

Green River Regional Educational Cooperative
Kentucky Educational Development Corporation



Northern KY Cooperative for Educational Services
Southeast/Southcentral Educational Cooperative

www.kybuy.org

KPC – KENTUCKY PURCHASING COOPERATIVES
KEDC – GRREC – NKCES – SE/SC
KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION (KEDC)
904 ROSE ROAD, ASHLAND, KY 41102-7104
Member Services (606) 928-0205
www.kedc.org or www.kybuy.org

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

BID TYPE: PRIME VENDOR

BID REFERENCE: PV-CFS-2009-07

BID PUBLIC NOTICE DATE: Friday, May 1, 2009

BID OPENING TIME, DATE: Wednesday, May 27, 2009 - 3:00 PM

BID CONTRACT START DATE: July 1, 2009

BID ITEMS: Cafeteria Food and Supplies Line Item Bid

BID PURPOSE:

The Kentucky Educational Development Corporation (KEDC) Board of Directors, as the Legal Education Agency (LEA) for the Kentucky Purchasing Cooperatives (KPC) invites you to submit a sealed bid for commercially purchased foods, meats, & supply items (hereinafter referred to as Nutrition Services), that if accepted by the KEDC Board of Directors or its designee, establishes a PRIME VENDOR BID CONTRACT for participating KPC member school districts in accordance with the general conditions and detailed specifications of this bid.

CLARIFICATION:

For clarification or additional information relative to this Invitation contact the **KEDC Member Services Team** by email at KPCMemberservices@kybuy.org or phone (606) 928-0205. **PLEASE DO NOT CONTACT SCHOOL DISTRICTS.**

GENERAL CONDITIONS AND INSTRUCTIONS FOR BIDDERS:

These General Conditions and Instructions apply to all bids submitted. Any deviations or exceptions are to be explained as a part of the bid proposal.

Bids must be received at the KEDC office at 904 Rose Road, Ashland, KY 41102-7104, not later than the specified bid opening time and date. **Faxed submissions will NOT be accepted. Bids received after the time designated for the bid opening will be returned to the bidder unopened.** Bids should be sealed in an envelope and clearly marked **“KPC SEALED BID ENCLOSED”**. KEDC and the participating bidding institutions cannot assume responsibility for any delay as a result of failure of the mail or delivery services to deliver bids on time. (Please note that FED EX does not guarantee delivery time to KEDC because they classify KEDC as being in a rural area.)

The public notice for this invitation, the invitation itself, and any addendums can be viewed, downloaded, or printed from the Internet at www.kybuy.org or www.kedc.org beginning on the bid public notice date and until the time and date specified for the bid opening. Bid tabulations will be made by KEDC staff and, after the Board or its designee has taken official action, will be posted to the KEDC and KYBUY Internet sites.

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

By my signature on the bid certification, I hereby swear or affirm under penalty of false swearing as provided by KRS 523.040:

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

That the costs quoted in the attached bid or bids responding to the Kentucky Educational Development Corporation Invitation to Bid are correct and have been arrived at by the bidder independently and have been submitted without collusion and without agreement, understanding, or planned common course of action, with any vendor of materials, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition;

That contents of the bid or bids have not been communicated by the bidder, or its employees or agents, to any person not an employee or agent of the bidder or its surety on any bond furnished with the bids and will not communicate to any such person prior to the official opening of the bid or bids; That the bidder is legally entitled to enter into contracts with agencies of the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, gratuities and kickbacks including those prohibited by the provisions of the Model Procurement Code (KRS Chapter 45A);

That I understand the Kentucky Educational Development Corporation collective bidding process is conducted consistent with KRS Chapter 45A, the Model Procurement Code and that the contents of the bid proposal and the actions taken by the bidder in preparing and submitting the bid proposal are in compliance with KRS Chapter 45A, the Model Procurement Code.

The bidder is legally entitled to enter into contracts with agencies of the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, gratuities and kickbacks including those prohibited by the provisions of the Model Procurement Code (KRS Chapter 45A). Any employee or official of KEDC or member school districts, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or things of value as an inducement or intended inducement, or in the procurement of business, or the giving of business, for or to or from, any person, or in open market seeking to make sales to the school district shall be deemed guilty of a felony and upon conviction such person or persons shall be subject to punishment or fine in accord with state and/or federal laws.

CERTIFICATION CONCERNING DISBARMENT AND SUSPENSION:

Bidder certifies that neither myself, the company or its key employees have been proposed for debarment, debarred, or suspended by any Federal Agency and are not listed on the Excluded Parties List System provided by the United States Government General Services Administration at www.epls.gov.

TERMS AND CONDITIONS:

1. **Participating Member Institutions:** Any institution that is a member of the KEDC, KPC, GRECC, NKCES, or SESC Educational Cooperatives (hereinafter referred to as member or members) is eligible to utilize the Bid Contract; however this does not mean that all members will participate. This statement of intent does not obligate any district to utilize this bid. Districts **MUST** be a member of KPC to be eligible for bid pricing. For the current list of all KPC members go to: <http://www.kybuy.org/bidding/archive/KPCMEMBERS.pdf>. The following members are currently participating in the prime vendor bid:

CURRENT PARTICIPATING MEMBERS (77)			
ARCH DIOCESE OF LOUISVILLE	DAYTON IND	LEWIS COUNTY	ROBERTSON COUNTY
ASHLAND IND	EAST BERNSTADT IND	LINCOLN COUNTY	ROCKCASTLE COUNTY
AUGUSTA IND.	EDMONSON COUNTY	LOGAN COUNTY	ROWAN COUNTY
BARBOURVILLE IND.	ELIZABETHTOWN IND	LUDLOW IND	RUSSELL IND
BARDSTOWN IND.	ELLIOTT COUNTY	MADISON COUNTY	SCIENCE HILL IND
BARREN COUNTY	ESTILL COUNTY	MAGOFFIN COUNTY	SILVER GROVE IND.
BATH COUNTY	EVANGEL CHRISTIAN	MARSHALL COUNTY	SIMPSON COUNTY
BEECHWOOD	FAIRVIEW IND.	MEADE COUNTY	SOMERSET IND.
BELLEVUE	FAYETTE COUNTY	MENIFEE COUNTY	SOUTHGATE IND.
BEREA	FLEMING COUNTY	MERCER COUNTY	TAYLOR COUNTY
BOYD COUNTY	FLOYD COUNTY	METCALFE COUNTY	TODD COUNTY
BRACKEN COUNTY	GARRARD COUNTY	MONTICELLO IND	WALTON VERONA IND
BULLITT COUNTY	GREEN COUNTY	MORGAN COUNTY	WAYNE COUNTY
BURGIN IND	GREENUP COUNTY	OHIO COUNTY	WHITLEY COUNTY
BUTLER COUNTY	HARLAN IND	PAINTSVILLE IND.	WILLIAMSBURG COUNTY
CAMPBELL COUNTY	JACKSON IND	PENDLETON COUNTY	WILLIAMSTOWN IND.
CASEY COUNTY	JOHNSON COUNTY	PERRY COUNTY	WOLFE COUNTY
CAVERNA IND	KNOX COUNTY	PORTLAND CHRISTIAN	
CORBIN IND	LARUE COUNTY	POWELL COUNTY	
COVINGTON IND	LAWRENCE COUNTY	RACELAND IND	

2. **Bid Forms and Return Instructions:** Bidders must return the statement of submission and an electronic copy (CD or Flash Drive) of the completed Microsoft Excel spreadsheet provided as part of this bid invitation. Bidder must show cost for each item on the provided bid form. The bidder must then enter the brand, contractor item number, and the cost per item on the Microsoft Excel Spreadsheet and print out a hard copy. Optional information is requested, but bid will not be rejected if these items are not supplied. Bidders should list flavors or assortments, where appropriate, on a separate page. KEDC requires individual order numbers for each flavor or assortment listed in the purchasing guide. The bid should be submitted in a separate sealed envelope **CLEARLY** marked with **KPC SEALED BID ENCLOSED** and the corresponding **BID REFERENCE NUMBER** and **OPENING DATE** printed on the outside of the envelope as they appear on the Bid Invitation. **The bidder should retain a duplicate copy.** An officer or member of the bidding firm who is authorized to legally bind the firm must sign the Statement of Submission. The Statement of Submission must be submitted with an original signature. The Bid Invitation Forms should be used without alterations. Modifications, additions, or changes to the terms and conditions of this Invitation to Bid may be a cause for rejection of a bid. Bidders are requested to submit all bids on KEDC’s official forms. Bids submitted on company forms may be rejected. By executing the Statement of Submission, the bidder acknowledges that the bidder has read this invitation, understands it, and agrees to bind by its terms and conditions.
3. **Correction of Mistakes:** Bidders are cautioned to re-check their bid for possible errors. No bid can be corrected, altered, or signed after being opened. All prices and quotations must be in blue or black ink or typewritten. No pencil figures will be accepted. Mistakes are to be crossed out and corrections inserted adjacent thereto and initialed by the person signing the bid. Errors discovered after public opening cannot be corrected and bidder will be required to accept a bid contract if offered.

4. **Error in Bid:** In case of a pricing error between the two bid documents (the electronic file and printed spreadsheets), the entry on the electronic file will govern. No bid will be altered, or amended after the specified time and date set for the bid opening. The KEDC Board or its designee reserves the right to waive defects and informalities in bids, to reject any or all bids, or to accept any bid as may be deemed to its interest.
5. **Withdrawal of Bid:** All bids shall be valid for a period of thirty (30) days from the bid opening date to allow for tabulation, study, and consideration by the KEDC Board or its designee. A bidder may withdraw a bid after it has been submitted only if a written request is submitted and received prior to the expiration of the time during which bids may be submitted, without prejudice, by submitting a written request for its withdrawal to KEDC, Attn: Member Services with the corresponding Bid Reference Number.
6. **Addendums:** KEDC may issue an addendum to the bid after the bid has been released. In no instance will an addendum be issued within five (5) working days prior to the bid opening.
7. **Review:** After the public opening of proposals received from the Bid Invitation, KEDC staff and member officials will review the results, develop a preliminary tabulation, and may contact bidders for the purpose of clarification only. If necessary, members may purchase from the apparent low bidder(s) pending approval by the KEDC Board of Directors or its designee.
8. **Pre-qualification:** KEDC reserves the right to pre-qualify a potential contractor, especially any firm which has not previously participated in the KEDC participating school districts bid program. Criteria for qualification shall include:
 - A) **Product Line:** The potential contractor shall provide proof that all items listed in the catalog are in stock or can be quickly obtained.
 - B) **Physical Facilities:** KEDC staff may inspect the potential contractor's warehouse. The warehouse shall be clean and adequate for storing and delivery of products that the potential contractor proposes to supply.
 - C) **Financial Capacity:** The potential contractor shall have financing adequate to purchase items in the most economical quantities. References may be requested to document adequate financial capacity.
 - D) **Service Level:** If KEDC does not have adequate historical data to determine the contractor's ability to provide the products bid in a timely manner, then three letters of reference from previous school district customers shall be provided.
 - E) **Accounting Practices:** A potential contractor must clearly demonstrate to KEDC the capacity to provide accurate, reliable, and timely reports in terms of invoices, statements, credits, and usage data.
 - F) **Product Evaluation:** Samples requested must be furnished free of expense to KEDC and or the school district for evaluation. If not destroyed or consumed in testing or evaluating, or required in connection with the award, furnished samples will, upon request, be returned at the bidder's expense. Right is reserved to mutilate or destroy any samples if considered necessary for testing purposes.
9. **Award:** After the review of the bid proposals, the KEDC Board or its designee may accept a bid contract based on the criteria below and the needs of the members. In the case of identical bids, KEDC reserves the right to select and to award the contract by whatever method it chooses. A bidder whose bid proposal is accepted shall hereinafter be called contractor. The bid proposals will be evaluated based on the points awarded to each potential contractor utilizing the following scale. Each of the following elements will be weighted accordingly.

	POINTS
1. Total of weighted core item cost calculations	60
2. Secondary item fixed fee	10
3. Lead time required for secondary items	5
4. Additional services including:	15
a) Provide an internet based ordering system	
b) Provide registered dietician services	
c) Provide workshops	
d) Use Kentucky brokers	
e) Provide additional early payment discount	
5. Past Performance	<u>10</u>
POINT TOTAL	<u>100</u>

10. **Contract Period:** The contract period is for one year and will end on June 30, 2010 plus any extensions. The contract may be extended on an annual basis by KEDC not to exceed five years in total including the first contract period. KEDC shall notify the contractor of its intent to extend or not to extend the contract by April 15th of each year. If KEDC notifies contractor of intent to extend the contract by one year, contractor shall respond by May 1st that it either does or does not intend to extend the contract. The determination to renew the contract beyond the initial year shall be determined in part by the performance of the contractor and by price stability during the contract period. KEDC will periodically provide evaluation summaries to the contractor (See draft copy of Evaluation Form included). KEDC reserves the right to extend the term for up to 180 days to continue a source of supply until new or replacement contracts are completed. Any contract extension is contingent upon written agreement of KEDC and the contractor. The bid will not be automatically extended beyond any current year unless expressly approved by KEDC. KEDC reserves the right on any contract extension to revise, update, or supplement the contract terms and conditions including the assessment of administrative fees to the contractor as needed to cover the cost of KEDC servicing the bid contract, bidding program, or procurement service for the members.

11. **Pricing:** KEDC will award all items based on a prime vendor method. The prime vendor method of award is described as follows:
 - 1) One contractor will be awarded the contract to provide all items on the bid form to participating KEDC/KPC member districts and,
 - 2) KEDC/KPC Bidding Member districts participating in the contract agree to purchase all Primary items on the bid form from the prime vendor exclusively with the exception of fresh Produce.

Secondary and fresh Produce items may be purchased from another vendor. Districts must be members of KEDC or KPC and agree to use the awarded contractor as their prime vendor for the items on the bid form to be eligible to participate in this bid. All bid pricing quoted for each period shall remain firm for the duration of that period. The contractor shall notify KEDC twenty-one (21) days prior to the start of the 2nd, 3rd, and 4th quarter of any necessary price increases or decreases for the bid period. If no price changes are received the current price will remain in effect. If KEDC notifies contractor of intent to extend the contract by one year, contractor shall either respond by May 15 that it does not intend to extend the contract, or respond by June 1 with any necessary price increases or decreases for the first bid period of the extended year. If price increases submitted at June 1 are deemed excessive by KEDC then KEDC shall have cause to not extend the contract. All price increases/decreases shall be accompanied by proper documentation of price increase/decreases to the contractor. Proper documentation shall include market bulletin(s) from an independent source, manufacturer's invoices, and freight bills. Price change notifications will follow the same pattern as above for any years in which this contract is extended. KEDC reserves the right to add or delete items on the bid list at each quarterly update.

All bid prices must include transportation and delivery charges to the location (school district, KEDC, etc.) specified during ordering. Fuel surcharges and other similar charges are not permitted. Replacement and/or supplemental products that meet or exceed the minimum bid requirements may be added to this contract at the sole discretion of KEDC. Replacement/supplemental products shall be offered at a discount equal to or greater than the original award. The bidder shall submit, on its letterhead the request to add products/services. The request shall be submitted by an authorized representative of the organization. KEDC is under no obligation to accept the offerings.

The bidder shall provide each item on this bid to all KPC members at the same price. Bidders MAY NOT submit multiple discount levels for the same product by KPC member (i.e., Regional Bidding is NOT permissible).

Should an awarded bidder negotiate or bid a lower price for an item included in this bid with any KPC member, the bidder agrees to provide the product to all KPC members at the lower price. For example: Member A and Member B are both KPC members. Bidder then establishes a price with Member B for items that are on the KPC bid thru negotiation or a member bid that is lower than the bid price with KPC. The lower prices provided to Member B become the bid price for Member A and all KPC members.

12. **Promotion:** KPC actively markets all Prime and Preferred Vendors to member districts. Marketing includes inclusion of your logo and contact information on the KPC website, a copy of the winning bid contract(s) sent to every KPC member, and promotion of all KPC Prime and Preferred Vendors during regular district visits by KPC staff. Awarded bidders will also have access to the KPC Logo for use in promotional materials. Similarly, the winning bidder will support the efforts of KPC by participating and sponsoring in the KEDC-KPC regional meetings and trainings.
13. **Transmittal of Orders:** Contractor shall issue purchasing guidelines to KPC members. Members will use formal purchase orders in ordering from the awarded contractor. Contractor acknowledges that orders from KPC members may be transmitted from KEDC's office on the member's behalf. The contractor may use salespeople for in-person and/or telephone solicitation of orders in accordance with a mutually arrived schedule developed between the member and the awarded contractor. Contractor shall provide an Internet Based Ordering System. The system shall be available for use 24 hours a day / 7 days a week and provide real time information including a complete listing of the contractor's product catalog with primary items identified. Users shall be able to place orders with bid pricing, create standard order templates, view purchase history and invoice detail, and obtain nutritional information for each product.

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

14. **Quantities:** It shall be understood that any contract established as a result of this Bid Invitation will not obligate KPC members to receive any quantity in excess of actual requirements.
15. **Product Safety and HACCP Information:** The successful bidder shall provide upon request by any member, the most recent MSDS information sheets for any products the bidder may deliver to said member. It is the bidder's responsibility to comply with all local, state, and federal regulations. Contractor HACCP procedures are to be provided to KPC for publication on the KPC website and to KPC members upon request.
16. **Liability:** The contractor agrees to protect, defend, and save harmless KEDC and members from any suits or demands for payment that may be brought against it for the use of any patented material, process, article, or device that may enter into the manufacture, construction, or form a part of the work covered by either order or contract; and contractor further agrees to indemnify and save harmless KEDC and members from suits or actions of every nature and description brought against it for, or on account of any injuries or damages received or sustained by any party or parties by, or for any of the acts of the contractors, his servants or agents. The contractor will hold KEDC and its participating districts harmless for any and all damages resulting from consumption of products delivered under this contract when such damages are attributed to foreign materials or other defects in products delivered by the contractor.
17. **Recalls:** The contractor shall notify KEDC and its members immediately of any products recalls. Any products that have been recalled and have been delivered shall be issued a credit and/or a comparable substitute immediately. All costs associated with voluntary and involuntary product recalls shall be borne by the awarded bidder.
18. **Usage Reports:** Usage reports in an electronic format (Microsoft Excel, Access, or SQL) specified by KEDC shall be issued to KEDC monthly by the 10th day of the next month. Contractor shall compile usage reports by member. The reports shall indicate the total orders delivered by individual bid item and secondary items. Failure to provide usage reports may be cause to remove the contractor from future bid participation. Since the usage report data is useful to both KEDC and the contractor, it is of benefit to both parties to share this information. KEDC will routinely request procurement data from participating districts to verify usage report accuracy.

19. **Ordering, Payments, and Administrative Fee:** Each member shall be responsible for making payment to the contractor. Normally, members pay bills only after approval from the member board which meets monthly. The contractor's price will include an administrative fee of two percent (2%) on all purchases made by members under this contract that the contractor will remit to KEDC on a monthly basis. The contractor will also compile and provide to KEDC a monthly report showing all purchases made by members under this contract in a format provided by KEDC. The contractor will make all administrative fee payments to KEDC by the 25th of the succeeding month and all checks are to be made payable to KEDC and sent to KEDC, 904 Rose Road, Ashland, KY 41102-7104. In consideration of receiving a KPC PRIME VENDOR BID CONTRACT contractor agrees to report and pay KEDC's administrative fees for all sales to KEDC/KPC members even if orders are placed directly by the member to the contractor.
20. **Item Substitution and Out-of-Stock Back-Orders:** No substitutions are allowed without prior written authorization from the member. Member must be notified if item is out of stock, backordered or if timely delivery cannot be made. It is an expectation that all individual items bid are to be stocked items. If a contractor is temporarily out of stock of a particular item, **an equal or superior product at an equal or lower price to the original item portion price shall be provided.** Contractor shall maintain a 97% average fill rate. KEDC reserves the right to assess a financial penalty upon the contractor in the amount of up to \$1,000 per instance for failure to maintain the average fill rate or failure to stock primary items on a continuous basis which results in substitutions.
- Failure of a Contractor to deliver within the time specified, or within a reasonable time as interpreted by each School Nutrition Director, or failure to make replacements of rejected articles when so requested, or continues to be unable to secure the bid item, the school at its sole discretion, may purchase a product of equal or greater quality from another source. On all such purchases, the Contractor shall be responsible and liable for the difference in cost between the amount paid for the substituted product and the amount which would have been paid the contractor. The contractor's argument that an item could have been purchased at a lower price shall not have merit.
21. **Nutritional Information:** Contractor shall provide upon request by the School Nutrition Director, the most recent nutritional data, meal contributions, and for the purpose of food allergies, ingredient labels of any products that may contain the following: soy, nuts, corn, peas, red food dye, strawberries, milk, fish, shellfish, egg and other common allergens. This information must be provided no later than 35 days from the date of request.
22. **Delivery Time:** Acceptable delivery times will be between 6:30 a.m. and 2:00 p.m. Deliveries are to be made to individual schools on a weekly basis. No minimum dollar or case amounts shall be required for the weekly delivery. The delivery dates and times shall be negotiated with each School Nutrition Director. School Nutrition Directors may request additional deliveries or special arrangements from time to time and contractor shall respond with no extra charge.
23. **Delivery Procedures:** Drivers and helpers shall deliver merchandise into designated storage areas. Drivers or helpers shall not be required to store merchandise on shelves. Drivers may request the authorized school receiver to verify the accuracy of quantities delivered. Shortages, damages and substitutions shall be noted by the driver to the receiver and noted on the delivery ticket.
- It is understood that deliveries are not to be made when school is not in session with exception of the opening of school. Calendars will be provided to the successful bidders to designate off-school days. When school is cancelled because of inclement weather or any other emergency and the delivery truck is already in route, upon arrival the company driver must contact the School Nutrition Director by telephone for instructions. The school system reserves the right to accept the delivery, authorize another acceptance signature, or to return the delivery. If the truck has not left the distributor's warehouse, the delivery will be made on the next day that schools are re-opened unless notified otherwise.
- An emergency communication plan is to be completed and provided for each participating KPC Member upon award.
24. **Transmittal of Orders:** Distributor shall issue purchasing guides to KEDC and its participating districts.
25. **Menus:** Upon request, each School Nutrition Director can be asked on a voluntary basis to supply a copy of the monthly planned menus to the contractor sales representative. It is understood that the menus are only to be used for guidance purposes by the successful bidder and in no way guaranteed.

26. **Payments:** Each school district and/or school shall be responsible for making payment to the contractor. Normally, school districts pay bills only after approval from the Board of Education which meets monthly.
27. **Exclusivity:** Participating Districts agree to use the awarded contractor as an exclusive source for the primary items listed on the KEDC Bid Form. The only anticipated exceptions might be in time of emergency.
28. **Purchase of Food, Fresh Produce, and Secondary Items not specifically provided in the Bid Form:**
- a. KEDC schools may exercise their rights to purchase all secondary items including fresh produce from the contractor that has been awarded the contract.
 - b. Fresh Produce and secondary items shall be priced at cost plus a fixed fee based upon a sliding scale and shall be subject to the same auditing provisions as bid items. A separate sliding scale fixed fee schedule for fresh produce and for secondary items will be submitted on the Statement of Submission along with the lead time required for delivery of secondary items. Fresh produce items on the bid form will be indicated with an asterisk (*). The fresh produce price will be allowed to fluctuate weekly according to cost. The initial cost given in the spreadsheet for fresh produce items must include the fixed fee. The sliding scale fixed fee schedules may be adjusted annually in conjunction with any contract renewal pricing adjustment.
29. **Cost:** Third Party Invoice or confirmation -- Cost prices shall be based on “delivered to contractor’s warehouse.” When a contractor chooses to “backhaul” or “pick-up” products, a reasonable freight charge may be added to the cost. In all cases, the decision made by the contractor on the initial proposal must be maintained throughout the duration of the contract. Cost shall be based upon the “latest invoice”, or manufacturer’s confirmation prior to the proposal opening or cost update to the cooperative. Should a manufacturer’s confirmation be used in lieu of an invoice, and the confirmation identifies item and/or quantity, the cost may not be changed until the specified time has expired. Cash discounts, label allowances, group allowances, promotion advances, “billbacks”, or other “rebates” may accrue to the benefit of the contractor. No allowances shall accrue to the school district.
30. **Audits:**
- a. KEDC reserves the right to make audits of a contractor’s costs records as follows:
 - i. Prior to award of contract
 - ii. Following any allowed price change.
 - iii. At time of one year contract extension if awarded.
 - iv. An unscheduled audit one time during each one year bid period upon appropriate notice given to contractor.
 - b. The contractor shall be given notice of the intent of the cooperative to conduct an audit a minimum of four weeks in advance.
 - c. The audit may be conducted electronically via the internet or at a site mutually agreeable to KPC and the contractor.
 - d. The contractor shall provide acceptable documentation as follows:
 - i. Manufacturer’s invoices
 - ii. Freight bills
 - iii. Perpetual inventory records
 - iv. Market bulletins (used for distributor manufactured items and inner company billing items when price change occurs).
31. **Registered Dietician Services:** Provide on-site and telephone based Registered Dietician services using on-staff Dieticians to each participating member school district at no cost.
32. **Workshops:** Provide state-wide and regional workshops, speakers, meals, and mini-food shows consisting of new product offerings at no cost. Continuing Education Units shall be provided on all workshops.
33. **Kentucky Broker Service and Buy American Act:** Contractor shall use Kentucky Brokers when possible and abide by Buy American Act (see attachment).
34. **Service Area:** Contractor must be able to provide service to all KPC Members.
35. **Returns:** The contractor must provide a Return Material Authorization within 1 working day of the request by KPC member for items not subject to HACCP guidelines. Returned materials shall be restocked at no charge to KPC member.

36. **Product Evaluation:** Samples requested must be furnished free of expense to KEDC and or the KPC member for evaluation. If not destroyed or consumed in testing or evaluating, or required in connection with the award, furnished samples will, upon request, be returned at the bidder's expense. Right is reserved to mutilate or destroy any samples if considered necessary for testing purposes.
37. **Warranty:** Contractor shall make available and honor all manufacturer's warranties, both standard and extended, to KPC members.
38. **Non-assignability of Awarded Bid:** The bid award will be made only to the individual or entity which actually submits a bid. The awarded bid cannot be conveyed to an awarded bidder's successors or assigns without the prior, express approval of the KEDC Board of Directors or its designee.
39. **Contract Suspension:** KPC may, at its sole discretion, suspend a contractor for a period of up to 90 days to investigate alleged instances of breach of contract or non-compliance. The contractor is prohibited from accepting new orders from KPC members while suspended, however, orders already in process can be completed. If the contractor is found to be in breach of contract or non-compliance, the contract is rendered null and void. The contractor agrees that they have no legal recourse of any nature against KEDC, KPC, or its member entities except for payment of goods, supplies and services that are due for prior purchases which were permitted to be sold by the contractor under this bid. The decision of KPC regarding suspension and/or termination is final.
40. **Warning and Termination of Contract:** KEDC may terminate the contract if the contractor fails to perform at the service level specified in the bid document. Contracts may be terminated at any time, on 30 days notice upon the mutual agreement of both parties or upon the discretion of KEDC, in a shorter period of time, if the terms of the contract are violated in any way. In the event of termination, the members shall not be liable to any costs other than the cost of items delivered and accepted prior to the termination date. The contractor may terminate the contract if the members fail to meet mutually agreeable and specified payment terms.

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

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

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

41. **Prompt Payment Discount:** Contractor must provide a minimum of one half of one percent prompt payment discount for invoice payments postmarked no more than 10 days from the invoice date. The discount may take the form of either a deduction from the total invoice or a check in an amount equal to the same. Example: 1% discount for invoices postmarked within 10 days of the invoice date.
42. **Access To Records:** All contracts over \$100,000, awarded by the LEA, must include a provision to the effect that the LEA, the State agency, USDA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

43. Standard Conditions:

- A. This contract shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Kentucky.
- B. Contractors providing services under this bid invitation, herewith assure KEDC they are conforming to the provisions of the Civil Rights Act of 1964 as amended.
- C. Contractors shall be in compliance and will comply with any and all local, state, and federal laws and regulations related to this bid and the rendering of goods and /or services.
- D. Kentucky Sales and Use Tax Certificate of Exemption Form will be issued upon request.
- E. Contractor shall comply with applicable federal, state, and local laws and regulations pertaining to wages, hours, and conditions of employment. In connection with the contractor's performance of work under this contract, contractor agrees not to discriminate against any employee(s) or applicant(s) for employment because of race, age, religious creed, sex, national origin, or handicap.
- F. Contractor agrees to retain all books, records, and other documents to this agreement for three years after final payment. KEDC and its school districts, its authorized agents and/or state/or federal representatives shall have full access to, and the right to examine any or said materials during said period which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions. If the investigator or audit is in progress, records shall be maintained until stated matter is closed.
- G. Contractor shall comply will all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C.) 187 [h], Section 508 of the Clean Water Act (33 U.S.C. 1368, Executive Order 11738 and Environmental Protection Agency (EPA) regulations, (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included in the EPA list of violated facilities.
- H. By signing this document, the contractor certifies that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. The contractor certifies that collusive bidding is a violation of federal law and can result in fines, prison sentences and civil damage awards.
- I. Prohibition against conflicts of interest, gratuities, and kickbacks: Any employee or official of KEDC or member school districts, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or things of value as an inducement or intended inducement, or in the procurement of business, or the giving of business, for or to or from, any person, or in open market seeking to make sales to the school district shall be deemed guilty of a felony and upon conviction such person or persons shall be subject to punishment or fine in accord with state and/or federal laws.
- J. Contractor is legally entitled to enter into contracts with agencies of the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by provisions of KRS 164.390, KRS 61.092-61.096, and KRS 42.990.
- K. The provisions of KRS 365.080 and KRS 365.090 which permit the regulation of resale price by contract, does not apply to sales to the State.
- L. Contractor is fully knowledgeable of KRS 45A.335-45A.490, Kentucky Model Procurement Code, including the provisions for violation of the Code. KRS 45A.455 prohibits conflicts of interest, gratuities, and kickbacks to employees of KEDC or the Boards of Education in connection with contracts for supplies or services whether such gratuities or kickbacks are direct or indirect. KRS 45A.990 provides severe penalties for violations of the laws relating to gratuities or kickbacks to employees that are designed to secure a public contract for supplies or services.
- M. KEDC reserves the right to reject any and/or all bids and to waive informalities.

KEDC CAFETERIA FOOD AND SUPPLY LINE ITEMS – PV-CFS-2009-07

STATEMENT OF SUBMISSION

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

We offer a DISCOUNT for payment of bills of _____% for payment within _____ Days.
Minimum one half of one percent.

SECONDARY ITEMS -- We will charge a fixed fee over cost per secondary item according to the following scale: (amounts = case or similar packaging costs)

\$.01-\$25 = _____; \$25.01-\$50 = _____; \$50.01-\$75 = _____; \$75.01-\$200 = _____; Above \$200 = _____

FRESH PRODUCE ITEMS -- We will charge a fixed fee over cost per secondary item according to the following scale: (amounts = case or similar packaging costs)

\$.01-\$25 = _____; \$25.01-\$50 = _____; \$50.01-\$75 = _____; \$75.01-\$200 = _____; Above \$200 = _____

Please circle Yes or No for each statement below.

- | | |
|--|-----------|
| Bidder can provide service to all KPC Members..... | Yes or No |
| Bidder will provide an Internet Based Ordering System..... | Yes or No |
| Bidder will provide registered dietician services..... | Yes or No |
| Bidder will provide workshops for Core Requirements /Key Area Hours and/or Continuing Education Units (CEUs)?..... | Yes or No |
| Bidder will utilize Kentucky Brokers..... | Yes or No |
| Bidder will adhere to Buy American Act..... | Yes or No |
| Bidder has provided service to Kentucky schools for a minimum of 5 years..... | Yes or No |
| Bidder will provided toll free number for customer service..... | Yes or No |
| If Yes, list toll free number _____ | Yes or No |

List additional sales representatives (including contact name, phone number and service area) On attached communication template along with Emergency contact numbers.

Did you include in your bid packet:

1) Statement of Submission completed and signed,	Yes or No
2) the Excel spreadsheet with your pricing on CD or Flash Drive,	Yes or No
3) a printout of the Excel spreadsheet and	Yes or No
4) Communication template and Sales Representative list?	Yes or No

Bidding Firm

Printed Name

Phone #

Address

Authorizing Signature

Email Address

Fax #

City, State, Zip



United States
Department of
Agriculture

DATE: August 9, 2006

Food and
Nutrition
Service

MEMO CODE: SP 29-2006

3101 Park
Center Drive
Alexandria, VA
22302-1500

SUBJECT: Buy American Reminder

TO: Regional Director
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Since the April 17, 2006 issuance of SP 20-2006, Procurement Questions Relevant to the Buy American Provision, we continue to receive questions about the provision. This guidance serves as a general reminder to State agencies about the importance of complying with the Buy American provisions that are found in the regulations of the National School Lunch Program (NSLP) at 7 CFR 210.21(d) and the School Breakfast Program (SBP) at 7 CFR 220.16(d).

One issue in particular that we would like to address is the applicability of the provision to all foods purchased by School Food Authorities (SFAs) with funds from the nonprofit food service account. We have been informed about a food product was displayed at the recent School Nutrition Association (SNA) 2006 conference that was non-compliant with the Buy American provisions. This food item, which was produced and exhibited by a major food company at the conference, was clearly marked as containing a main ingredient from China and prepared in Thailand.

Although the food item was not displayed at the SNA conference as a component of any of the menu planning options in the NSLP or the SBP, we are concerned that conference attendees could have mistakenly concluded that such products are acceptable for a la carte sales. As discussed in the SP 20-2006 guidance (see Q&A 5), SFAs must ensure that all procurements using funds from the nonprofit school food service account comply with the Buy American provisions. This includes foods that are sold to students as a la carte food items.

Regional Directors
State Directors
Page 2

As with all other program requirements, State agencies have an obligation to ensure that SFAs are complying with the Buy American provisions, to the maximum extent practicable. The SP 20-2006 guidance describes actions that SFAs can take to comply with the Buy American requirements, such as:

- Including a Buy American clause in all procurement documents (product specifications, bid solicitations, requests for proposals, purchase orders, etc.);
- Monitoring contractor performance;
- Requiring suppliers to certify the origin of the product;
- Examining product packaging for identification of the country of origin; and
- Asking the supplier for specific information about the percentage of U.S. content in the food product.

We appreciate your assistance in reminding SFAs about the importance of complying with the Buy American provisions. If there are other questions concerning these provisions, please let us know.

Original Signed

STANLEY C. GARNETT
Director
Child Nutrition Division

Emergency Communication Template and Sales Representative List

KPC Member	Contractor Sales Representative Name	Contractor Sales Representative Phone	Contractor Sales Representative Email	KPC Member	Contractor Sales Representative Name	Contractor Sales Representative Phone	Contractor Sales Representative Email
DIOCESE OF LOUISVILLE				FAIRVIEW IND.			
ASHLAND IND				FAYETTE CO			
AUGUSTA				FLEMING			
BARBOURVILLE				FLOYD			
BARDSTOWN				GARRARD			
BARREN				GREEN COUNTY			
BATH				GREENUP COUNTY			
BEECHWOOD				HARLAN IND			
BELLEVUE				JACKSON IND			
BEREA				JOHNSON			
BOYD COUNTY				JOHNSON			
BULLITT				KNOX COUNTY			
BURGIN IND				LARUE			
BUTLER				LAWRENCE			
CAMPBELL CO				LEWIS			
CASEY				LINCOLN CO			
CAVERNA IND				LOGAN COUNTY			
CORBIN				LUDLOW			
COVINGTON				MADISON			
DAYTON				MAGOFFIN			
EAST BERNSTADT				MARSHALL CO			
EDMONSON CO				MEADE			
ELIZABETHTOWN				MENIFEE			
ELLIOTT				MERCER			
ESTILL				MERCER			
EVANGEL CHRISTIAN				METCALFE			

KPC Member	Contractor Sales Representative Name	Contractor Sales Representative Phone	Contractor Sales Representative Email
MONTICELLO			
MORGAN			
OHIO COUNTY			
PAINTSVILLE IND.			
PENDLETON			
PERRY			
PORTLAND			
POWELL			
RACELAND			
ROBERTSON			
ROCKCASTLE			
ROWAN			
RUSSELL IND			
SCIENCE HILL			
SILVER GROVE IND.			
SIMPSON			
SOMERSET IND.			
SOUTHGATE IND.			
TAYLOR COUNTY			
TODD			
WALTON VERONA			
WAYNE			
WHITLEY			
WILLIAMSBURG			
WILLIAMSTOWN IND.			
WOLFE COUNTY			

Emergency Communication Template

The purpose of this Emergency Communication Template is to establish a call/communication plan for after hours business emergencies.

The first attempt will be to the designated sales representative.
When that fails who would be the next in the line of communication?

<u>Contact Name</u>	<u>Contact Title</u>	<u>Contact After hours Phone #</u>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		

Contractor can provide separate communication plan if more details are needed.

KEDC PRIME CONTRACTOR MONTHLY PERFORMANCE REPORT SAMPLE

District: _____

Name: _____

Vendor: _____

Month of Survey: _____

5	4	3	2	1	N/A
Excellent	Very Good	Acceptable	Poor	Unacceptable	N/A
No Problems	Problems Occur rarely	Problems occur occasionally	Problems occur frequently	Problems occur daily	Not Applicable

1. Substitutions of equal quality for same or lower price.	5	4	3	2	1	N/A
2. HACCP guidelines are being met.	5	4	3	2	1	N/A
3. Drivers are professional.	5	4	3	2	1	N/A
4. Delivery truck is clean.	5	4	3	2	1	N/A
5. I was given adequate time and notice to agree to substitutions.	5	4	3	2	1	N/A
6. Quantities received match quantities ordered.	5	4	3	2	1	N/A
7. Prime Vendor Inside Representative is responsive to my needs.	5	4	3	2	1	N/A
8. Deliveries arrive within agreed upon time window.	5	4	3	2	1	N/A
9. Rate overall product quality.	5	4	3	2	1	N/A
10. Rate overall prime vendor service.	5	4	3	2	1	N/A
11. Prime Regional Vendor Representative is responsive to my needs. (Face to Face meetings)	5	4	3	2	1	N/A

Additional Comments and Concerns: