



Request for Proposal (RFP)

- Issue Date: Friday, June 11, 2010
- Title: Legal Services
- Purpose: To advise, assist and/or represent Kentucky Higher Education Student Loan Corporation (KHESLC) in the collection of uninsured student loans in the state and federal jurisdictional areas outside of the Commonwealth of Kentucky, particularly in the southern district of Ohio.
- Proposal Deadline: Proposals must be received by 4:30 p.m. (EDT), Friday, June 25, 2010. Proposals may be sent via e-mail, fax or mail to:
Elaine Prescott, Purchasing Manager
Kentucky Higher Education Student Loan Corporation
10180 Linn Station Road, Suite C200
Louisville, KY 40223
E-mail: eprescott@kheslc.com
Phone: (502) 329-7134
Fax: (502) 329-7134
- Proposal Inquiries: Inquiries regarding this proposal must be received by 4:30 p.m. (EDT), Tuesday, June 15, 2010. Inquiries may be sent via e-mail, fax or mail to:
Elaine Prescott, Purchasing Manager
Kentucky Higher Education Student Loan Corporation
10180 Linn Station Road, Suite C200
Louisville, KY 40223
E-mail: eprescott@kheslc.com
Phone: (502) 329-7134
Fax: (502) 329-7134
- Proposal Responses: Responses to all submitted inquiries will be provided to all RFP recipients by 4:30 p.m. (EDT), Wednesday, June 16, 2010.
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I. Organizational Overview

Kentucky Higher Education Student Loan Corporation (KHESLC), also known as The Student Loan People, and headquartered in Louisville, Kentucky, was created by the 1978 Kentucky General Assembly. KHESLC is an independent *de jure* municipal corporation that makes, finances, purchases, services, and collects educational loans. Our mission is to promote Kentucky's higher educational opportunities by providing loan programs and related services.

KHESLC is governed by a board of directors consisting of 15 board members, of whom ten (10) are appointed by the Governor from the general public and five (5) serve as ex-officio by reason of their positions – Treasurer of the Commonwealth, President of the Council on Postsecondary Education of the Commonwealth, Secretary of the Finance Cabinet, President of the Association of Independent Kentucky Colleges and Universities, and Commissioner of Education. The board may act by a majority of its members.

II. Service Requirements

A. General

KHESLC seeks legal representation in state or federal courts potentially in any of the fifty (50) states, primarily in the collection of uninsured student loans, but also potentially in other legal matters outside of the state of Kentucky. Said legal representation may be provided by the Offeror or by local counsel in another state associated by the Offeror.

With respect to the collections work needed, KHESLC prefers a contingency-fee type of arrangement, but at the sole discretion of KHESLC and depending on relevant factors, KHESLC may deem it necessary to pay the Offeror on an hourly basis. Please be aware of the limitations on hourly fees for the attorneys for any in-state legal representation, which are set forth below under “C. Questions/Additional Information”.

Any representation or advice consistent with the services specified below will be requested by KHESLC on an as-needed basis. KHESLC reserves the right, in its sole discretion, to appear in cases through in-house counsel on a pro hac vice basis, without involving the Offeror.

B. Specifications

1. Collection work on accounts which are located out-of-state that are held by KHESLC. Collections can be done by in-house staff of the Offeror, or by local counsel associated by the Offeror, and with whom the Offeror may have an arrangement to split contingency fees.
2. Prosecution of civil lawsuits against debtors for recovery of student loans.
3. Prosecution of civil lawsuits against employers of student debtors for failure to comply



with an administrative order or wage garnishment pursuant to 20 U.S.C. § 1095a.

4. Provide advice to KHESLC concerning matters of law that might pertain to KHESLC programs and operations including, but not limited to, consumer laws, business laws and regulations, etc.

5. Defense in bankruptcy adversary proceedings in which the debtor seeks discharge of a student loan, including analysis, recommendation and negotiation of settlement where warranted.

6. Representation in other bankruptcy matters related to student loans, such as objections to claims.

C. Questions/Additional Information

1. Must be an attorney licensed to practice law (or a firm with partners/employees licensed to practice law) in good standing in state and federal courts in jurisdictional areas of the U.S. Circuit and District Courts outside of the Commonwealth of Kentucky.

2. Helpful to have previous knowledge and litigation experience in the area of open records law and/or the Freedom of Information Act or similar public records-related experience. Include the name and addresses of any organization the Offeror has previously contracted with to provide similar services.

3. Include information for all key personnel that will be involved in providing the contract services, detailing any specialized training and the work experience underlying the licensure and practice history qualifications.

4. Include locations of the principal place of business and all branch/affiliated offices.

5. Pricing: KHESLC shall reimburse the provider the actual cost of court imposed fees and charges, cost of any deposition, actually costs of long distant telephone and facsimile transmissions. Include proposed fee(s) (i.e. a flat fee, a price per hour for services, including an itemization for billing of any differential rates charged for partners, associate attorneys and non-attorneys, etc.)

Please note, KHESLC follows the fee guidelines set out by the Commonwealth of Kentucky Government Contract Review Committee, which states as follows: “Fees paid by an agency shall not exceed the committee’s maximum rate schedule, unless required by the complexity of litigation or title examination, or uniqueness of the subject matter, in which case, prior justification must be presented to the committee”.

**Legislative Research Commission
Government Contract Review Committee
Legal Services: Maximum Rate Schedule
Amended January 8, 2002
*Policy Statement 99-1***

Partner	Not to exceed \$125/hour
Associate	Not to exceed \$100/hour
Paralegal	Not to exceed \$40/hour



6. Include any other information that the Offeror deems relevant to the capability to perform the required services.

III. Proposal Requirements

A. General

The proposal must provide the following minimal information to demonstrate the capability of the Vendor to provide the required product and services or it may be rejected as noncompliant. The Vendor is encouraged to provide any other information that will be beneficial in reviewing product and service capabilities.

1. Vendor's related experience and a minimum of three references.
2. Vendor's most recent annual report, audited financial statements and computer security or service provider audit report (if available).
3. Description of Vendor's liability insurance coverage.
4. Vendor's company profile, including mission/value statement and background information.
5. Vendor must provide answers and/or information to all questions and requirements as specified in this proposal in order to be considered for contract award. All questions must be answered in sufficient detail for effective evaluation of the Vendor's product, service, and system. Proposals that contain a Vendor's own special terms and conditions in conflict with terms of the proposal and/or state statutes and regulations may be rejected.
6. Price quotation.
7. Name/contact information and experience of the primary individual who would work with KHESLC staff.
8. Vendor shall submit one response only to a proposal and shall not propose more than one price for each item listed in the proposal. Multiple or alternate offers of more than one price in total (or by line item) shall be cause for rejection unless specifically called for in special provisions elsewhere in this solicitation. Offers not conforming to this requirement shall be rejected.
9. Provide firm prices unless otherwise stated in the proposal. KHESLC is exempt from Federal Excise Taxes and State Sales Tax.
10. The Vendor shall provide a Federal Identification Number and/or Social Security Number (if an individual).
11. A completed, signed and notarized Required Affidavit for Bidders, Offerors and Contractors (*Attachment A*).
12. A completed, signed and notarized Vendor Business Practice Statement (*Attachment B*).



13. The proposal must be signed by an officer or person with authority to bind the company.

IV. Contract Information

1. *Subcontracting:* If the Vendor intends to subcontract any part of this service, the Vendor must provide full disclosure of the subcontractor's name and a description of the relationship. KHESLC must approve such an agreement. The Vendor remains fully liable for all work performed.
2. *Confidentiality:* The Vendor shall comply with the provisions of the Privacy Act of 1974 and consumer privacy and data security provisions of the Gramm-Leach-Bliley Act and any other applicable Federal or State privacy laws. Additionally, the Vendor will instruct its employees to use the same degree of care as it uses with its own data to keep information concerning client data and the financial affairs of KHESLC confidential.
3. *Conflict of Interest:* The Vendor covenants that it will have no interest, direct or indirect, that will conflict in any manner or degree with the performance of its contract services. The Vendor further covenants that, in the performance of the contract, the Vendor shall employ no person having any such known interests.
4. *Contract Requirements:* Any requirements contained in this proposal must be agreed upon contractually. The Vendor and any subcontractor(s) must be authorized to do business in Kentucky and have all required licenses. The contract will be administered by the laws of the Commonwealth of Kentucky, and any suit will be filed in Kentucky. If a contract is awarded, it may be subject to Government Service Contract Committee requirements and may require a 30-day cancellation provision.
5. *Contract 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.

V. Selection

The selection of a Vendor will be based upon KHESLC's review of the documentation submitted in response to this RFP. The Vendor must submit all documentation as specified in "Proposal Requirements" and may submit additional written information. The terms and provisions of the proposal must be valid for a period of 60 days from the proposal deadline.



KHESLC reserves the right to request additional information from a Vendor to assist in understanding or clarifying a proposal. This information may be considered in the evaluation of the proposal. With the exception of written inquiries regarding this RFP, no visits, electronic mail, telephone calls, or facsimiles with respect to the RFP will be accepted by the KHESLC contact from the issuance date of the RFP through the completion of the evaluation period unless such contact is initiated by KHESLC. Any answers to written questions about the RFP will be provided to all RFP recipients.

KHESLC staff will independently review all compliant proposals. A selection, if any, will be made no later than Monday, June 21, 2010.

The following criteria, as requested in the proposal, will be considered in selecting a Vendor:

1. Demonstrated prior relevant and acceptable experience of firm or key personnel that will be involved in providing the contract services in handling student loan matters (with preference given for prior satisfactory representation of KHESLC; (35%)
2. Cost of providing the required service; (30%)
3. Demonstrated specialized/expertise of key personnel who will be involved in providing the contract services in bankruptcy and collections and the ability to give counsel and advice on business-related issues; (25%)
4. Size and location of firm; (5%)
5. Other factors, such as level of insurance and absence of conflict of interest; (5%)

While we intend to obtain services from a single source, we reserve the right to accept or reject any or all proposals received, as deemed in the best interest of KHESLC. Each respondent submitting a proposal will receive notification of the selection.

There is no expressed or implied obligation for KHESLC to reimburse Vendors for any expenses incurred while preparing proposals in response to this request.

KHESLC reserves the right to retain all proposals submitted. All proposals will be subject to the Kentucky Open Records law, KRS 61.870-61.884.

KHESLC will ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. Accordingly, it is further the intent of KHESLC to conduct its business in accordance with the purpose of Title VI of the Civil Rights Act of 1964.

KHESLC reserves the right to change any procedure as stated in this proposal.



Attachment A
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.



- 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.

_____	_____
Signature	Printed Name
_____	_____
Title	Date

Company Name: _____

Address: _____

Subscribed and sworn to before me by _____,
(Affiant) (Title)
of _____ this _____ day of _____ 20__.
(Company Name)

_____ My commission expires: _____
(Notary Public)

[*seal of notary*]



Attachment B
Vendor Business Practice Statement

THE UNDERSIGNED _____ (“VENDOR”) understands that Kentucky Higher Education Student Loan Corporation (the “Corporation”) will not do business with any vendor that violates KRS 45A.343 (2) and (3) or 45A.455 and does not comply with this Vendor Business Practice Statement (the “Statement”).

COMPLIANCE WITH KRS 45A.343 (2) AND (3):

KRS 45A.343 (2) and (3) provide as follows:

- (2) After July 15, 1994, any contract entered into by a local public agency, whether under KRS 45A.345 to 45A.460 or any other authority, shall require the contractor to:
 - (a) Reveal any final determination of a violation by the contractor within the previous (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor; and
 - (b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 341, and 342 that apply to the contractor for the duration of the contract.
- (3) A contractor’s failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency’s:
 - (a) Cancellation of the contract; and
 - (b) Disqualification of the contractor from eligibility for future contracts awarded by the local public agency for a period of two (2) years.

Other statutes referenced in those sections are as follows:

- KRS Chapters
- 136 REVENUE AND TAXATION - CORPORATION AND UTILITY TAXES
- 139 REVENUE AND TAXATION - SALES AND USE TAXES
- 141 REVENUE AND TAXATION - INCOME TAXES
- 337 LABOR AND HUMAN RIGHTS - WAGES AND HOURS
- 338 LABOR AND HUMAN RIGHTS - OCCUPATIONAL SAFETY AND HEALTH OF EMPLOYEES
- 341 LABOR AND HUMAN RIGHTS - UNEMPLOYMENT COMPENSATION
- 342 LABOR AND HUMAN RIGHTS – WORKERS’ COMPENSATION

VENDOR REPRESENTS AND COVENANTS that (check one): There has been no final determination of violation; or The attached list reflects all final determinations of violations of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 which have been rendered against the Vendor within the five (5) years preceding this certification.



COMPLIANCE WITH KRS 45A.450 AND 45A.455:

VENDOR REPRESENTS AND COVENANTS that it will not directly or indirectly offer or give any personal benefit, including but not limited to, commissions, kickbacks, payments, loans, gratuities (including travel and entertainment), bribes, gifts, samples, services, promises of future employment or personal considerations (hereinafter collectively referred to as “benefits”), in connection with any Corporation contract or work, to any Corporation director, officer, or employee or their families, to any entity in which VENDOR knows a Corporation director, officer, or employee or member of the Corporation’s director, officer, or employee’s family who own a direct or indirect interest, or to any person affiliated with any subcontractor or consultant for the Corporation. VENDOR further understands that the Corporation’s directors, officers, or employees are not permitted to accept any benefit and are required to comply with KRS 45A.450 and 45A.455 (See: <http://www.lrc.ky.gov/KRS/045A00/CHAPTER.HTM>).

VENDOR REPRESENTS that (check one): no list is attached; or it has attached and returned herewith a list of any “benefits” provided, directly or indirectly, in the past year to a director, officer, or employee or a director, officer, or employee’s family member, including any employment or consulting relationship (excluding any meals of a nominal value).

VENDOR REPRESENTS that except as set forth on a list attached and returned herewith, no one has solicited or requested benefits of any vendor’s directors, officers, employees, subcontractors, agents or representatives in connection with any contract with, purchase from, sale to, or other work with the Corporation (hereinafter collectively referred to as “contractor”), and VENDOR covenants it will henceforth PROMPTLY report any future such solicitation or request to the Corporation.

COMPLIANCE WITH KRS 45A.395 (2) AND 45A.400:

KRS 45A.395 (2) AND 45A.400 provide:

A written determination of a responsibility of a bidder or offeror shall not be made, and no supplier shall be prequalified as a responsible prospective contractor until the bidder or offeror provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provisions of the campaign finance laws of the Commonwealth and that the award of a contract to the bidder or offeror will not violate any provisions of the campaign finance laws of the Commonwealth. “Knowingly” means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

VENDOR 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 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 certification. The undersigned further swears under the penalty of perjury, 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.



COMPLIANCE WITH KRS 11A.040 (6) AND (8) – FORMER STATE EMPLOYEES SEEKING TO DO BUSINESS WITH THE STATE OR CONTEMPLATING REPRESENTATION OF ANOTHER BEFORE A STATE AGENCY:

KRS 11A.404 (6) AND (8) provide:

(6) No present or former officer or public servant listed in KRS 11A.010 (9) (a) to (h) shall, within six (6) months following termination of his/her office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during the last thirty-six (36) months of his/her tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he/she was involved prior to taking office or beginning his/her term of employment, provided that, for a period of six (6) months, he/she personally refrains from working on any matter in which he/she was directly involved during that last thirty-six (36) months of his/her tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(8) A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year the latter of:
(a) The date of leaving office or termination of employment; or (b) The date the term of office expires to which the public servant was elected.

The law's applicability may be different if you hold elected office or are contemplating representation of another before a state agency. Also, if you are affiliated with a firm which does business with the state and which employs former state executive branch employees, you should be aware that the law might apply to them. In case of doubt, the law permits you to request an advisory opinion from the Executive Branch Ethics Commission, Room 136, Capitol Building, 700 Capitol Avenue, Frankfort, Kentucky 40601; (502) 564-2611.

VENDOR REPRESENTS AND COVENANTS that Vendor has no employees that are in violation of KRS 11A.040 (6) and (8).

COMPLIANCE WITH KRS 11A.201 TO 11A.246 – EXECUTIVE AGENCY LOBBYING:

VENDOR REPRESENTS AND COVENANTS that it is in compliance with KRS 11A.201 to 11A.246 (See: <http://www.lrc.ky.gov/KRS/011A00/CHAPTER.HTM>).

VENDOR REPRESENTS that it will cooperate in responding to reasonable requests by the Corporation or its representatives to provide information and documentation regarding transactions with the Corporation.

If the foregoing representations and covenants are violated by VENDOR, its directors, officers, employees, subcontractor, agents, or representatives, it will constitute grounds for termination of any contracts between the Corporation and VENDOR, at the Corporation's sole discretion.

VENDOR will inform its directors, officers, employees, agents, and subcontractors of the requirements of this Statement.

Request for Proposal



WHEREBY, VENDOR has executed this Statement by its duly authorized representative on this _____ day of _____, 2010.

VENDOR NAME: _____

By: _____
(Signature)

Name: _____
(Printed Name)

Title: _____

Telephone: _____

Subscribed and sworn to before me by _____, _____,
(Affiant) (Title)

of _____ this _____ day of _____ 2010.
(Company Name)

_____ My commission expires: _____
(Notary Public)

[*seal of notary*]