> |
|--------------------|---------------------------------------|
| January - March | April 25 th |
| April - June | July 25 th |
| July - September | October 25 th |
| October - December | January 25 th |

- E. The fee is to be included in the contractor's pricing, and cannot appear on the member's invoice.
- F. RESPONDENT must report all payments received from members including but not limited to maintenance agreements, lease agreements, and professional services as purchases. The administrative fee applies to the entire amount of any project administered under this contract. Including work performed by subcontractors, material suppliers, and others under this contract. It is the contract holder's responsibility to report, collect, and remit all fees owed to KPC.
- G. In consideration of receiving a KPC PREFERRED VENDOR CONTRACT, all sales to KPC members occur under this contract unless the RESPONDENT holds an individual contract with the member. The RESPONDENT agrees to send a copy of all ESPC contracts executed with Kentucky public schools within two months of contract award.
- H. Remit the administrative fee payment to KEDC, 904 Rose Road, Ashland, KY 41102-7104. For your reference, KEDC's FEIN is 61-0659010. KEDC may modify the format of report and payment schedule (monthly or quarterly reporting) at its discretion.
- I. If the RESPONDENT holds multiple bid awards from KPC, the highest fee

structure applies to all purchases.

3.3 General Conditions:

KPC does not discriminate on the basis of religion, sex, race, national origin, age, ancestry, creed, color, political affiliation, membership in the National Guard, state defense force or any reserve component of the United States military or state military forces, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability or handicap or other bases prohibited under state or federal law.

- 3.2.1 This solicitation is to assist KPC in the selection of a qualified individual or organization (RESPONDENT) to provide services as described herein.
- 3.2.2 RESPONDENT shall submit their responses on the forms and in the manner specified and shall respond to each specification.
- 3.2.3 KPC reserves the right to amend the contents of this solicitation. The intent of such amendments is directed toward finding the best solution available at the associated cost. If it becomes necessary to amend any part of this specification, an addendum will be provided to all parties on the distribution list. Each addendum will be numbered (i.e. Addendum #). RESPONDENT's shall acknowledge receipt of said addendums in their response.
- 3.2.4 If additional data is necessary to provide clarification of provisions in this solicitation, a supplement will be provided to all parties on the distribution list. Each supplement will be numbered (i.e. Supplement #). RESPONDENT's shall acknowledge receipt of said supplements in their response.
- 3.2.5 Responses should be prepared simply and economically, providing a straightforward and concise explanation of the RESPONDENT's capabilities that will satisfy the identified requirements.
- 3.2.6 RESPONDENT may include additional information and data that is believed to be helpful to KPC in the evaluation of the services identified herein as an appendix to the response.
- 3.2.7 All costs for preparing and submitting responses are entirely the responsibility of the RESPONDENT and will not be chargeable in any manner to KPC.
- 3.2.8 KPC reserves the right to accept, negotiate changes to, or reject any or all responses or portions thereof, and to accept any responses or portions thereof that may be the most advantageous, and reserves the right to waive technicalities.

3.2.9 Any RESPONDENT that contacts any member of KPC's staff, Board or other member of the selection team, other than the designated contact or with the consent of the designated contact, with the intent to influence selection decisions, will be disqualified from further consideration.

3.2.10 Questions and Interpretations

- A. Refer questions concerning this solicitation to the contact person identified on the cover page. Any request for clarification or interpretation of provisions of this solicitation must be received at least three (3) business days prior to the proposal due date identified on the cover.
- B. Responses to the questions may result in a supplement or addenda. All supplements and addenda so issued shall become part of the specifications.
- C. RESPONDENT's shall carefully examine the contents of this solicitation and any subsequent addenda or supplements. Failure to do so shall not relieve RESPONDENT of the obligation to fulfill the terms therein identified.
- D. KPC shall be not be responsible for oral interpretations given by any KPC employee, representative or other individual; including KPC's contact person. The issuance of a written addendum or supplement is the only official method whereby interpretations, clarifications or additional information can be given that would change the terms and conditions of this solicitation.

3.2.11 Quality Control

- A. RESPONDENT shall note any deviations or exceptions from the specifications on the submitted response. If proposing an alternative other than specified, it must be clearly labeled as such. KEDC may, at its discretion, accept or reject any or all deviations or exceptions proposed.
- B. RESPONDENT's shall specifically identify any requirement, term or condition, whether contained in the main body of the RFP or an Addendum, Exhibit or Supplement, with which the RESPONDENT'S takes exception in the "Exceptions" section of the RESPONDENT'S proposal. If the RESPONDENT does not specifically identify such exception in this section of their proposal, it will be assumed that the RESPONDENT accepts and agrees to all of these requirements, terms and conditions.

3.2.12 Responses to Solicitation

All Proposals shall be submitted to:
KEDC
904 Rose Rd.
Ashland, KY 41102

- A. It is the responsibility of the respondent to ensure that Proposal arrive to the specified location by the deadline.
- B. Proposals will be opened and recorded. The opening and recording shall be conducted in a meeting open to the public.
- C. An individual with authority to the bind the RESPONDENT must sign the Proposal.
- D. RESPONDENT shall submit the following documents / information in their Proposal:
 - 1. Proposal in the format and containing the information as specified within this RFP including all Exhibits, Supplement and Addenda. Five (5) copies of the Proposal shall be submitted. Additionally, a copy of the proposal must be provided on a portable USB memory device.
 - 2. Acknowledgement of receipt of all Exhibits, Supplements and Addenda.
 - 3. Any and all exceptions to Requirements, Terms or Conditions shall be specifically identified in writing in the Exceptions section of the Proposal.

3.2.13 Anti-collusion Clause

- A. During the preparation and submission to this solicitation, RESPONDENT's are prohibited from directly or indirectly entering into any combination or arrangement with any person, firm or corporation, or entering into any agreement, or participate in any collusion, or otherwise take any action in the restraint of free competitive bidding in violation of the SHERMAN ACT (15 U.S.C. Section 1).
- B. In responding to the solicitation, RESPONDENT certifies that their Proposal is not the result of, or affected by, any act of collusion with, or any act of, another person or persons, firm or corporation engaged in the same line of business or commerce.
- C. In responding to the solicitation, RESPONDENT certifies that no person acting for, or employed by, KPC has an interest in, or is concerned with, this Proposal and that no person or persons, firm or corporation other than the RESPONDENT, have an interest in this Proposal.

- D. The bidder is legally entitled to enter into contracts with agencies of the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, gratuities and kickbacks including those prohibited by the provisions of the Model Procurement Code (KRS Chapter 45A).

3.2.14 Proprietary Information

- A. RESPONDENT is advised that most records and documents in the possession of KPC may be subject to access by the public. Trade secrets or proprietary information submitted in response to this solicitation will be protected by KPC to the extent permitted by law; however, KPC prefers that proprietary information not be included in the Proposal nor in any appendix to the Proposal.
- B. RESPONDENT must provide a statement that identifies any data or other material that is requested to be protected and the reasons why protection is necessary. Such trade secrets or proprietary information should be submitted in a separate, sealed, envelope clearly marked PROPRIETARY.
- C. A statement by RESPONDENT that the entire Proposal is proprietary cannot be honored and will result in the removal of the Proposal from further consideration. References may be made within the body of the Proposal to proprietary information; however all information contained within the body of the Proposal, not under separate cover and labeled proprietary, shall be deemed a public record.
- D. If a request is made for access to information that has been identified as Proprietary, the Representative will notify the affected RESPONDENT of the request and the RESPONDENT must either revoke this Proprietary status in writing to allow public access or pay all costs associated with defending the Proprietary nature of this information, including all of KPC'S labor.

3.2.15 I certify on behalf of myself, the company and its key employees that I, the company, or its key employees have not been proposed for debarment, debarred, or suspended by KPC, the Commonwealth of Kentucky, or any Federal Agency and are not listed on the Excluded Parties List System provided by the United States Government General Services Administration at www.epls.gov.

3.2.16 The public schools who KPC serves are exempt from federal and state excise and sales taxes. All prices quoted shall reflect the tax-exempt status. Tax exemptions certificates, if required, will be provided upon request after an award if made by a member school district.

3.2.17 Acceptance of a preferred proposal and inclusion in KPC price contract

does not constitute an order. Orders shall only be made following issuance of a purchaser order or a signed contract from the member school districts.

3.2.18 All terms and conditions specified in response to this solicitation shall remain effective for a period of not less than 90 days following the Due Date shown on the cover page.

4. TENTATIVE PROJECT SCHEDULE

The following process and timeline will be used to select preferred energy services provider(s) for a price contract:

- A. Issuance of RFP June 19, 2018
- B. Due Date of Proposal August 1, 2018
- C. Optional Oral Interviews and Selection of Provider August 2018 -TBD
- D. Notification of Selection to Provider August 2018 -TBD
- E. Final Price Contract Selection(s) August 2018 - TBD

5. GOALS FOR THE QUALIFIED PROVIDER

- 5.1 To identify and implement energy conservation measures within the context of a guaranteed energy savings which:
 - A. Reduce operating costs
 - B. Improve classroom environmental conditions
 - C. Improve maintenance and operation of the facilities
 - D. Reduce carbon footprint and other negative environmental impacts
- 5.2 To manage and complete the Project within the defined time schedule, approved budget and the quality guidelines.
- 5.3 To represent the best interests of the Owner in the performance of services toward the expeditious and efficient completion of the project.

6. DEFINITIONS

- 6.1 "Qualified Provider" means a person or business experienced in the design, implementation, and installation of energy, water, and wastewater conservation measures and is determined to be qualified by the local public agency.

The Qualified Provider shall be responsible for and shall provide the local public agency with the following information regarding guaranteed energy, water, and wastewater savings contracts:

- A. Project design and specifications;
- B. Construction management;
- C. Construction;
- D. Commissioning;
- E. On-going services as required;
- F. Measurement and verification of savings for guaranteed energy, water, and wastewater savings contracts; and
- G. Annual reconciliation statements as provided in KRS 45A.352 (8).

6.2 “Guaranteed Energy Savings Contract (GESc)” means a contract for the evaluation and recommendation of energy, water, and wastewater conservation measures and for implementation of one (1) or more of those measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make payments for the cost of the design, installation, and maintenance of energy, water, and wastewater conservation measures.

6.3 “Energy Conservation Measures” as defined in KRS 45A.345.

6.4 “Design Professionals” areas as defined in 702 KAR 4:160.

6.5 Other relevant definitions identified in KRS 45A.345.

7. PROVIDER QUALIFICATIONS

- A. Ability to guarantee energy savings as required by KRS 45A.352.
- B. Ability to provide GESc project through demonstration of past projects.
- C. Knowledgeable of current applicable statutes, regulations and codes related to educational building projects in Kentucky.
- D. Knowledgeable of current Kentucky Department of Education (KDE) contract requirements.
- E. Ability to provide Required Performance and Payment Bonds for 100% of the contract amount from a bonding company licensed in Kentucky.

- F. Ability to provide required insurance.
- G. Ability to provide expertise in the services and cost of GESC projects including design, construction, commissioning, measurement and verification, annual reconciliation statements and on-going services.
- H. Ability to prepare and submit for approval, to KDE, all required documents in proper form and in a timely manner.
- I. Willingness to sign a KDE Non-Collusion Affidavit.

8. GESC SERVICES REQUIRED

The selected Qualified Provider shall provide GESC services as stated in the AIA Document A141™ – 2004, Standard Form of Agreement Between Owner and Design-BUILDER – KDE Version, and related Exhibits, and in accordance with 45A.352, and the following:

- A. List of Final Energy Conservation Measures (ECM's);
- B. Provide detailed description of the recommended Measurement and Verification (M&V) plan for measures with savings guarantees as required by KY 45A.352 (2)(a.).
- C. Final cost of the GESC project including design, construction, commissioning, measurement and verification, annual reconciliation statements, and required on-going services;
- D. Final amount of calculated guaranteed savings from the ECMs;
- E. Provide a written guarantee that either the energy or operational costs savings plus capital cost avoidance will meet or exceed the costs of the energy conservation measures within the term of the contract.
- F. Summary of proposed method and costs of financing.
- G. Prepare Design Development Plans for Capital Cost Avoidance ECM's
- H. Final Construction Drawings and Specifications in conformance with the list of ECMs.
- I. Provide the estimated costs of annual reconciliation statements and any required on-going services.
- J. Provide information on your company's approach to training district personnel on new systems and equipment.

- K. Indicate any equipment maintenance service contracts and their costs, which will be required by your firm as a condition of the energy services guarantee.
- L. Provide information on your firm's ability to provide other innovative energy services.

9. PROPOSAL FORMAT

Proposals must be submitted in the format outlined in this section. For each proposal a minimum criteria checklist will be used in reviewing the proposal to determine if it is complete prior to actual evaluation. KPC reserves the right to eliminate from further consideration any proposal deemed to be substantially or materially unresponsive or incomplete to the requests for information contained herein.

A. Table of Contents

Responses shall include a table of contents properly indicating the section and page numbers of the requested information.

B. Executive Summary

Responses shall include a concise abstract stating the respondent's overview of the services.

C. Company Profile

This section should include the following information on the RESPONDENT.

1. Company name
2. Address
3. Telephone number
4. Fax number
5. Contact person(s) for this proposal
6. Email address
7. Lead Personnel
 - a. List the Lead Personnel employed by the RESPONDENT involved in this proposal and future contracts with member school districts.
 - b. List key team members and contractors (both labor and material) that will be part of your design and installation team.
 - c. Provide your company's corporate organizational chart.
8. References

- a. Complete list of ESPC's implemented over the past 10 years with public school districts in which the RESPONDENT held the contract with the school district and guaranteed energy savings. This list shall be a summary sheet listing to include the school district, contact name/title/phone number, project cost, year ECMs were implemented, guaranteed energy savings and actual energy savings to date.

9. Energy Savings Results

- a. In addition to the energy savings information requested above in 8.a., provide a list of all Energy Star label K-12 schools that have resulted from energy efficiency gained from ESPC implemented by the RESPONDENT. Included year of certification and rating from EPA.
- b. The RESPONDENT must identify any ESPC completed within the last 10 years in which they did not meet the annual energy savings guarantee. A detailed explanation must be provided for any shortfall.
- c. A third party guarantee is available. It is the owner's option. The ESCO will provide an estimate for this guarantee.

10. Litigation

- a. List any ESPCs in which the RESPONDENT has entered into litigation or arbitration with a public school during the past 10 years. Provide a brief summary detailing the litigation/arbitration. Omission of any past litigation will result in disqualification.

11. Marketing Plan

- a. Provide a marketing plan for promoting the KPC contract. This plan shall cover all areas and states applicable. Demonstrate how the KPC contract will be used as a primary contract offering to participating agencies. Encouraging participating agencies to circumvent the contract by purchasing directly from Vendor will result in suspension or termination of contract.

D. Technical Approach

Section D should contain information about the RESPONDENT'S technical approach to providing a member school district a proposal for an ESPC through KPC's Price Contract.

1. Engineering Analysis: Explain in detail the engineering process the RESPONDENT would use in assessing energy savings and facility needs of a school district. Respondents shall provide the following:
 - a. Estimated study completion timelines
 - b. Typical costs of study
 - c. Any financial obligation to the school district for the study
 - d. Level of detail associated with design documents (i.e. CAD drawings at the design-develop level of scope)

- e. What level of detail will be provided regarding manufacturer, type, model, size, and quantity for equipment offered with the Proposal
 - f. Any other information that would explain the RESPONDENTS engineering analysis
2. Drawings: Provide a sample set of drawings along with equipment lists which was provided to a school district on an ESPC previously awarded to the RESPONDENT.
 3. Energy Savings Calculations & Guarantee: Provide sample set of energy savings calculations provided to school districts on another ESPC previously awarded to the RESPONDENT that are most indicative of the calculations the RESPONDENT would use on ESPC with member school districts if selected to be part of the Price Contract. Additionally, provide a sample Guarantee in the Appendix of your proposal that includes all of the terms and conditions of the Energy Savings Guarantee Agreement the RESPONDENT would ask school districts to sign.
 4. RESPONDENT may include additional, ongoing energy related services that will further serve the member school district's goal of the performance contract. These services must be identified upfront with adequate description of why they benefit the school district.

E. Pricing Approach

1. Open Book Pricing: Each RESPONDENT must agree to use open book pricing such that the cost of each component making up the total cost of the contract to the school district is broken out and made visible for review and inspection. All equipment purchase orders and subcontracts must be included as part of the Open Book Pricing process for inspection. All pricing will include all reimbursable(s). These will not be added to the price. Explain in detail how the following services would be provided under an ESPC and how much the REPENDENT will charge the school district for these services.
 - a. Design Engineering Services: Provide the percentage (of construction cost) fee for these services for projects of \$500K, \$1M, \$2M, \$5M and \$10M in size.
 - b. Energy Engineering Services: Provide the percentage fee (of construction cost) for these services for projects of the following square footages in size (50K, 100K, 200K, 500K, 1M).
 - c. Project Management/Construction Management Services: Provide the percentage fee (of construction cost) for these services for projects of \$500K, \$1M, \$2M, \$5M and \$10M in size.
 - d. Commissioning Services: Provide the percentage fee (of construction cost) for these services for projects of \$500K, \$1M, \$2M, \$5M and \$10M in size.

- e. Contingency: Provide the percentage of construction cost contingency for projects of \$500K, \$1M, \$2M, \$5M and \$10M in size. The RESPONDENT shall retain any unused contingency and shall cover the cost of any errors or omissions that exceed this amount.
 - f. General Conditions: Provide the percentage fee (of construction cost) for all general Condition items required to properly implement an ESPC utilizing the RESPONDENT process except for services described above.
 - g. Overhead & Profit: Provide the percentage of overhead and profit for projects of \$500K, \$1M, \$2M, \$5M and \$10M in size as required to properly implement an ESPC utilizing the RESPONDENT process.
2. Equipment Manufactured or Represented by RESPONDENT: Since equipment manufactured or represented by RESPONDENT cannot be effectively competitively bid by RESPONDENT to insure a market price, all such equipment must be priced at not to exceed GSA pricing and no overhead or profit may be applied to the GSA price. This requirement is not negotiable and RESPONDENTS unwilling to comply with this requirement will be rejected without further consideration.
 3. No Change Order Guarantee: KPC wants to offer ESPCs through the Price Contract with a “No Change Order Guarantee” so that member school districts can be assured they will not pay more than the contract amount to receive the scope of work and all of the benefits promoted in the ESPC proposal. Design errors, scope omissions, non-performing systems and unforeseen conditions shall be paid by the RESPONDENT except for items specifically excluded by the RESPONDENT in their Proposal. Include any exclusions on the form provided.
 4. Equipment Selection: The RESPONDENT must get firm price quotes from a minimum of three equipment supplies for each ECM. The school district shall have the right to select any of the three suppliers offered. List any situation in which the RESPONDENT would request taking exception to this requirement and include that explanation on the Exceptions form provided.
 5. Subcontractor Selection: The RESPONDENT must get firm price quotes from a minimum of three subcontractors for each ECM. The school district shall have the right to select any of the three subcontractors offered. List any situation in which the RESPONDENT would request taking exception to this requirement and include that explanation on the Exceptions form provided in the appendix. If market conditions prohibit the RESPONDENT from obtaining three quotes, RESPONDENT must provide evidence of soliciting multiple quotes and an explanation of why each contractor solicited did not to provide a quote.

6. Tier of Contractors: The cost of an ESPC increases as the layers of mark-ups increase. It is desirable to minimize the layers of mark-up which increases the risk for and effort of the RESPONDENT. Specify which of the following trades the RESPONDENT self-performs, contracts for directly or has a prime contractor handle.

- a. Electrical contractor
- b. Sheet metal contractor
- c. Mechanical piping contractor
- d. Plumbing contractor
- e. Controls contractor
- f. Insulation contractor
- g. Test & balance contractor

7. Equipment Purchases: The cost of an ESPC increases as the layers of mark-ups increase. It is desirable to minimize the layers of mark-up which increases the risk for and effort of the RESPONDENT. Specify which of the following equipment the RESPONDENT purchases directly versus having a prime contractor handle.

- a. Boilers
- b. Chillers
- c. Pumps
- d. Air-handling units
- e. Unit ventilators
- f. Exhaust fans
- g. Controls
- h. Variable Frequency Drives (VFDs)
- i. Lighting material

8. Turnkey Subcontractors: Identify in your proposal which of the following trades you will manage directly and which will be managed through a subcontract. For those trades managed directly by the RESPONDENT, identify which trade would be managed through a turnkey contract (i.e. the contractor having a direct contract with the RESPONDENT would provide all material, equipment and labor associated with that portion of the work).

- a. Mechanical
- b. Sheet Metal
- c. Electrical
- d. Temperature controls & energy management
- e. Insulation
- f. Test & Balance
- g. Commissioning
- h. General

- i. Roofing
- j. Windows
- k. Flooring

- 9. Self-Performance: Identify in your proposal which of the trades in E. 8. above will the RESPONDENT self-perform and specifically identify which portions of that work would be self-performed.

F. Implementation Approach

- 1. Installation: Describe how the RESPONDENT intends to implement the installation phase of the project in terms of approach, priorities, philosophies, timelines, scope changes by school district, and commissioning.
- 2. Commissioning: Describe in detail the commissioning processes that the RESPONDENT intends to utilize to commission the building for optimal learning environments and energy efficiency. In the RESPONDENTS Proposal provide an actual commissioning document from a past project where this same approach was utilized.
- 3. Project Management: Describe how the RESPONDENT plans on organizing and managing the project team members. Provide detail on how the project team will communicate with the school district and how the managers of the project will guide team collaboration to best serve the owner. Provide a one-page (or less) Excel bi-weekly spread sheet report (weekly reports preferred) to Owner and KPC representatives outlining potential project risks and responsibilities, and a summary for any changes in contract time or cost. Bi-weekly or weekly contractor reports should be brief and only include the above. Contractor's may develop their own format and may substitute typical reports as long as they capture existing and potential risks with responsible parties.

G. Support Approach

- 1. Training: Explain the RESPONDENT's plan for providing training and support services to the school district. Describe the range of services being offered, such as maintenance, training, follow-ups, auditing, etc.
- 2. Performance Assurance: Described in detail the performance assurance processes that the RESPONDENT intends to utilize to insure the building operates at peak performance both at the completion of the installation phase and throughout the contract term. In the Appendix of the REPONDENTS Proposal, provide an actual guaranteed savings annual report from a past project where this same approach was utilized showing how both energy and operational savings where reported.

10. PROPOSAL SELECTION

10.1 Proposal Selection Process

- a. After the review of the proposals and interviews with the finalists, the KEDC Board or its designee may accept one or more contracts based on the needs of KPC
- b. The KEDC Board or its designee will utilize a Best Value methodology as described in the Proposal Selection Criteria section of this RFP.
- c. KPC anticipates selecting the RESPONDENT(S) with the Best Value Proposal by July 2018.

10.2 Proposal Selection Criteria

10.2.1 Minimum Criteria: KPC will reject any proposal that does NOT meet the minimum criteria described in this RFP and may at its discretion deduct points from the scoring rubric if the RFP format is not followed. The minimum criteria are identified on the RFP Compliance Verification Form, which is attached and labeled Exhibit 2. The RFP Compliance Verification Form must be completed and signed by the RESPONDENT or their Proposal will be rejected. If a RESPONDENT is determined to be not responsive or responsible their proposal will be rejected and no further scoring will occur.

10.2.2 Proposal Scoring: For proposals meeting or exceeding the Minimum Criteria, each Proposal will be scored based on the weighted scoring criteria shown below.

A. Ability to Successfully Implement Project **(30 points)**

1. Reputation of the RESPONDENT for successfully implementing guaranteed energy savings projects in public school districts with high customer satisfaction. This reputation score shall be derived from feedback provided by school personnel employed by school districts where the RESPONDENT has implemented an ESPC over the past 10 years.
2. Background of the team members responsible for implementing the proposed ESPC. This includes in-house engineers, project managers and technicians responsible for the designing, managing, programming and commissioning of the project.
3. Past performance with K-12 schools is a critical component in the selection process of this project. Therefore, each RESPONDENT must include a list of ALL K-12 ESPCs they have completed within the past 5 years and all K-12 ESPCs completed in Kentucky for the past 10 years including the information shown below. In addition, each RESPONDENT must have completed a minimum of ten (10) performance contracts (with at least one year of reported

guaranteed savings results) with K-12 school districts to be considered for this project. References will not be considered for projects performed by anyone other than the RESPONDENT. This summary list must include the following information.

- a. School district name
- b. Contact name/title/phone number
- c. Project cost
- d. Year project was completed
- e. Guaranteed energy savings amount to date
- f. Actual energy savings to date

B. Technical Approach (15 points)

1. Level of detailed design being offered with a strong preference toward more detailed designs and equipment lists.
2. Effective and understandable approach to calculating savings and verifying the guaranteed savings are achieved throughout the guaranteed term.

C. Pricing Approach (40 points)

1. The willingness to follow the OPEN BOOK PRICING approach without exceptions as described in this RFP.
2. Fees for various services.
3. Overhead and profit level requested as part of the OPEN BOOK PRICING process.
4. Cost effectiveness of pricing structure related to tiers of markups on equipment and subcontracts.
5. Cost effectiveness associated with being able to obtain competitive bids on all equipment and labor.
6. Willingness to guarantee “no change orders”

D. Implementation Approach (8 points)

1. The reasonableness and effectiveness of the installation approach. Much of this score will be based on how well the respondent delivered a successful installation for their past customers

E. Support Approach (7 points)

1. The effectiveness of the training program being offered.
2. The effectiveness of the on-going support being offered with preference given to timely support at a low cost.
3. The effectiveness of the marketing plan for promoting the KPC contract.

RFP EXCEPTIONS

The RESPONDENT must identify any exceptions they want to make to the RFP requirements on this "RFP Exception Form". Exception may result in a rejection of the Proposal, reduction in Qualitative Scoring or neither, depending on the ENTITIES understanding of how harmful the exceptions will be to KPC on this project. KPC shall be the sole judge of the impact of any exceptions and shall not debate their determination with a RESPONDENT.

List all exception below including three components. First, state the language that is being accepted. Second, provide language the RESPONDENT would propose replace the excepted language. Lastly, provide an explanation for why the RESPONDENT is taking exception to the RFP language and how the proposed language will not be harmful to KPC.

RESPONDENT TAKES NO EXCEPTIONS:

I, _____, an authorized representative of the RESPONDENT, take no exceptions to the RFP requirements and hereby verify that we will comply with all terms, conditions and requirements contained within the RFP.

Signature

Date

Title

RESPONDENT TAKES EXCEPTIONS:

1. Page:
 - a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:

2. Page:
 - a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:

3. Page:
 - a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:

4. Page:
 - a. Excepted language:

- b. Proposed language:
 - c. Explanation for excepted language:
5. Page:
- a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:
6. Page:
- a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:
7. Page:
- a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:
8. Page:
- a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:
9. Page:
- a. Excepted language:
 - b. Proposed language:
 - c. Explanation for excepted language:

I, _____, an authorized representative of the RESPONDENT, understand that taking the exceptions identified above to the RFP requirements may our Proposal to be rejected or our Qualitative Score to be reduced. I understand that KPC will be the sole judge of the impact of the exceptions listed above and understand that KPC shall not debate their determination.

Signature

Date

Title

RFP COMPLIANCE VERIFICATION

Each RESPONDENT must acknowledge that they understand the following RFP requirements are the Minimum Requirements to be considered for Qualitative Scoring. Any proposals not including these Minimum Requirements will be rejected.

MINIMUM REQUIREMENTS:

1. RESPONDENT certifies that they have read the General Conditions and agrees to fully comply with the terms specified therein. Any exception that the RESPONDENT wishes to take the General Conditions shall be specifically listed on the attached RFP Exceptions form.
2. RESPONDENT has included a Base Bid offering including the Base Bid scope of work identified with the cost, energy savings and operational savings of each ECM. Omission of any component of the Base Bid scope of work or not providing the individual cost and savings per ECM will result in the Proposal being rejected.
3. RESPONDENT shall include a complete list of the RESPONDENTS most recent K-12 school performance contracts over the past ten years.
4. RESPONDENT shall identify any energy savings shortfalls with K-12 schools over the past ten years with an explanation for why the shortfalls occurred and how the shortfalls were remedied.
5. RESPONDENT shall include an explanation of all past arbitration or litigation with Kentucky K-12 schools over the past ten years. Omission of any of these events will result in rejection of the Proposal.
6. RESPONDENT shall include detailed drawings and an equipment list identifying all equipment being proposed on the Proposal. Equipment descriptions shall include manufacturer name, equipment type and size.
7. RESPONDENT shall include a completed Guarantee as an attachment to the Proposal including all calculations, energy and operational savings guaranteed amounts, terms, conditions and the cost to provide the services included in the Guarantee over the Guarantee term. Omission of any of a completed Guarantee including these details will result in rejection of the Proposal.

VENDOR INFORMATION & CERTIFICATION

COMPANY: _____

Representative: _____

email Address: _____

Address: _____

Phone: _____

Payment Address: _____

I have read the specifications and I understand the content and my firm's obligations with regard to providing the specified services and products. I hereby submit the attached proposal. The prices being submitted shall be binding on our firm until 90 days from the date proposals are due, or until I am notified that I am not a successful vendor, whichever comes first. If my firm is awarded a contract as a result of the quoted prices, or subsequently negotiated prices, I guarantee that the prices shall be the maximum amount that my firm may charge for the products identified.

I certify that I have the authority to sign this proposal and bind my firm to the prices specified and the obligations associated with the award of all or any part of the items so specified.

I acknowledge receipt of ____ supplements.

I acknowledge receipt of ____ addendum.

Signature

Date

Title

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS CLAIMING
RESIDENT BIDDER STATUS**

FOR BIDS AND CONTRACTS IN GENERAL:

The bidder or offeror hereby swears and affirms under penalty of perjury that, in accordance with KRS 45A.494(2), the entity bidding is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:

1. Is authorized to transact business in the Commonwealth;
2. Has for one year prior to and through the date of advertisement
 - a. Filed Kentucky corporate income taxes;
 - b. Made payments to the Kentucky unemployment insurance fund established in KRS 341.49; and
 - c. Maintained a Kentucky workers' compensation policy in effect.

The BIDDING AGENCY reserves the right to request documentation supporting a bidder's claim of resident bidder status. Failure to provide such documentation upon request shall result in disqualification of the bidder or contract termination.

Signature Printed Name

Title Date

Company Name _____
Address _____

Subscribed and sworn to before me by _____
(Affiant) (Title)

of _____ this _____ day of _____, 20____ .
(Company Name)

Notary Public
[seal of notary] My commission expires: _____