

Contract Number: 5800-RFP-HR Software.2014-R2-Amended

AGREEMENT BETWEEN THE
KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION
AND
PSST, LLC

Approved at
JAN 18 2017
Board Meeting

This agreement is made and entered into the 12th day of January, 2017, by and between the Kentucky Educational Development Corporation (KEDC), 904 Rose Road, Ashland, KY 41102-7104, and PSST, LLC, 303 Middletown Park Place, Suite B, Louisville, KY 40243.

KEDC as the legal education authority for KPC is in receipt of your request dated January 12, 2017 to amend your contract 5800-RFP-HR Software.2014-R2 with updated pricing for the "100, 000+ student tier" of the Aesop Munis Integration software and to add the sub-finding software Aesop to the pricing tier as follows:

<u>Aesop Software + Aesop Integration</u>	<u>100,000 + Student Tier Pricing</u>
One time Setup and Training	\$20,000
Subscription Ongoing	\$116,256
Total	\$136, 256

We agree to amend your contract to include the updated pricing, fees, and software submitted with your request. We are also adding the attached additional and updated terms and conditions to the contract.

Purchase of these services made by KPC members are subject to all of the terms and conditions outlined in the original RFP documents, and amendments.

KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION



KEDC Executive Director Signature

1/12/2017

Date

Nancy L. Hutchinson

Printed Name

PSST, LLC



Signature

1/13/17

Date

Bill Fowle

Printed Name

Sales Manager

Title



KEDC Board Chairperson 01/18/17
Date

Additional Terms and Conditions

1. **TERMINATION FOR CONVENIENCE:** KEDC reserves the right to terminate any contract at any time, in whole 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. KEDC 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. **TERMINATION FOR NON-PERFORMANCE (DEFAULT):** KEDC may terminate the resulting contract for non-performance, as determined by KEDC, 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 KEDC 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 a voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section from time to time, or under any similar law or statute of the United States or any state thereof, or if an order for relief shall be entered against the Contractor in any proceeding filed by or against contractor thereunder. In the event of any such 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.
3. **DEMAND FOR ASSURANCES:** In the event KEDC 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 timely perform all obligations under the Contract. If Contractor is unable to provide such adequate assurances, then such failure shall be an event of default and grounds for termination of the Contract.
4. **NOTIFICATION:** KEDC will provide ten (10) calendar days written notice of default. Unless arrangements are made to correct the non-performance issues to KEDC's satisfaction within ten (10)

calendar days, KEDC may terminate the contract by giving forty-five (45) days notice, by registered or certified mail, of its intent to cancel this contract.

5. ATTORNEY'S FEES: In the event that either party deems it necessary to take legal action to enforce any provision of the contract, and in the event KEDC prevails, the Contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation.
6. COMPENSABLE DAMAGES FOR BREACH: The Contractor agrees that the following items shall be included as compensable damages for any breach of a contract with KEDC.
 - 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 KEDC 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.

7. CERTIFICATION REGARDING LOBBYING: The bidder certifies, to the best of his or her knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - (3) The bidder shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Updates for Standard Terms and Conditions

6. CERTIFICATION CONCERNING DISBARMENT AND SUSPENSION The contractor understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension."

By electronically signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by KEDC. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to KEDC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR 180.220 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

22. OTHER CONDITIONS

- r. The awarded firm agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and the Federal Water Pollution Control Act as amended 33 U.S.C. §§ 1251 et seq. The Contractor agrees to report each violation to the USDA and the appropriate EPA Regional Office.