



GRREC – KEDC - NKCES –OVEC - SE/SC - WKEC
KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION (KEDC)
904 ROSE ROAD
ASHLAND, KY 41102-7104
(606) 928-0205
www.kedc.org or www.kpc4me.com

*** * * INVITATION TO BID * * ***

REFERENCE:	<u>PV-BPA-2018</u>
PUBLIC NOTICE DATE:	<u>December 19, 2018</u>
OPENING TIME & DATE:	<u>January 16, 2019, 9:00 AM Eastern</u>
CONTRACT PERIOD	<u>January 16- December 31, 2019</u>
SOLICITED ITEMS:	<u>BUS PARTS AND ACCESSORIES</u>

STANDARD TERMS AND CONDITIONS

1. **BID PURPOSE:** The Kentucky Educational Development Corporation (KEDC) Board of Directors, as the LEA for KPC, solicits sealed bids for school bus parts and accessories. That would, if accepted by the KEDC Board of Directors or its designee, establish contracts, with the general and detailed terms, conditions, and specifications contained in these standard terms and conditions and in the bid specific terms and conditions.
2. **INSTRUCTIONS FOR SUBMITTAL:** These standard terms and conditions along with the bid specific terms and conditions apply to all bids submitted. Explain any requested deviations or exceptions as part of your bid. KPC may, at its discretion, accept or reject any or all deviations or exceptions proposed. In the event of a discrepancy between the standard and specific terms, the specific terms will govern.

The public notice for this invitation, the invitation itself, and any addendums are available for view, download, or print from the Internet at www.kpc4me.com on the public notice date and until the time and date specified for the opening. KPC staff and the Board or its designee will review bids.

KPC has an online interface that creates a confidential and encrypted electronic bid submission. Bid submission requires that each bidder has an updated vendor account. Instructions on how to register as a new vendor or update an existing account and complete the bid submission process can be found at <http://www.kpc4me.com/bid-opportunity>. For assistance with registration or technical questions regarding the online interface contact info@kpc4me.com.

Submit all bids and any attachments via the online application. No other form of bid submission (e.g., paper, telephone, facsimile, telegraph, mail, etc.) will be accepted. Bids submitted on company forms are subject to rejection. The bidder acknowledges that the bidder has read this invitation, understands it, and agrees to bind by its terms and conditions.

3. CLARIFICATION: For clarification or additional information relative to this Invitation to Bid contact the KPC Member Services Team by email at info@kpc4me.com or phone (606) 928-0205.
4. PROCUREMENT CONSIDERATIONS: KPC conducts all procurement transactions in full compliance with all applicable federal and state statutes, regulations and rules.

It is the clear intention of KPC to foster all procurement transactions in a manner to provide to the maximum extent practicable, open and free competition (20 U.S.C. 1221e-3(a)(1) and 3474, - 22 CFR 135).

KPC shall make positive efforts toward procuring and utilizing small business and minority-owned business sources of supplies and services. All such efforts shall be made to allow these sources the maximum feasible opportunity to compete for contracts.

All procurement procedures developed and implemented by KPC shall assure that unnecessary or duplicative items are not purchased. Where appropriate, considerations of lease and purchase alternatives will be made to determine which would be the most economical and practical procurement.

All KPC bids and solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. Brand name or equal clause may be used as a means to define the performance of other salient requirements of procurement, and when so used to specify features of the named brand that must be met by bidders' offers.

A contract will be entered into by KPC with only responsible bidders who possess the potential ability to perform successfully under the terms and conditions. Consideration shall be made for such matters as a bidder's integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. KPC shall follow the principles of cost analysis in the review and evaluation of bids to determine if the bidder meets the requirements or reasonableness, allocability, and allowability.

5. AUTHENTICATION OF BID: AUTHENTICATION OF BID, STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST, AND COMPLIANCE WITH THE KENTUCKY MODEL PROCUREMENT CODE: By

electronically submitting this Bid, I hereby swear or affirm under penalty of false swearing as provided by KRS 523.040:

I am the bidder (if bidder is an individual), a partner in the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation having authority on its behalf (if the bidder is a corporation).

The costs quoted in the Bid are correct and have been arrived at independently and have been submitted without collusion and without agreement, understanding, or planned common course of action, with any vendor of materials, equipment, or services described in this invitation to bid, designed to limit independent bidding or competition.

The contents of the bid have not been communicated by the bidder, or its employees, or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid and will not be communicated to any such person prior to the official opening of the bid or bids. Bidder certifies that this bid is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. The bidder certifies that collusive bidding is a violation of federal law and can result in fines, prison sentences and civil damage awards.

The KPC procurement process is conducted consistent with KRS 45A:345-460, the Model Procurement Code and that the contents of the bid and the actions taken by the bidder in preparing and submitting the bid are in compliance with above sections of the Model Procurement Code.

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). Any employee or official of KPC or member institution, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or things of value as an inducement or intended inducement, or in the procurement of business, or the giving of business, for or to or from, any person, or in open market seeking to make sales to the membership shall be deemed guilty of a felony and upon conviction such person or persons shall be subject to punishment or fine in accord with state and/or federal laws.

6. 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 sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. 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 submitting this bid, the proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by KPC. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to KPC, 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.

8. ERROR IN BID: KPC reserves the right to waive defects and informalities in bids, to reject any or all bids, or to accept any bids as may be deemed to its interest. KPC may allow the withdrawal of a bid where there is a patent error on the face of the document, or where the proposer presents sufficient evidence, substantiated by worksheets, that the bid was based upon an error in the formulation of the price.

9. WITHDRAWAL OF BID: All bids shall be valid for a period of forty-five (45) days from the opening date to allow for tabulation, study, negotiation, and consideration by KPC. The proposer may withdraw a bid, without prejudice, prior to the published opening date.
10. ADDENDA: KPC may issue addenda to the Invitation to Bid after its release.
11. REVIEW: After the public opening of bids received from the Bid Invitation, KPC staff and member officials will review the results, develop a preliminary tabulation, and contact the top scored firms for further negotiation.
12. 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. KPC 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 bid.

13. CONTRACTOR CERTIFICATION

CONTRACTOR CERTIFICATION/CONTRACTOR'S EMPLOYMENT ELIGIBILITY: By entering the contract, contractor warrants compliance with the federal immigration and nationality act (FINA), and all other federal and state immigration laws and regulations. The contractor warrants that it is in compliance with the various state statues of all states it is will operate this contract in.

Participating government entities including school districts may request verification of compliance from any contractor or contractor's supplier performing work under this contract. These entities reserve the right to confirm compliance in accordance with applicable laws.

Should the participating entities suspect or find that the contractor or any of its suppliers are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary to verify compliance are the responsibility of the contractor.

The offeror complies and maintains compliance with the appropriate statues which requires compliance with federal immigration laws by state employers, state contractors and state subcontractors in accordance with the e-verify employee eligibility verification program (<http://www.uscis.gov/e-verify>).

Contractor and contractor's vendors and their employees shall not provide services on school district properties until authorized by the district.

Contractor shall comply with governing board policy of the KPC participating entities in which work is being performed.

14. PROTEST PROCEDURES: KPC shall have authority to determine protests and other controversies of actual or prospective firms in connection with the solicitation or selection for award of a contract.

Any actual or prospective firm, 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 regarding the solicitation must be filed prior to the bid opening. A protest or notice of other controversy regarding an award must be filed promptly within two (2) calendar weeks after award. All protests or notices must be in writing and addressed to:

**Chief Executive Officer
KEDC
904 Rose Road
Ashland, KY 41102
(606) 928-0205**

KPC 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 KPC shall be final and conclusive.

15. PRE-QUALIFICATION: KPC reserves the right to pre-qualify any firm, especially those that have not previously participated in the KPC program. Criteria for qualification shall include:
- a. Service Level - If KPC does not have adequate historical data to determine the bidder's ability to comply with the service level requirement outlined in this request for bid, then three letters of reference from previous customers with projects of similar scope shall be provided.
 - b. Past Performance – The bidder must demonstrate an acceptable level of past performance under previously awarded contracts including conformance to contract requirements, industry standards of performance, reasonable and cooperative behavior, commitment to customer satisfaction, and record of integrity and business ethics.

16. **NON-ASSIGNABILITY OF AWARD:** The awarded bidder cannot convey this contract to its successors or assigns without the prior, express approval of the Board of Directors of KEDC or its designee.
17. **PIGGY BACK 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 KPC shall bear no responsibility or liability for any agreements between the respondent and the other institution(s) who desire to exercise this option. Piggy back 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.
18. **LIABILITY:** The awarded firm agrees to protect, defend, and save harmless 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 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, unless such injuries or damages are caused by the actions or omissions of KPC or participating members. The awarded firm will hold KPC and participating members harmless for any and 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 awarded firm.
19. **ACCOUNTING PRACTICES:** During the life of any contract awarded as a result of this request for bid, the successful firm 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.
20. **VELOCITY REPORTS:** Velocity reports in an electronic format specified by KPC shall be issued upon request. The awarded bidder shall compile velocity reports by member. The reports shall indicate purchasing entity and dollar value of sale. KPC will request procurement data from participating KPC members to verify velocity report accuracy.
21. **PRODUCT AND SAFETY INFORMATION:** It is the bidder's responsibility to comply with all local, state, and federal regulations.
22. **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. Breach of contract, default, or noncompliance renders the awarded contract null and void. The awarded firm agrees that they have no legal recourse of any nature against KPC or member

entities except for services that are due for prior purchases under the awarded contract. The decision of KPC regarding suspension and/or termination is final.

23. **TERMINATION FOR CONVENIENCE:** KPC 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. 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).
24. **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.
25. **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 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.
26. **NOTIFICATION:** KPC 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 written notice, by registered or certified mail, of its intent to cancel this contract.

27. **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 KPC prevails, the Contractor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation.
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.

29. **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.
30. **OTHER CONDITIONS:**
- a. The awarded firm 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.
 - b. The awarded firm shall comply with all federal, state, and local requirements for background checks (e.g., KRS 160.380 for Kentucky members).
 - c. The awarded contract shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Kentucky.
 - d. Any suit, action or other proceeding regarding the execution, validity, interpretation, construction, or performance of this agreement brought against KPC shall be filed in the appropriate court in Boyd County, Kentucky.
 - e. Any suit, action or other proceeding regarding the execution, validity, interpretation, construction, or performance of this agreement shall be filed in the member's local court jurisdiction.
 - f. The awarded firm assures KPC they are conforming and will continue to conform to the provisions of the Civil Rights Act of 1964 as amended.
 - g. Kentucky Sales and Use Tax Certificate of Exemption Form will be issued upon request.

- h. The awarded firm shall provide access to KPC, the Comptroller General of the United States, the Kentucky Department of Education, the Kentucky Auditor of Public Accounts or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions (7 CFR § 3016.36). Such access shall be used to ensure compliance with all applicable Federal and state statutes, regulations and rules, including but not limited to cost principles set forth in 2 CFR § 225.
- i. The awarded firm shall comply with all applicable cost principles, including but not limited to those set forth in 2 CFR § 225.
- j. The awarded firm shall retain all required records for three years after final payments and all other pending matters are closed (7 CFR § 3016.36).
- k. The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department.
- l. The awarded firm is and shall remain in compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).
- m. The awarded firm is and shall remain in compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).
- n. The awarded firm is and shall remain in compliance with 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).
- o. The awarded firm is and shall remain in compliance with all applicable standards, orders or requirements issued under 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).
- p. The awarded firm is and shall remain in compliance with all mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- q. By submitting this document, the proposing firm certifies that this response is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a response. For the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. The firm acknowledges that collusive bidding is a violation of federal law and can result in fines, prison sentences and civil damage awards.
- r. The awarded firm 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, including those prohibited by provisions of KRS 164.390, KRS 61.092-61.096, KRS 42.990, KRS 45A.335-490. Any employee or official of KPC or member institution, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of

contract, money, or things of value as an inducement or intended inducement, or in the procurement of business, or the giving of business, for or to or from, any person, or in open market seeking to make sales to the membership shall be deemed guilty of a felony and upon conviction such person or persons shall be subject to punishment or fine in accord with state and/or federal laws.

- s. KPC reserves the right to reject any and/or all bids and to waive informalities. A contract, based on this bid, may or may not be awarded.

BID SPECIFIC TERMS AND CONDITIONS:

1. **PARTICIPATING MEMBER INSTITUTIONS:** Any institution that is a member of KPC (hereinafter referred to as member or members) is eligible to utilize any awarded contract; however this does not mean that all members will participate. This statement of intent does not obligate any district to utilize this bid.
2. **AWARD:** After the review of the bids KPC may accept one or more contracts based on the needs of KPC and the membership. Awards will be made to the highest scored responsive and responsible bidder. Bidders deemed not responsive and/or not responsible will be rejected and no further evaluation of their bid submission will occur.

KPC will evaluate and score preliminary bids according to the following:

	POINTS
1. Market basket Analysis	50
2. Item Availability	20
3. Service History	30
POINT TOTAL	100

3. **MARKET BASKET ANALYSIS:** Bidders are required to complete the market basket spreadsheet as a component of their bid submission. The spreadsheet contains a list of sample items frequently purchased by KPC members. For each sample item you carry please provide the list price, list the discount proposed, and finally calculate the KPC discounted price. Similar to the following:

Item Requested	Bus Manufacturer	Item Bid	Manufacturer	Manufacturer Item Number	List Price	Discount %	Discounted Price
Backing Lights	N/A	1156 BULB, DBL CONTACT	CEC	SA1156DC	1.00	10	0.90

This is a discount percentage bid. The market basket represents only a sampling of items for bid evaluation purposes and pricing submitted does not establish a contract for those items.

Vendors are expected to provide pricing for only those items that they sell. Failure to complete and submit the market basket will result in rejection of your bid.

4. **CONTRACT PERIOD:** The initial contract period of any contract awarded as a result of this bid is from the actual date of contract award to December 31, 2019. The contract may be extended on an annual basis by KPC not to exceed five years in total including the first contract period. KPC shall notify the awarded bidder in writing of its intent to extend or not to extend the contract by October 15th of each year. If KPC notifies awarded bidder of intent to extend the contract by one year, awarded bidder shall respond in writing by November 1st that it either does or does not intend to extend the contract. The determination to renew the contract beyond the initial year shall be determined in part by the performance of the awarded bidder and by price stability during the contract period. If both parties agree to extend the contract by one year, awarded bidder shall respond by November 1st with any necessary discount increases or decreases for the first bid period of the extended year. If discount decreases submitted by November 1st are deemed excessive (defined as greater than CPI-U index) by KPC then KPC shall have cause not to extend the contract.

Any contract extension is contingent upon written agreement of KPC and the awarded bidder. The bid will not be extended beyond any current year unless expressly approved by KPC. KPC 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 awarded bidder as needed to cover the cost of KPC servicing the bid contract for the members.

KPC 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.

5. **PRICING:** All bid prices must include transportation and delivery charges to the location (member, KPC, etc.) specified during ordering. Fuel surcharges and other similar charges are not permitted. The awarded bidder shall provide each item on this bid to all KPC members at the same price. The awarded bidder MAY NOT submit multiple discount levels for the same product by KPC member.
6. **DISCOUNT ADJUSTMENTS:** All discounts shall remain firm for the duration of the awarded contract. Upward and downward discount adjustments are permissible based on documented changes in the Consumer Price Index for All Urban Consumers (CPI-U). The awarded bidder shall notify KPC 30-days prior to the start of each bid period of any requested increases or decreases for the upcoming bid period.
7. **PROMOTION:** KPC will actively market the awarded bidder to its members. Marketing includes inclusion of your logo and contact information on the KPC website, a copy of the awarded contract sent to every KPC member, and promotion of all KPC Preferred Vendors during regular visits by KPC staff. Awarded bidder will also have access to the KPC Logo for use in promotional materials. Similarly, the awarded bidder will support the efforts of KPC by participating and sponsoring in the KPC-KPC regional meetings and trainings.

8. **PRODUCT SAFETY AND MSDS INFORMATION:** The successful bidder shall provide upon request by any member, the most recent MSDS information sheets for any products the bidder may deliver to said member. It is the bidder's responsibility to comply with all local, state, and federal regulations.
9. **PRODUCT PROTECTION GUARANTEES:** Members have automatic product protection recourse against suppliers for products that are misrepresented. According to federal regulations, the supplier whose name and address appear on the package is the responsible party. Awarded bidder is expected to take immediate action to correct any situation in which product integrity is violated.
10. **PAYMENTS:** Each member shall be responsible for making payment to the awarded bidder. Note: normally school district members pay bills only after approval from the Board of Education which meets monthly
11. **ADMINISTRATIVE FEE:** The awarded contractor will remit to KPC an administrative fee of three percent (3%) for all services performed under this contract payable monthly.

The contractor will compile and provide to KPC a monthly sales report showing all purchases made by members under this contract in the electronic format provided by KPC. It is the awarded contractor's responsibility to track and report all purchases made by KPC members.

The contractor must report all payments received from members including but not limited to maintenance agreements, lease agreements, and professional services as purchases.

All sales to KPC members occur under this contract unless the contractor holds an individual contract with the member. It is the contractor's responsibility to provide proof of individual contracts.

Remit the administrative fee payment to KEDC, 904 Rose Road, Ashland, KY 41102-7104. For your reference, KEDC's FEIN is 61-0659010. KPC may modify the format of report and payment schedule (monthly or quarterly reporting) at its discretion.

If the contractor holds multiple bid awards from KPC, the highest fee structure applies to all purchases.
12. **DELIVERY CHARGES:** **All products or services procured from the Bid Contract are to be delivered free of freight charges (FOB destination).** All bid prices must include transportation and delivery charges to the location (school district, KEDC, etc.) specified during ordering. Fuel surcharges and other similar charges are not permitted.
13. **RETURNS:** The awarded bidder must provide a Return Material Authorization within one (1) working day of the request by KPC member. Returned materials shall be restocked at no charge to the KPC member. Unwanted materials, equipment, or supplies must be removed by the successful bidder from the premises of the member within fourteen (14) days of notification. Items left longer than fourteen (14) days will be regarded as abandoned, and the member shall have the right to dispose of them as its own property.
14. **ITEM SUBSTITUTION AND OUT-OF-STOCK BACK-ORDERS:** No substitutions are allowed without prior written authorization from the member. Member must be notified if item is out of stock, backordered or if timely delivery cannot be made.

15. AUDITS:

- a. KEDC reserves the right to make audits of a awarded bidder's costs records as follows:
 - i. Prior to award of contract
 - ii. Prior to approval of request for price change and following any allowed price change.
 - iii. At time of one year contract extension if awarded.
 - iv. An unscheduled audit one time during each one year bid period upon appropriate notice given to awarded bidder.
- b. The awarded bidder shall be given notice of the intent of the cooperative to conduct an audit a minimum of four weeks in advance.
- c. The audit may be conducted electronically via the internet or at a site mutually agreeable to KPC and the awarded bidder.
- d. The awarded bidder shall provide acceptable documentation as follows:
 - i. Manufacturer's invoices
 - ii. Freight bills
 - iii. Perpetual inventory records
 - iv. Market bulletins (used for distributor manufactured items and inner company billing items when price change occurs).

16. PRODUCT EVALUATION: Samples requested must be furnished free of expense to KEDC and or the KPC member for evaluation. If not destroyed or consumed in testing or evaluating, or required in connection with the award, furnished samples will, upon request, be returned at the bidder's expense. Right is reserved to mutilate or destroy any samples if considered necessary for testing purposes.

17. PROMPT PAYMENT DISCOUNT: Awarded bidder may provide a prompt payment percentage discount for invoice payments postmarked less than 30 days from the invoice date, and awarded bidder must provide a satisfactory explanation to KPC of how this provision will be administered so as to enable KPC to effectively monitor and verify the discounts, and to ensure that such discounts are returned to the member districts..

The discount may take the form of either a deduction from the total invoice or a check in an amount equal to the same.

KPC BUS PARTS AND ACCESSORTIES – PV-BPA-2018

BID CERTIFICATION: We have read all the conditions and requirements of the bid invitation. In compliance with all general and specific terms and conditions of the bid invitation, in consideration of the detailed description attached hereto, and subject to the statements thereof, the undersigned agrees that, upon proper acceptance by the KEDC Board of Directors or its designee, of any part of the bid offer within the time stipulated, a contract shall thereby be created in accordance with the specifications for that part of the bid offer accepted.

BID CERTIFICATION

Bidding Firm

Authorizing Signature

Printed Name

Email Address

Phone #

Fax #

Address

City, State, Zip

BID CLARIFICATION (Please provide contact information if the person authorized to answer questions regarding this BID if different from above.)

Printed Name

Email Address

Phone #

Fax #

Address

City, State, Zip

**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) _____ of _____

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

SAMPLE CONTRACT

AGREEMENT BETWEEN THE
KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION
AND
XYZ, INC.

This agreement is made and entered into the xx day of Month, Year, by and between the Kentucky Educational Development Corporation (KEDC), 904 Rose Road, Ashland, KY 41102-7104, and XYZ, Inc., ABC Street, City, ST Zip. KEDC is an educational cooperative organized under the Interlocal Cooperation Act and providing various services to its member school districts. KEDC is also acting as fiscal agent for all KPC members including the following similarly organized Kentucky educational cooperatives that offer bidding services:

- Green River Regional Educational Cooperative (GRREC)
- Northern Kentucky Cooperative for Educational Services (NKCES)
- Ohio Valley Educational Cooperative (OVEC)
- Southeast/South-Central Educational Cooperative (SESC)
- West Kentucky Educational Cooperative (WKEC)

This agreement commences on Month Day, Year and will expire on Month Day, Year, with KEDC reserving the right for one-year extensions as permitted by Kentucky Model Procurement Code (KRS Chapter 45A). This agreement incorporates the Terms and Conditions and XYZ, Inc.’s Response by reference. Upon the signature of an authorized officer of KEDC and an authorized representative of the above named company or corporation, this agreement is hereby executed.

KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION

KEDC Chief Executive Officer Signature
Nancy L. Hutchinson

Printed Name

Date

XYZ, INC.

Signature

Printed Name

Date

Title