

**Eastern Kentucky PRIDE, Inc.
Request for Bid (RFB)
For
Appalachian Wildlife Center
Habitat Rehabilitation (AML) Pilot
Project RFB ELK-30-20180003**

**Issued by
Eastern Kentucky PRIDE, Inc.
Solicitation Contact: Tammie Wilson, President/CEO**

**Release Date: January 12, 2018
Mandatory Site Visit: Friday, January 26, 2018, 11:00 AM, ET
Vendors' Written Questions Due:
Tuesday, January 30, 2018, 4:00 P.M., ET
CLOSING DATE AND TIME: FEBRUARY 8, 2018, 4:00 P.M. ET
Bid opening Thursday, February 8, 2018, 4:05 P.M. ET
at the Second Floor Conference Room, The Center for Rural
Development, 2292 S. Hwy. 27, Somerset, KY**

Bid Firm Through Date (Must be a minimum of 90 calendar days for this submittal) _____

Name of Organization _____

Phone _____ Email _____

Address: _____ City _____ St. _____ Zip _____

TOTAL BID AMOUNT: _____ **DATE:** _____

By Signing below, I certify I am an authorized representative of the above named Organization, authorized to submit this offer on behalf of the above named organization. I further certify I have read the terms of this solicitation in its entirety and do hereby offer the above listed bid for a period of not less than 90 days from the date listed above.

Signature of Authorized Individual Title Date

Printed Name of Individual (Required)

BID SUBMISSION CHECKLIST

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

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

- FACE OF SOLICITATION – COMPETED & SIGNED (see Section 10)
- LATEST ADDENDUM (If Applicable) - SIGNED (see Section 10)
- REVENUE FORM 10A100 KENTUCKY TAX REGISTRATION APPLICATION (see Section 37)
- CERTIFICATE OF AUTHORITY - REGISTRATION WITH SECRETARY OF STATE BY A FOREIGN ENTITY (see Section 39)
- SITE VISIT VALIDATION FORM (Attachment B)
- REQUIRED AFFIDAVIT(S) (see Attachment I)
- Contractor-Subcontractor Information Form (See Attachment H)
- Campaign Finance Compliance Form (See Attachment G)

ATTACHMENT A

**Eastern Kentucky PRIDE, Inc.
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**EASTERN KENTUCKY PRIDE, INC.
2292 S. Hwy 27
SOMERSET, KY 42501
(888) 577-4339
Fax: (606) 677-6150
twilson@centertech.com**

**PLEASE READ THIS SOLICITATION AND ITS INSTRUCTIONS IN ITS ENTIRETY.
This is a Request for Bid (RFB). Vendors shall comply with the terms and conditions
stated in the solicitation. Any efforts to negotiate these terms and conditions SHALL
NOT be accepted and SHALL cause the bid to be deemed non-responsive.**

**All proposed pricing shall remain valid for a minimum of ninety (90)
calendar days after the bid due date.**

**This Contract shall be awarded as Group All. Vendors shall bid all line items,
otherwise bid shall be deemed non-responsive.**

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

**Solicitation
Terms and Conditions
Award Contract**

Section 1 - Scope of Contract

Eastern Kentucky PRIDE, Inc. (PRIDE) issues this solicitation to establish an **Award Contract** for: Appalachian Wildlife Center Habitat Restoration.

Section 1a - Scope of Work

The proposed Appalachian Wildlife Center- Habitat Restoration AML Pilot Project, approximately 84.3 acres total, consists of installing drainage control ditches to correct erosion problems across a 60-acre general area in the Appalachian Wildlife Center site in the former industrial park in Bell County approximately 10 miles southeast of Pineville. The site is located in the Varilla Quadrangle. The site is at 36° 42 ' 59" N, 83° 34' 43" W. To reach the site starting from Pineville take US 119 north for 7.5 miles and turn right onto Jennifer Jones Memorial Highway (CR-1451). Follow the road to the gate and then on to the work area as shown on the plan view.

The project site is along the southern portion of the developing Appalachian Wildlife Center. Erosion gullies have formed in reclaimed ground and left unchecked will continue to head cut vast amounts of unconsolidated material and transport it downward across the major access routes and to offsite locations. This project will establish proper drainage controls in the form of erosion control blanket diversion ditches along the upper hill slopes, rock lined channels along major flow paths, and installation of silt traps, energy dissipaters, and vernal pools for wildlife watering. Minor gullies will be graded and vegetated after the upper diversion ditches have been installed cutting off the major concentrated water sources. The existing access road back to the work area, currently passible in standard vehicle, will only be improved as needed to maintain access for the construction equipment. The access road corridor accounts for approximately 24 acres of the total project area. An onsite waste area has been designated if needed.

The entire project site has previously been disturbed by coal mining operations consisting of significant upheaval, mixing, and removal of earthen material from deep excavation, grading, sub-surface drilling, fill material placement, and erosion. There should be no undisturbed earthen material to a depth of several dozen feet at the areas slated for significant project-related construction activities. Construction disturbances will be kept to a minimum with a stringently formulated sediment and erosion control program. Prior to beginning any major earth disturbance (excluding initial site preparation for access only), all silt control measures will be installed. These include silt traps and silt barriers (bales & silt fence). No tree clearing is required (site, waste area, and access). All disturbed areas will be promptly revegetated using lime, fertilizer, wildlife seed, and mulch, as necessary. Standard measures will be used for dust control.

Access to the site is via county roads and an existing access roads. This project will include pre and/or post project maintenance and repair of existing previously constructed public county roads utilized during the construction of this project, which are administered by the county or local road authority. This construction activity will be conducted under the authority and supervision of the local public road authority and will consist of standard road construction practices appropriate to mitigate impacts to the local community from potential degraded road conditions in order to maintain public traffic safety.

SEE ATTACHMENTS D, E, F AND G FOR AML STANDARD

REQUIREMENTS/DETAIL DRAWINGS, BEST MANAGEMENT PRACTICES (BMP) PLAN FOR EROSION AND SEDIMENT CONTROL AND OTHER INCIDENTAL ITEMS.

All work should be completed within sixty days of contract issue. Project start date must be pre- approved by the Division of Abandoned Land Mines.

Insurance

Vendor shall keep in effect at all times the following insurance coverage:

1. Vendor's Commercial General Liability: \$1,000,000 combined limit per occurrence for bodily injury, personal injury and property damage with \$3 million annual aggregate.
2. Automobile Liability: \$500,000 combined single limit occurrence for bodily injury and property damage.
3. Kentucky Worker's Compensation: Workers Compensation with statutory benefits without limit, as required by the Kentucky Workers Compensation Act and Employers Liability Limits of \$1,000,000 per occurrence.
4. All Risks Insurance: Contractor shall provide all Risks Insurance in an amount of not less than one hundred percent (100%) of the insurable value of all the work. All Risks Insurance must be dated and in force on the date indicated in the Contract to begin work.

Vendor must provide all proof of insurance within 5 days of notice of award with the certificate holder listed as:

Eastern Kentucky PRIDE, Inc.
2292 S. Hwy 27
Somerset, KY 42501

Failure to provide insurance within 5 days of notice, may result in cancellation of contract. It shall be the contractor's responsibility to maintain this insurance coverage at all times, failure to do so shall result in cancellation of contract.

Site Visit and Validation Form (Attachment B) –

A site visit validation form is required from every bidder. Bidders are required to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract to the extent such information is reasonably obtainable. In no event shall a failure to inspect the site constitute grounds for a claim after award of the contract.

Pricing information shall not be made known in any form to agency representatives during the site visit. Failure to comply with this requirement shall render the bid non- responsive. After touring the facility, the vendor shall obtain the signature of the agency representative in the space provided at the bottom of the Site Validation Form and submit it with his/her bid to be considered for award. Failure to tour the facility and to obtain the required signature shall result in the disqualification of the bid response. It is the bidder's

responsibility to verify the actual square footage of the location. Vendors are not to ask questions during the site visit(s). Any questions are to be submitted in writing to the PRIDE contact listed in this solicitation (**SEE SECTION 36**).

Potential bidders should clearly understand that any verbal representatives made or assumed to be made during any oral discussions held between representatives of potential bidders and any state employee or official **are not binding** on PRIDE.

For violation of this provision, PRIDE shall reserve the right to disqualify the bid/proposal.

Section 2 - Bid Specifications

Requirements that include the words “Shall”, “Will”, “Must” indicate a mandatory requirement.

Section 3 - Purpose

The purpose of this solicitation is to request vendor responses in order to provide these items under contract to PRIDE as set forth in the Scope of Work, Section 1a.

Section 4 - General

This solicitation specifies requested items. It is not the intention of this solicitation to eliminate vendors or manufacturers of similar or equal equipment of the types specified. It should be noted, however, that these requested items are written around specific needs of PRIDE. PRIDE reserves the right to consider bids non-responsive if they do not comply with the specifications contained herein.

Section 5 - Initial Contract Period

Not applicable to this solicitation.

Section 6 - Renewal Clause – Optional Renewal Period

Not applicable to this solicitation.

Section 7 - Exceptions to Specifications

Vendors are cautioned that changes made to the solicitation other than in the designated fields for response shall render the response invalid and result in a non-responsive bid. Otherwise, it will be considered that items/services offered are in strict compliance with these specifications, and the successful bidder shall be held responsible for delivering materials/services that meet these specifications. Any exceptions shall be marked as such within the body of the bid and explained on a separate page. PRIDE is not bound to accept any exceptions.

Section 8 - Alternate Brands/Specifications

Unless otherwise specified, brands and specifications referenced in this solicitation are meant to establish a minimum standard of quality only. Bidders may bid brands/specifications they consider to be equal by specifying the brand(s)/specifications and inserting the brand name(s), model number(s), etc. on which they are bidding. Bids offering “equal” products/specifications will be considered for award if such products are clearly identified in the bid and are determined by PRIDE and the engineer to meet or exceed fully the minimum essential specifications and salient characteristics referenced in the Solicitation. Bids that contain products/specifications that fail to meet the minimum essential requirements shall be deemed non-responsive.

Bidders who propose alternate brands/specifications should enclose descriptive literature with their bids so that the equality can be verified. Failure to enclose sufficient literature may result in a non-responsive bid. If the brands are not changed, the contract will be written accordingly and the successful bidder shall be required to deliver the brands/specifications stated in the solicitation.

Section 9 - Recycle Requirements

Prospective bidders are required to comply with Recycle Requirements for the purchase of goods, supplies, equipment, materials and printing with a minimum recycled content to the extent practicable per 200 KAR 5:330. This regulation can be viewed on the Internet at <<http://www.lrc.state.ky.us/kar/200/005/330.htm>>.

Section 10 - Signing Solicitation

An authorized representative shall **complete and sign** where indicated on the solicitation sheet that is the front page of this solicitation and elsewhere as identified in this solicitation. **FAILURE TO DO SO SHALL RESULT IN A NON-RESPONSIVE BID/PROPOSAL.**

Acknowledgment of Addenda to Solicitations

It is the vendor's responsibility to check the website for any modifications to this solicitation. If modifications have been made, the vendor's signature is required on the latest addendum. Acknowledgment shall be received prior to the hour and date specified for receipt of offers. Verbal acknowledgment shall not be accepted.

Failure to acknowledge the latest addendum of this solicitation shall cause the bid to be deemed non-responsive if the latest addendum is material to the procurement.

Section 11 - Solicitation Submission Requirements

Vendors shall submit one (1) signed original of the solicitation response under sealed cover, which shall be received no later than the date and time indicated on the face of this solicitation. Any response received after this date and time **shall be rejected** and returned unopened to the bidder. Any response not under sealed cover **shall be rejected**.

**For purposes of this proposal, PRIDE defines SEALED as "a closure that must be broken to be opened and that thus reveals tampering". (Merriam-Webster Dictionary, <http://www.merriam-webster.com/dictionary/seal>)*

A bidder shall identify their response to a solicitation on the response envelope for a hard copy bid. Any response not sufficiently identified on the sealed cover, requiring it to be opened for identification, shall be rejected.

Bid Responses shall be addressed and submitted to:

EASTERN KENTUCKY PRIDE, INC.

ATTN: TAMMIE WILSON

2292 S. Hwy 27

Somerset, KY 42501

The outside cover of the package containing the Bid Response, at a minimum, shall be marked with:

**NAME OF SOLICITATION
SOLICITATION NUMBER
NAME OF VENDOR SUBMITTING RESPONSE
DATE AND TIME OF BID OPENING**

Fax Bid Response copies and Electronic Bid Responses are NOT acceptable for this RFB and shall be considered non-responsive.

Section 12 - Method of Award

Unless otherwise specified, it is the intent of Eastern Kentucky PRIDE Inc. to award a contract to the vendor, whose offer, conforming to the solicitation, is the most advantageous on the basis of “best value” for all products, services and requirements contained herein. Each bid shall be evaluated on the basis of the reasonableness of the bid amount in relation to the services to be provided. Further, a bid from any person or organization that has defaulted on prior bids will not be considered. In the event no satisfactory bids are received, PRIDE reserves the right to award on an alternate basis or to re-bid the project.

An evaluation committee, or a designated individual, will evaluate the information provided by the vendor. The Division of Abandoned Mine Lands, Energy and Environment Cabinet must also concur with this award, pending an AVS check. The included Contractor-Subcontractor Information Form as well as the included Campaign Finance Compliance Form must be completed and submitted with all bids.

Each vendor is responsible for submitting all relevant, factual and correct information with their offer to enable the evaluator(s) to afford each vendor the maximum opportunity based on the available data submitted by the Vendor. VENDOR SHALL ENTER UNIT PRICE AND TOTAL PRICE ON THE BID SHEET. If adequate space is not available, the vendor must attach additional information that clearly cross-references the appropriate location in the solicitation (i.e. page number, paragraph, subject, etc.).

A bidder shall submit one (1) response to a solicitation. Multiple or alternate bids offering more than one (1) bid price in total or by line item shall be rejected.

Vendors responding with the minimum Best Value requirements in this solicitation shall not be credited with Best Value points. Vendors responding with greater than the minimum requirements shall receive Best Value points.

Best Value scoring is subject to **Reciprocal Preference for Kentucky Resident Bidders and Preferences for a Qualified Bidder or the Department of Corrections, Division of Prison Industries (KAR 200 5:410).**

KRS 45A.490 Definitions for KRS 45A.490 to 45A.494.

As used in KRS 45A.490 to 45A.494:

- 1) "Contract" means any agreement of a public agency, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item; and
- 2) "Public agency" has the same meaning as in KRS 61.805.

KRS 45A.492 Legislative declarations.

The General Assembly declares:

- 1) A public purpose of the Commonwealth is served by providing preference to Kentucky residents in contracts by public agencies; and
- 2) Providing preference to Kentucky residents equalizes the competition with other states that provide preference to their residents.

KRS 45A.494 Reciprocal preference to be given by public agencies to resident bidders -- List of states -- Administrative regulations.

- 1) Prior to a contract being awarded to the lowest responsible and responsive bidder on a contract by a public agency, a resident bidder of the Commonwealth shall be given a preference against a nonresident bidder registered in any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder.
- 2) A resident bidder is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:
 - a. Is authorized to transact business in the Commonwealth; and
 - b. Has for one (1) year prior to and through the date of the advertisement, filed Kentucky corporate income taxes, made payments to the Kentucky unemployment insurance fund established in KRS 341.490, and maintained a Kentucky workers' compensation policy in effect.
- 3) A nonresident bidder is an individual, partnership, association, corporation, or other business entity that does not meet the requirements of subsection (2) of this section.
- 4) If a procurement determination results in a tie between a resident bidder and a nonresident bidder, preference shall be given to the resident bidder.
- 5) This section shall apply to all contracts funded or controlled in whole or in part by a public agency.
- 6) The Finance and Administration Cabinet shall maintain a list of states that give to or require a preference for their own resident bidders, including details of the preference given to such bidders, to be used by public agencies in determining resident bidder preferences. The cabinet shall also promulgate administrative regulations in accordance with KRS Chapter 13A establishing the procedure by which the preferences required by this section shall be given.
- 7) The preference for resident bidders shall not be given if the preference conflicts with federal law.
- 8) Any public agency soliciting or advertising for bids for contracts shall make KRS 45A.490 to 45A.494 part of the solicitation or advertisement for bids.

The reciprocal preference as described in KRS 45A.490-494 above shall be applied in

accordance with 200 KAR 5:400.

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 along with its response the attached Required Affidavit for Bidders, Offerors, and Contractors Claiming Resident Bidder Status. PRIDE 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.

A nonresident bidder shall submit, along with its response, its certificate of authority to transact business in the Commonwealth as filed with 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 a Qualified Bidder or the Department of Corrections, Division of Prison Industries (KAR 200 5:410).

Pursuant to 200 KAR 5:410, and KRS 45A.470, 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: Kentucky Industries for the Blind, any nonprofit corporation that furthers the purposes of KRS Chapter 163 and any qualified nonprofit agencies for individuals with severe disabilities as defined in KRS 45A.465(3). Other than Kentucky Industries for the Blind, a bidder claiming "qualified bidder" status shall submit along with its response to the solicitation a notarized affidavit which affirms that it meets the requirements to be considered a qualified bidder- affidavit form included. If requested, failure to provide documentation to a public agency proving qualified bidder status may result in disqualification of the bidder or contract termination.

Past Vendor Performance may be considered in the award of this Contract. Vendors with a record of poor performance in the last 12 months may be found non-responsible and ineligible for award.

Section 13 - Vendor Terms and Conditions

Solicitation or quotation forms that include terms and conditions not in conformity with the terms and conditions of this solicitation or the Statutes of the Commonwealth of Kentucky may be deemed non-responsive.

PRIDE shall not be bound by any part(s) of the bidder's response to this solicitation that contains information, options, conditions, terms, or prices neither requested nor required in the solicitation. In the event of any conflicts between the specifications, terms and conditions indicated by PRIDE and those indicated by the contractor, those of PRIDE take precedence. The contract supersedes all bids or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

Section 14 - Post Contract Agreements

The resulting contract shall constitute the entire agreement between PRIDE and awarded contractor. Unless contractually provided, PRIDE **will not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of a contract resulting from this solicitation or offer.** Any such documents so obtained will be non-binding on PRIDE and will be cause for breach of contract.

Section 15 - Equipment

Not applicable to this solicitation.

Section 16 - Quantity Basis of Contract – Estimated Quantities

Any and all quantities mentioned in this solicitation are purely estimates, and are not to be implied nor inferred as being guarantees. PRIDE is obligated to buy only that quantity needed during the term of the contract. Requirements may exceed the quantities shown and the contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

Section 17 - Manuals and Distribution of Literature

Not applicable to this solicitation.

Section 18 - Vendor's Report

Not applicable to this solicitation.

Section 19 - FOB Basis of Shipment – Vendor Responsible

Quotations of unit prices on this solicitation shall be **F.O.B. Destination Freight Prepaid and Allowed.** The vendor shall be fully responsible for all shipments and freight charges involved to PRIDE.

Section 20 - Cancellation Clause – 30 Days Notice

PRIDE may cancel the contract established from this solicitation by giving written notice thirty (30) days prior to effective cancellation date. In the event such action is taken, the contract shall be null and void upon receipt of a Contract Modification from PRIDE.

Section 21 - Exception to Required Use of Contract

The establishment of this Award Contract is not intended to preclude the use of similar products. PRIDE reserves the right to contract for large requirements by using a separate solicitation.

Section 22 - Service Performance

All services performed under this contract, if applicable, shall be in accordance with the terms and provisions of the contract. It will be PRIDE's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between PRIDE and the Contractor is that of client and independent contractor. No agent, employee, or servant of the contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of PRIDE for any reason. The contractor will be solely and entirely responsible for its acts and the acts of its agents,

employees, servants and subcontractors during the performance of this contract.

Major deviations of services performed will not be made without the written approval of PRIDE.

Section 23 - Addition or Deletion of Items or Services

PRIDE reserves the right to add new and similar items, with the consent of the vendor, to any contract awarded from this solicitation. PRIDE will issue a Contract Modification to effect this change. Until such time as the vendor receives a Contract Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

Section 24 - Agreement between Parties

By submitting a bid, the bidder acknowledges and agrees to be bound by the terms and conditions of the solicitation.

The bidder agrees that a resulting contract is the complete and exclusive statement of the agreement between the parties, which supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this solicitation. It is further agreed between the parties, that any valid modification of contractual agreement must be formalized by issuance of a Contract Modification from PRIDE.

Purchase or Sales Agreements, supplied by the bidder making an offer, in reply to the solicitation, will not be accepted. The only terms and conditions acceptable to the PRIDE are as outlined in the solicitation. Bids not conforming will be considered as non-responsive.

Section 25 - Governmental Restrictions

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this proposal prior to delivery, it shall be the responsibility of the successful bidder to notify PRIDE in writing, indicating the specific regulation which requires such alterations. PRIDE reserves the right to accept any such alterations, including any subsequent price adjustments, or to cancel the contract.

Section 26 - Payments

The vendor shall be paid, upon the submission of proper invoices to PRIDE at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

Section 27 - Inspection

All supplies, equipment and services shall be subject to inspection or tests by PRIDE or its designee prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, PRIDE shall have the right to reject the items or services or require acceptable correction at the Vendor's expense.

Section 28 - Inquiries

All questions shall be submitted in writing by **January 18, 2018, 4:00 PM, ET** to the PRIDE contact listed below. No questions shall be accepted after the date(s) listed unless the question(s) is considered material to the procurement. PRIDE shall respond to salient questions in writing by issuing an addendum to the solicitation. The addendum shall be posted to the RFP announcement website.

Sole Point of Contact

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

Tammie Wilson, President/CEO
EASTERN KENTUCKY PRIDE, INC.
2292 S. HWY 27
SOMERSET, KY 42501
888-577-4339
Fax: (606) 677-6150
Email: twilson@centertech.com

Restrictions on Communications

From the issue date of this solicitation until a contractor(s) is selected and the selection is announced, offerors are not allowed to communicate with any PRIDE Staff, members of the Appalachian Wildlife Foundation, any Commonwealth of Kentucky staff, including engineer assigned to this project, concerning this solicitation except:

- The Sole Buyer cited in this solicitation or
- Via written questions submitted to the Sole Point of Contact

Potential bidders should clearly understand that any verbal representatives made or assumed to be made during any oral discussions held between representatives of potential bidders and any official or staff member noted above are not binding on PRIDE.

For violation of this provision, PRIDE shall reserve the right to disqualify the bid/proposal.

Section 29 - Subcontracts

The contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. All such subcontracts must comply with the terms of this Solicitation and any resulting contract with PRIDE. The contractor shall be solely responsible for performance of the entire contract whether or not subcontractors are used. PRIDE shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor.

All references to the contractor shall be construed to encompass both the contractor and any subcontractors of the contractor.

Section 30 - Federal Tax Exempt Purchases

Contracts Direct With Manufacturer: In the event a manufacturer bids direct and is awarded

a contract, the Office of Procurement Services shall request the contractor to furnish evidence of registration with the U.S. Internal Revenue Service. This registration shall be in accordance with the "Temporary Rules, 1958 Excise Tax Act". After such registration, individual Excise Tax Exemption Certificates are not necessary on each individual order issued against the contract by the Office of Procurement Services. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Contract With Other Than Manufacturer: If successful bidder is other than the manufacturer, the Office of Procurement Services will furnish a Tax Exemption Certificate with each individual order issued against this contract. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Section 31 - Governing Law

This solicitation shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and any litigation with respect to this solicitation shall be brought in state or federal court in **Franklin County, Kentucky in accordance with KRS 45A.245.**

Section 32 - Access to Records

The contractor, as defined in KRS 45A.030 (9) agrees that PRIDE, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, as well as the Department of Interior, the Comptroller General of the United States, or any 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. Also, in accordance with OMB Circular 2 CFR 200.333, all records must be maintained for a period of three years from project completion.

Section 33 - 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](#). **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](#).

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

Section 34 - Accessibility

Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of section 504 of the Rehabilitation Act of 1973,

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

Section 35 - Funding Limitations

If any or all responses received exceed the amount of funding available, then PRIDE reserves the right to cancel this RFB.

Section 36 - Provisions for Termination of the Contract

Any contract resulting from this solicitation shall be subject to the termination provisions set forth in 200 KAR 5:312.

Section 37 - Disclosure of Violation of Statutes

Pursuant to KRS 45A.485, contractors are required to reveal final determinations of violation of certain statutes incurred within the last five (5) years and be in continuous compliance with those statutes during the contract. Where applicable, the vendor is required to complete and submit Report of Prior Violations of Tax and Employment Laws.

Section 38 - Discrimination (Effective April 8, 2015)

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:

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

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

Section 39 - Affirmative Action Compliance

Eastern Kentucky PRIDE Inc. requires all contractors to agree that he/she is in compliance with the Code of Federal Regulation No. 41 CFR 60-1.8(b) that prohibits the maintaining of segregated facilities.

Section 40

ALL PROVISIONS OF THIS SOLICITATION (RFB ELK-30-201700001) SHALL BE PART OF ANY RESULTING AWARD CONTRACT.

Section 41 Performance and Payment Bonds

Contractor shall furnish the following bonds to PRIDE within five business days of award:

1. A **Performance Bond** satisfactory to PRIDE executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to PRIDE, in an amount equal to one hundred percent (100%) of the contract price as it may be increased and;
2. A **Payment Bond** satisfactory to PRIDE executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to PRIDE, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

Section 42

Individuals or companies that have been debarred are ineligible to receive federal funds per OMB 2 CFR 200.212. All contractors will be required to complete form CD-512, CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS AND LOBBYING.

Section 43 Contract Provisions

Vendor is required to comply with Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontracts on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each subcontractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Vendor is required to comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352) for bids that exceed \$100,000.00, and are required to file certification.

Vendor is required to comply with the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 125101387), as amended, for contracts in excess of \$150,000.00.

For any "funding agreement" under 37 CFR § 401.2(a), Vendor will be required to provide rights to inventions made under the contract or agreement.

All contracts for supplies or construction materials require compliance with the Buy American Act (41 U.S.C. Chapter 83).

Section 44 Attachments

Attachments indicated below may be downloaded by accessing the "Attachment" link found on the Solicitation Details View page where this RFP was downloaded. Once the Attachment link is accessed, select the file name you wish to download, and select the "Download Attachment" hyperlink. For assistance with downloading these attachments please contact Cathy Lenox, PRIDE Executive Administrator at 888-577-4339.

ATTACHMENT A – This RFB Document

ATTACHMENT B – Site Visit Validation Form

ATTACHMENT C – Project Description

ATTACHMENT D – Habitat Restoration Plans

ATTACHMENT E – Bid Item Description

ATTACHMENT F – Bid Schedule

ATTACHMENT G – Campaign Finance Law Compliance

ATTACHMENT H – AML Contractor/Subcontractor Information Form

ATTACHMENT I – Affidavits

ATTACHMENT J – Seed Mix Information

It is the policy that supplier diversity (M/W/DV/BE) and small disadvantaged business concerns (SB/SDB) shall have the maximum practical opportunity to participate in the performance of government and commercial subcontracts awarded by consistent and efficient performance while balancing cost, timeliness, quality, technical suitability, legal requirements and other business best value considerations. PRIDE recognizes that providing competitive opportunities for M/W/DV/BE and small businesses supports the free enterprise system in which it operates. Additionally, broad-based competition contributes to the goal of providing all clients with the highest quality services at competitive costs. Therefore, it is the intention to aggressively pursue, wherever practical, subcontracting opportunities which support our clients' objectives and requirements in accordance with applicable laws and regulations.