Vendor Single Point of Contact (SPOC) for contract issues –

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IBM Corporation, will manage order processing and fulfillment directly.
The Sales Agent cannot handle order processing and fulfillment.

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Section 10
General Information

10.000 Purpose

The Master Plan for Education Technology for the Commonwealth of Kentucky was originally adopted by the State Board for Elementary and Secondary Education in May 1992 and is updated every two years. This plan for technology is consistent with the underlying tenets of the Kentucky Education Reform Act. The Master Plan addresses the need to ensure equitable access to education technology by establishing a state standard for the level and type of technology within each school. This means equity in price and support response rates for a school no matter how wealthy/poor, big/small or its location (rural/urban). The price given for hardware, software or services to a large/wealthy school shall be the same as the small/poor one. This means once you quote a price for a KETS hardware component to a single school district that is below the current KETS price, the price will then change statewide.

As a result of the objectives outlined in the KDE Master Plan for Education Technology, an Architectural Standards Working Group was formed to establish architectural standards and technical specifications for the technology components of KETS. The Architectural Standards Committee approves or disapproves all equipment standards for file servers, workstations, portable workstations, printers, LAN/WAN data communications equipment and services provided on KETS. This group shall meet periodically during the contract period to determine if the specifications need to be revised or updated for these contracts. The Architectural Standards Committee requires any technology changes shall be available within 30 days of notification, which meet or exceed all new specifications established by the Architectural Standards Committee.

Districts shall purchase with EDTECH funds from the KETS Master Agreements for the specific model numbers that meet the specifications and have been approved by KDE. EDTECH funds are the combination of the funds sent to school districts each year and matched with 100% local funds. The KETS contracts are much different than a regular contract that vendors may have in place. Vendors must be able to effectively handle this magnitude of sales, meet delivery deadlines with quality Enterprise (not Consumer) hardware and support equitably across every county in our state while meeting the performance standards from the first day of award. We want hardware that has consistency in parts and has undergone testing of internal components to the Enterprise level versus the consumer level. We are not interested in a vendor that primarily can sell the product but cannot provide good contract management or on-site support across every county in our state from the first day of contract until the last. Typically it is much easier to provide on-site support to urban areas. The vendor shall be able to provide on-site support to **every school** in **every rural county** with the same timelines and costs as the urban areas. We want vendors that are aggressively in touch with

Kentucky, the KETS Project and our primary customers (students, teachers and the staff that support them).

10.300 KETS Contract Awards

Vendors will be allowed to provide ONLY one (1) manufacturer's brand equipment.

A manufacturer may provide equipment direct or through a Sales Agent. A Sales Agent **shall be defined as a company or individual that represents the manufacturer in the sales, order processing and delivery of the manufacturers product(s) to the schools.** If the manufacturer elects to provide equipment without assigning a Sales Agent, only the manufacturer employees' shall be authorized to sale, process orders and deliver their products to the schools.

If a manufacturer is awarded a Master Agreement directly, the manufacturer may assign **ONLY one (1) Sales Agent** for sales, order processing and fulfillment of the product. In this scenario, the manufacturer would still be legally responsible for ALL aspects of the contract requirements. The assigned Sales Agent must also have offices located within the Commonwealth of Kentucky. A manufacturer **SHALL NOT** have more than one Sales Agent. **Confirmation of a manufacturer using multiple Sales Agents shall be cause for immediate cancellation of their contract without any cure period.**

If a manufacturer wishes to use an agent, the manufacturer must have made that known as part of their bid response. In addition, the manufacturer must also identify whether they or the sales agent will manage order processing and fulfillment. The **sales agent and the manufacturer cannot both** handle order processing and fulfillment. It can only be one or the other.

Section 20
General Specifications

20.000 Minimum Requirements

The following shall be considered minimum requirements for your company to comply with the requirements of the contract:

- Completed Vendor Reliability Form;
- Written statement verifying your ability and commitment to provide delivery within 30 days.
- Novell supplied document indicating equipment certification for Novell;
- Microsoft supplied document indicating equipment certification for Microsoft;
- Successfully pass equipment inspection where all vendor responses will be verified for compliance to the specifications on the Vendor Reliability Form according to the terms specified in Phase One of Section 20.080;
- Written documentation ensuring all components, parts, including chips, are available to any third party service provider or self-maintainers that hold certifications from the manufacturer in fault determination, installation and maintenance for that specific piece of equipment.
- Copies of manufacturers certification for all service technicians expected to perform statewide service warranties within 30 days of notification;
- Successfully pass equipment performance evaluation during "Performance and Compliance Compatibility/Interoperability Testing" according to terms specified in Phase Two of Section 20.080;

20.010 General Procedures For Ordering From The Contacts

Districts must fill out the KETS Master Agreement order forms for the equipment they want to purchase. They must describe the cost of each unit (A), total number of each unit (B), and total cost (A*B). They must also have their financial and technology coordinators sign this form. The District then sends the KETS purchase order form to the vendor. The vendor shall ask for both forms before completing any order.

On-Site Warranty and Installation are optional.

Negotiation of Price. Districts can and are encouraged to negotiate a better price with KETS vendors for only the specific manufacturer's Enterprise models listed on the KETS Master Agreement. However, once a lower price has been negotiated with one district, it becomes the new statewide price for that model for the duration that particular model is on the KETS contract. Typically, vendors have special offers to quickly get rid of inventory that didn't sell well as anticipated or is outdated. If a vendor offers a special price for any time period (e.g. Offer ends 12 August), that price for that model for all districts does not end on 12 August. Instead, it has now become the new price for the duration that the model is on contract. Example: If a large district like Jefferson County negotiates a lower price for a specific model from a vendor, it now becomes the new price for every district statewide for that model from that vendor. This works similar to upgrading models within any one level. The Commonwealth shall make other districts aware of any new or special price offerings as they change during this competitive process.

Vendors shall maintain their own Web site accessible to all districts where they can easily/quickly view latest model numbers, configurations, and prices offered on the KETS contract. This information must be easily accessible and easily recognized as "KETS Master Agreement" pricing. Districts should not have to spend an extraneous amount of time on the vendor's website searching for this information.

Upgrades. We encourage the vendor to upgrade their product lines as quickly as possible. As new models of the manufacturer’s Enterprise class of hardware become available, the vendor will submit a request and pricing to the Division of Material and Procurement Services (DMPS) and to the Office of Education Technology (OET). The DMPS and OET reserve the right to approve all submissions prior to the contract being updated and the vendor being able to sell new product. This approval includes requesting samples of the hardware that the vendor is proposing.

In addition, when new Enterprise model lines are introduced (i.e. model name changes such as IBM xSeries becomes the IBM NetPro), the DMPS and OET will have final approval on whether the new model of Enterprise hardware will be allowed to become part of the KETS contract. The manufacturer and vendor are to actively work with OET on product roadmaps and introduction of models to allow for a well-informed decision to be made in cases such as this.

Once KDE approves the upgrade component at the OET, OET shall then inform DMPS that they recommend approval. DMPS shall then process a Modification and KDE shall then update the KETS contract order form and send this to the districts. The KETS contract order form is the districts key indicator that the vendor has gone through all the acceptable procedures to upgrade their line.

Price adjustments. These submissions will occur on or about the 1st of every calendar

month. Once DMPS accepts the vendor's models, the vendor cannot increase the price for that model on the contract. The price can only be lowered. For example: If the vendor adds Level 1 to their contract and lists the price for Level 1 as $1,950, that model can never be priced higher than that amount. During the life of Level 1 on the vendor's contract, the price for that model can only be lowered and cannot be raised. If a vendor attempts to fluctuate the price of a particular model by lowering the price toward the end of the calendar month and then raising the price on their next monthly submission, the DMPS and OET will consider the vendor in violation of their contract and the vendor may have their contract suspended and or terminated. The **one exception** to price increases will be **memory chips** due to the volatility of that segment of the technology market.

If the vendor is throwing in free items (freebies), the vendor shall notify DMPS and KDE so we can ensure all other districts get the same freebies. The vendor cannot offer freebies for a certain time only or to only a certain district or school. Once freebies are offered, they become a statewide standard for anyone Purchasing that model from the KETS contract until that model is no longer available.

Vendor Responsibilities. The vendor shall name a person that will be the single point of contact (SPOC) for contract issues. The vendor shall insure that this person and all salespersons of their product will be knowledgeable in:

1) All the details of the KETS contract.
2) The Kentucky school, district office and KDE customer base.
3) The most current KETS Master Plan on our Web site and year round current events in KETS.

The SPOC must be aggressive each day in sharing information or presenting a point of view with the selling staff and the manufacturer of the KETS hardware. To "stay in touch" with the Kentucky customer and the requirements of this contract, this SPOC will be required to be present at least once a week at OET in Frankfort or anywhere else in Kentucky where their services are needed by our customers.

Besides keeping each other informed this face-to-face interaction minimizes the probability of small issues becoming big ones in a short period of time. It is reassuring to see the vendor's representative on a weekly basis. Instead of this being just another contract to your company, we must feel that you are making a commitment to be a contributing and well-informed member of our KETS Project team. If any issues with the contract are at hand for a particular vendor, it is nice to be able to inform this person face-to-face of the problem and know that results are coming soon since they know we will see them again face-to-face the next week.

In a nutshell, having a "local" one-stop shop for all needs fills that void of dealing with

large companies whom typically have large corporate offices out of state and cannot provide the personal touch for contract management that is needed with a contract of this size. Having an office in Kentucky also demonstrates partnership with multiple manufacturers and commitment to resources and the needs of Education in Kentucky. We shall have a complaint desk at OET and on our Web site so our customers can quickly document vendors that are failing to meet the requirements of the bid. Vendor's contracts can be suspended or terminated based upon these complaints.

Consumer Models NOT Wanted and NOT Allowed. Only Enterprise level hardware shall be available on KETS contracts. Consumer models of hardware shall not be available at any time on KETS contracts. These models are typically found in local department or outlet stores. There is less consistency of parts since the home user in Iowa does not care if the next hardware item manufactured behind theirs that is going to Texas has totally different internal components. Consumer models can look the same on the outside, but 10 hardware items of the same models with the same exact configurations shipped to the same location on the same day can have 10 totally different parts on the inside. Also there is typically less testing done between the internal components so the failure rate is higher in this type model versus the Enterprise models sold to businesses and schools. The consumer model is satisfactory for the homeowner but not a business or organization. It becomes a support nightmare because the lessons learned on one consumer item will not help you at all with the other units. While consumer models are typically less in price than an Enterprise model they are also a lot less in quality and a major problem to support. We do not want them for our schools for the same reasons the business sector and the federal government does not want them.

Hardware submitted shall undergo extreme compliance compatibility and interoperability testing against the KETS standards. As new models are introduced, the OET will request a sampling of current models to be present on KDE's premises at all times for the duration of the contract. From the initial award until the end of the contract, a minimum of 5 file servers with monitors (a combination of both CRT and LCD) will be provided to OET for ongoing testing at no charge. The OET cannot be held responsible for any damage or loss to vendor supplied equipment since the Commonwealth's insurance does not cover non-Commonwealth owned equipment. All equipment that is provided is located at either 15 Fountain Place or on the 14th floor of the Capitol Plaza Tower. Even though we have strict sign-in/out procedures, door sensors, motion detectors and video cameras on the demonstration equipment, the vendor is financially responsible for any accidental damage or incident beyond our control to evaluation units while they are here (e.g. theft, natural disaster, accidental dropping by a school district inspecting the workstation prior to purchase). Our state government insurance does not cover these types of items. In five years we have only had one (1) workstation out of hundreds that sustained damage (it was dropped), and two (2) losses due to theft, which was recorded by security cameras and turned over to the vendor for prosecution.

20.020 Deliverables

All deliveries of equipment must include:

- Standard components as defined in Section 30;
- Power Cabling;
- Drivers;
- Initial supplies;
- Technical equipment manuals;
- Operator Manuals;
- Optional Installation: If installation has been purchased, installation and setup of equipment shall include unpacking equipment from box(s), mechanical and electrical installation of all components to main unit. Connection of all power and signal cables, and removal of boxes from customer site.

20.030 Service Warranty Options

Vendor must be able to provide various levels of warranty service for all hardware offered on contract. Failure to be able to do this will result in a non-responsive bid. After award of a contract, failure to be able to provide the following types of warranty options may result in suspension or termination of vendor's contract.

Under all warranty options, the manufacturer shall provide limited warranty maintenance for items purchased through this contract. Limited warranty maintenance does not extend to the product that has been damaged or rendered defective due to:

a) A result of accident, misuse, or abuse
b) A result of an act of God.
c) Operation outside the usage parameters stated in the products user manual
d) Modification of the product
e) A result of service by anyone other than (manufacturer), a (manufacturer) authorized reseller, or a (manufacturer) authorized service provider. Expendable parts, such as non-rechargeable batteries, carrying cases, etc. are not covered. Damage due to loss of any programs, data or removable storage media is not covered.

DEPOT WARRANTY (Monitors ONLY): Depot warranty means that upon determining the hardware requires service, the vendor will provide to the District/School a shipping container within 24 clock hours for the District/School to package and ship the hardware to the manufacturer's authorized repair facility. The repaired hardware will be returned within 72 clock hours to the District/School.

Depot warranty for a minimum of three (3) years is required on all monitors. Vendors shall also offer to the purchaser options for four (4) or five (5) year Depot warranty periods to begin at time of delivery of the equipment.

This warranty shall meet the following criteria:

- No charge for labor including installation of parts, connection of all power and signal cables, and all involved with making the hardware fully functional and establishing connectivity per type of hardware repaired;
- All technicians shall be certified professionals by manufacturer before providing warranty services;
- Hardware fully operational and returned within 72 clock hours. Vendor is not responsible for disaster recovery;
- The cost is the same throughout the state. For example, you cannot charge additional costs for servicing Paintsville versus Lexington;
- Replacement parts shall be of equal or better quality than original parts;
- There shall be no charge assessed to the District/School for any shipping and handling in the shipment or return of the equipment

ON-SITE WARRANTY: Customers shall be required to purchase one of two 3-year on-site Warranties with each and every file server purchased under the KETS contract. Both warranties shall cover service for the file server and all optional components purchased under this contract to include the Un-interruptible Power Surge (UPS) protection devices and video monitors for the entire 3-year period.

The Commonwealth requires the bidder to price warranty charges separately from unit price

Warranties shall meet the criteria detailed as follows:

Warranty #1 (Level 1): Vendor on-site within 8 business hours. Customers at there own discretion shall have the option of scheduling the vendor on-site the next business day. Vendor shall perform all fault determination and must return again on-site to install any new or reconditioned parts so the file server is operational within 24 business hours (3 days) of initial call, Monday through Friday. This requires the customer to report the problem to the vendor. The customer shall not spend any time doing fault determination so they are free to work on other responsibilities.

- Three (3) year on-site coverage of the entire state of Kentucky (upgradeable to 4 or 5 years);
- Must have a Toll Free phone number for all calls (no busy signals, answered by the third ring, hold time no longer than 2 minutes, and a call tracking system);

- All labor including installation of parts, connection of all power and signal cables, reinstallation of device drivers (e.g. network, video, hard disk, CD/ROM, SCSI controller, UPS, video monitor, RAID, etc.) and all involved with making the file server fully functional and ready for installation of NOS;
- 5 business days per week, Monday through Friday.
- Call back within 1 hour of placing call; If the phone line remains busy after 3 tries you must: E-mail the customer if at all possible (KDE and district offices all have this ability and 60% of the schools have this ability). If the school doesn't have e-mail and their phone line remains busy after three separate tries (each attempt must be at least 5 minutes apart) then you must either fax them, e-mail the district office or telephonically inform the DTC or technical staff at the district office;
- All technicians shall be certified professionals by file server manufacturer before providing warranty services;
- File Server hardware fully operational within 24 business hours or 3 days. Vendor is not responsible for disaster recovery (e.g., reloading application software, reloading network operating software (NOS), re-configuration of network and IP addresses, and reloading data).
- The cost is the same throughout the state. For example, you cannot charge additional costs for servicing Paintsville versus Lexington;
- Replacement parts shall be new or reconditioned, and of equal or better quality than original parts;
- There shall be no charge for any shipping and handling of parts

Warranty #2 (Level 2): Vendor on-site within 8 clock hours to do all fault determination and must return again on-site to install any new or reconditioned parts so the file server is operational within 24 clock hours of initial call, 7 days per week. This requires the customer to report the problem to the vendor. The customer shall not spend any time doing fault determination so they are free to work on other responsibilities.

- Three (3) year on-site coverage of the entire state of Kentucky (upgradeable to 4 or 5 years);
- Must have a Toll Free phone number for all calls (no busy signals, answered by the third ring, hold time no longer than 2 minutes, and a call tracking system);
- All labor including installation of parts, connection of all power and signal cables, reinstallation of device drivers (e.g. network, video, hard disk, CD/ROM, SCSI controller, UPS, video monitor, RAID, etc.) and all involved with making the file server fully functional and ready for installation of NOS;
- 7 days per week, 24 hours per day.
- Call back within 1 hour of placing call; If the phone line remains busy after 3 tries you must: E-mail the customer if at all possible (KDE and district offices all have this ability and 60% of the schools have this ability). If the school doesn't have e-mail and their phone line remains busy after three separate tries (each attempt must be

at least 5 minutes apart) then you must either fax them, e-mail the district office or telephonically inform the DTC or technical staff at the district office;

- All technicians shall be certified professionals by file server manufacturer before providing warranty services;
- File Server hardware fully operational within 24 clock hours. Vendor is not responsible for disaster recovery (e.g., reloading application software, reloading network operating software (NOS), re-configuration of network and IP addresses, and reloading data).
- The cost is the same throughout the state. For example, you can not charge additional costs for servicing Paintsville versus Lexington;
- Replacement parts shall be new or reconditioned, and of equal or better quality than original parts;
- There shall be no charge for any shipping and handling of parts

Warranty Options: In addition to the 3-year warranty purchase requirement that all districts must make with all file server purchases, the vendor is required to also offer 4 and 5 year on-site warranty upgrade options that can be purchased at the district's discretion. These 4 and 5-year warranty options will be offered in two variations (Level 1 and Level 2) according to the Service Level Agreements above. **The 4 and 5-year warranties are completely optional for districts to purchase.**

SELF-MAINTAINER: Vendor must be able to facilitate the customer to become a self-maintainer of hardware that is purchased. Being a self-maintainer allows the District/School to have staff certified on the manufacturer's brand of hardware to provide in-house servicing for hardware problems. Several districts within the Commonwealth currently are manufacturer certified to perform such service, which provides for cost savings as well as the opportunity within some districts for the Student Technology Leadership Program (STLP) to gain hands-on experience that can be invaluable educational experience.

MAINTENANCE EXPECTATIONS: There shall be a complaint desk at KDE and on our web site so our customers can quickly document vendors that are failing to meet the service requirements of the contract. Quarterly reports will be generated which will assist us in identifying vendors whom have not successfully met service response times. The vendor shall meet service specifications in Section 20.030 for a minimum of 95% of total annual service calls. The vendor is allowed this 5% failure rate based on total service calls they receive annually due to vehicle break down, parts that get lost, addresses being difficult to find, etc. Vendor's contracts can be suspended or terminated based upon failing at more than 5% of service calls or by customer complaints and/or the results of these reports.

The contract holder shall be held solely accountable for all services conducted under

the terms and conditions specified in this warranty.

Service calls taken by any technical support center(s) shall be quickly turned over to second and third levels of support for quick resolution rather than attempts to resolve issues at that point. All support personnel shall be certified by the manufacturer of equipment (for example, if this vendor supplies Vendor X equipment, support staff shall hold a manufacturer's certification and be certified by Vendor X to perform service on Vendor X equipment).

The vendor shall maintain accurate records indicating a minimum of the following:

- Total units sold with warranty per District
- Total units sold without warranty per District
- Number of service calls by District made in complete compliance to specifications outlined in this Section 20.030.
- Number of service calls not resulting in complete equipment functionality within 48 hours of initial service call.
- Detailed data regarding customers name, address, phone number, date of service, date service is complete, and reasons this service call was not complete within 48 hours shall be required.

The vendor shall prepare and present this information upon request to the Commonwealth as specified in Section 40.130 of this Solicitation.

90-DAY SERVICE EVALUATION: The Commonwealth shall evaluate on-site warranty service by conducting multiple response time and quality assurance tests during the initial 90-day period of the contracts. This initial period will be a probationary contract with continuance dependent upon successful completion of the warranty service evaluation.

The vendor shall respond to various on-site service requests in any or all eight (8) regions throughout the entire state of Kentucky within eight (8) working hours for all service requests. The technician must be certified by the manufacturer to provide service on equipment requesting service. If more than one (1) technician is responding to an on-site service request at least one (1) technician shall be certified by the manufacturer. Evaluation can occur on any day, Monday through Friday, at any time between 7:00am and 6:00pm Eastern Time, during the initial 90-day probationary period. Evaluation will also include testing call backs from service center, e-mail response times, time of delivery for parts, replacement and fix times, and skill level of your on-site and telephonic support staff.

If the vendor fails the support evaluation at any time during this initial 90-day

probationary period, they may be terminated from the KETS approved vendor list.

20.040 Hardware Installation Option

Purchaser may choose installation at time of purchase. The Commonwealth requires the installation charges be separate from unit price. When installation is purchased, the vendor shall be responsible for unpacking, uncrating, mechanically and electronically installing all hardware and associated hardware options connected with the order. The vendor shall make connection of all power and signal cabling and in all other respects making the equipment ready for operational use.

The Commonwealth and/or purchaser, at its own expense, shall prepare the site prior to the scheduled delivery date.

The vendor is not responsible for disaster recovery (e.g., application software, reloading data, reloading and configuring print drivers).

20.050 Equipment Manuals

All instruction, maintenance, and technical equipment manuals produced by the manufacturer describing the characteristics and/or operation of the equipment shall be identified and incorporated as part of the contract.

All manuals shall be furnished in paper or electronic media versions, or both, for all equipment purchased.

20.060 New Technology Availability

If the Contractor updates the technology on which the KETS product line award is based, the Commonwealth shall be entitled to the updated technology at OET.

New Operating Systems. Upon release of new Network Operating Systems, vendors will be required to certify the product on their contract will interoperate with that new NOS within 30 days after release of the NOS to the manufacturer.

20.070 Distribution of Literature

Upon request, the contractor shall furnish descriptive literature, technical data, catalog of peripherals, and service information for items awarded.

20.090 Demonstration Lab

There shall be maintained by the OET in Frankfort, KY, a Demonstration Lab where all

hardware covered by KETS contracts are evaluated and demonstrated. The Demonstration Lab is located in the OET building at 15 Fountain Place, Frankfort, KY 40601 and on the 14th floor of the Capitol Plaza Tower, 500 Mero St., Frankfort, KY 40601. This enables potential customers to have hands on access to the equipment prior to making a purchase decision. Accordingly, you must maintain, at no charge to the Commonwealth, five (5) file server demonstration units and five (5) monitor units currently available from your contract.

Vendor will replace the supplied file servers and monitors with newer models of equipment that have been added to their contract. The OET continues to test new evaluation equipment against evolving KETS standards.

Delivery of Evaluation Units: The vendor shall deliver all evaluation units to the OET facility loading dock off Mero Street, located on the East side of the OET facility. The vendor shall be fully responsible for delivering all evaluation models and new technology upgrades continually to the Demonstration Lab for the duration of this term contract at the address provided below:

Office of Education Technology (OET)
15 Fountain Place
Frankfort, KY 40601

Labels: The vendor shall provide an external label (3`` X 5`` in size) on all evaluation equipment. The label shall be semi-permanently fixed to the main processor unit on the largest painted side of each unit. Each label shall be typed with a minimum of 1/4`` high lettering and contain the following information:

- Vendor Name
- Vendor Phone Number
- Service Phone Number
- Hardware Specifications
- Unit Serial Number
- Model Number/Name

The vendor shall be responsible for unpacking, uncrating, installing all evaluation equipment, including the connection of all necessary cabling, connection with power, network ready, and in all other respects making the equipment ready for operational use. The vendor shall provide the OET with a minimum of three (3) days advance notice before bringing new evaluation equipment into the building.

The vendor shall remove all outdated evaluation equipment from the Evaluation Lab within three (3) days of notification. All equipment left after three (3) days of being

notified may be moved to a non-secure storage facility outside the OET building.

20.100 Universal Service Funds

Vendor, manufacturer or contractor recognizes that all Kentucky schools and the Kentucky Department of Education are participating in the Universal Service Fund Program (E-Rate) and guarantees that any approved discounts for 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. In addition, contract holder will designate an internal employee who will work with the vendor's Single Point of Contact for this contract to assist school districts and KDE with USF compliance and issues.

Section 30
Architectural Standards and Technical Specifications

30.000 General Intel-Based™ File Server Standards

The Commonwealth requires all file servers to be no less than Enterprise Level models and not consumer models. For that reason the following minimum standards must be met:

2. Prices for all monitors (both CRT and LCD) are required to include a minimum 3 years of depot maintenance with turnaround covering all costs associated with any return. This required Depot warranty is bound by the terms of Section 20.030.

3. All file servers submitted by the vendor for addition to the KETS Contract must consist of at a minimum the following specifications:

   - Only Intel processor based file servers are to be provided on contract. No other manufacturers of processors are allowed.

     - Network - Must be configured with one (1) Fast Ethernet network adapter (10/100BASE-T)
     - Ethernet must operate at a speed of at least 10/100 MBPS verifiable through included software interface
     - Must be certified for Novell and Microsoft NOS
     - Must demonstrate Simple Network Management Protocol (SNMP) manageability
     - Must demonstrate visual LEDs to show link integrity and activity
     - Must have automatic sensing and reconfiguration for the speed of the hub or switch port.
     - Must comply with IEEE 802.3 industry standard 10 MBPS baseband CSMA/CD (10BASE-T) and 100 MBPS baseband CSMA/CD (100BASE-T) standards.
     - Must support Category 5 UTP or better cable installations.
     - Must support Magic Packet Technology to allow file server to be remotely woken up

   - CD-ROM – File Server must be configured with a minimum, 24X internal, CD-ROM w/ Sound

   - Hard Drive – All hard drives must be at a minimum 10,000 rpm SCSI hard drive.

   - NOS – File server must be manufacturer certified for interoperability with Novell

and Microsoft NOS

- Connectivity ports including at the minimum the following:
  - 1 VGA port
  - Keyboard and mouse port
  - 1 serial port
  - External SCSI port

Section 40
Terms and Conditions

40.000 Scope of Contract

This Master Agreement is for the purchase, delivery, and warranty of equipment for the Kentucky Education Technology System.

40.010 Contract Period

The term of the contract shall be for the period beginning July 1, 2003 through June 30, 2005, with the option to renew for two (2) additional two (2) year periods.

The optional renewal of this contract shall be formalized by mutual agreement between the Commonwealth and the vendor. However, the Commonwealth's agreement to extend shall depend on past performance, the reliability of delivered products, the responsiveness of warranty services, and the current contract item pricing. Also important shall be the past demonstrations of willingness of the vendor to amend the contract in response to the continuing industry trend of better technology at lower prices.

40.020 Agencies To Be Served

This contract shall be for use by the Commonwealth of Kentucky for the following:

- **DEPARTMENT OF EDUCATION**
- **LOCAL SCHOOLS AND SCHOOL DISTRICTS**

Delivery of equipment shall be made only as authorized by receipt of an official purchase order as set forth in the contract provisions.

40.030 Basis of Price Quotations

Unless otherwise specified, the prices established by the contract shall be firm for the contract period. However, it does not preclude the buyer from negotiating a more advantageous price.

PRICE ADJUSTMENTS are subject to the following:

Price Decreases: The contract price shall be reduced to reflect any price decreases afforded other clientele. The contract holder is required to furnish the Division of Material and Procurement Services with notice of any price decreases, as soon as such

decreases are available.

Price Increases: No price increase shall be allowed during the term of the contract **except** in Section 20.010 for ***memory options*** **only**. The price on the Master Agreement is the maximum allowable to be charged to a buyer except when price increases have been approved. All price increases shall require prior approval from the Division of Material and Procurement Services and KDE. If undue hardship results, the contract holder must request in writing that the contract be terminated thirty (30) days prior to the effective date. The Division of Material and Procurement Services may honor the request and the contract shall be terminated.

Extended Contract Periods: If contract renewal option is exercised, a price adjustment may be granted at that time in line with the industry.

40.050 Warranty of New Equipment

The awarded contractor warrants that all equipment supplied hereunder for the term of this Master Agreement shall be new, in current production, and of identical quality as originally submitted.

The Commonwealth may, at their own discretion, sample the quality of equipment being purchased by the customers at any time during the contract term. If during the sampling process, equipment purchased under this contract is less than the quality originally submitted for bid, their Master Agreement may be terminated.

40.060 Basis of Shipments

All prices shall be FOB Destination. The vendor shall be fully responsible for all shipments and freight charges involved in delivery to the ordering entity.

40.070 Quantity Basis of Contract

Any and all quantities mentioned are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy only that quantity needed by its agencies during the term of the contract. Requirements may exceed the quantities shown and the contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

40.080 Reporting Based on Quantity

The contractor is required to furnish the Commonwealth with quarterly reports of how many units are sold per District. Reports must include model name and number, unit cost, date of purchase, PO number and District/School name for all units purchased

from the KETS contract.

40.090 Delivery Time

The vendor shall maintain or have available an inventory sufficient to make shipment of the complete purchase order within 30 calendar days from the receipt of the purchase order. Those that don't supply 100% of items ordered within 45 calendar days of receipt of purchase order are subject to shipping penalties, contract suspension or termination. The 45 day clock starts on either (1) the day electronic or paper mail receipt of the district's purchase order by the vendor or (2) the date on the district's registered mail return receipt, whichever is sooner. Delivery time(s) in excess of forty-five (45) calendar days after receipt of order may result in penalties, suspension or termination of contract.

Penalties. Delivery penalties will be applied at a rate of 5% for each 7-day calendar week for those products not delivered within 45 calendar days of receipt of purchase order.

Example: Vendor X has received a purchase order for 10 units each costing $2,000.00. Nine (9) units have been delivered within 45 calendar days but one (1) unit has not. On the 52nd day (7-day week) vendor X will be charged $100.00 (5%) for the unit not delivered. If two (2) units had not shipped, the vendor would be charged $200.00 (5% of $4,000.00). Additionally, if the unit is not delivered by the 58th day, vendor X will be charged another $100.00. Penalties will continue to be charged to the vendor each subsequent week until the unit is delivered to the customer. Penalties shall be deducted from the invoice.

Penalty Waiver. The vendor shall not be penalized if within the desired 30-day delivery period, they have supplied the DMPS, OET, and the customer(s) with a written notice indicating the particular model ordered is not available in inventory anymore and a newer equal or better model will be shipped in it's place at no additional charge. In this case, the vendor shall notify DMPS and OET of the discontinuance of said model before the 30th day from the date the purchase order was received. In addition, the vendor will contact the purchasing District/School informing them that the model they originally ordered has been discontinued and will request approval from them to supply the newer equal or better model at no price increase. The vendor will provide to the purchaser a comparison of the specifications of the discontinued and proposed substitution model for their review prior to shipping of the substitution. The vendor shall not use this penalty waiver to notify customers falsely with intentions to stall and send the same unit originally ordered. This conduct may result in termination of contract. Once the vendor receives notification the new model is acceptable; the 45-day clock starts again.

Example: Vendor X has recognized within 30 calendar days of receipt of purchase order that Level 1 will no longer be available due to a discontinuance of that model. Vendor

decides on Level 2 to offer in substitution of Level 1 and quickly notifies the DMPS, OET and the customer in writing. DMPS and/or OET approve the new model as does the customer and vendor can ship Level 2 to the customer. Vendor is not penalized.

Hardware Configuration. Vendor shall deliver all hardware with the exact configuration as specified by the District/School. However, the Commonwealth realizes the probability for human error to occur. Therefore, we expect a 95% annual accuracy for correct hardware and software configurations. There shall be a complaint desk at KDE and on our Web site so our customers can quickly document vendors that are failing to meet the requirements of the bid. The Commonwealth will generate reports, which identify vendors that have failed to successfully deliver correct configuration of equipment for more than 5% of units shipped annually. Vendor's contracts can be suspended or terminated based upon these complaints and/or poor performance identified from the results of these reports.

40.110 Addition or Deletion of Items

The Division of Material and Procurement Services reserves the right to add to any contract additional or new items. ONLY THE DIVISION OF MATERIAL AND PROCUREMENT SERVICES MAY ISSUE AUTHORIZATION FOR SUCH ADD-ON. The Division of Material and Procurement Services shall determine if any item usage warrants such an addition to a contract.

Vendors are required to submit one updated "catalog" of approved hardware and pricing each month on, or about, the 1st of each month. This submission will be in accordance with any and all other terms of this agreement pertaining to hardware additions/approvals and will be submitted electronically in the required format necessary for the Division of Materials and Procurement to update the contract holder's Master Agreement. This submission must also be emailed to the designated personnel at OET for their approval as well. Division of Material and Procurement Services shall have final determination in the addition of any and all hardware to the vendor's Master Agreement.

Should an addition be in agreement with the Division of Material and Procurement Services and the contractor, the Division of Material and Procurement Services shall issue a Modification to the Master Agreement. Until such time as the vendor receives the Modification, the vendor shall not accept any order from any agency for items not on the Master Agreement.

40.120 Items Other Than Contract Items

The vendor may accept orders only for items listed on contract. Any vendor that is found to accept and ship items other than those listed on their contract, against their

Master Agreement number, risk cancellation of contract. Such shall not only be grounds for cancellation, but also removal of the vendor from the bid list.

40.130 Post Contract Meetings and Agreements

The contract shall constitute the entire agreement between the state and the vendor. Unless contractually provided, those authorized to use this contract shall not be required to enter into or sign further agreements, company orders or other documents to complete or initiate the terms of a contract. Any such documents so obtained shall be non-binding on the state and be cause for breach of contract.

The vendor shall meet with OET in Frankfort, KY on a quarterly basis. The vendor shall prepare a report on a quarterly basis and deliver it to OET in paper or electronic format as stated. The vendor shall prepare to discuss and present report information as well as any contractual issues, successes, lessons learned, performance measurements, product information, and pricing.

The Commonwealth may periodically request review of invoices of KETS delivered equipment. When requested a KETS vendor shall provide actual purchase invoices from the manufacturer for hardware delivered over a specified period of time sold against their contract. The invoices will be used by the Commonwealth in calculating the percent of price over cost being applied to the schools of Kentucky.

40.140 Cancellation Clause

The Commonwealth may cancel the contract by giving written notice, 30 (thirty) days prior to the effective cancellation date. In the event such action is taken, the contract shall be null and void upon receipt of a Modification from the Division of Material and Procurement Services canceling the contract.

40.160 Orders & Payments

All purchase orders to the contractor shall be mailed to the order addresses stated on the Master Agreement, regardless of any differences stated by the sales representative or stated on the invoice.

40.170 Invoices

Invoices for items ordered, delivered and accepted by state agencies shall be submitted by the vendor directly to the agency receiving delivery, unless otherwise stated on the contract. Invoices for equipment provided to teachers shall be invoiced to them. All invoices shall show the Master Agreement number. Prices charged cannot exceed the contract price. <u>The Commonwealth of Kentucky is only responsible for payment when</u>

the purchaser is a state agency.

40.180 Payment

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods or a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

Initial invoice period shall commence upon date accepted by the ordering agency. After equipment has been received and invoices submitted to the using agency, it shall be the responsibility of the using agency to make payment. Any questions concerning payment should be addressed to the ship-to agency listed on the agency purchase order. Do not submit invoices, past due statements, etc. to the Division of Material and Procurement Services.

40.190 Assignment

The Contractor shall not assign this Contract in whole or in part to another Contractor at any time during the initial or optional renewal terms of the contract. Any purported assignment shall be null and void.

40.200 Subcontracts

The awarded vendor shall make no contract with any other party for furnishing any of the commodities contracted herein. Should the Division of Material and Procurement Services be provided evidence of the vendor making such an arrangement, the contract shall be immediately cancelled. This provision will not be taken as requiring the approval of contracts of employment between the bidder and personnel assigned for services hereunder.

40.210 Equipment Warranty

The manufacturer's most favorable warranty offered to preferred customers shall apply to all items. A copy of such warranty shall be furnished to the agency upon delivery of the equipment or product.

40.220 EEO Requirements

The Contractor shall comply with the provisions the Equal Employment Opportunity Act of 1978 (KRS 45.550-KRS 45.640) unless exempted under KRS 45.590. Exemption

from EEO Form submission, under KRS 45.590, does not obviate any other requirements of KRS 45.570.

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding $250,000.

During the performance of this contract, the contractor agrees as follows:

- The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;
- The contractor will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age, or national origin; however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off.
- The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;
- The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and
- The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

In contracts involving more than $10,000 in federal funding, the Contractor shall comply with the nondiscrimination clause contained in Federal Executive Order 11246, as amended by Federal Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementation rules and regulations prescribed by the Secretary of Labor and with Title 41, Code of Federal Regulations, Chapter 60.

40.250 Governing Law

This Master Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and any litigation with respect to this Master Agreement shall be brought in state or federal court in Franklin County, Kentucky.

ALL PROVISIONS OF THE SOLICITATION, S-03103281, SHALL BE PART OF THIS CONTRACT.

Appendix A

Unique Circumstances for Contract Removal

Unique circumstances that would remove one Sales Agent and would allow another Sales Agent to be placed on the KETS File Server Contract.

1. **Sales Agent fails the 90-day probationary period.** During the 90-day support evaluation period, the newly awarded vendor shall be added to the KETS approved vendor list at which time they shall commence business with the Commonwealth of Kentucky. If however, the newly awarded vendor fails the service evaluation at anytime within the 90-day period, this vendor gets removed from the KETS approved vendor list at which time their contract is terminated. The Commonwealth may then select the next lowest bidder of a brand not awarded and begin the compatibility/interoperability testing, 90-day support evaluation and the process is repeated until a vendor passes all phases of testing or no other vendors are available to choose from. This could include the brand that failed the 90-day evaluation period when sold by another Sales Agent. For example, if Sales Agent ABC sold HP/Compaq and for some reason they failed the 90-day evaluation, the next lowest bidder selling HP/Compaq or a brand not already on the contract could be invited to go through the evaluation process. The Commonwealth shall not be obligated to pursue further contracts; however, they have the ability at their own discretion to do so.

2. **Sales Agent is removed or ceases to be a company that sells the original brand or future approved enterprise model of their bid.** If within 12 months of the award date a Sales Agent for some reason is removed from the contract, can no longer sell a manufacturer's brand of file server, or ceases to be a company that sells the brand on their original bid, the Commonwealth can go to the next bidder in line that doesn't already provide a brand of product on a KETS contract. For example, if Sales Agent ABC sold HP/Compaq and for some reason they were removed from the contract within the first 12 months, the next lowest bidder selling HP/Compaq or a brand not already on contract could go through the evaluation process. After this 12-month window, no vendors will be added without rebidding the entire contract

3. **Manufacturer of equipment is the Master Agreement holder and has identified their assigned Agent as the responsible entity for order processing and fulfillment.** If the Master Agreement holder is the Manufacturer and they have identified their assigned Sales Agent as the responsible entity for order processing and fulfillment, and the agent for some reason can no longer fulfill orders for the manufacturer's brand of equipment, ceases to be a company or for some reason is no longer recognized by the Manufacturer as their assigned agent, the Manufacturer can identify a new agent to take over that relationship. This new agent must be approved by the Commonwealth prior to approval of this change and is subject to all of the same

terms, conditions and requirements including the possibility of the Commonwealth requesting a meeting at the new Sales Agent's site to discuss the Agent's method for order processing, shipping and quality assurance among other requirements. The above scenario does not allow the Manufacturer to have multiple Agents. The Manufacturer shall have only one (1) Sales Agent.

Appendix B

Regional Map of Kentucky:

Region 1: Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Dawson Springs, Fulton County, Fulton Ind, Graves, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, Mayfield Ind, McCracken, Muhlenburg, Murray, Paducah Ind, Providence Ind, Trigg, Union, Webster

Region 2: Allen, Barren, Bowling Green Ind, Breckinridge, Butler, Caverna, Cloverport Ind, Cumberland, Daviess, Edmonson, Elizabethtown Ind, Glasgow, Grayson, Green, Hancock, Hardin, Hart, Larue, Logan, McLean, Meade, Metcalfe, Monroe, Ohio, Owensboro Ind, Russellville Ind, Simpson, Todd, Warren, West Point Ind

Region 3: Jefferson, Anchorage Ind

Region 4: Beechwood, Bellevue, Boone, Bullitt, Campbell, Carroll, Covington, Dayton, Eminence, Erlanger-Elsmere Ind, Ft Thomas Ind, Gallatin, Grant, Henry, Kenton, Ludlow, Newport Ind, Oldham, Owen, Pendleton, Shelby, Silver Grove Ind, Southgate Ind, Spencer, Trimble, Walton-Verona Ind, Williamstown Ind

Region 5: Anderson, Bardstown Ind, Bourbon, Boyle, Burgin, Clark, Danville Ind, Fayette, Frankfort Ind, Franklin, Harrison, Harrodsburg Ind, Jessamine, Marion, Mercer, Montgomery, Nelson, Nicholas, Paris, Powell, Scott, Washington, Woodford

Region 6: Adair, Barbourville, Bell, Berea Ind, Campbellsville Ind, Casey, Clay, Clinton, Corbin Ind, East Bernstadt, Estill, Garrard, Harlan, Harlan Ind, Jackson, Knox, Laurel, Lincoln, Madison, McCreary, Middlesboro Ind, Monticello Ind, Pineville Ind, Pulaski, Rockcastle, Russell, Science Hill Ind, Somerset Ind, Taylor, Wayne, Whitley, Williamsburg Ind

Region 7: Ashland Ind, Augusta Ind, Bath, Boyd, Bracken, Carter, Elliott, Fairview, Fleming, Greenup, Johnson, Lawrence, Lewis, Martin, Mason, Menifee, Morgan, Paintsville Ind, Raceland-Worthington Ind, Robertson, Rowan, Russell

Region 8: Breathitt, Floyd, Hazard, Jackson, Jenkins, Knott, Lee, Leslie, Letcher, Magoffin, Owsley, Perry, Pike, Pikeville Ind, Wolfe

Appendix C

This form must be filled out and submitted to DMPS and OET when the Enterprise model of file server has changed from the current Enterprise model on contract.

Enterprise Model Change Specification Sheet	
Manufacturer	
Model	
⇒ Intel processor	
⇒ Network - Must be configured with one (1) Fast Ethernet network adapter (10/100BASE-T) • Ethernet must operate at either 10 or 100 MBPS verifiable through included software interface • Must demonstrate Simple Network Management Protocol (SNMP) manageability • Must demonstrate visual LEDs to show link integrity and activity • Must have automatic sensing and reconfiguration for the speed of the hub or switch port. • Must comply with IEEE 802.3 industry standard 10 MBPS baseband CSMA/CD (10BASE-T) and 100 MBPS baseband CSMA/CD (100BASE-T) standards. • Must support Category 5 UTP or better cable installations. • Must support Magic Packet Technology to allow file server to be remotely woken up	
⇒ CD-ROM – File Server must be configured with a minimum, 24X internal, CD-ROM w/ Sound	
⇒ Hard Drive – All hard drives must be at a minimum 10,000 rpm SCSI hard drive.	
⇒ NOS – File Server must be manufacturer certified for interoperability with Novell and Microsoft NOS	

⇒ Connectivity ports including at the minimum the following: • 1 VGA port • Keyboard and mouse port • 1 serial port • External SCSI port	