

**CONTRACT FOR COMPUTER NETWORK, VOICE, VIDEO, AND CCTV NETWORKING
INFRASTRUCTURE EQUIPMENT, SUPPLIES, AND SERVICES**

BETWEEN

THE KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION (KEDC)

AND

ANIXTER, INC.

The Kentucky Educational Development Corporation, 904 Rose Road, Ashland, KY 41102, (KEDC), Preferred Vendor, Anixter Inc., 1103 Bluegrass Parkway, Louisville, KY, 40299, (Contractor), hereby agree to enter into this contract for Computer Network, Voice, Video, and CCTV Networking Infrastructure Equipment, Supplies, and Services. The purpose of this contract is to establish a price contract as set forth under KRS 45a.335-45a.490, the Kentucky Model Procurement Code, for KEDC and KPC member districts. KEDC, and Kentucky Purchasing Cooperative (KPC) members, may purchase all items listed in the Catalog from this price contract. There is no promise of guaranteed minimum usage of this contract.

TERMS AND CONDITIONS:

USF Provider: The contractor must be a USF service provider and list their Service Provider Identification Number (SPIN) on the bid checklist for verification.

Product Line: The contractor shall provide proof that all items listed in the catalog are in stock or can be quickly obtained.

Physical Facilities: KEDC staff may inspect the contractor's warehouse. The warehouse shall be clean and adequate for storing and delivery of products that the contractor supplies.

Financial Capacity: The contractor shall have financing adequate to purchase items in the most economical quantities. References may be requested to document adequate financial capacity.

Accounting Practices: The contractor shall provide accurate, reliable, and timely reports in terms of invoices, statements, credits, and usage data.

PRICING: Initial contract pricing and discounts are to be good through September 30, 2010. However, 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. Accumulated or group orders may be requested during the course of the contract period by all KPC members. **All bid prices must include transportation and delivery charges to the KPC member location specified during ordering with the exception of emergency situations as described in item 20, "Service Level". Fuel surcharges and other similar charges are not permitted.**

Bid Pricing may be adjusted up or down on an annual basis during the month of October in the following manner. All bid price increases must be submitted for review by November 1 to allow KEDC and its member districts to incorporate the pricing into the following years Universal Service Fund (USF) applications. Bid price increases are allowable when an increase is imposed on the successful bidder by the product manufacturer for a specific item listed on the bid. A request for price adjustment must include a copy of the Manufacturers notice (on their letterhead) along with the Item Number, Descriptions and percent of change for each item. Price decreases are allowable and encouraged. The request for price adjustment must include the Manufacturer Part Number, Vendor Part Number, Description, the old Item Price, new Item Price, and percentage change. Price adjustments are also to be provided electronically in a format determined by KEDC. KEDC reserves the right to reject any and/or all price adjustments without adequate documentation from the manufacturer to verify adjustments requested.

* CORRECT OFFICE ADDRESS *

ANIXTER

2700 Stanley Gault Pkwy, Ste 139

Louisville, Ky 40223

The contractor agrees to honor prices on approved USF applications regardless of future price increases.

Replacement and/or supplemental products that meet or exceed the minimum bid requirements may be added to this contract at the sole discretion of KEDC. Replacement/supplemental products shall be offered at a discount equal to or greater than the original award. The vendor shall submit, on its letterhead the request to add products/services. The request shall be submitted by an authorized representative of the organization. KEDC is under no obligation to accept the offerings.

The contractor shall provide each item on this bid to all KPC members at the same price.

CONTRACT PERIOD: This contract is for five years and will end on September 30, 2014 plus any extensions. After the initial contract period, the contract may be extended on an annual basis by KEDC not to exceed seven years in total including the initial period. KEDC shall notify the contractor of its intent to extend or not to extend the contract by September 15. 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. KEDC reserves the right to renew and/or solicit additional bids for subsequent contract periods. Any contract extension is contingent upon written agreement of KEDC and the contractor. The contract 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.

PROMOTION: KPC promotes all Prime and Preferred Vendors to member districts, which includes the company logo and contact information on the KPC website, a notice of the winning bid contract(s) sent to every KPC member, and promotion of all KPC Prime and Preferred Vendors during regular district visits by KPC staff. Contractors will also have access to the KPC Logo for use in promotional materials. Prime and Preferred Vendors are expected to provide promotional materials and participate in regional conferences, district shows, and trainings.

TRANSMITTAL OF ORDERS: KEDC shall issue purchasing guidelines to KPC members. Members will use formal purchase orders in ordering from the contractor. The contractor acknowledges that orders from KPC members may be transmitted from KEDC's office on the member's behalf. The contractor may use salespeople for in-person and/or telephone solicitation of orders in accordance with a mutually arrived schedule developed between the members and the contractor.

At KEDC's option in the future, the contractor shall 1) provide an interface between their existing website and KEDC's online catalog utilizing "punch-out" or "transparent punch-out", and/or 2) provide a listing of all items on the contract in an electronic format specified by KEDC (including description, pricing, picture of item, etc.) to be imported into KEDC's online catalog, and/or 3) accept faxed orders, and/or 4) accept e-mailed orders. The vendor shall accept orders electronically from KEDC and/or KPC members. The vendor is responsible for the initial and on-going accuracy of item information in the on-line catalog. KEDC shall provide programming and configuration of the KEDC catalog. The vendor is responsible for all programming and configuration costs on their web server for Option 1 and for all costs associated with compiling the data file containing the list of items in the bid contract for Option 2. KEDC may provide setup assistance at an additional charge.

QUANTITIES: It shall be understood that the bid contract will not obligate KEDC or its members to purchase from the Bid Contract.

PRODUCT AND SAFETY INFORMATION: The contractor shall provide upon request by any member, the most recent MSDS information sheets for any products the vendor may deliver to said member. It is the contractor's responsibility to comply with all local, state, and federal regulations.

LIABILITY: The contractor agrees to protect, defend, and save harmless KEDC 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 contractor further agrees to indemnify and save harmless KEDC 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 contractors, his servants or agents.

RECALLS: The contractor shall notify KPC members immediately of any products recalls. Any products that have been recalled and have been delivered shall be issued a credit and/or a comparable substitute immediately. All costs associated with voluntary and involuntary product recalls shall be borne by the contractor.

VELOCITY REPORTS: Velocity reports in an electronic format (Microsoft Excel, Access, or SQL) specified by KEDC shall be issued to KEDC upon request. Contractor shall compile velocity reports by member district. The reports shall indicate purchasing entity (district and school), contractor item number, manufacturer item number, item description, quantity sold, and dollar value of each item sold. KEDC will routinely request procurement data from participating KPC members to verify velocity report accuracy.

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.

SERVICE LEVEL: The contractor shall ship all orders at a monthly average of 97% or above within 1 working day of order receipt. The remaining 3% shall be shipped the next working day. In the event the School District declares an emergency need for an item, the contractor shall ship the item the day the order is placed via the delivery method requested by the School District (UPS Next Day Air, etc.). The School District shall bear the additional cost of the actual express shipping charges.

ORDERING AND PAYMENTS: Each member shall be responsible for making payment to the contractor, unless KEDC has been established as the Purchasing Agent for the contractor, in which case, KEDC will coordinate orders and payments directly to the contractor with the individual members being the ship to party. 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 Bid Contract including charging an additional administrative fee to the contractor beyond the three percent (3%) fee detailed below.

The vendor will be assessed an administrative fee of three percent (3%) on all purchases made by KPC members under this contract. The fee is to be included in the contractor's pricing, and can not appear on the member's invoice. The contractor will remit payment to KEDC on a quarterly basis (monthly at KEDC's option) by the 25th day of the next month accompanied by an electronic sales report showing all purchases made by members under this contract during the period of the bid.

Reporting and Payment Schedule: April 25th, July 25th, October 25th, January 25th.

The sales report shall be in the format provided by KEDC. Contractor shall compile sales report by member district. KEDC will routinely request procurement data from participating KPC members to verify sales report accuracy. The vendor will make all administrative fee payments to KEDC by the 25th of the succeeding month. All checks are to be made payable to KEDC and mailed to KEDC, 904 Rose Road, Ashland, KY 41102-7104. In consideration of receiving a KPC PREFERRED VENDOR BID CONTRACT vendor agrees to report and pay KEDC's administrative fees for all sales to KPC members.

The contractor and their manufacturers and/or suppliers recognize that all Kentucky schools and KEDC are participating in the USF Program (E-Rate) and guarantees that any approved discounts for internal connections, to include any product or service procured as a result of this contract, be honored throughout the whole life of this contract award including any and all extensions. The contractor agrees to provide the applicable USF discounts to the district with each order and bill the USF for the discountable portion.

ITEM SUBSTITUTION AND OUT-OF-STOCK BACK-ORDERS: No substitutions are allowed without prior written authorization from the KPC member. Member must be notified if item is out of stock, backordered or if timely delivery cannot be made. Upon member notification, the contractor must receive written directions from KEDC or the member on how to proceed, e.g. cancel the order, process the order, etc.

It is an expectation that all individual items bid are to be stocked items. If a contractor is temporarily out of stock of a particular item, an equal or superior product at an equal or lower price to the original item portion price shall be provided with KEDC and/or the affected school district's approval.

Delivering brands that are not listed for a specific item without prior approval of the KPC member may be used as reason for rejection of the product, and for termination of the contract.

If the contractor fails to deliver within the time specified, or within a reasonable time as interpreted by each KPC member, or fails to make replacements of rejected articles when so requested, or demonstrates a continued inability to secure the bid item, the KPC member at its sole discretion, may purchase a product of equal or greater quality from another source. On all such purchases, the contractor shall be responsible and liable for the difference in cost between the amount paid for the substituted product and the amount which would have been paid the contractor. The contractor's argument that an item could have been purchased at a lower price shall not have merit.

The contractor agrees to meet all requirements as listed herein, thereby minimizing occurrences when a school district may have to seek other interim product sources. A pattern of failing to deliver 100% of the items on this list -- within 3 working days and/or poor communications between the seller and the KPC member -- shall be considered default.

RETURNS: The contractor must provide a Return Material Authorization within 1 working day of the request by KPC member. If the return is no fault of the member, the materials shall be picked up and restocked at no charge. If the member is at fault the member is responsible for the actual transportation costs of returning the materials with no additional restocking fee.

PURCHASE OF ITEMS NOT SPECIFICALLY LISTED IN THE CORE ITEM LIST (SECONDARY ITEMS): KPC members may exercise their rights to purchase all catalog and special order items not in the Core Item list from the contractor that has been awarded the contract. Catalog and special order items shall be quoted with all educational, volume, and manufacturer discounts applied and shall be subject to the same auditing provisions as bid items. The initial price quote on catalog and special order items shall become the official bid price for the remainder of the contract.

CATALOG FORMAT: Upon request the contractor must provide at no charge their catalog in electronic format. The electronic catalog must include search capabilities, part number, price, description, and pictures of the item (on CD or via the contractor's website) for use on a Windows workstation.

PRODUCT EVALUATION: Samples requested must be furnished free of expense to KPC members 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 contractor's expense. Right is reserved to mutilate or destroy any samples if considered necessary for testing purposes.

WARRANTY: The contractor shall make available and honor all manufacturer's warranties, both standard and extended, to all KPC members.

TRAINING AND PRODUCT UPDATES: The contractor must provide on-site training for KEDC personnel on the use and installation of products and provide quarterly, local (within 60 miles of Ashland, KY) technical presentations on emerging technologies and industry standards at no cost.

CONTACT INFORMATION: The contractor must provide toll-free (1-800) ordering, technical support for design, installation, and post installation support of all products in the catalog, and a 24 hour emergency number for support at no cost.

NON-ASSIGNABILITY OF AWARDED BID: The contract will be made only to the contractor which actually submits a bid. The contract cannot be conveyed to the contractor's successors or assigns without the prior, express approval of the Board of Directors of KEDC or its designee.

SPIN CHANGE: The contractor agrees to allow any and all operational SPIN changes requested by KEDC or its member schools and districts.

CONTRACT SUSPENSION: KEDC may, at its sole discretion, suspend a contractor for a period of up to 90 days to investigate alleged instances of breach of contract or non-compliance. The contractor is prohibited from accepting new orders from KPC members while suspended, however, orders already in process can be completed. If the Contractor is found to be in breach of contract or non-compliance, the contract is rendered null and void. The Contractor agrees that they have no legal recourse of any nature against KEDC, KPC, or its member entities except for payment of goods, supplies and services that are due for prior purchases which were permitted to be sold by the Contractor under this bid. The decision of KEDC regarding suspension and/or termination is final.

WARNING AND TERMINATION OF CONTRACT: KEDC may terminate the contract if the contractor fails to perform at the service level specified in the bid document. Contracts may be terminated at any time, on 30 days notice upon the mutual agreement of both parties or upon the discretion of KEDC, in a shorter period of time, if the terms of the contract are violated in any way. In the event of termination, the members shall not be liable to any costs other than the cost of items delivered and accepted prior to the termination date.

The contractor may terminate the contract if the members fail to meet mutually agreeable and specified payment terms.

Each party shall follow the following procedure if the contract is to be terminated:

- Step 1 - Issue a warning letter outlining the violations and state the length of time to correct the problem(s).
- Step 2 - Issue a letter of intent to cancel contract, if the problem(s) is not resolved by a given date.
- Step 3 - Issue a letter to cancel contract.

In the event the physical facilities of the contractor are destroyed or a labor dispute makes performance under the terms of the contract impossible, the contractor shall not be held liable by KEDC or the members.

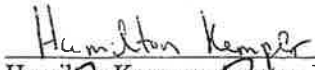
VENDOR COMMITMENT: The Contractor is required to make the following basic commitments to ensure the overall success of the statewide program:

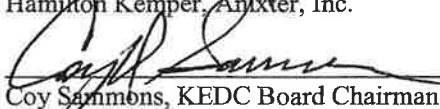
- Corporate Commitment – A commitment that KPC has the support of senior management, and that KPC is the primary offering to K-12 educational entities statewide. The contractor shall make its existing K-12 clients aware of its KPC contract and upon the agency's request, such agency will be transitioned to the contractor's KPC contract.
- Sales Commitment – A commitment that the supplier will aggressively market KPC statewide and that the sales force will be trained, engaged, and committed to offering KPC to K-12 entities statewide with a further commitment that all KPC sales be accurately and timely reported to KPC.

STANDARD CONDITIONS:

- A. This contract shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Kentucky.
- B. Contractors providing services under this bid invitation, herewith assure KEDC they are conforming to the provisions of the Civil Rights Act of 1964 as amended.
- C. Contractors shall be in compliance and will comply with any and all local, state, and federal laws and regulations related to this bid and the rendering of goods and /or services.
- D. Kentucky Sales and Use Tax Certificate of Exemption Form will be issued upon request.
- E. Contractor shall comply with applicable federal, state, and local laws and regulations pertaining to wages, hours, and conditions of employment. In connection with the contractor's performance of work under this contract, contractor agrees not to discriminate against any employee(s) or applicant(s) for employment because of race, age, religious creed, sex, national origin, or handicap.
- F. Contractor agrees to retain all books, records, and other documents to this agreement for three years after final payment. KPC members, authorized agents and/or state/or federal representatives shall have full access to, and the right to examine any or said materials during said period which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions. If the investigator or audit is in progress, records shall be maintained until stated matter is closed.
- G. Contractor shall comply will 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), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included in the EPA list of violated facilities.
- H. By signing this document, the contractor certifies that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. The contractor certifies that collusive bidding is a violation of federal law and can result in fines, prison sentences and civil damage awards.
- I. Prohibition against conflicts of interest, gratuities, and kickbacks: Any employee or official of KEDC or KPC members, 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 school district 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.
- J. The contractor 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, and KRS 42.990.
- K. The provisions of KRS 365.080 and KRS 365.090 which permit the regulation of resale price by contract, does not apply to sales to the State.
- L. The contractor is fully knowledgeable of KRS 45A.335-45A.490, Kentucky Model Procurement Code, including the provisions for violation of the Code. KRS 45A.455 prohibits conflicts of interest, gratuities, and kickbacks to employees of KEDC or the KPC member boards in connection with contracts for supplies or services whether such gratuities or kickbacks are direct or indirect. KRS 45A.990 provides severe penalties for violations of the laws relating to gratuities or kickbacks to employees that are designed to secure a public contract for supplies or services.

Therefore, both parties have read and agree to all terms and conditions as set forth above.


Hamilton Kemper, Anixter, Inc.


Coy Sammons, KEDC Board Chairman

01-05-09
Contract Award Date

Contract Number **PV-SC-2009-07**