

# KY COUNCIL ON POSTSECONDARY EDUCATION EXECUTIVE COMMITTEE



## MEETING AGENDA

Wednesday, July 3, 2019 - 9:00 AM  
CPE Offices, Conference Room A

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1. Call to Order & Roll Call
2. Discussion on Program Review System
3. Adjourn

## **Kentucky Academic Program Review System**

At the June 28, 2019 CPE Executive Committee meeting, committee members asked staff for additional information regarding the budget and RFP process for a comprehensive academic program review system that would allow the Council to focus more deeply on program costs and efficiency, graduation and employment outcomes, the state's return on investment and program quality.

### **Rationale for New System**

Kentucky Revised Statute (KRS) 164.020(16) calls on CPE to undertake regular review of public higher education academic programs to assure they are consistent with institutional mission and aligned with the goals and priorities of the state's Strategic Agenda for Postsecondary Education. The process has undergone several iterations over the past 20 years, with CPE paying progressively more attention to academic quality considerations, program costs, and graduate outcomes in the workforce. The importance of academic program review as a key responsibility of CPE was elevated with the appointment of Dr. Aaron Thompson as CPE president in the fall of 2018. Academic program quality is such a high priority of both President Thompson and the board that strengthening the review process was included as one of two mandates in Dr. Thompson's annual performance evaluation.

The possibility of working with a third party academic program evaluator has been under consideration for some time. As CPE's program review processes have become more comprehensive and staff have asked campuses for more information, some institutions have struggled responding to elements of the review process, particularly providing information related to graduation outcomes. Additionally, there has been a lack of consistency in the measurement of program costs.

After lengthy consultation with campus representatives about strengthening the program review process, staff began exploring the possibility of a contractual relationship with a national expert or organization. The third party would work with both the CPE and the eight public universities to determine those programs that are operating well and as intended; those that need improvement (and the resources required); programs no longer needed in their present form; and programs that are in demand but not presently offered by a Kentucky institution.

With the appropriate level of staffing, CPE can manage the program review process as currently structured. However, new technologies can help facilitate the information gathering and analysis process, and third-party entities with extensive expertise in program evaluation can open new possibilities for improvements in this important area of CPE responsibility. The combined need to strengthen the current process, and the availability of new third-party providers with high levels of expertise led CPE staff to explore a private vendor relationship.

### **The Request for Proposals**

Kentucky's RFP process provides a structured, highly regulated route for state agencies to explore and possibly contract with outside vendors for a range of services and products to help meet their statutory requirements. When competition exists for services requiring professional skill or professional judgment, state agencies must issue a Request for Proposals (RFP) that outlines the services being sought and the criteria for evaluating the proposals received, with appropriate considerations for cost. The RFP process is in accordance with Kentucky's Model Procurement Code (KRS Chapter 45A) and RFPs are processed and approved through the state Finance and Administration Cabinet.

CPE's RFP for a comprehensive program review process (Attachment A) was released March 18, 2019 and closed on April 15, 2019. The RFP includes a required scope of work with the overall mandate to develop a sustainable process that will provide institutional and state leaders with information on programmatic needs of potential students, program relevancy, cost, and post-graduation outcomes. More specifically, the RFP requires the vendor, through the new program review process, to:

- Identify post-graduation outcomes.
- Identify student and/or market demand that is not being met by current programs.
- Operationalize the definition of "unnecessary duplication" related to baccalaureate program offerings.
- Standardize the determination of program net costs.
- Provide benchmark data across institutions within the state.
- Provide benchmark data compared to other research and comprehensive universities outside the state.
- Identify costs and work load for CPE staff and university faculty and staff in order to complete the vendor's methodology. The proposal should clearly identify data required from CPE and institutions.
- Include in the analysis the public institution's area of geographic responsibility.

The RFP further required that the vendor demonstrate experience with evaluating the four fundamental program review questions at both large and small public universities as well as both public comprehensive and research universities (with experience at the state level preferred). As part of the proposal process, the vendor was required to provide two studies from previous projects. The vendor was also required to demonstrate that it had the staffing and capacity to develop the system and conduct the evaluation, including providing detail on specific staff involved in the project and information on any subcontractor that would be involved in the project.

CPE received proposals from three vendors. After completion of the evaluation process the highest evaluated vendor was contacted to begin negotiations. CPE staff was not satisfied with the vendor's proposed budget and negotiated a significant reduction in the project costs from over \$1 million to a cost not to exceed \$747,000 initially, with an option to extend two additional years with a recurring annual cost of \$180,000. The vendor also agreed to travel at their expense to Kentucky to make a formal in-person presentation to CPE staff and respond to questions about their proposal. After a detailed review of the vendor, their past projects, their capacity to complete the project within the required 12 month timeline, and agency budget capacity, staff recommended to the president to move forward with a contract.

### **Program Review System Funding**

After a careful review of the agency budget, staff proposed to the president that funds for the Program Review System come from the agency's Technology Trust Fund. The Technology Trust Fund (TTF), established in KRS 164.7911 and further defined in 164.7921, is:

(1)(a)...intended to support investments in electronic technology for postsecondary education throughout the Commonwealth to improve student learning...

and

(1)(b)...provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery... and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.

The Technology Trust Fund supports the Kentucky Virtual Library, Technology Support, and the Kentucky Postsecondary Education Network (KPEN), which includes the Kentucky Regional Optical Network (KyRON). These programs combine state General Fund appropriations with funds from the public postsecondary institutions and other partners to leverage savings through shared technology and electronic content purchases.

A number of restricted grants and funds for other initiatives are also housed in the TTF, and are categorized as either Restricted Grants and Initiatives or as Other Initiatives. Funding for the proposed Program Review System will come from the latter two categories and the following designated TTF budget units:

Student Success and College Readiness <sup>1</sup>	\$332,000
Commonwealth College <sup>2</sup>	180,000
FY19 Payment to Loan Fund <sup>1, 3</sup>	150,000
Efficiency and Innovation <sup>2</sup>	43,800
College Level Learning Assessment <sup>1</sup>	23,900
KY3C	13,900
NGLC Incubator Grant <sup>2</sup>	<u>4,900</u>
	\$748,500

<sup>1</sup> Restricted funds that can be used for the Program Review System.

<sup>2</sup> Residual or indirect funds from completed, discontinued, or inactive programs.

<sup>3</sup> Loan fund was paid from other sources in fiscal 2018-19.

Funding the Program Review System as recommended will reduce available funding for Restricted Grants and Initiatives by \$505,900 (reducing the balance from \$1,380,000 to \$874,100) and will reduce available funding for Other Initiatives by \$242,600 (from \$450,000 to \$207,400).



## Commonwealth of Kentucky SOLICITATION MODIFICATION

Addenda: Yes

Addenda #: 4

<b>TITLE:</b> Statewide Program Review - Q&A Mod 4.5.19		
<b>Date Issued:</b> 4/5/19	<b>Solicitation Closes</b> <b>Date:</b> 4/15/19 <b>Time:</b> 15:00	<b>Solicitation No:</b> RFP 415 1900000254
<b>Record Date:</b>		
<b>Online Bidding Prohibited:</b> Yes		
<b>For Information Call:</b> Kara Couch 502-573-1555		<b>Bid Receiving Location:</b> Council on Postsecondary Education Kara Couch 1024 Capital Center Drive Suite 320  Frankfort KY 40601
<b>Vendor Customer Number:</b>		
<b>Vendor Name:</b>		
<b>Phone Number:</b>		
<b>Fax Number:</b>		
<b>Email Address:</b>		
<b>Ordering</b> <b>Address:</b> <b>City, State, Zip:</b> <b>Contact Name:</b> <b>Contact Email:</b> <b>Contact Phone Number:</b>		<b>Payment</b> <b>Address:</b> <b>City, State, Zip:</b> <b>Contact Name:</b> <b>Contact Email:</b> <b>Contact Phone Number:</b>
<b>Ownership Type</b>  <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other		

**SIGNATURE OF AUTHORIZED AGENT IS REQUIRED UNLESS RESPONSE IS SUBMITTED ELECTRONICALLY. FAILURE TO SIGN SHALL RENDER THE BID INVALID.**

**Signature X \_\_\_\_\_ FEIN# \_\_\_\_\_ Date \_\_\_\_\_**

*All offers subject to all terms and conditions contained in this solicitation.*



## Commonwealth of Kentucky SOLICITATION MODIFICATION

Addenda: Yes

Addenda #: 4

**Line Items**

**Commodity Group:** Default

Line	CL Description	Quantity	UOM	Unit Cost	Line Total or Contract Amnt
1	Statewide Program Review				

Comm Code	Comm Description	Manufacturer	Model #	Manuf Part #
92419	Educational Research Services			

**Extended Description**

The Kentucky Council on Postsecondary Education (CPE), is requesting proposals from qualified firms to provide a methodology to address these four questions related to productivity/efficiency for baccalaureate programs at public universities in the state:

- (1) which programs are operating well;
- (2) which programs need to be improved and what resources would be required;
- (3) which programs are no longer needed in their present form; and
- (4) which programs are needed but not presently offered.

The methodology should also address the criteria outlined in KRS 164.020 (16):

- .Consistency with the institution's mission and the Strategic Agenda.
- .Alignment with the priorities in the strategic implementation plan for achieving the Strategic Agenda.
- .Elimination of unnecessary duplication of programs within and among institutions.
- .Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery.

Public Postsecondary Education Institutions: State-supported institutions of postsecondary education in the Commonwealth are as follows: Eastern Kentucky University, Kentucky Community and Technical College System, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, University of Kentucky, University of Louisville, and Western Kentucky University.

<b>Shipping Information</b>	<b>Billing Information</b>
Council on Postsecondary Education	Council on Postsecondary Education
1024 Capital Center Drive Suite 320	1024 Capital Center Drive Suite 320
Frankfort KY 40601	Frankfort KY 40601



## Commonwealth of Kentucky SOLICITATION MODIFICATION

Addenda: Yes

Addenda #: 4

### Submission Checklist

*The following items will be required to be submitted with bid:*

#### Item

Proposed cost solution under sealed cover and by closing date and time

Plan of Work - MAX 300 pts

Timeline MAX 75pts

Qualification and Relevant Experience MAX 75pts

Resources and Capacity MAX 75pts

Oral Presentations MAX 225pts



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**PROPOSAL SUBMISSION CHECKLIST**

The vendor **MUST** include the following with the proposal submission. If the items highlighted below are not submitted with the proposal submission, **the Commonwealth MUST deem the proposal non-responsive and SHALL NOT consider for award.**

All other items **MUST** be submitted prior to award.

**\_\_\_\_\_ SIGNED AND COMPLETED SOLICITATION (Section 8.10 of this RFP)**

**\_\_\_\_\_ \*PROPOSED SOLUTION (TECHNICAL) UNDER SEALED COVER AND BY CLOSING DATE  
Section(s) 8.00 and 8.10 of this RFP**

**\_\_\_\_\_ \*PROPOSED SOLUTION (COST) UNDER SEALED COVER AND BY CLOSING DATE  
Section(s) 8.00 and 8.20 of this RFP**

\_\_\_\_\_ TRANSMITTAL LETTER – Section 8.10 of this RFP

\_\_\_\_\_ PROOF OF REGISTRATION WITH SECRETARY OF STATE BY A FOREIGN ENTITY  
(Section 8.00 of the Personal Service Contract Terms and Conditions of this RFP)

\_\_\_\_\_ REQUIRED AFFIDAVIT(S) – Section 8.10 of this RFP

\*The Commonwealth defines SEALED as “a closure that must be broken to be opened and that thus reveals tampering” (Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/seal>)

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REQUEST FOR PROPOSAL  
FOR  
PERSONAL SERVICE CONTRACT

**Kentucky Council on Postsecondary Education**  
**Statewide Program Review**  
**RFP 415 1900000254**

This document constitutes a Request for Proposals for a Personal Service Contract from qualified individuals and organizations to furnish those services as described herein for the Commonwealth of Kentucky, Council on Postsecondary Education.

Offerors are advised that any personal service contract resulting from this RFP must comply with all applicable provisions of KRS 45A and KRS 12.210 prior to becoming effective.

A contract, based on this RFP, may or may not be awarded. Any contract award from this RFP is invalid until properly approved and executed by the Finance and Administration Cabinet and filed with the Legislative Research Commission, Government Contract Review Committee.

**1.00 Purpose and Background**

The purpose of the solicitation is to award a contract to a single vendor to review all baccalaureate programs at Kentucky's eight public universities. More information about the universities can be found at <http://cpe.ky.gov/campuses/state.html>. The review should provide institutional and state leaders with information on programmatic needs of potential students, program relevancy, cost, and post-graduation outcomes. KRS 164.020 (16) authorizes the Council to eliminate, at its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

- # Consistency with the institution's mission and the Strategic Agenda.
- # Alignment with the priorities in the strategic implementation plan for achieving the Strategic Agenda.
- # Elimination of unnecessary duplication of programs within and among institutions.
- # Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery.

From 1976 to 1987, the Council on Higher Education (CHE) conducted three reviews of existing programs. The first program reviews assessed all doctoral programs in the late 1970s. After review of all doctoral programs, CPE reviewed the public universities' master's programs and bachelor's programs using the same assessment model. After focusing on degree levels, the next two rounds of program reviews in the 1980s were conducted by discipline. In the 1980s, the Procedures for Review of Existing Programs noted that the four purposes of program review were to determine (1) which programs were operating well; (2) which programs needed to be improved and what resources would be required; (3) which programs were no longer needed in their present form; and (4) which programs were needed but not presently offered.

Focusing on disciplines was more useful than focusing on degree levels, but there were problems with that approach as well. The discipline reviews focused on productivity and duplication, but there were no specific criteria because institutions believed that criteria should vary by mission and institutional size. In addition, there were no clear objectives, which resulted in no agreement on acceptable rationales for maintaining programs.

After the review cycle in 1987, the CHE determined that the process should be redesigned with two concepts in mind: (1) institutions should be involved in the design of the new process and (2) the process should focus on program quality. The Council of Chief Academic Officers, CAO, was charged with redesigning program review. A subcommittee of CAOs was created to develop a definition of quality, but it did not produce one that was accepted by all institutions. Staff and CAOs finally agreed that each institution would define quality for itself. Institutions then noted that the review process was duplicative of SACS and program-specific accreditation reviews. As a result, in May 1989, staff suggested to the CHE that program review activities be merged with statewide and institutional planning activities. The reasoning was that program reviews,

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especially the assessment of strengths and weaknesses and the determination of the appropriate program mix, would help shape strategic plans and then provide feedback on the implementation of the plans.

The redesign of the program review process, which began in 1988, was completed with the adoption of a new policy in November 1990. The updated policy's guiding principles were to:

- # Promote the qualitative improvement of individual degree programs and institutions.
  - o How are institutions defining and assessing quality?
  - o How are institutions trying to improve quality?
  - o Do institutions follow through on plans to improve quality?
    - # Ensure an array of degree programs appropriate to each institution's mission.
  - o Are programs performing adequately? What are the strengths? What are the weaknesses?
  - o Is the current array of programs meeting the needs identified in the statewide and institutional strategic plans?
    - # Contribute to planning activities at the institutional and state levels.
  - o Has the consolidation of planning and program review been beneficial to both processes?
  - o Is program review performing as desired in this new alignment?

As the policy was being revised, there were five expectations of program review extrapolated from the statewide plan for higher education:

- # Provisions for assessing quality would be strengthened.
- # New procedures should be comprehensive, i.e. contain a mixture of quantitative and qualitative standards which address quality, performance, cost effectiveness, contributions to institutional and statewide goals, and unnecessary duplication.
- # Strengthening of undergraduate programs would take precedence over graduate programs.
- # There would be increased scrutiny of programs and a more rigorous assessment of their viability and feasibility.
- # Program review standards should be incorporated into the review of new programs to ensure quality and prevent unnecessary duplication.

It was agreed that outcomes of the program review process would be:

- # Increased emphasis on qualitative considerations and program improvements over time.
- # Improved coordination of programs based on institutional and statewide perspectives.
- # Targeted institutional missions.

In 1991, the fourth round of reviews was implemented and focused on qualitative assessments that would lead to program improvements. The updated process recognized two categories of programs – nucleus and special. Nucleus programs were traditional liberal arts disciplines at the baccalaureate level that were considered “standard” at most universities. Nucleus programs were considered essential or highly desirable in operating coherent undergraduate programs. All other programs were considered special.

All programs underwent a qualitative review by the institutions, while special programs also underwent a quantitative review by CHE staff. Institutions created their own definitions of and criteria for quality, the reasoning being that the institutions were responsible for improving the quality of their own programs so they should also assume the responsibility for defining and assessing quality.

The quantitative review addressed productivity levels, unnecessary duplication, and disciplinary concerns. It analyzed items such as workforce shortages and surpluses, pass rates on licensure exams, rapid enrollment growth, and staffing and equipment problems. Each round (i.e., qualitative analysis by institutions and quantitative analysis by CHE staff) of reviews took two years to complete. Staff assumed that actions taken by institutions to improve programs could be analyzed during the next program review cycle five years later. Most institutional reports did not include recommendations to suspend or withdraw programs. Program reviews were interrupted by Gov. Brereton Jones' Higher Education Review Commission and were officially suspended in October 1993.

In November 1999, the Council on Postsecondary Education (the Council or CPE) passed a series of guidelines related to academic programs that streamlined the process of reviewing programs and recognized the need for institutional flexibility within the new postsecondary structures of the Kentucky

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Postsecondary Education Improvement Act of 1997. The Council's Guidelines for Review of Academic Program Productivity established the following thresholds to be used to identify programs for review:

- # Associate programs - average of fewer than 12 degrees awarded during a five-year period.
- # Baccalaureate programs - average of fewer than 12 degrees awarded during a five-year period.
- # Master's programs - average of fewer than seven degrees awarded during a five-year period.
- # Doctoral programs - average of fewer than five degrees awarded during a five-year period.

After the policies were streamlined, the Council conducted four rounds of program productivity review. In the first round, the Council staff reviewed degree output from 1994-95 to 1998-99, and the Council approved the results in July 2001. In the second round, staff reviewed degree output from 1996-97 to 2000-01, and the Council approved the results in May 2003. In the third round, staff reviewed degree output from 1998-99 to 2002-03, and the Council approved the results in January 2005. At its January 30, 2006, meeting, the Council amended its Guidelines for Review of Academic Program Productivity to specify a four-year review cycle.

Under this iteration of the policy, the most recent review was conducted in 2008-09 and examined degree output from 2003-04 to 2007-08. First, Council staff analyzed official degree data to identify associate, baccalaureate, master's, and doctoral programs at each institution that were below the thresholds. Next, staff notified institutions of those programs that were below the thresholds and asked them to apply an efficiency index to programs below the master's degree level. If the efficiency index for a program at the comprehensive universities was 540 or above, the program was considered to be productive and removed from further review. If the efficiency index for a program at the research universities was 360 or above, the program was considered to be productive and removed from further review. Finally, the institutions were asked to review each remaining low-productivity program and make written recommendations with supporting rationale for continuation, alteration, or closure of the program.

The policy was revised in 2011, with an implementation date of the 2013-14 academic year. The policy revisions were made in light of best practices, better coordination among state and institutional practices, and an improved connection between academic program approval and review of existing academic programs.

After five rounds of program reviews under the current policy, some institutions were still struggling with certain elements of the review process, including job placement, and there was a lack of consistency in some areas, such as the determination of student credit hour per instructional FTE. Conversations about further policy revisions began with campus representatives in 2017. After feedback from campuses and further conversations, it was determined that the best course of action would be to contract with a national expert or organization that could work with both the CPE and the eight public universities to revisit the program review questions from the 1980s and determine for the approximately 650 baccalaureate programs in the state:

- (1) which programs are operating well;
- (2) which programs need to be improved and what resources would be required;
- (3) which programs are no longer needed in their present form; and
- (4) which programs are needed but not presently offered.

More information about the current program review process can be found at <http://cpe.ky.gov/policies/academicprograms.html>, and the statewide program inventory can be found at <https://dataportal.cpe.ky.gov/KYAcademicProgInventory.aspx>.

## **2.00 Scope of Work**

CPE is searching for a single vendor to provide it with a methodology to address four questions related to productivity/efficiency for baccalaureate programs at public universities in the state:

- (1) which programs are operating well;
- (2) which programs need to be improved and what resources would be required;
- (3) which programs are no longer needed in their present form; and
- (4) which programs are needed but not presently offered.

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The methodology should also address the criteria outlined in KRS 164.020 (16):

- # Consistency with the institution's mission and the [Council's 2016-2021 Strategic Agenda for Postsecondary and Adult Education \(Strategic Agenda\)](#).
- # Alignment with the priorities in the strategic implementation plan for achieving the goals outlined in the Strategic Agenda.
- # Elimination of unnecessary duplication of programs within and among institutions.
- # Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery.

In order to answer these questions, the vendor is required to:

- # Identify post-graduation outcomes.
- # Identify student and/or market demand that is not being met by current programs.
- # Operationalize the definition of "unnecessary duplication" related to baccalaureate program offerings.
- # Standardize the determination of program net costs.
- # Provide benchmark data across institutions within the state
- # Provide benchmark data compared to other research and comprehensive universities outside the state.
- # Identify costs and work load for CPE staff and university faculty and staff in order to complete the vendor's methodology. The proposal should clearly identify data required from CPE and institutions.
- # Include in the analysis the public institution's area of geographic responsibility as defined by CPE at <http://cpe.ky.gov/campuses/svcregions.html>, state level and Metropolitan Statistical Area level for those universities on state borders.

### **3.00 Evaluation Criteria**

The CPE will evaluate the proposals based on the following evaluation factors:

#### **Plan of work – 300.**

The proposal must include a detailed description of the proposed activities that will answer the four fundamental questions outlined in the scope of work. The proposal must elaborate on how each element of the program review process will be conducted – how market demand is operationalized, how low productive programs are identified, etc.

#### **Costs – 250.**

Offeror shall only provide cost on the attached Cost Proposal Form, Attachment A; otherwise the proposal may be deemed non-responsive. Cost proposal shall include the following:

The budget must be clear, concise, cost-effective, and clearly justified in the narrative.

#### **Timeline – 75.**

The timeline must be appropriate and reasonable and completed with 12 months from start of award.

#### **Experience (previous projects) – 75.**

The vendor must demonstrate experience with evaluating the four fundamental program review questions at both large and small public universities as well as both public comprehensive and research universities. Experience at the state level is preferred. Vendor must provide two studies from previous projects.

#### **Resources and capacity – 75.**

The vendor must demonstrate that there is appropriate staffing and organizational resources needed to conduct a project of this scope within this timeline. List the staff and provide biographical information for each person who would be anticipated to work on this project. List and any subcontractors anticipated to work on this project and identify which aspect of the project each one will complete. Provide a short synopsis of each contractor's experience.

#### **Oral Presentations – 225.**

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Vendors may be required to come into CPE offices located in Frankfort, Kentucky for an oral presentation. Vendors will be notified if oral presentations will be required.

#### 4.00 Schedule of RFP Activities

The following schedule presents the major activities associated with the RFP distribution, written questions and proposal submission. The Commonwealth reserves the right at its sole discretion to change the Schedule of Activities, including the associated dates and times.

Release of RFP	<b>Monday, March 18, 2019</b>
<b>Written Questions due by: NOON</b>	<b>Monday, March 25, 2019</b>  <b>***RFP MODIFICATION #2 Changes this due date to Wednesday, 4/3/19.</b>
<b>Anticipated Commonwealth Response to Written Questions</b>	<b>Wednesday, March 27, 2019</b>  <b>***RFP MODIFICATION #2 changes this date to Friday, 4/5/19.</b>
Proposals Due by: <b>3:00 pm</b>	<b>Monday, April 15, 2019</b>
All bidders are cautioned to be aware of the security in the <b>CPE</b> located at <b>1024 Capital Center Dr., Suite 320</b> , Frankfort, Kentucky. All bids shall be time stamped in the <b>CPE</b> no later than the due date and time defined in this Solicitation. In person or courier delivered bids in response to this Solicitation shall be delivered to <b>CPE Admin Services</b> . Delays due to building security checks shall not be justification for acceptance of a late bid.	
*NOTE: ALL TIME REFERENCES ARE TO THE EASTERN TIME ZONE.	

#### 5.00 Offeror's Conference

Not Applicable.

#### 6.00 Point of Contact

The Agency Contact named below shall be the sole point of contact throughout the procurement process. All communications, oral and written (regular mail, express mail, electronic mail or fax), concerning this procurement shall be addressed to:

Kara Couch, CPPB  
Council on Postsecondary Education  
1024 Capital Center Drive, Suite 320  
Frankfort, KY 40601  
502-892-3020

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[Kara.Couch@ky.gov](mailto:Kara.Couch@ky.gov)

From the issue date of this RFP until a Contractor(s) is selected and the selection is announced, Offerors shall not communicate with any other Commonwealth staff concerning this RFP.

#### **7.00 Questions Regarding this RFP**

Questions must be submitted in writing to the Agency Contact. The Commonwealth will respond to salient questions in writing by issuing an Addendum to the Solicitation. The Addendum shall be posted to the Commonwealth's eProcurement page.

#### **8.00 Proposal Submission**

Each qualified offeror shall submit only **one (1) proposal**. **Alternate proposals shall not be allowed**. Failure to submit as specified shall result in a non-responsive proposal.

**The vendor should complete the "Vendor" box on the face of the solicitation. An authorized representative of the vendor shall sign where indicated on the face of the solicitation. If the solicitation is not signed the proposal shall be deemed non-responsive.**

#### **Acknowledgment of Addenda**

It is the vendor's responsibility to check the web site for any modifications to this solicitation. Vendors are encouraged to acknowledge each addendum by signing and submitting the latest addendum with their response. However, signing the face of the solicitation as indicated above constitutes the vendor's acknowledgement of and agreement to be bound by the terms of all addenda issued.

**Failure to specifically acknowledge addenda will not excuse the vendor from adhering to all changes to the requirements of the solicitation set forth therein nor provide justification for any pricing changes.**

All submitted technical and cost proposals shall remain valid for a minimum of six (6) months after the proposal due date.

Proposals shall be submitted in three (3) parts: The **Technical Proposal**, the **Cost Proposal**, and the **Proprietary Information**.

The **Technical Proposal** should include one (1) marked original hard/paper copy technical and five (5) marked technical thumb/flash drives (in Microsoft Word, Microsoft Excel or PDF format ONLY). Do not include embedded documents, hyperlinks or hyperlinks to videos.

The **Cost Proposal** should include one (1) marked original hard/paper copy cost and one (1) marked cost thumb/flash drives (in Microsoft Word, Microsoft Excel or PDF format ONLY). Do not include embedded documents, hyperlinks or hyperlinks to videos.

Any **Proprietary Information** should include one (1) marked original hard/paper copy proprietary and one (1) marked proprietary data thumb/flash drives (in Microsoft Word, Microsoft Excel, or PDF format ONLY). Do not include embedded documents, hyperlinks or hyperlinks to videos.

All proposals must be received no later than Monday, April 15, 2019 at 3:00pm.

Proposal shall be submitted to the Agency Contact. The outside cover of the package containing the technical proposal shall be marked:

**Statewide Program Review**  
RFP 415 1900000254

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TECHNICAL PROPOSAL  
Name of Offeror

The outside cover of the package containing the cost proposal shall be marked:

**Statewide Program Review**  
RFP 415 1900000254  
COST PROPOSAL  
Name of Offeror

ELECTRONIC OR FACSIMILE PROPOSALS SHALL NOT BE CONSIDERED.

### 8.10 Format of Technical Proposal

The Technical Proposal must be arranged and labeled in the manner set forth below.

**Transmittal Letter** – a Transmittal letter shall be submitted on Offeror’s letterhead, and signed by an agent authorized to bind the Offeror. The Transmittal letter shall include the following:

a.	A statement that deviations are included, if applicable.
b.	A statement that proprietary information is included, if applicable.
c.	A statement that, if awarded a contract as a result of this Solicitation, the Offeror shall comply in full with all the requirements of the Kentucky Civil Rights Act, and shall submit all data required by KRS 45.560 to 45.640.
d.	A sworn statement that, pursuant to KRS 11A.040, that Offeror has not knowingly violated any provisions of the Executive Branch Code of Ethics.
e.	A statement certifying that the price in this proposal was arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Offeror or with any competitor.
f.	A statement affirming that the Offeror is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing with the Office of the Kentucky Secretary of State for the duration of any awarded contract resulting from this Solicitation.
g.	The name, address, telephone number, fax number and email address and website address, if available, of the contract person to serve as a point of contact for day-to-day operations.
h.	Subcontractor information to include the name of the company, address, telephone number and contact name, if applicable.
i.	Foreign entity’s organization number issued by the Secretary of State in a certificate of authority or a statement of foreign qualification, if applicable.

**Completed and Signed Solicitation and Addenda** – An authorized representative MUST complete and sign the Solicitation form and include the following:

- a. “Vendor” box and “Payment” box should be completed.
- b. Vendor shall indicate ownership type.
- c. Vendor shall provide “FEIN” if applicable.
- d. Vendor shall provide date the form is completed and signed.
- e. Signed face of the most recent Addenda, if applicable.

**Signed and Notarized Required Affidavit for Bidders or Offerors - available at the following link:**

<http://finance.ky.gov/services/forms/Pages/default.aspx>

**Signed and Notarized Required Affidavit for Bidders, Offerors and Contractors Claiming Resident Bidder Status – if applicable. Available at the following link:**

<http://finance.ky.gov/services/forms/Pages/default.aspx>

\*Offerors not claiming Resident Bidder Status need not submit this affidavit.



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**Signed and Notarized Required Affidavit for Bidders, Offerors and Contractors Claiming Qualified Bidder Status – if applicable. Available at the following link:**

<http://finance.ky.gov/services/forms/Pages/default.aspx>

\*Offerors not claiming Qualified Bidder Status need not submit this affidavit.

**Response to the Technical Portion of the RFP** – Please provide a detailed response to the technical requirements outlined in the Evaluation Criteria. No cost information shall be provided in the technical portion.

### **8.20 Format of Cost Proposal**

The Cost Proposal must be submitted under separate cover from the Technical Proposal and must be arranged and labeled in the manner specified. The proposal with the lowest price receives the maximum score. The remaining proposals with the next lowest price receives points by dividing the lowest price by the next lowest price and multiplying that percentage by the available points.

### **8.30 Certification Regarding Debarment and Suspension**

In accordance with Federal Acquisition Regulation 52.209-5, the Offeror shall certify, by signing the Solicitation, that to the best of its knowledge and belief, the Offeror and/or its Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency.

For the purposes of this certification, “Principals”, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary, division, or business segment, and similar positions.

### **9.00 Rules of Procurement**

To facilitate this procurement, various rules have been established. These are described in the following paragraphs.

Offerors should review and comply with the General Conditions and Instructions for Solicitation/Contract listed under “Response to Solicitation” located on the eProcurement web page at

<http://finance.ky.gov/services/policies/Documents/FAP%20110-10-00.pdf>

The procurement process will provide for the evaluation of proposals and selection of the winning proposal in accordance with state law and regulations. KRS Chapter 45A of the Kentucky Model Procurement Code provides the regulatory framework for the procurement of services by state agencies.

### **9.10 Technical Proposal Evaluation**

The CPE will evaluate the proposal based on the technical portion of the Evaluation Criteria. Each Offeror is responsible for submitting all relevant, factual and correct information with their offer to enable the evaluator(s) to afford each vendor the maximum score based on the available data submitted by the Offeror. Past Offeror Performance may be considered in the award of this Contract. Offerors with a record of poor performance in the last twelve (12) months may be found non-responsive and ineligible for award.

### **9.20 Cost Proposal Evaluation**

The CPE will evaluate the proposal based on the cost portion of the Evaluation Criteria.

Offeror shall only provide cost on the attached Cost Proposal Form; otherwise, the proposal may be deemed non-responsive.

### **9.30 Right to Reject/Waiver of Minor Irregularities**

The Commonwealth reserves the right at its discretion to reject any and all offers. The Commonwealth also reserves the right at its discretion to waive informalities and minor irregularities in offers received.

### **9.40 Clarification of Proposals**

The Commonwealth reserves the right at its discretion to request additional information as may reasonably be required for selection and to reject any proposals for failure to provide additional information on a timely basis.

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The Commonwealth reserves the right to conduct discussions with any Offeror who has submitted a proposal to determine the Offeror's qualifications for further consideration. Such discussions shall not disclose any information derived from proposals submitted by other Offerors.

**9.50 Best and Final Offers**

The Commonwealth reserves the right at its discretion to request a Best and Final Offer (BAFO) for technical and/or cost proposals. Offerors are cautioned to propose their best possible offers at the outset of the process, as there is no guarantee that any Offeror will be allowed an opportunity to submit a Best and Final technical and/or cost offer.

**9.60 Vendor Response and Public Inspection**

This RFP specifies the format, required information and general content of proposals to be submitted in response to the RFP. The CPE shall not disclose any portions of the proposals prior to contract award to anyone outside the CPE, representatives of the agency for whose benefit the contract is proposed, representatives of the federal government, if required, and the members of the evaluation committee. After a contract is awarded in whole or in part, the Commonwealth shall have the right to duplicate, use, or disclose all proposal data submitted by Offerors in response to this RFP as a matter of public record.

Any and all documents submitted by an Offeror in response to the RP shall be available for public inspection after contract award pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884 ("the Act"). When responding to a request to inspect records submitted in response to this RFP, the Commonwealth will not redact or withhold any information or documents unless the records sought are exempt from disclosure pursuant to KRS 61.878 or other applicable law. Similarly, no such documents shall be exempt from public disclosure, regardless of the Offeror's designation of the information contained therein as "proprietary," "confidential," or otherwise, except in cases where the requested documents (or information contained therein) would be excluded from application of the Act under KRS 61.878(1)(c).

The Commonwealth of Kentucky shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejections of the proposal will not affect this right.

**9.70 Reciprocal Preference for Kentucky Resident Bidders and Preferences for a Qualified Bidder**

The scoring of bids/proposals is subject to the reciprocal preference for Kentucky resident bidders and preferences for a Qualified Bidder or the Department of Corrections, Division of Prison Industries (See KRS 45A.490(1), (2), 45A.492, 45A.494 and KAR 200 5:410).

**Vendors not claiming resident bidder or qualified bidder status need not submit the corresponding affidavit.**

**Determining the residency of a bidder for purposes of applying a reciprocal preference**

Any individual, partnership, association, corporation, or other business entity claiming resident bidder status shall submit the attached Required Affidavit for Bidders, Offerors and Contractors Claiming Resident Bidder Status as part of its response. The CPE reserves the right to request documentation supporting a bidder's claim of resident bidder status. Failure to provide such documentation upon request shall result in disqualification of the bidder or contract termination.

As part of its response, a nonresident bidder shall submit its certificate of authority to transact business in the Commonwealth of Kentucky, Secretary of State. The location of the principal office identified therein shall be deemed the state of residency for that bidder. If the bidder is not required by law to obtain said certificate, the state of residency for that bidder shall be deemed to be that which is identified in its mailing address as provided in its bid.

**Preferences for Qualified Bidder or the Department of Corrections, Division of Prison Industries (200 KAR 5:410)**

Pursuant to KRS 45A.470 and 200 KAR 5:410, Kentucky Correctional Industries will receive a preference equal to twenty (20) percent of the maximum points awarded to a bidder in a solicitation. In addition, the following "qualified bidders" will receive a preference equal to fifteen (15) percent of the maximum points awarded to a bidder in a solicitation. New Vision Industries, Inc., any nonprofit corporation that furthers the

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purposes of KRS Chapter 163 and any qualified nonprofit agencies for individuals with severe disabilities as defined in KRS 45A.465(3). Any bidder claiming “qualified bidder” status, other than New Vision Industries, Inc., shall submit a notarized affidavit affirming that it meets the requirements to be considered a qualified bidder as part of its response to the solicitation (affidavit form included as part of this RFP). If requested, failure to provide documentation proving qualified bidder status to a public agency, if requested, may result in disqualification of the bidder or contract termination.

#### **9.80 Right to Use Oral Presentations to Verify/Expand on Proposal**

The Commonwealth reserves the right at its discretion to require Oral Presentations by some or all of the Offerors to verify or expand on the Technical or Cost Proposals.

#### **9.85 Oral Presentation Evaluation Criteria**

The highest ranking vendors may be requested to provide oral presentations/demonstrations to answer questions or to clarify the understanding of the evaluators in accordance with the requirements of this RFP. The oral presentation shall be scheduled at the discretion of the Commonwealth. The Commonwealth reserves the right not to require oral presentations/demonstrations at its discretion or in the event that they would not affect the final rankings.

#### **9.90 Negotiation**

After conducting the evaluation to determine the best proposal received, the CPE reserves the right to negotiate a fair and reasonable compensation based on the pricing submitted in the offeror’s proposal. If the negotiations fail to reach an agreement on a fair and reasonable compensation rate, the CPE reserves the right to proceed to the next highest ranked proposal. Other terms and conditions relating to the technical and/or cost proposals may be negotiated at the sole discretion of the Commonwealth.

#### **9.95 Best Interests of the Commonwealth**

The Commonwealth will rank all proposals in the manner set forth in the Evaluation Criteria. However, the Commonwealth reserves the right to reject any or all proposals in whole or in part before, during, or after negotiation based on the best interests of the Commonwealth.

### **CONTRACT AWARD, TERMS, AND CONDITIONS**

#### **10.00 Notification of Award**

To view the award of contract(s), including the contractor(s) receiving the award(s) for this solicitation, access the Kentucky Vendor Self Service Site at <http://emarsonline1311.state.ky.us/webapp/vssprdonline/AltSelfService>.

Offerors can search for the solicitation title or number in the keyword search field or filter their search for only awarded solicitations by clicking on “Advanced Search” and changing the status to “awarded.” The award(s) information can be accessed by clicking on the details button of the solicitation and clicking the “Notice of Award” tab. It is the Offeror’s responsibility to review this information in a timely fashion. No other notification of the results of an Award of Contract will be provided to unsuccessful Offerors.

#### **10.10 Beginning of Work**

This Contract is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and filed with the Legislative Research Commission’s Government Contract Review Committee. The Contractor shall not commence any billable work until a valid Contract has been fully executed. This Contract, including the components referenced in Section 10.20, shall represent the entire agreement between the parties. 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.

#### **10.20 Contract Components and Order of Precedence**

The Commonwealth’s acceptance of the Contractor’s offer in response to the Solicitation, indicated by the issuance of a Contract Award, 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.

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3. Any Addenda to the Solicitation.
4. The Solicitation and all attachments
5. Any Best and Final Offer.
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation.
7. The Contractor's proposal in response to the Solicitation.

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

### **10.30 Contract Term and Renewal Option**

The initial term of the Contract is anticipated to be from 4/15/19 through 6/20/20.

This agreement is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the Contract and until the Contract has been filed with the Legislative Research Commission, Government Contract Review Committee.

The Commonwealth reserves the right to renew this contract for up to two (2) additional two (2) year periods.

Renewal shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, or this authorized designee, and the LRC Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705.

### **10.40 Changes and Modifications to the Contract**

Pursuant to 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 by the CPE prior to the effective date of such modification or change. Modification shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, or this authorized designee, and the LRC Government Contract Review Committee. Memoranda of Understanding, written clarification, and/or other correspondence shall not be construed as amendments to the Contract.

### **10.50 Notices**

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Contract shall be in writing. After the award of the Contract, all communications of a contractual or legal nature are to be made to the Agency Contact.

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**Personal Service Contract Standard Terms and Conditions  
May 2018**

**Whereas**, the first party, the state agency, has concluded that either state personnel are not available to perform said function, or it would not be feasible to utilize state personnel to perform said function; and  
**Whereas**, the second party, the Contractor, is available and qualified to perform such function; and  
**Whereas**, for the abovementioned reasons, the state agency desires to avail itself of the services of the second party;

**NOW THEREFORE**, the following terms and conditions are applicable to this contract:

**1.00 Effective Date:**

This contract is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Legislative Research Commission, Government Contract Review Committee ("LRC"). However, in accordance with KRS 45A.700, contracts in aggregate amounts of \$10,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

**2.00 Renewals:**

Upon expiration of the initial term, the contract may be renewed in accordance with the terms and conditions in the original solicitation. Renewal shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet or his authorized designee and the LRC Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705, and contingent upon available funding.

**3.00 LRC Policies:**

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage (<http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>) and would impact any contract established under KRS 45A.690 et seq., where applicable.

**4.00 Choice of Law and Forum:**

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 the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

**5.00 Cancellation:**

The state agency shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

**6.00 Funding Out Provision:**

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the Contractor thirty (30) calendar days' written notice of termination of the contract due to lack of available funding.

**7.00 Reduction in Contract Worker Hours:**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement

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will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

**8.00 Authorized to do Business in Kentucky:**

The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

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.

**Registration with the Secretary of State by a Foreign Entity:**

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by [KRS 14A.9-010](#) to obtain a certificate of authority to transact business in the Commonwealth (“certificate”) from the Secretary of State under [KRS 14A.9-030](#) unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in [KRS 14A.9-010](#), the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within [KRS 14A.1-070](#).

**For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity’s solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.**

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>.

**9.00 Invoices for fees:**

The Contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government. The invoice must conform to the method described in Section V of this contract.

**Pursuant to KRS 45A.695, no payment shall be made on any personal service contract unless the individual, firm, partnership, or corporation awarded the personal service contract submits its invoice for payment on a form established by the committee.**

\*Invoice form is available on the Legislative Research Commission, Government Contract Review Committee website: <http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>

**10.00 Travel expenses, if authorized:**

The Contractor shall be paid for no travel expenses unless and except as specifically authorized by the specifications of this contract or authorized in advance and in writing by the Commonwealth. Either original or certified copies of receipts must be submitted for airline tickets, hotel bills, restaurant charges, rental car charges, and any other miscellaneous expenses.

**11.00 Other expenses, if authorized herein:**

The Contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of this contract or authorized in advance and in writing by the Commonwealth.

If the reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the Contractor of valid, itemized statements submitted periodically for payment at the time any fees are due. The Contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by the Commonwealth.

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**12.00 Purchasing and specifications:**

The Contractor certifies that he/she will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he/she attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and the following paragraph that pertains to conflict-of interest laws and principles, "he/she" is construed to mean "they" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he/she" is construed to mean any person with an interest therein.

**13.00 Conflict-of-interest laws and principles:**

The Contractor certifies that he/she is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract, he/she will not be violating either any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390), or KRS 11A.040 of the executive branch code of ethics, relating to the employment of former public servants.

**14.00 Campaign finance:**

The Contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in KRS 121.056(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The Contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

**15.00 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).

**16.00 Protest:**

Pursuant to KRS 45A.285, the Secretary of the Finance and Administration Cabinet, or his designee, shall have authority to determine protests and other controversies of actual or prospective vendors in connection with the solicitation or selection for award of a contract.

Any actual or prospective vendor, who is aggrieved in connection with the solicitation or selection for award of a contract, may file protest with the Secretary of the Finance and Administration Cabinet. A protest or notice of other controversy must be filed promptly and, in any event, within two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing and shall be addressed to:

**William M. Landrum III, Secretary**  
Commonwealth of Kentucky  
Finance and Administration Cabinet  
Room 383, New Capitol Annex  
702 Capitol Avenue  
Frankfort, KY 40601

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The Secretary of Finance and Administration Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision by the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

**17.00 Social security: (check one)**

\_\_\_\_\_ The parties are cognizant that the state is not liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

\_\_\_\_\_ The parties are cognizant that the state is liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

**18.00 Violation of tax and employment laws:**

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively

To comply with the provisions of KRS 45A.485, the Contractor and all subcontractors performing work under the contract shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the Contractor and all subcontractors performing work under the contract shall be in continuous compliance with the provisions of those statutes, which apply to their operations, and that their failure to reveal a final determination, as described above, or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and their disqualification from eligibility for future state contracts for a period of two (2) years.

Contractor must check one:

\_\_\_\_\_ The Contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

\_\_\_\_\_ The Contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). Attached is a list of such determination(s), which includes the KRS violated, the date of the final determination, and the state agency which issued the final determination.

**19.00 Discrimination:**

This section applies only to contracts disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, 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



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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.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will 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.

The Contractor will send to each labor union or representative of workers with which he/she 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.

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.

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/her 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.

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 that may be imposed and remedies invoked as provided in or as otherwise provided by law.

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.

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Version 2, Modification 1 to add the following attachment:

Attachment A – Cost Proposal Form

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**Q&A**

**Version 3, Modification 2** to extend the Question deadline.

Q: Will you extend the deadline for questions?

A: Yes, we are extending the deadline for questions. Questions are now due by **NOON, Wednesday, April 3, 2019.**

Anticipated Commonwealth Response to written questions is by Friday, April 5, 2019.

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**Q&A 4/5/19**

**Version 4, Modification 3** to post Vendor Questions and Answers.

**Q1:** RFP Section:

Page 7: "In order to answer these questions, the vendor is required to:

#5 - Provide benchmark data across institutions within the state

#6 - Provide benchmark data compared to other research and comprehensive universities outside the state.

Question:

What types of benchmark data is required? Do these bullets refer to cost benchmark data only, or are you looking for other types of benchmark data, such as enrollment, comparative student demand, brand reach, retention rates, graduation rates, outcomes?

**A1:** At a minimum, there should be benchmark data for program net cost for research and comprehensive universities outside the state. However, your methodology may include other metrics and if so, please provide a list of metrics for those as compared other research and comprehensive universities outside the state.