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Section 10

General Bid Information

10.000 Purpose

The Master Plan for Education Technology for the Commonwealth of Kentucky (on the KDE Web site at www.kde.state.kv.us) 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 a product on this contract to a large/wealthy school or school district shall be the same as the small/poor one. This means once a vendor quotes a price for a product on this contract to a single school or school district that is below the current KETS price, the price will then change statewide for every school, school district and KDE.

Example #1: If the original bid price for vendor A's Microsoft Office 97 is \$40 and vendor A offers Microsoft Office 97 to a particular school for \$35, the new KETS statewide price for Microsoft Office 97 is now \$35 for all schools as long as that version is on the KETS contract.

Example #2: If vendor A offers documentation free with a purchase of CD or disks to a particular school, free documentation is now a standard KETS component to CD or disks statewide for all schools as long as that version is on the KETS contract.

Section 20

General Specifications

20.000 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

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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.

This contract should offer the most current version of software license along with legal "downgrade rights" for the various versions of software that the agencies are using. In addition, prior versions of CD-media and documentation should also be offered through this contract.

Example: If WindowsXP is the most current version, Windows2000 products should still be offered through this contract.

Upgrades. We encourage vendors to upgrade their product lines as quickly as possible. If a vendor wants to upgrade to a new product version they must submit a request and pricing to the Division of Material and Procurement Services (DMPS) and to the Office of Education Technology (OET) with the newly proposed version number, specifications, and price.

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.

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:

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- 1) All the details of the KDE (KETS) Microsoft Select 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. Many times the field staff, corporate main office or agent has no idea what requirements were in the original bid.

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.

20.010 Deliverables

Select CD and Evaluation License: Contractor shall provide the KDE a Microsoft Select CD subscription and associated licenses to be evaluated in at OET (Office of Education Technology) on every evaluation workstation and server at no charge. All workstation and file server contract holders are required to provide an evaluation unit of every workstation and file server to the OET. The establishment of this contract shall require that a license be made available, at no charge to the KDE, for all Select products for evaluation purposes. KDE currently has 4 Intel workstation vendors, 1 Apple workstation vendor and 3 file server vendors.

20.020 Universal Service Fund

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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 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.

Section 30
Terms and Conditions

30.000 Scope of Contract

This Master Agreement is for the purchase and delivery of licenses, books, and media associated with a Microsoft Academic Select Agreement for the Kentucky Education Technology System and the Kentucky Department of Education.

30.010 Contract Period

This contract will be effective from 01 May 2003 to 31 August 2004, in accordance with the terms of the Department of Education Select Agreement.

This contract may be extended at the completion of the initial contract period for additional one-year periods until 31 August 2006, running in correlation with the Select Agreement. This contract may be extended past 31 August 2006 for one (1) additional period if the renewal term of the Select Agreement is exercised. 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.

30.020 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**
- **WORKFORCE DEVELOPMENT CABINET AND SCHOOLS**

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

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30.030 Basis of Price Revisions

Prices shall remain firm for the initial period of the contract. Upon renewal prices are subject to revision which may be either increases or decreases. Contract product and price updates shall be provided by the vendor in a Microsoft Excel spreadsheet for electronic import into the Procurement Desktop catalog. These updates shall be provided to the Division of Material and Procurement Services on a regular basis; however, no more frequent than every thirty days. This required template format may be seen at <http://www.state.ky.us/agencies/adm/mars/vendorcatalogtemplate.htm> (see attachment #3). Revisions may be requested by either of the contracting parties and must be requested in writing. The requesting party must furnish documented evidence substantiating the validity of the request. In the event the requested revision is refused, the requesting party shall have the right to withdraw from the contract, without prejudice. Provided, however, that the vendor must continue service, at the contract prices, until a new contract can be established (approximately 90 days).

30.040 Basis of Shipments

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

30.050 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 mentioned and the contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

30.060 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 product name, unit cost, date of purchase, PO number and District/School name for all units purchased from the KETS contract.

30.070 Delivery Time

The contractor 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

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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 total value of purchase order** not delivered within 45 calendar days of receipt of purchase order. **The penalty shall apply to the entire value of the purchase order. Partial shipments do not reduce the original value of the purchase order or penalty assessment.**

30.080 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.

30.090 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.

30.100 Post Contract Meetings and Agreements

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This 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 contractor shall meet with OET in Frankfort, KY on a quarterly basis. The contractor shall prepare a report on a quarterly basis and deliver it to OET in paper or electronic format as stated earlier within this Solicitation. The contractor 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.

30.110 District Select Agreement Enrollments

The contractor shall work with the 176 districts within the Commonwealth of Kentucky to facilitate the implementation of each having their own Select Enrollment Number to fall underneath the Kentucky Department of Education’s Select Agreement. All benefits of having an MS Select Enrollment will also be provided to local districts including license tracking, etc. This will allow districts to more easily manage and track licensing purchases made through the MS Select Agreement.

30.120 Cancellation Clause

The Commonwealth may cancel this 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.

30.130 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.

30.140 Invoices

Invoices for items ordered, delivered and accepted by state agencies shall be submitted

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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. The Commonwealth of Kentucky is only responsible for payment when the purchaser is a state agency.

30.150 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.

30.160 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.

30.170 Subcontracts

The awarded vendor shall make no contract with any other party for furnishing any of the commodities or services 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.

ALL PROVISIONS OF SOLICITATION, S-03143893, SHALL BE PART OF THIS CONTRACT.