



Commonwealth of Kentucky

MASTER AGREEMENT

CONTRACT INFORMATION			
MASTER AGREEMENT NUMBER: MA 758 2100000443			
Effective Date:	9/23/20	Record Date:	9/23/20
Expiration Date:	9/22/21	Procurement Folder:	508705
Document Description:	KDE Last Mile - RFP 758 2100000061	Procurement Type:	Computer Services
Cited Authority:	Competitive Negotiations	Version Number:	1

CONTACT INFORMATION
ISSUER: Stacy Blank 502-564-2294 Stacy.Blank@ky.gov

VENDOR INFORMATION	
Name /Address:	Contact:
KY0039487: Gearheart Communications DBA: Inter Mountain Cable PO Box 159 Harold KY 41635	Tina Page 800-635-7052 contactgh@gearheart.com

COMMODITY / SERVICE INFORMATION							
Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Total
1	0.00000	EA	\$0.000000	\$0.00			\$0.00
KDE Last Mile - Monthly Charge - Wired and Wireless Extended Description: KDE Last Mile - Monthly Charge - Wired Access Solution Monthly: \$25.00 Monthly x 12 months: \$300.00 One Time Annual Payment Option: \$240.00 25/3 wired internet unlimited usage including in home WIFI. Access limited to School issued devices and students information access will be filtered by the school system. Price would include Wifi device (Cable Modem with WiFi) per household KDE Last Mile - Monthly Charge - Wireless Access Solution Monthly: \$25.00 Monthly x 12 months: \$300.00 One time Annual Payment Option: \$240.00 Gearheart will to the best of its ability work with the school district to identify where 25/3 wireless hot spots are required for educational purposes. Price would include WiFi device (Cable Modem with WiFi) per household							

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See "Attachment A" for Terms and Conditions. The terms and conditions set out in "Attachment A" are incorporated into and are a part of the Contract.

**ATTACHMENT A
CONTRACT
FOR
Last Mile Wired & Wireless Internet for KY K-12 Students**

BETWEEN

**THE COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
ON BEHALF OF
KENTUCKY DEPARTMENT OF EDUCATION (KDE)**

AND

Gearheart Communications Inc.

MA 758 2100000443

VENDOR CONTACT INFORMATION:

**Roy Harlow
20 Laynesville Road
Harold, KY 41635
rharlow@gearheart.com
606.478.9401**

This Master Agreement ("Contract", "Award" or "Agreement") is entered into, by and between the Commonwealth of Kentucky, Kentucky Department of Education, ("the Commonwealth" or "Customer" or "KDE") and Gearheart Communications Inc., ("Contractor" or "Vendor" or "Gearheart") as the Prime Vendor.

The Commonwealth and Contractor agree to the following:

I. Scope of Contract

The purpose of this Contract is for multiple vendors to provide Kentucky K-12 students last mile wireless internet and last mile wired monthly services for KY K-12 students in 171 Kentucky Public School Districts and Kentucky School of Blind (KSB) and Kentucky School of Deaf (KSD) that currently don't have last mile Internet service for school related work and activities. Gearheart Communications Inc. will be providing last mile wired and wireless internet services.

II. Negotiated Items

III. Terms and Conditions

SECTION 30 – INTENTIONALLY LEFT BLANK

SECTION 40 – PROCUREMENT REQUIREMENTS

40.1 Procurement Requirements

Procurement requirements are listed under “Procurement Laws, Preference, Regulations and Policies” and “Response to Solicitation” located on the eProcurement Web page at <https://finance.ky.gov/services/eprocurement/Pages/LawsPrefRegsPolicies.aspx> and <http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx> respectively. The vendor must comply with all applicable statutes, regulations and policies related to this procurement.

40.2 Contract Components and Order of Precedence

The Commonwealth's acceptance of the contractor's offer in response to the Solicitation RFP 758 2100000061, indicated by the issuance of a contract award by the Office of Procurement Services, shall create a valid contract between the Parties consisting of the following:

1. Procurement Statutes, Regulations and Policies
2. Any written Agreement between the Parties;
3. Any Addenda to the Solicitation RFP 758 2100000061;
4. The Solicitation RFP 758 2100000061 and all attachments
5. Any Best and Final Offer;
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation RFP 758 2100000061;
7. The Contractor's proposal in response to the Solicitation RFP 758 2100000061.

In the event of any conflict between or among the provisions contained in the contract, the order of precedence shall be as enumerated above.

40.3 Final Agreement

This Contract represents the entire agreement between the parties with respect to the subject matter hereof. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this Contract.

40.4 Contract Provisions

If any provision of this Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the Commonwealth and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Contract is capable of performance, it shall not be affected by such declaration or finding and shall be fully performed.

40.5 Type of Contract

This Contract shall be on the basis of a **firm fixed unit price** for the elements listed.

40.6 Contract Usage

The contractual agreement with the selected vendor will in no way obligate the Commonwealth of Kentucky to purchase any services or equipment under this Contract. The Commonwealth agrees, in entering into any contract, to purchase only such services in such quantities as necessary to meet the actual requirements as determined by the Commonwealth.

40.7 Addition or Deletion of Items or Services

The Office of Procurement Services reserves the right to add new and similar items, by issuing a contract modification, to this contract with the consent of the Vendor. Until such time as the Vendor receives a modification, the Vendor shall not accept delivery orders from any agency referencing such items or services.

40.8 Changes and Modifications to the Contract

Pursuant to KRS 45A.210 (1) and 200 KAR 5:311, no modification or change of any provision in the contract shall be made, or construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the Commonwealth, and incorporated as a written amendment to the contract and processed through the Office of Procurement Services and approved by the Finance and Administration Cabinet prior to the effective date of such modification or change pursuant to KRS 45A.210(1) and 200 KAR 5:311. Memorandum of understanding, written clarification, and/or correspondence shall not be construed as amendments to this Contract.

If the contractor finds at any time that existing conditions made modification of the contract necessary, it shall promptly report such matters to the Commonwealth Buyer for consideration and decision.

40.9 Changes in Scope

The Commonwealth may, at any time by written order, make changes within the general scope of the contract. No changes in scope are to be conducted except at the approval of the Commonwealth.

40.10 Contract Conformance

If the Commonwealth Buyer determines that deliverables due under this Contract are not in conformance with the terms and conditions of this Contract and the mutually agreed-upon project plan, the Buyer may request the Contractor to deliver assurances in the form of additional contractor resources and to demonstrate that other major schedules will not be affected. The Commonwealth shall determine the quantity and quality of such additional resources and failure to comply may constitute default by the Contractor.

40.11 Assignment

The Contract shall not be assigned in whole or in part without the prior written consent of the Commonwealth Buyer.

40.12 Payment

The KDE School Districts will make payment within thirty (30) working days of receipt of contractor's invoice or of acceptance of goods and/or services in accordance with KRS 45.453 and KRS 45.454.

Payments are predicated upon successful completion and acceptance of the described work, services, supplies, or commodities, and delivery of the required documentation. Invoices for payment shall be submitted to the agency contact person or his representative.

40.13 Contractor Cooperation in Related Efforts

The Commonwealth of Kentucky may undertake or award other contracts for additional or related work, services, supplies, or commodities, and the Contractor shall fully cooperate with such other contractors and Commonwealth employees. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees.

40.14 Contractor Affiliation

"Affiliate" shall mean a branch, division or subsidiary that is effectively controlled by another party. If any affiliate of the Contractor shall take any action that, if done by the Contractor, would constitute a breach of this agreement, the same shall be deemed a breach by such party with like legal effect.

40.15 Commonwealth Property

The Contractor shall be responsible for the proper custody and care of any Commonwealth-owned property furnished for Contractor's use in connections with the performance of this Contract. The Contractor shall reimburse the Commonwealth for its loss or damage, normal wear and tear excepted.

40.16 Confidentiality of Contract Terms

The Contractor and the Commonwealth agree that all information communicated between them before the effective date of the contract shall be received in strict confidence and shall not be necessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material will be kept confidential subject to Commonwealth and Federal public information disclosure laws.

Upon signing of this Contract by all parties, terms of this Contract become available to the public, pursuant to the provisions of the Kentucky Revised Statutes.

The Contractor shall have an appropriate agreement with its subcontractors extending these confidentiality requirements to all subcontractors' employees.

40.17 Confidential Information

The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the Commonwealth, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the Commonwealth in writing to the Contractor. All Federal and State Regulations and Statutes related to confidentiality shall be applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees, and any subcontractor employees, to that effect, provided however, that the foregoing will not apply to:

- A. Information which the Commonwealth has released in writing from being maintained in confidence;
- B. Information which at the time of disclosure is in the public domain by having been printed or published and available to the public in libraries or other public places where such data is usually collected; or
- C. Information, which, after disclosure, becomes part of the public domain as defined above, through no act of the contractor.

40.18 Advertising Award

The Contractor shall not refer to the award of contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky without the expressed written consent of the agency technical contact person. (see Section 50.4)

40.19 Patent or Copyright Infringement

The Contractor shall report to the Commonwealth promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge.

The Commonwealth agrees to notify the Contractor promptly, in writing, of any such claim, suit or proceeding, and at the Contractor's expense give the Contractor proper and full information needed to settle and/or defend any such claim, suit or proceeding.

If, in the Contractor's opinion, the equipment, materials, or information mentioned in the paragraphs above is likely to or does become the subject of a claim or infringement of a United States patent or copyright, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, with the Commonwealth's written consent, substitute other equally suitable equipment, materials, and information, or at the Contractor's option and expense, obtain the right for the Commonwealth to continue the use of such equipment, materials, and information.

The Commonwealth agrees that the Contractor has the right to defend, or at its option, to settle and the Contractor agrees to defend at its own expense, or at its option to settle, any claim, suit or proceeding brought against the Commonwealth on the issue of infringement of any United States patent or copyright or any product, or any part thereof, supplied by the Contractor to the Commonwealth under this agreement. The Contractor agrees to pay any final judgment entered against the Commonwealth on such issue in any suit or proceeding defended by the Contractor.

If principles of governmental or public law are involved, the Commonwealth may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of the Contractor without the Contractor's written consent.

The Contractor shall have no liability for any infringement based upon:

- A. the combination of such product or part with any other product or part not furnished to the Commonwealth by the Contractor
- B. the modification of such product or part unless such modification was made by the Contractor
- C. the use of such product or part in a manner for which it was not designed

40.20 Permits, Licenses, Taxes and Commonwealth Registration

The Contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, and ordinances of all Federal, State, and local governments in which work under this Contract is performed.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this Contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. Additional local registration or license may be required.

The Contractor shall pay any sales, use, and personal property taxes arising out of this Contract and the transaction contemplated hereby. Any other taxes levied upon this Contract, the transaction, or the equipment or services delivered pursuant hereto shall be borne by the Contractor.

40.21 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act.

<http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx>

40.22 Provisions for Termination of the Contract

This Contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

40.23 Bankruptcy

In the event the Contractor becomes the subject debtor in a case pending under the Federal Bankruptcy Code, the Commonwealth's right to terminate this Contract may be subject to the rights of a trustee in bankruptcy to assume or assign this Contract. The trustee shall not have the right to assume or assign this Contract unless the trustee (a) promptly cures all defaults under this Contract; (b) promptly compensates the Commonwealth for the monetary damages incurred as a result of such default, and (c) provides adequate assurance of future performance, as determined by the Commonwealth.

40.24 Conformance with Commonwealth & Federal Laws/Regulations

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on this Contract, including but not limited to actions either for breach of contract or for enforcement of this Contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

40.25 Accessibility

Vendor hereby warrants that the products or services to be provided under this Contract comply with the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

40.26 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to Contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

40.27 Prohibitions of Certain Conflicts of Interest

In accordance with KRS 45A.340, the contractor represents and warrants, and the Commonwealth relies upon such representation and warranty, that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The Contractor further represents and warrants that in the performance of this Contract, no person, including any subcontractor, having any such interest shall be employed.

In accordance with KRS 45A.340 and KRS 11A.040 (4), the Contractor agrees that it shall not knowingly allow any official or employee of the Commonwealth who exercises any function or responsibility in the review or approval of the undertaking or carrying out of this Contract to voluntarily acquire any ownership interest, direct or indirect, in the contract prior to the completion of the Contract.

40.28 No Contingent Fees

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, excepting bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. For breach or violation of this provision, the Commonwealth shall have the right to reject the proposal or cancel the contract without liability.

40.29 Intentionally Left Blank

40.30 Contract Claims

The Parties acknowledge that KRS 45A.225 to 45A.290 governs contract claims.

40.31 Limitation of Liability

The liability of the Commonwealth related to contractual damages is set forth in KRS 45A.245.

40.32 Discrimination (Effective April 8, 2015)

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 50 -- SCOPE OF WORK

50.1 Agencies to Be Served

This Contract shall be for use by all KY Public School Districts, The KY School for the Blind, The KY School for the Deaf and the **KY DEPARTMENT OF EDUCATION**. No shipments shall be made except upon receipt by vendor of an official delivery order from the using agency.

50.2 Term of Contract and Renewal Options

The initial term of this Contract shall be for a period of **one (1) year** from the effective date of the Award of Contract.

This Contract may be renewed at the completion of the initial contract period for **four (4) additional one (1) year** periods upon the mutual agreement of the Parties. Such mutual agreement shall take the form of a contract modification as described in Section 40.8.

50.3 Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by this Contract shall remain firm for the contract period subject to the following:

- A. **Price Increases:** A price increase shall not occur during the first twelve (12) months of this Contract. A vendor may request a price increase after twelve (12) months of this Contract, which may be granted or denied by the Commonwealth. Any such price increase shall be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the vendor must continue service, at the Contract prices, until a new contract can be established (usually within sixty (60) days).
- B. **Price Decreases:** The Contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.
- C. **Extended Contract Periods:** If the Contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

50.4 Notices

All programmatic communications with regard to day-to-day performance under the contract are to be made to the agency technical contact(s):

**Agency Technical Contact
Melissa Moore
KY Department of Education
300 Sower Boulevard, 4th Floor
Frankfort, KY 40601
(502) 564-2020 x 2438
Melissa.Moore@education.ky.gov**

All communications of a contractual or legal nature are to be made to the Commonwealth Buyer

**Commonwealth Buyer:
Stacy Blank, CPPO, CPPB
Division Director
COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION CABINET
Office of Procurement Services
New Capitol Annex
702 CAPITOL AVE RM 096
FRANKFORT KY 40601
(502) 226-0383
Fax: (502) 564-6013
Stacy.Blank@ky.gov**

50.5 Subcontractors

The Contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor. All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the contractor.

50.6 Scope of Work/Technical Requirements

- A. Internet access for students that currently have no away-from-school Internet.**
- 1) Access MUST fundamentally be based on the KY K-12 student. This service is not for the non-KY K-12 students in the home.

1. Districts will determine the eligible students that need and are provided a last mile Internet service with the \$8M in funds.
2. Districts will pay the vendor directly for this service.
3. In homes with more than one K-12 student without Internet access, it must be possible for students to access Internet without being in the same place (individual hotspots)
4. Each eligible K-12 student needs to be provided as close as possible bandwidth of 25 Mbps down (to student from Internet) and 3 Mbps up (from student to Internet) – based on current FCC definition of broadband
5. If the student is participating in schoolwork at another location than their actual home (such as a grandparent's home), the student's parent/guardian SHALL be able to request the Internet service be provided at that location instead of the actual home.
 - ii. KDE desires service to be onsite and no data caps.
 - iii. Providers should work with local school districts with configuring the wireless hotspot to integrate with the district's Internet content filtering service to ensure that all access to the Internet through the device is properly filtered for student safety.
 - iv. Providers SHALL provide a solution that provide Wi-Fi connectivity and include necessary on-premise equipment and service (hotspot device or similar equipment for other solutions) as well as last-mile connectivity at no cost.
 - v. KDE desires that Providers configure the Internet service to only allow access to the Internet for eligible students' for solutions that use a standalone hotspot device.
 - vi. Vendor should submit invoices monthly, quarterly, or annually and will be paid by each individual local school district.
 - vii. The providers should work with local school districts to request Internet service for the eligible student(s), collecting only the minimum data necessary to provide service.
 - viii. Vendor or subcontractor SHALL provide end-user support for Internet connectivity to the student on par with support provided to the local school districts point of contact.

- ix. Provider should minimize throttling or deprioritization of bandwidth during peak school hours for the particular district (7:30 a.m. to 4:00 p.m.)
 - x. Providers should allow districts to leverage the statewide pricing for purchasing of additional units of any funding source.
 - xi. Providers should allow districts to leverage pricing for current or existing contracts that have been entered since Covid-19 pandemic began. (March 13, 2020)
- The Commonwealth agrees to the following:
 - The districts will determine the eligibility of the students to receive the service.
 - Provide flexibility for districts in deciding which provider(s) they wish to utilize.

B. Categories

The following categories shall be established for Last Mile K-12 Wireless Internet Access Hardware and Services:

Gearheart will be providing Wired Access/Solutions and Wireless Access/Solutions (standalone hotspot device)

Products/Services Solutions
Wired Access/Solutions-examples; Cable, Fiber, DSL, etc.
Wireless Access (standalone hotspot device)

C. Single Point of Contact

It is crucial to have a dedicated account team. This working partnership affords the vendor insight into how K-12 public school districts operate. Vendor should provide an account team that includes, but is not limited to, a sales account representative that is also the Single Point of Contact (SPOC), and a post-sales support level staff to serve the needs of the K-12 Local School Districts customers. Vendor shall name a person that will be the single point of contact (SPOC) for contract issues.

NAME Roy Harlow
PHONE NUMBER 606.478.9401

EMAIL rharlow@gearheart.com

Vendor shall ensure that this person and all salespersons of their product will be knowledgeable in:

- The local public school district

Upon contract award, Vendor shall provide a description of a copy of procedures for requesting escalation, complaint resolution and identify the staff available for hardware, wireless internet service and billing problems, etc.

D. Deliveries/Return

Vendors SHALL provide a detailed bill of sale of equipment and services delivered. Delivery is defined as the district's receipt of goods and completion of installation or services if required. Vendor should provide procedures for return of hardware at the end of the term of service.

E. Warranty

Vendors should provide and maintain modern equipment that ensures service to the same standards as other residential customers.

F. Pricing

1. Pricing: Equitable pricing shall be offered to all KY Public School Districts, KSB, and KSD that are located within the vendor's service territory. The vendor shall provide on-site support to **every local school district** within the vendor's service territory with the same timelines and costs with no exceptions for location.
2. Pricing. The goal is to provide monthly or annual service **\$10 per month** (internet service, exclusive of taxes and fees)
3. Payments to vendors and technical support for students internet service and hardware SHALL go through each local school district's point of contact with respect to the use of the last mile wireless and last mile wired Internet monthly services and hotspots (device) and service.

G. Security

Vendors should ensure personal information of students shall be secured.

IV. Pricing

Description (price includes all products, services, and associated cost to provide the monthly service)

Monthly Charge – Wired Access/Solution	Monthly Amount	Monthly X 12 months	One Time Annual Payment Option	Description of Products & Services to be Provided
Monthly Charge – Wired Access/Solution	\$25.00	\$300.00	\$240.00	25/3 wired internet unlimited usage including in home WIFI. Access limited to School issued devices and students information access will be filtered by the school system. Price would include Wifi device (Cable Modem with WiFi) per household
Monthly Charge - Wireless Access (standalone hotspot device)				
Monthly Charge – Wireless Access (standalone hotspot device)	\$25.00	\$300.00	\$240.00	Gearheart will to the best of its ability work with the school district to identify where 25/3 wireless hot spots are required for educational purposes. Price would include WiFi device (Cable Modem with WiFi) per household

V. Approvals

This Contract is subject to the terms and conditions as stated. By executing this Contract, the parties verify that they are authorized to bind this agreement and that they accept the terms of this agreement.

This Contract may be executed electronically in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Contract.

This Contract is invalid until properly approved and executed by the Finance and Administration Cabinet.

1st Party: Kentucky Department of Education, ("the Commonwealth" or "Customer" or "KDE")

Karen Wirth
Printed name
Karen Wirth
Signature

Director
Title
9/23/2020
Date

2nd Party: Gearheart Communications Inc. as Contracting Agent ("Contractor" or "Vendor" or "Gearheart")

John C. Schmoldt
Printed name
John C. Schmoldt
Signature

Vice President
Title
9/23/2020
Date

**Approved by the Finance and Administration Cabinet
Office of Procurement Services**

Joan Graham
Printed name
DocuSigned by:
Joan Graham
Signature 108D2A328E594E8

Executive Director
Title
9/23/2020
Date

Attachments

Attachment A – This document

Attachment B – Omitted Intentionally

Attachment C – Omitted Intentionally

Attachment D – Omitted Intentionally

**Attachment E - The Protection of Personal Information Security and Breach Investigation
Procedures and Practice Act (KRS 61.931)**

Attachment F – Omitted Intentionally

Attachment G – Omitted Intentionally

Attachment H – Omitted Intentionally

ATTACHMENT E

Protection of Personal Information Security and Breach Investigation Procedures and Practices Act

Vendors that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq., (the "Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set forth in the Act.

"Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- a) An account, credit card number, or debit card number that, in combination with any required security code, access code or password, would permit access to an account;
- b) A Social Security number;
- c) A taxpayer identification number that incorporates a Social Security number;
- d) A driver's license number, state identification card number or other individual identification number issued by an agency;
- e) A passport number or other identification number issued by the United States government; or
- f) Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec 1232g."

As provided in KRS 61.931(5), a "non-affiliated third party" means "any person or entity that has a contract or agreement with the Commonwealth and receives (accesses, collects or maintains) personal information from the Commonwealth pursuant to the contract or agreement."

The vendor hereby agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

The vendor shall immediately notify as soon as possible, but not to exceed seventy-two (72) hours, the contracting agency, the Office of Procurement Services, the Commonwealth Office of Technology and the NG-KIH Program Office of a determination of or knowledge of a breach, unless the exception set forth in KRS 61.932(2)(b)2 applies and the vendor abides by the requirements set forth in that exception.

The vendor hereby agrees that the Commonwealth may withhold payment(s) owed to the vendor for any violation of the Identity Theft Prevention Reporting Requirements.

The vendor hereby agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the vendor hereby agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

In accordance with KRS 61.932(2)(a) the vendor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology:

<http://technology.ky.gov/ciso/Pages/InformationSecurityPolicies.StandardsandProcedures.aspx>