STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

2014-804
September 30, 2014

Secretary of State
Frankfort
Kentucky

By virtue of the authority vested in me by Section 12.210(1) of the Kentucky Revised Statutes, and as Governor of the Commonwealth of Kentucky, I, Steven L. Beshear, do hereby approve an employment contract between the **Kentucky Department of Education,** and **Mike Wilson,** Lexington, Kentucky as outlined in the attached Contract.

Please enter this Executive Order upon the Executive Journal and file the attached Contract with the Executive Order.

STEVEN L. BESHEAR
Governor

ALISON LUNDERGAN GRIMES
Secretary of State

RECEIVED AND FILED

DATE 9/30/14

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY

BY K. Adler

Extended Description

339005 KDE FINANCIAL MGT 500 MERO ST FRANKFORT KY 40601 US	339005 KDE FINANCIAL MGT 500 MERO ST FRANKFORT KY 40601 US

5	Travel - FY 16	0.00	0.00000	4,500.00	4,500.00

Extended Description

This line is for FY16

The contractor shall be paid for no travel expenses unless and except as specifically authorized by this paragraph as follows: Contractor will be reimbursed for registration fees as well as travel expenses based on state travel regulations for mileage, lodging, meals, airfare, and incidentals when related to training and/or meetings pre-authorized by the Kentucky Department of Education.

Travel expenses, if authorized, shall be billed in the following manner: Contractor shall submit a state travel voucher. Receipts are required for all expenses exceeding $10.00.

Total travel expenses shall not exceed $4,500.00.

6	Other expenses - FY 16	0.00	0.00000	500.00	500.00

Extended Description

This line is for FY16

The contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized by this paragraph as follows: Reimbursement, as approved, for long distance phone calls to Department of Education or local school districts pertaining to job; postage, faxes, copies of materials, office supplies, approved training materials, etc. Receipts are required for all expenses exceeding $10.00.

Total other expenses shall not exceed $500.00.

40,000.00

PERSONAL SERVICE CONTRACT FOR

IDEA DUE PROCESS HEARING OFFICER/APPEALS BOARD MEMBER

Between

THE COMMONWEALTH OF KENTUCKY
Education and Workforce Development Cabinet
Kentucky Department of Education

And

MIKE WILSON
PO BOX 4275
LEXINGTON, KY 40544-4275
859-273-4813
MIKEWILSONATTORNEY@EARTHLINK.NET
VENDOR # VC0000051156

This Personal Service Contract (PSC) is entered into, by and between the Commonwealth of Kentucky, Kentucky Department of Education ("the Commonwealth") and Mike Wilson to establish a Contract for IDEA Due Process Hearing Officer/Appeals Board Member per RFP 540 1400000478. This PSC is effective 10/01/2014 (or upon filing with the Government Contract Review Committee (GCRC) – in the event that it is filed with the GCRC later than October 1, 2014) and expires 6/30/2016.

The Commonwealth and Contractor agree to the following:

Purpose and Background
20 U.S.C. 1415, 34 CFR 300.511, KRS 157.224 and 707 KAR 1:340 require the KDE to implement an impartial due process hearing system. The purpose of the system is to resolve disagreements between local school districts and parents of children with disabilities under the Individuals with Disabilities Education Act (IDEA 2004).

Scope of Work
Kentucky has a two-tiered process in which a hearing officer, trained and certified by the state, conducts a hearing and renders a decision. If the parents or local school district disagree with the hearing officer's decision, they may request a review of the decision by a three-member Exceptional Children Appeals Board (ECAB). Its members are also trained and certified by the state.

While serving on the appeals board, the contractor will receive $75 per hour of service and reimbursement for authorized expenses, including travel.

Contract not to exceed amounts per fiscal year:
Services $15,000
Travel $4,500
Other Expenses $500

Invoices shall be forwarded to:

Commonwealth of Kentucky

CONTRACT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: IDEA Due Process Hearing Officer/Appeals Board Members	
Doc ID No: PON2 540 1500000638 1	**Procurement Folder:** 3436614
Procurement Type: Personal Service Contract	
Administered By: Thomas Stratton	**Cited Authority:** FAP111-43-00-L
Telephone: 502-564-2351	**Issued By:** Thomas Stratton

MIKE WILSON

P. O. BOX 4275

LEXINGTON KY 40544-4275
US

1	IDEA Due Process Hearing Officers/Appeals Board Members-FY15	0.00	0.00000	15,000.00	15,000.00

Extended Description

20 U.S.C. 1415, 34 CFR 300.511, KRS 157.224 and 707 KAR 1:340 require the KDE to implement an impartial due process hearing system. The purpose of the system is to resolve disagreements between local school districts and parents of children with disabilities under the Individuals with Disabilities Education Act (IDEA 2004).

Kentucky has a two-tiered process in which a hearing officer, trained and certified by the state, conducts a hearing and renders a decision. If the parents or local school district disagree with the hearing officer's decision, they may request a review of the decision by a three-member Exceptional Children Appeals Board (ECAB). Its members are also trained and certified by the state.

While serving on the appeals board, the contractor will receive $75 per hour of service and reimbursement for authorized expenses, including travel.

Contract not to exceed amounts per fiscal year:
Services $15,000
Travel $4,500
Other Expenses $500

339005
KDE FINANCIAL MGT
500 MERO ST

FRANKFORT KY 40601
US

339005
KDE FINANCIAL MGT
500 MERO ST

FRANKFORT KY 40601
US

2	Travel - FY 15	0.00	0.00000	4,500.00	4,500.00

Extended Description

This line is for FY15

The contractor shall be paid for no travel expenses unless and except as specifically authorized by this paragraph as follows: Contractor will be reimbursed for registration fees as well as travel expenses based on state travel regulations for mileage, lodging, meals, airfare, and incidentals when related to training and/or meetings pre-authorized by the Kentucky Department of Education.

Travel expenses, if authorized, shall be billed in the following manner: Contractor shall submit a state travel voucher. Receipts are required for all expenses exceeding $10.00.

Total travel expenses shall not exceed $4,500.00.

3	Other expenses - FY 15	0.00	0.00000	500.00	500.00

Extended Description

This line is for FY15

The contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized by this paragraph as follows: Reimbursement, as approved, for long distance phone calls to Department of Education or local school districts pertaining to job; postage, faxes, copies of materials, office supplies, approved training materials, etc. Receipts are required for all expenses exceeding $10.00.

Total other expenses shall not exceed $500.00.

4	IDEA Due Process Hearing Officers/Appeals Board Members-FY16	0.00	0.00000	15,000.00	15,000.00

Extended Description

20 U.S.C. 1415, 34 CFR 300.511, KRS 157.224 and 707 KAR 1:340 require the KDE to implement an impartial due process hearing system. The purpose of the system is to resolve disagreements between local school districts and parents of children with disabilities under the Individuals with Disabilities Education Act (IDEA 2004).

Kentucky has a two-tiered process in which a hearing officer, trained and certified by the state, conducts a hearing and renders a decision. If the parents or local school district disagree with the hearing officer's decision, they may request a review of the decision by a three-member Exceptional Children Appeals Board (ECAB). Its members are also trained and certified by the state.

While serving on the appeals board, the contractor will receive $75 per hour of service and reimbursement for authorized expenses, including travel.

Contract not to exceed amounts per fiscal year:
Services $15,000
Travel $4,500
Other Expenses $500

Tina Drury
Kentucky Department of Education
Capital Plaza Tower, 1st Floor
500 Mero Street
Frankfort, KY 40601

Appeals board members may be appointed by KDE to serve as due process hearing officers. Persons serving in this capacity will receive compensation by the local school district at $75 per hour under a contract with a local school district to render the following services: conduct pre-hearing conferences; prepare correspondence; conduct the hearing; review evidence and testimony; and engage in legal research and preparation of the written decision. The local school district will reimburse due process hearing officers for travel and other miscellaneous expenses as authorized by local board policy.

The compensation rate of $75 per hour is commensurate with the rate of pay for hearing officers within the Office of Attorney General as contracted to other state agencies.

PSC Standard Terms and Conditions

Revised January 2012

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:

010.00 Effective Date:

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 submitted to the Legislative Research Commission, Government Contract Review Committee ("LRC").

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.

010.05 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.

The initial term of the Contract is anticipated to be from October 1, 2014 through June 30, 2016, or upon filing with the Government Contract Review Committee. The Commonwealth may renew this contract for up to 2 additional 2-year periods.

Contract Term and Renewal Option

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.

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.

010.10 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.

010.15 Choice of Law and Forum:

All questions as to the execution, validity, interpretation, construction and performance of this agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

010.20 Cancellation:

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

010.25 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.

010.30 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 contract will be reduced by the amount specified in that document.

010.35 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.

010.40 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.

010.45 Invoices for fees:

The contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government. The contractor shall submit itemized invoices on its letterhead to the state agency for payments. Additionally, the contractor shall submit completed PSC Invoice Forms, per the following two paragraphs.

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

010.50 Travel expenses, if authorized:

The Contractor shall be paid for no travel expenses unless and except as specifically authorized by this paragraph as follows: Contractor is to be reimbursed for all travel related expenses which are based on state travel regulations (200 KAR 2:006). Travel expenses, if authorized, shall be billed in the following manner: Contractor shall submit a state travel voucher submitted along with invoices for services on a quarterly basis. Receipts are required for all items exceeding $10.00.

010.55 Other expenses, if authorized herein:

The Contractor shall be reimbursed for no other expenses unless and except as specifically authorized by this paragraph as follows: Reimbursement, as approved, for long distance phone calls to Department of Education or local school districts pertaining to job; postage, faxes, copies of materials, office supplies, etc. Receipts are required for all items exceeding $10.00.

010.60 Purchasing and specifications:

The contractor certifies that he will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he 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" 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" is construed to mean any person with an interest therein.

010.65 Conflict-of-interest laws and principles:

The contractor certifies that he is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract 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.

010.70 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.

010.75 Access to Records:

The contractor, as defined in KRS 45A.030 (9) 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 contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). 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.

In the event of a dispute between the contractor and the contracting agency, Attorney General, or the Auditor of Public Accounts over documents that are eligible for production and review, the Finance and Administration Cabinet shall review the dispute and issue a determination, in accordance with Secretary's Order 11-004. (See attachment)

010.80 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 Master Agreement or Contract.

Any actual or prospective Vendor, who is aggrieved in connection with the solicitation or selection for award of a Master Agreement or 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 filed with the Secretary of the Finance and Administration Cabinet by personal delivery, U.S. mail, or by a private express mail service. The Secretary of the Finance and Administration Cabinet shall not accept a protest submitted by electronic transmission, including facsimile transmission or electronic mail.

Lori H. Flanery, Secretary
Commonwealth of Kentucky
Finance and Administration Cabinet
Room 383, New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

010.85 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.

010.90 Violation of tax and employment laws:

KRS 45A.485 requires the contractor 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 the state sales and use tax, corporate and utility 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 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 shall be in continuous compliance with the provisions of those statutes which apply to the contractor's operations, and that the contractor's 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 the contractor's 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). A list of such determination(s) is attached.

010.95 Discrimination:

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

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

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

End of PSC Standard Terms and Conditions

Additional KDE Terms and Conditions

REQUIREMENT FOR REPORTING TO KENTUCKY TEACHERS RETIREMENT SYSTEM

Please note that, if any bidder to this solicitation is a current retiree of the Kentucky Teachers Retirement System ("KTRS"), or proposes to use a current or potential retiree of KTRS to perform any work under any contract, this may have an adverse impact upon retirement benefits for that retiree. This would occur, regardless of whether a contract is awarded to the individual directly, or to another legal entity for which the individual works.

-Accordingly, if a potential bidder proposes to use such individuals to perform the work, the bidder is strongly encouraged to check with KTRS to determine what requirements apply, before submitting a response. The KTRS help desk number is 1.800.618.1687.

-Furthermore, as a condition of any successful contract award, any information on such retirees (as defined and required by KTRS) must be submitted prior to any services being performed by said individuals under this contract.

As a firm condition of responding to this solicitation, any potential bidder agrees to indemnify and hold the Kentucky Department of Education harmless, for any failure by such current or potential retirees to properly report information concerning their retirement status, during the life of any contract awarded.

Family Educational Rights and Privacy Act

If during the course of this agreement, KDE discloses to the contractor any data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, and its regulations, and data protected by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq)(NSLA) and Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.)(CNA) the contractor is bound by the confidentiality, security and redisclosure requirements and restrictions stated in FERPA, NSLA and CNA and will enter into a confidentiality agreement and ensure its employees and contractors execute affidavits of nondisclosure as required by KDE. The confidentiality agreement and affidavits will then become part of this original agreement as Attachment B to this agreement.

Approvals

This contract is subject to the terms and conditions as stated. By affixing signatures below, the parties agree that electronic approvals may serve as electronic signatures. In addition, the parties verify that they are authorized to bind this agreement between parties and that they accept the terms of the agreement.

Kentucky Department of Education:

_____ _____

Signature Title

_____ _____

Printed Name Date

Contractor:

_____ _____

Signature Title

_____ _____

Printed Name Date

ATTACHMENT A **SECRETARY'S ORDER 11-004**

FINANCE AND ADMINISTRATION CABINET

Vendor Document Disclosure

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary to conduct a review of the records of a private vendor that holds a

contract to provide goods and/or services to the Commonwealth; and

WHEREAS, in order to promote accountability and transparency in governmental operations, the Finance and Administration Cabinet believes that a mechanism should be created which would provide for review and assistance to an Executive Branch agency if said agency cannot obtain access to documents that it deems necessary during the course of an audit, investigation or any other inquiry by an Executive Branch agency that involves the review of documents; and

WHEREAS, KRS 42.014 and KRS 12.270 authorizes the Secretary of the Finance and Administration Cabinet to establish the internal organization and assignment of functions which are not established by statute relating to the Finance and Administration Cabinet; further, KRS Chapter 45A.050 and 45A.230 authorizes the Secretary of the Finance and Administration Cabinet to procure, manage and control all supplies and services that are procured by the Commonwealth and to intervene in controversies among vendors and state agencies; and

NOW, THEREFORE, pursuant to the authority vested in me by KRS 42.014, KRS 12.270, KRS 45A.050, and 45A.230, I, Lori H. Flanery, Secretary of the Finance and Administration Cabinet, do hereby order and direct the following:

I. Upon the request of an Executive Branch agency, the Finance and Administration Cabinet ("FAC") shall formally review any dispute arising where the agency has requested documents from a private vendor that holds a state contract and the vendor has refused access to said documents under a claim that said documents are not directly pertinent or relevant to the agency's inquiry upon which the document request was predicated.

II. Upon the request of an Executive Branch agency, the FAC shall formally review any situation where the agency has requested documents that the agency deems necessary to conduct audits, investigations or any other formal inquiry where a dispute has arisen as to what documents are necessary to conclude the inquiry.

III. Upon receipt of a request by a state agency pursuant to Sections I & II, the FAC shall consider the request from the Executive Branch agency and the position of the vendor or party opposing the disclosure of the documents, applying any and all relevant law to the facts and circumstances of the matter in controversy. After FAC's review is complete, FAC shall issue a Determination which sets out FAC's position as to what documents and/or records, if any, should be disclosed to the requesting agency. The Determination shall be issued within 30 days of receipt of the request from the agency. This time period may be extended for good cause.

IV. If the Determination concludes that documents are being wrongfully withheld by the private vendor or other party opposing the disclosure from the state agency, the private vendor shall immediately comply with the FAC's Determination. Should the private vendor or other party refuse to comply with FAC's Determination, then the FAC, in concert with the requesting agency, shall effectuate any and all options that it possesses to obtain the documents in question, including, but not limited to, jointly initiating an action in the appropriate court for relief.

V. Any provisions of any prior Order that conflicts with the provisions of this Order shall be deemed null and void.

ATTACHMENT – B

(For Contractor) Contractor's Employee or Contractor Affidavit of Nondisclosure – FERPA; and Contractor's Employee or Contractor Affidavit of Nondisclosure – Free and Reduced Price Lunch Information

KENTUCKY DEPARTMENT OF EDUCATION

CONTRACTOR'S EMPLOYEE OR CONTRACTOR AFFIDAVIT OF NONDISCLOSURE

Contractor Name _____

Title _____

Address _____

Telephone _____

I understand that the performance of my duties as an employee or contractor, of a contractor for the Kentucky Department of Education (KDE), may involve a need to access and review confidential information, including data protected by the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing federal regulations found at 34 C.F.R. Part 99; that my request for access to this information will be evaluated under the federal and state requirements under FERPA; and, that I am required to maintain the confidentiality of this information and prevent any redisclosure prohibited under the law as stated below.

Access to Confidential FERPA-Protected Information

By signing this document I acknowledge my responsibility to maintain the confidentiality of this information and agree to the following:

- I will not permit access to confidential FERPA-protected or other confidential information to persons not authorized by the KDE and its contractor.

- I will maintain the confidentiality of the data.

- I will not reveal any individually identifiable information furnished, acquired, retrieved or assembled by me or others for any purpose other than statistical purposes specified in the KDE survey, project, or proposed research.

- I will report any known instances of missing data, data that has been inappropriately shared, or data taken off site to the KDE Office of Knowledge, Information & Data Services and the KDE Office of Assessment & Accountability and to the contractor.

I understand that procedures must be in place for monitoring and protecting confidential information.

- I understand and acknowledge that FERPA-protected information obtained under provisions of FERPA, as a KDE contractor's employee or contractor, is confidential information.

- I understand that any unauthorized disclosure of confidential FERPA-protected information is illegal as provided in the FERPA. The penalty for unlawful disclosure is a fine of not more than $250,000.00 (under 18 U.S.C. 3571) or imprisonment for not more than five years (under 18 U.S.C. 3559), or both.

- I understand that any personal characteristics, that could make the student or his/her family's identity traceable or re-identifiable, are protected.

- In addition, I understand that any data sets or output reports that I may generate using confidential data are to be protected. I will not distribute to any unauthorized person any data sets or reports that I have access to or may generate using confidential data. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of sign-on/password(s).

_____ _____

Contractor's employee or contractor signature Date

_____ _____

Contractor's authorized agent signature Date

ATTACHMENT – B (cont.)

(For Contractor) Contractor's Employee or Contractor Affidavit of Nondisclosure – FERPA; and Contractor's Employee or Contractor Affidavit of Nondisclosure – Free and Reduced Price Lunch Information

KENTUCKY DEPARTMENT OF EDUCATION

CONTRACTOR'S EMPLOYEE OR CONTRACTOR AFFIDAVIT OF NONDISCLOSURE

Contractor Name _____

Title _____

Address _____

Telephone _____

I understand that the performance of my duties as an employee or contractor, of a Kentucky Department of Education (KDE) contractor, may involve a "need to know" confidential free or reduced price lunch information; that my request for access to this information will be evaluated under 7 C.F.R. 245.6; and, that I am required to maintain the confidentiality of this information as stated below.

Access to Confidential Free and Reduced Price Lunch Information

By signing this document I acknowledge my responsibility to maintain the confidentiality of this information and agree to the following:

- I will not permit access to confidential free and reduced price lunch information to persons not authorized by the KDE and the KDE contractor.
- I will maintain the confidentiality of the data.
- I will not reveal any individually identifiable information furnished, acquired, retrieved or assembled by me or others for any purpose other than statistical purposes specified in the KDE survey, project, or proposed research.
- I will report any known instances of missing data, data that has been inappropriately shared, or data taken off site to the KDE Division of Child Nutrition Programs and to the contractor.

I understand that procedures must be in place for monitoring and protecting confidential information.

- I understand and acknowledge that children's free and reduced price meal and free milk eligibility information obtained under provisions of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq)(NSLA) or Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.)(CNA) and the regulations implementing these Acts is confidential information.

- I understand that any unauthorized disclosure of confidential free and reduced price lunch information is illegal as provided in the NSLA and CNA and in the implementing of federal regulation 7 C.F.R 245.6. The penalty for unlawful disclosure is a fine of not more than $1,000.00 (under 7 C.F.R. 245.6) or imprisonment for up to one year (under 7 C.F.R. 245.6), or both.

- I understand that any personal characteristics, that could make the student or his/her family's identity traceable, are protected.

- In addition, I understand that any data sets or output reports that I may generate using confidential data are to be protected. I will not distribute to any unauthorized person any data sets or reports that I have access to or may generate using confidential data. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of sign-on/password(s).

_____ _____

Contractor's employee or contractor signature Date

_____ _____

Contractor's authorized agent signature **Date**

Solicitation/Contract #: 540 1400000478

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

FOR BIDS AND CONTRACTS IN GENERAL:

I. Each bidder or offeror swears and affirms under penalty of perjury, that:

a. In accordance with KRS 45A.110 and KRS 45A.115, neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.

c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.

d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):

II. Each contractor further swears and affirms under penalty of perjury, that:

a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the campaign of the gubernatorial slate elected in the election last preceding the date of contract award.

b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than $5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

Solicitation/Contract #: 540-140000478

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of $30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law.

Mike Wilson
Signature

Mike Wilson
Printed Name

Title

7/11/14
Date

Company Name

Address

Subscribed and sworn to before me by

(Affiant) (Title)

of Mike Wilson (Company Name) this 11 day of July, 2014.

Notary Public

[seal of notary]

My commission expires: 1/22/2018