

Calhoun County Independent School District

Serving Line Equipment and Installation

RFP # 2024-240-01

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Calhoun County Independent School District

525 N. Commerce Street

Port Lavaca, TX 77979

REQUEST FOR PROPOSALS

Proposal Information:

Calhoun County I.S.D. seeks proposals from qualified firms or businesses to provide turnkey serving line equipment and installation at three cafeteria locations. The District reserves the right to accept or reject any or all Proposals, waive any irregularities, and accept the Proposal that is in the District's best interest.

RFP#: 2024-240-01

Proposal Release Date: February 20, 2024

Proposal Due Date: March 20, 2024 by before 2:00 pm, CST.

Proposal Award Announcement Date: In late March pending Calhoun County I.S.D. Board of Directors approval and funding.

Purpose and Goals for Services

Provide turnkey serving line equipment and installation at Calhoun High School, JR Elementary, and Port O'Connor Elementary before August 1, 2024.

Project Details

See specifications.

Instructions to Proposers:

- Questions arising during the RFP process should be directed to:
Maggie Knight, knight@calcoisd.org
- Prospective vendors and/or their agents shall undertake no activity, action, or contact to promote or advertise their responses to the Board of Trustees or any District employee. Violation of this provision will be grounds for disqualification of the proposer.
- Proposals will be received until the date and time established for receipt. After receipt, only the names of proposers will be made public. Prices and other proposal details will be divulged after the award.
- The District may request an interview date by the company representatives.
- No fax proposals will be accepted.
- No late proposals will be accepted. All proposals received after the deadline will be returned unopened.
- Subcontracting will be permitted under the Contract only with the written consent of the District. Acceptance by the District of an offer with subcontracting proposed shall constitute consent to such subcontracting. Consent by the District to a proposed subcontractor shall not (1) constitute a determination of acceptability of any subcontract terms and conditions or (2) relieve the Contractor of any of its responsibilities to the District under the Contract.

Instructions on the RFP

- Companies must submit two (2) sealed originals of their RFP response.
- Two (2) bound copies should be submitted on single-sided 8 ½" by 11" paper with consecutive page numbers. The proposal should contain the following sections in the order presented below. Proposals that do not include these sections may be considered non-responsive and may not be considered.
 - Company introduction and letter of Interest (i.e., synopsis of the company's services, the capacity to perform the work, and signed by the individual with contract signature authority)
 - Profile and experience (i.e., outline the company's history, similar projects, project leaders' experience with school districts, the scope of services offered, areas of expertise, size of the company, location, the principal contact, and their information, etc.)
 - Fee structure and rates (including payment and delivery terms).
 - References of school districts that have used your services in the last two (2) to five (5) years.
 - Insurance Coverage (i.e., a copy of insurance policy).
- Proposals shall be delivered in sealed envelopes marked as indicated below:

Sealed Proposal # RFP 2024-240-01

Attention: Sabrina Mickle

Calhoun County I.S.D.

525 N. Commerce Street

Port Lavaca, Texas 77979

Project
Calhoun High School Serving Line

Provide proposal for Preferred Specification or Approved Equal.
USA Made Preferred.

Proposal Deadline: March 20, 2024
Shipping Address: 201 Sandcrab Blvd, Port Lavaca, TX 77979
Installation Address: 201 Sandcrab Blvd, Port Lavaca, TX 77979
Install Deadline: On or before August 1, 2024
Site Visit: **Required**

Scope of Work:

- Dealer required to visit site before bid.
- Awarded dealer to remove existing equipment and dispose off campus property in accordance with all codes and requirements.
- Dealer is responsible to verify all quantities, measurements, direction of hinging, voltages, and utility specifications based on specifications and drawings.
- By submitting a bid, the Dealer/KEC affirms that they have carefully examined all the relevant materials to include but not limited to, specifications, bidding requirements, site conditions, drawings and is fully accountable of the requirements for carrying out the work to include reasonably inferred items or work.
- Awarded Dealer to correspond with district on lead times, coordinate removal of existing equipment, installation dates, and completion of project.
- Dealer will handle all electrical upgrades needed systems to include line disconnect switches, convenience outlets, outlet boxes, wiring, conduit, control panels, fuse boxes, or other electrical requirements not expressly noted in these specifications.
- Dealer required to have electrical upgrades finished before Installation.

ITEM #1 HOT FOOD SERVING COUNTER
Quantity: One (1)
Manufacturer: Duke Manufacturing
Model: TWHF-74SS

Furnish and set in place per manufacturer's standard specifications and the following:

1. Thurmaduke™ Ganged Waterless Well, mobile, electric, 74"W x 32"D x 36"H, stainless steel top, (5) stainless steel heat wells, touch screen controls, stainless steel body & undershelf, dish shelf, 5" dia. swivel casters with brakes, 6' cord & plug, cULus, UL EPH Classified
2. 208v/60/1-ph, 2500 watts, 12.1 amps
3. 14ga stainless steel countertop
4. Internal Locking Device, stainless steel pin & latch line up device under countertop
5. Veneer plastic laminate on customer's side & on end
6. Tray Slide, customer's side, 74" W x 12-1/4" D, solid stainless steel, on hinged brackets, with (2) 1/8" die-formed rubbing tracks, & mounted 34" high
7. Decor Light under tray slide, LED strip mounted & wired to switch in base
8. Kick Plate, on customer's side & one end, stainless steel, recessed, screw attached, 1/2" above floor for easy rolling
9. Contemporary Food Shield, 73-1/2"W x 20"D x 20-1/8"H, adjustable from full-service to self-service guard, single shelf, sloped guard with fixed end closures, 3/8" glass overshelf & guard with 1/4" glass ends (tempered with polished rounded edges), sloped Ø 1" tube posts, stainless steel finish posts mounted through countertop with mounting flange
10. LED light under shelf & wired to base, 120v/60/1-ph
11. Electric Inter-Connect, stainless steel box & cover, receptacles & breakers, mounted in base and wired,
12. 6 ft. cord & plug
13. FSEC to coordinate plastic laminate color selection with Architect/Owner.

ITEM #2 COLD FOOD SERVING COUNTER
Quantity: One (1)
Manufacturer: Duke Manufacturing
Model: TFCP-74SS-N7

Furnish and set in place per manufacturer's standard specifications and the following:

1. Thurmaduke™ Flush Mount Cold Pan Unit, mobile, 74"W x 32"D x 36"H, stainless steel top, (5) pan size, digital control, self-contained refrigeration, drain for each well manifolded to one location, stainless steel body & undershelf, 5" dia. swivel casters with brakes, 6' cord & plug, 120v/60/1-ph, R448a, NEMA 5-15, 4.9 amps, NSF, CULus, UL EPH Classified
2. 14ga stainless steel countertop
3. Internal Locking Device, stainless steel pin & latch line up device under countertop
4. Veneer plastic laminate on customer's side
5. Tray Slide, customer's side, 74" W x 12-1/4" D, solid stainless steel, on hinged brackets, with (2) 1/8" die-formed rubbing tracks, & mounted 34" high
6. Decor Light under tray slide, LED strip mounted & wired to switch in base
7. Kick Plate, customer's side, stainless steel, recessed, screw attached, 1/2" above floor for easy rolling
8. Contemporary Food Shield, 73-1/2"W x 20"D x 20-1/8"H, adjustable from full-service to self-service guard, single shelf, sloped guard with fixed end closures, 3/8" glass overshelf & guard with 1/4" glass ends (tempered with polished rounded edges), sloped Ø 1" tube posts, stainless steel finish posts mounted through countertop with mounting flange
9. LED light under shelf, wired to base, 120v/60/1-ph
10. Electric outlet, mounted in base, with galvanized junction box, duplex or single receptacle, stainless steel cover, & wired
11. 6 ft. cord & plug

12. FSEC to coordinate plastic laminate color selection with Architect/Owner.

ITEM #3	CASH REGISTER STAND
Quantity:	One (1)
Manufacturer:	Duke Manufacturing
Model:	TCS-30SS

Furnish and set in place per manufacturer's standard specifications and the following:

1. Thurmaduke™ Cashier Stand, mobile, 30"W, 32"D, 36"H, stainless steel top, 20ga stainless steel body & partial undershelf, stainless steel tube foot rest, 5" dia. gray poly swivel casters & brakes, NSF
2. Stainless steel drawer, with lock and keys, for cashier stand
3. 14ga stainless steel countertop
4. Internal Locking Device, stainless steel pin & latch line up device under countertop
5. Round cutout with grommet, in counter top, for cord pass
6. Veneer plastic laminate on cashier's right & opposite the cashier
7. Tray Slide, opposite cashier, 32" W x 12-1/4" D, solid stainless steel, on hinged brackets, with (2) 1/8" die-formed rubbing tracks, & mounted 34" high
8. Decor Light under tray slide, LED strip mounted & wired to switch in base
9. Electric outlet, mounted in base, with galvanized junction box, duplex or single receptacle, stainless steel cover, & wired
10. 6 ft. cord & plug
11. Kick Plate, cashier's right & opposite cashier, stainless steel, recessed, screw attached, 1/2" above floor for easy rolling
12. FSEC to coordinate plastic laminate color selection with Architect/Owner.

Project

JR Elementary School - Serving Line

Provide proposal for Preferred Specification or Approved Equal.
USA Made Preferred.

Proposal Deadline: March 20, 2024

Shipping Address: 1512 Jackson St, Port Lavaca, TX 77979

Installation Address: 1512 Jackson St, Port Lavaca, TX 77979

Install Deadline: On or before August 1, 2024

Site Visit: **Required**

Scope of Work:

- Dealer required to visit site before bid.
- Awarded dealer to remove existing equipment and dispose off campus property in accordance with all codes and requirements.
- Dealer is responsible to verify all quantities, measurements, direction of hinging, voltages, and utility specifications based on specifications and drawings.
- By submitting a bid, the Dealer/KEC affirms that they have carefully examined all the relevant materials to include but not limited to, specifications, bidding requirements, site conditions, drawings and is fully accountable of the requirements for carrying out the work to include reasonably inferred items or work.
- Awarded Dealer to correspond with district on lead times, coordinate removal of existing equipment, installation dates, and completion of project.
- Dealer will handle all electrical upgrades needed systems to include line disconnect switches, convenience outlets, outlet boxes, wiring, conduit, control panels, fuse boxes, or other electrical requirements not expressly noted in these specifications.
- Dealer required to have electrical upgrades finished before Installation.

Serving Counter CounterCraft

Model No. SCOL-408

- Continuous piece 'fully enclosed base' style construction with utility chase within counter. All electrical conduit to be located within utility chase as required. Utility chase to be fully accessible from operator side of counter with electrical to be located removable stainless steel panels.
- CounterCraft Connected Control System powered by Duke Sous Chef Technology. Touchscreen digital controls with secure Bluetooth Mesh connectivity. All compatible appliances are controllable from the touchscreen control and/or the Duke Sous Chef Mobile application.
- Serving Counter to be certified using Underwriters Laboratory (UL) Assembly Listing E253182 and must comply with UL 197 and NSF/Ansi Standard.
- Counters must be UL labeled per the manufacturer. - 14 gauge stainless steel counter top with #8 high polished edges, turndown at all free sides. Located at 34" a.f.f. at full serve and 30" a.f.f. at self serve.
- 14 gauge Stainless Steel trayslide with high polished accents and three (3) ½" high inverted "V" notch runners. Located at 30" a.f.f.
- One (1) lot LED front panel down-lighting, remote on/off switch, optimized for use with CounterCraft Connected Control System.
- Counter front to consist of removable plastic laminate clad millwork decor panels, stainless steel body reveal between panels. Color selection by Calhoun County ISD.
- Fully welded angle iron frame utilizing 1.5" x 1.5" x 1/8" galvanized angle. Welds to be ground smooth and sprayed with silver enamel paint. Angle Iron to be framed around each cutout for drop-in-equipment. Angle iron to run front-to-back and at each mullion. 1/2" sound deadening tape to be applied to top of angle iron frame prior to installation of countertop.
- All stainless steel fabrication to be fully welded. Butt or knuckle joints will not be accepted.
- Tops must be fully re-grained for a consistent appearance. All radius edges of turn down to have a minimum 3/8" #8 finish. - Stainless steel internal shelving compartments, fully enclosed back, sides, and top. Removable rear access panels, removable top panel, coved corners All internal stainless steel fabrication to be fully welded.
- All electrical to be interconnected to load center. Electrical to be located in electrical conduit pipe, flex conduit to be kept to a minimum. Exposed flex conduit will not be accepted. All wiring to be numbered at all junctions, per circuit. Wiring diagram to be provided at each load center door. All receptacles mounted in the counter to be recess mounted and labeled.
- One (1) lot custom CounterCraft breath guards, optimized for use with CounterCraft Connected Control System, stainless steel 1.25" square posts with #8 high polish accents, posts extend through the top securing to angle iron frame within counter body, 3/8" tempered glass front panel and serving shelf, glass to have high polish profiled edges with rounded corners, single tier over hot food section, dual tier over cold food section, includes heat and LED lights, NSF compliant.
- Twelve (12) each drop-in waterless hot food well, optimized for use with CounterCraft Connected Control System, stainless steel construction, easy lift out for easy access and fast service, no drain connection required, includes removable non-stick pan liner to easy facilitate cleaning.
- Two (2) each cold pan, optimized for use with CounterCraft Connected Control System, (4) pan size, top mount, electronic temperature control, pan support bars for full-size pans, condenser unit (can be rotated), sight glass, service valves, dryer/filter, insulated with drain, aluminized steel housing, s/s bezel,

1/4hp, UL, NSF7. - Tray pass thru area per plans. - Two (2) convenience outlet mounted in counter apron on operator's side.

- Two (2) dedicated electrical outlet for milk cooler, recessed in end panels. - Electrical to accommodate POS system. Provide data lines as required for POS system.

- Two (2) integral cashier station with utility / cashier drawer mounted to the underside of the countertop. Cashier's section to be open below with removable intermediate shelves.

- All drains pre-plumbed, as required.

- Stainless steel legs with adjustable bullet feet.

- Stainless steel removable kickplate.

- CounterCraft delivery and onsite assembly services required.

CounterCraft Lead Time

CounterCraft Model No.

Note: Standard serving counter lead times typically range from 14-18 weeks. Due to unprecedented lead-times on components and material, serving counter lead times currently vary. CounterCraft will make every effort to provide equipment in time to meet your schedule. CounterCraft will not be held financially responsible for equipment delays that are caused by factors outside of CounterCraft's control.

CounterCraft Delivery and Onsite Assembly

CounterCraft Model No. –

*****NOTICE:***** CounterCraft pricing INCLUDES delivery and assembly. CounterCraft will deliver the quoted counter(s), uncrate, bring inside building, set in place, complete all field welds and joints, complete all final assembly, and level.

This includes one (1) CounterCraft site visit for dimensioning and field coordination. If additional trips are required, additional charges may be incurred. Please request a quote. Final utility (plumbing / electrical) connections not by CounterCraft. Removal and disposal of existing equipment is not included

Project

Port O'Connor Elementary School Serving Line

Provide proposal for Preferred Specification or Approved Equal.
USA Made Preferred.

Quote Deadline: March 20, 2024

Shipping Address: 508 Monroe St, Port O'Connor, TX 77982

Installation Address: 508 Monroe St, Port O'Connor, TX 77982

Install Deadline: On or before August 1, 2024

Site Visit: **Required**

Scope of Work:

- Dealer required to visit site before bid.
- Awarded dealer to remove existing equipment and dispose off campus property in accordance with all codes and requirements.
- Dealer is responsible to verify all quantities, measurements, direction of hinging, voltages, and utility specifications based on specifications and drawings.
- By submitting a bid, the Dealer/KEC affirms that they have carefully examined all the relevant materials to include but not limited to, specifications, bidding requirements, site conditions, drawings and is fully accountable of the requirements for carrying out the work to include reasonably inferred items or work.
- Awarded Dealer to correspond with district on lead times, coordinate removal of existing equipment, installation dates, and completion of project.
- Dealer will handle all electrical upgrades needed systems to include line disconnect switches, convenience outlets, outlet boxes, wiring, conduit, control panels, fuse boxes, or other electrical requirements not expressly noted in these specifications.
- Dealer required to have electrical upgrades finished before Installation.

Serving Counter

CounterCraft Model No. SCSL-174

- Continuous piece 'fully enclosed base' style construction with utility chase within counter. All electrical conduit to be located within utility chase as required. Utility chase to be fully accessible from operator side of counter with electrical to be located removable stainless steel panels.
- CounterCraft Connected Control System powered by Duke Sous Chef Technology. Touchscreen digital controls with secure Bluetooth Mesh connectivity. All compatible appliances are controllable from the touchscreen control and/or the Duke Sous Chef Mobile application.
- Serving Counter to be certified using Underwriters Laboratory (UL) Assembly Listing E253182 and must comply with UL 197 and NSF/Ansi Standard.
- Counters must be UL labeled per the manufacturer.
- 14 gauge stainless steel counter top with #8 high polished edges, turndown at all free sides.
- 14 gauge Stainless Steel trayslide with high polished accents with three (3) ½" high inverted "V" notch runners. Located at 28" a.f.f.
- One (1) lot LED front panel down-lighting, remote on/off switch, optimized for use with CounterCraft Connected Control System.
- Counter front to consist of removable plastic laminate clad millwork decor panels, stainless steel body reveal between panels. Color selection by Calhoun County ISD.
- Fully welded angle iron frame utilizing 1.5" x 1.5" x 1/8" galvanized angle. Welds to be ground smooth and sprayed with silver enamel paint. Angle Iron to be framed around each cutout for drop-in-equipment. Angle iron to run front-to-back and at each mullion. 1/2" sound deadening tape to be applied to top of angle iron frame prior to installation of countertop.
- All stainless steel fabrication to be fully welded. Butt or knuckle joints will not be accepted.
- Tops must be fully re-grained for a consistent appearance. All radius edges of turn down to have a minimum 3/8" #8 finish.
- Stainless steel internal shelving compartments, fully enclosed back, sides, and top. Removable rear access panels, removable top panel, coved corners All internal stainless steel fabrication to be fully welded.
- All electrical to be interconnected to load center. Electrical to be located in electrical conduit pipe, flex conduit to be kept to a minimum. Exposed flex conduit will not be accepted. All wiring to be numbered at all junctions, per circuit. Wiring diagram to be provided at each load center door. All receptacles mounted in the counter to be recess mounted and labeled.
- One (1) lot custom CounterCraft breath guards, optimized for use with CounterCraft Connected Control System, stainless steel 1.25" square posts with #8 high polish accents, posts extend through the top securing to angle iron frame within counter body, 3/8" tempered glass front panel and serving shelf, glass to have high polish profiled edges with rounded corners, single tier over hot food section, dual tier over cold food section, includes heat and LED lights, NSF compliant.
- Three (3) each drop-in waterless hot food well, optimized for use with CounterCraft Connected Control System, stainless steel construction, easy lift out for easy access and fast service, no drain connection required, includes removable non-stick pan liner to easy facilitate cleaning.
- One (1) each drop-in HotFrost shelf, optimized for use with CounterCraft Connected Control System, convertible unit Hot and Frost, recessed for use with one (1) 18x26 sheet pans, all stainless steel construction.
- One (1) each drop-in Glass HotFrost Overshelf, optimized for use with CounterCraft Connected Control System, full function capability Hot and Frost, recessed for use with one (1) 18x26 sheet pans, all stainless steel construction, unit located in glass intermediate shelf of breath guard per plans.
- Stainless steel flat top space for trays per plans.
- Integral cashier station with locking cash drawer or utility drawer.
- One (1) convenience outlet mounted in counter apron on operator's side.
- One (1) dedicated electrical outlet for milk cooler, recessed in end panels.

- Stainless steel legs with adjustable bullet feet.
- Stainless steel removable kickplate.
- CounterCraft delivery and onsite assembly services required.

CounterCraft Lead Time

CounterCraft Model No.

Note: Standard serving counter lead times typically range from 14-18 weeks. Due to unprecedented lead-times on components and material, serving counter lead times currently vary. CounterCraft will make every effort to provide equipment in time to meet your schedule. CounterCraft will not be held financially responsible for equipment delays that are caused by factors outside of CounterCraft's control.

CounterCraft Delivery and Onsite Assembly

CounterCraft Model No. -

*****NOTICE:***** CounterCraft pricing INCLUDES delivery and assembly. CounterCraft will deliver the quoted counter(s), uncrate, bring inside building, set in place, complete all field welds and joints, complete all final assembly, and level.

This includes one (1) CounterCraft site visit for dimensioning and field coordination. If additional trips are required, additional charges may be incurred. Please request a quote.

Final utility (plumbing / electrical) connections not by CounterCraft. Removal and disposal of existing equipment is not included.

CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT

STANDARD TERMS AND CONDITIONS

The words "bids," "request for proposals," "quotes," "RFPs," solicitation," procurement," and their derivatives may be used interchangeably in these terms and conditions. These terms and conditions apply to all bids, requests for proposals, quotes, competitive sealed quotes, and other procurement solicitations to which they are attached. The term "vendor" means each awarded vendor chosen by CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT.

These Standard Terms and Conditions are part of the final contract in each product and/or service contract and are part of the terms and conditions of each purchase order or other bid/proposal forms issued in connection with this solicitation.

Contracts awarded pursuant to this RFP comply with the Code of Federal Regulations (CFR), [2 C.F.R. Subpart D, § 200.317-327](#), the United States Department of Agriculture (USDA) and Texas Department of Agriculture (TDA) Administrator Reference Manual (ARM), rules and regulations per the school nutrition programs. It is the intent of R10MRPC to comply with the most restrictive rules and regulations as required by the State of Texas and the School Nutrition Programs (SNP's).

This Agreement is entered into and between Calhoun County Independent School District, and the Vendor having submitted a proposal in response to a procurement solicitation issued by Calhoun County Independent School District, and whose proposal has been accepted and awarded by Calhoun County Independent School District. In consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Calhoun County Independent School District and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Agreement, agree as follows:

- 1. PROCUREMENT METHOD:** Calhoun County Independent School District is utilizing the Request for Proposals (RFP) formal procurement method in accordance with Texas Education Code Section [44.0313](#) Purchasing Contracts, Request for Proposals for services other than construction services and the Texas Department of Agriculture's Administrator's Reference Manual (ARM) Section 17.
- 2. ESTIMATED QUANTITIES:** Calhoun County Independent School District collects estimated quantities on each product and/or service from each participating member. The good(s) and/or service(s) to be purchased are common to foodservice operations and pricing proposals along with other evaluation criteria as listed in this solicitation will be used to determine best value. Calhoun County Independent School District makes no guarantee or commitment of any kind concerning quantities or services that will be purchased. Calhoun County Independent School District makes no guarantee or commitment of any kind regarding usage of any contracts resulting from this solicitation.
- 3. COMMITMENT TO PURCHASE:** Calhoun County Independent School District relies on Federal Funding of the School Nutrition Programs for Child Nutrition department purchases. Federal Funding is not guaranteed, therefore, Calhoun County Independent School District cannot guarantee that any commitment to purchase will withstand if Federal Funding is discontinued or lost.
- 4. AWARD OF CONTRACT:** In accordance with applicable laws, rules, and regulations for public procurement, Calhoun County Independent School District award(s) the most responsive and responsible Vendor(s) whose proposal(s) is/are determined after evaluation by Calhoun County Independent School District, and its cooperative members, to be the best value. To qualify for evaluation, proposers must submit all required documents and pricing no later than the submission deadline identified in this document. Proposals that are "copyrighted" are unacceptable. Calhoun County Independent School District uses several evaluation methods to determine "best value:" 1.) Analyzes the total/aggregate cost, 2.) Analyzes by line-item totals, 3.) Analyzes a representative sample, market-basket method, (highest volume purchases planned) of specified products.

5. RIGHTS RESERVED BY CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT AND RESTRICTIONS ON RFP PROCESS:

- a. Calhoun County Independent School District reserves the right to cancel this solicitation in whole or in part by issuance of a revised or amended Request for Proposals.
- b. Accept, reject, or negotiate modifications in any terms of the Vendor's proposal or any parts thereof.
- c. Conduct oral interviews/discussions or presentations necessary to select the best value Vendor and/or to obtain competitive pricing.
- d. Calhoun County Independent School District reserves the right to reject and/or disqualify all proposals, to award contracts for individual products and/or services as may appear advantageous, and to negotiate separately in any manner necessary to serve the best interests of Calhoun County Independent School District.
- e. Waive any formalities, technicalities, or other defects if deemed in the best interest of Calhoun County Independent School District; request clarification and/or correction of the Vendor(s) for the purpose of eliminating minor errors, clerical errors, and/or non-substantive irregularities.
- f. Calhoun County Independent School District also reserves the right to be the sole judge of quality and equality.
- g. Calhoun County Independent School District further reserves the right to award one or more contracts, in part or in whole, to a single or to multiple prospective vendors or proposers. The decision to award multiple contracts, award only one contract, or to make no awards, rests solely with Calhoun County Independent School District. Calhoun County Independent School District may make multiple awards, and this fact should be taken into consideration by each proposer.
- h. Make all decisions regarding this RFP, including, without limitation, the right to decide whether a proposal substantially complies with the requirements of this RFP.

6. FINANCIAL RESPONSIBILITY: Calhoun County Independent School District assumes no financial responsibility for any costs incurred by prospective vendors in developing and submitting a proposal or any amendments or addenda, participating in pre-bid conferences, interviews, participating in any negotiation sessions or discussions, or any other costs incurred by proposers prior to award of a Contract/Agreement pursuant to this RFP.

7. AGREEMENT TERMS: The terms of this Agreement shall govern all procurements conducted hereunder. No pre-established terms on the Vendor's order acknowledgments, invoices, or other forms shall have any force or effect. Further, no amendment of this Agreement shall be permitted unless first approved in writing from Calhoun County Independent School District, and no such amendments shall have any effect unless and until a written amendment to this Agreement is executed by Calhoun County Independent School District.

8. ADDENDUM: Any interpretations, corrections, additions, or changes to this RFP will be communicated to proposers by the issuance of an addendum. It is the responsibility of the proposer, prior to submitting the proposal, to determine whether an addendum was issued. Calhoun County Independent School District will indicate all Addendums by listing edits/updates/changes as "footnotes" in the solicitation and "versions" noted in the title of the solicitation document. All proposers shall comply with the requirements specified in any addendum issued by Calhoun County Independent School District.

9. CLARIFICATIONS: Calhoun County Independent School District may request clarification from Vendor(s) for the purpose of eliminating minor errors, clerical errors, and/or non-substantive irregularities. Clarification does not give a Vendor the opportunity to revise, change or modify its proposal in any way except to the extent of correction of the error. Discussion between Calhoun County Independent School District and Vendor can also take place after the initial receipt of proposals. Calhoun County Independent School District reserves the right to conduct discussions with all, some or none of the Vendors submitting proposals. Calhoun County Independent School District will not assist the Vendor in the completion, revision, or modification of its proposal.

10. ASSIGNMENT DELEGATION: Vendor may not assign this Agreement or any of its rights, duties, or obligations hereunder without the prior written approval of Calhoun County Independent School District. Any attempted assignment of this Agreement by Vendor shall be null and void. Any purchase or work order made because of this Agreement may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of Calhoun County Independent School

District. Vendor is required to notify Calhoun County Independent School District when any material change in operations occurs, including but not limited to, changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

11. **PROHIBITION AGAINST CONTACT:** Vendors shall restrict all contact with Calhoun County Independent School District, and direct all questions regarding this RFP to the Point of Contact specified in this solicitation. **Do not contact members of the Board of Directors, the Executive Director or other employees of the Calhoun County Independent School District. Contact with any of these prohibited individuals after issuance of the RFP and before execution of a contract, may result in disqualification of your Proposal.**
12. **DISQUALIFICATION:** A Vendor may be disqualified before or after the proposals are opened, upon evidence of collusion with the intent to defraud, or evidence of intent to perform other illegal activities for the purpose of obtaining an unfair competitive advantage.
13. **DEVIATIONS AND EXCEPTIONS:** Deviations or exceptions stipulated in a Vendor's response may result in disqualification. Any language to the effect that the Vendor does not consider this RFP to be part of a contractual obligation may result in a disqualification of the Vendor's proposal. Vendor must not alter any language in this Agreement.
14. **SPECIFICATIONS:** Specifications may be those developed by the Calhoun County Independent School District, to represent items of regularly manufactured products or services.
 - a. Calhoun County Independent School District specifications have been developed by the Program Coordinator to show minimal standards as to the usage, materials, and contents based on their needs.
 - b. Manufacturer's specifications, when used by the Calhoun County Independent School District, are to be considered informative to give the bidder information as to the type and kind requested. Proposals on any reputable manufacturers regularly produced product of such items similar and substantially equivalent will be considered,
 - c. If any conflict exists, **the written specification will override any referenced brand.** Compliance with all specifications and conditions is required. All proposals must include a detailed statement of exceptions taken to any part of the request.
15. **EQUIVALENT CLAUSE:** Whenever an article or material is defined in this solicitation by describing a proprietary product, or by using the name of a manufacturer, brand name or vendor, the term "or equal", if not inserted, shall be implied (as applicable). The specified article or material shall be understood as indicating type, function, minimum standard of design, efficiency, and quality desired and shall not be construed as to exclude other manufactured products or comparable quality, design, and efficiency (as applicable).
16. **SAMPLES:** Samples may be requested and are to be delivered by the bidder to the attention of the Robin Martinez/Chief Financial Officer, 525 N. Commerce St., Port Lavaca, Texas 77979, or other location designated by Calhoun County Independent School District, for examination of such samples.
 - a. Notification of sample delivery must be sent to the Chief Financial Officer via email and provide estimated delivery date, delivery tracking information, if applicable, actual delivery date, and who signed to accept delivery.
 - b. Samples needed for a proposal to be evaluated properly must be delivered within ten (10) working days from the time the vendor is notified.
 - c. Each sample must be clearly marked to show the bidder's name, address, proposal title and proposal item number for which the sample is being proposed.
 - d. Sample items from the successful bidder may be retained for the purpose of determining that the quality and workmanship of the delivered items comparable to the sample.
17. **RESPONSIVE PROPOSAL:** Proposals shall be deemed responsive if they comply with all material and administrative aspects of this procurement solicitation.
18. **RESPONSIBLE VENDOR:** A Vendor with adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of

business that provides the products and/or services herein, and have an adequate number of trained personnel to ensure quality and performance and completion of contract within the specified time. Vendors having a history of inconsistent service and unreliability will not be considered by Calhoun County Independent School District to be a responsible bidder.

19. **PENALTIES:** If Vendor is unable to provide the goods or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Agreement, Calhoun County Independent School District may take the following action(s):
 - a. Insist that Vendor honor the quoted price(s) specified in the Vendor's proposal.
 - b. Have Vendor pay the difference between Vendor's price and the price of the next acceptable proposal, as determined by Calhoun County Independent School District.
 - c. Have Vendor pay the difference between Vendor's price and the actual purchase price of the good or service on the open market; and/or
 - d. Recommend that Vendor no longer be given the opportunity to submit a proposal to Calhoun County Independent School District and/or that this Agreement be terminated.

20. **RIGHT TO AUDIT:** Calhoun County Independent School District, shall upon adequate written notice, have the right to audit and examine all of Vendor's records and accounts reasonably relating to the products and services delivered under this Agreement as outlined below. Records to be audited shall occur during normal business hours and shall include, but are not limited to, all Purchase Orders resulting from this Agreement and records which may have a bearing on matters in connection with Vendor's work for Calhoun County Independent School District, and shall be open to inspection and subject to audit/review and/or reproduction by Calhoun County Independent School District at the cost of the requestor, or its their authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:
 - a. Vendor's compliance with this Agreement and the requirements of the solicitation.
 - b. Compliance with procurement laws, policies, and procedures, including without limitation, reviewing/comparing pricing on invoices for Calhoun County Independent School District.
 - c. Compliance with provisions for computing billings to Calhoun County Independent School District, and/or
 - d. Any other matters related to this Agreement

21. **OPEN RECORDS/PUBLIC INFORMATION:** Calhoun County Independent School District is a governmental entity subject to the Texas Public Information Act. Calhoun County Independent School District considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure under the Texas Public Information Act, (Texas Government Code, Chapter 552.001, et seq.,) after a contract/agreement is awarded or the procurement terminated. Proposers are hereby notified that Calhoun County Independent School District strictly adheres to all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of information. Any information deemed to be confidential by Proposer should be clearly noted on the page(s) where confidential information is contained, page-by-page and line-by-line the parts of the response which it believes are exempt; however, Calhoun County Independent School District cannot guarantee that it will not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Proposer may not be considered confidential under Texas law, or pursuant to a Court order. Vague or general claims to confidentiality will not be accepted. Calhoun County Independent School District assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by proposers. Vendor waives any claim against and releases from liability Calhoun County Independent School District, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in the Agreement or otherwise created, assembled, maintained, or held by Vendor and determined by Calhoun County Independent School District, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

22. **CONFIDENTIALITY:** Vendor and Calhoun County Independent School District agree to secure the confidentiality of all information and records in accordance with the applicable federal and state laws, rules, and regulations. Vendor and Calhoun County Independent School District understand that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable.

- 23. INSPECTION AND ACCEPTANCE ON DIRECT DELIVERIES:** Awarded Vendor(s) shall deliver the goods or services procured on this contract/agreement to the Calhoun County Independent School District, Child Nutrition department, issuing a purchase order. If delivery cannot be made within the proper time, the awarded vendor must receive authorization from Calhoun County Independent School District, for the delayed delivery. Calhoun County Independent School District, shall have the right to inspect the goods at delivery before accepting them. If defective, incorrect, or items not meeting specification are delivered, Calhoun County Independent School District, may make the determination, in its sole discretion, to return the good(s) to the vendor at no cost to Calhoun County Independent School District. The vendor shall be responsible for arranging the return of defective or incorrect good(s). The vendor agrees to pay all shipping and handling costs for any such return shipment. If goods are not picked up within one (1) week after notification, the good(s) will become a donation to Calhoun County Independent School District, for disposition.
- 24. TITLE AND RISK OF LOSS:** Whenever Calhoun County Independent School District, is purchasing (and not leasing) an item under this Agreement, title and risk of loss shall pass upon the later of Calhoun County Independent School District's acceptance of the item or payment of the applicable invoice.
- 25. DELIVERIES:** All deliveries under this Agreement shall be freight prepaid, Free on Board (FOB) destination, Full Freight Allowed, Inside Delivery and shall be included in all pricing in Vendors proposal. The Calhoun County Independent School District assumes no liability for goods delivered in damage or unacceptable condition. The successful bidder will handle all claims with carriers, and in case of damaged goods, will ship replacement goods immediately upon notification by Calhoun County Independent School District of damage. Proposal prices will include all freight and delivery charges.
- 26. HOURS OF DELIVERY:** For cooperative member's SNP locations, deliveries will only be accepted between 6:30 AM and 2:00 PM, unless otherwise specified. Vendor is required to leave deliveries inside the receiving area unless otherwise arranged by cooperative member. Deliveries for special events or samples during evaluations shall be made between 8:00 AM and 3:00 PM, at the designated Calhoun County Independent School District address, unless prior approval for after-hours delivery has been obtained from Calhoun County Independent School District.
- 27. SHIPMENTS/DELIVERIES:** Vendor shall ship/deliver ordered products within seven (7) working days for available goods and within four (4) to six (6) weeks for special-order items after the receipt of the purchase order unless otherwise previously agreed to, in writing, by Calhoun County Independent School District. If a product cannot be shipped/delivered within that timeframe, Vendor shall notify Calhoun County Independent School District of the reasons why the product has not shipped and shall provide an estimated shipping/delivery date, if applicable. Calhoun County Independent School District, may cancel the order if the estimated shipping/delivery time is not acceptable to Calhoun County Independent School District, and/or its cooperative member in its sole discretion. Consistent failure of a Vendor to meet delivery promises without a valid reason is cause for termination of contract.
Vendor may be requested to "hot shot" deliver products if failure to deliver ordered products is fault of vendor. "Hot shot" deliveries must be handled within a 24-hour period of the original delivery time.
- 28. LEAD-TIME:** Time of delivery is part of the proposal consideration, must be stated in definite terms, and must be adhered to completely. Proposals must show the number of calendar days required to place the materials in possession of Calhoun County Independent School District. Do not quote shipping dates. Failure to specify the lead-time may result in disqualification from consideration. Unrealistic short or long delivery promises may cause the bid to be disregarded.
- 29. SHORTAGES:** Vendor and/or sales agents acting on the Vendors behalf shall give 72-hour prior notice to the ordering entity of any anticipated shortages, back orders, and/or out-of-stock items prior to delivery. The Vendor must keep the ordering entity always informed on the status of the order. Default in promised delivery, without acceptable reason, authorizes Calhoun County Independent School District to purchase goods elsewhere, and charge any increase in cost and handling to the defaulting Vendor. **Calhoun County Independent School District accept no substitutions without prior written approval.**
- a. Vendors must notify Calhoun County Independent School District of any known shortages, back orders, out-of-stock items, etc. that could affect multiple ordering entities for any extended period.

- b. If Vendor fails to notify Calhoun County Independent School District of a shortage, Vendor must deliver a comparable product on the same day of scheduled delivery or next day to prevent any hardship or an inability to meet meal pattern guidelines.
- c. Vendors may not substitute a product that does not meet the Buy American Provision. If a non-domestic substitution is made without a 72-hour notice to the Calhoun County Independent School District member, contractor will be considered in breach of the awarded contract and may incur penalties as described in these Terms and Conditions.

30. FORMATION OF A CONTRACT (DECLARATION OF COMPLIANCE): A response to this solicitation is an offer to contract/agreement with Calhoun County Independent School District based upon the terms, conditions, scope of work, and specifications contained in this procurement solicitation. A solicitation/proposal does not become a contract/agreement unless and until it is accepted by Calhoun County Independent School District after approval by the Calhoun County Independent School District's Board of Directors or their Designee. Policy CH (Local) requires that Calhoun County Independent School District, Superintendent, or their designee shall sign all contracts or agreements. No other personnel are authorized to execute or enter contracts on behalf of the Calhoun County Independent School District.

Upon notice of award, Vendor will be asked to sign a formal letter of "acceptance of award" along with the "contract" including all Terms and Conditions and other facets of this agreement.

31. NON-EXCLUSIVE CONTRACT: Calhoun County Independent School District reserves the right to award multiple contracts/agreements for each category. Categories are established at the sole discretion of Calhoun County Independent School District. Nothing in this agreement may be construed to imply that Vendor has the exclusive right to provide products and/or services to Calhoun County Independent School District. Any contract resulting from this solicitation is non-exclusive and shall be awarded with the understanding and agreement that it is for the sole convenience of Calhoun County Independent School District. Calhoun County Independent School District is free to have multiple contracts for the awarded goods and services and may initiate other procurement solicitations or purchasing activity with other vendors at any time, at Calhoun County Independent School District's sole discretion. During the term of this Agreement, Calhoun County Independent School District reserves the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor. Additionally, the District may have a need to purchase additional items within this category that are not listed on the bid. Vendor is to make these items available to Calhoun County Independent School District through this Contract/Agreement at the same discounted pricing awarded by the Board of Directors. Bids may be awarded to primary and secondary vendors on an item-by-item basis or by categories. End users may go to the secondary vendors to compare items for best value. If a Vendor has an existing Calhoun County Independent School District Agreement, in the same Agreement title, upon award, the new Agreement will immediately supersede the older contract.

32. FIRM/FIXED PRICING: All prices in Vendor's proposal shall remain fixed and firm for the Term of the Agreement. Any price changes shall be presented to Calhoun County Independent School District, for acceptance or rejection by Calhoun County Independent School District, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for goods and/or services provided under this Agreement, must be approved, in writing, by the Calhoun County Independent School District prior to taking effect. The following documentation shall be provided to support a request for price change: justification for change/increase using a known market index/market condition, terms, and conditions, and/or manufacturers/distributors' impact (if any).

- a. Pricing shall encompass the costs of the product's receipt into storage, distribution, financing and profit, production losses, analyses cost, waste, labor, overhead, and transportation costs of the specified products.
- b. Proposal price must be submitted on cases and/or units of quantity specified and extended to show total if applicable.
- c. **Case price must be shown "to the penny" in two decimals unless otherwise indicated. Unit price must be shown with a minimum of four decimal places.**
- d. In the event of discrepancies in extension, the unit price will govern.
- e. **Vendors are encouraged to provide pricing on specified items, even if no estimated quantity is provided.**
- f. Discount from List quotations may be requested, but not part of the evaluation.

- g. Proposer shall not include sales tax with any pricing. Calhoun County Independent School District is exempt from Federal Excise Tax, State Tax, and Local Tax. Tax exemption certificates will be furnished upon request by each participating entity.
- h. Proposer agrees, upon issuance and acceptance of this proposal, to furnish awarded items or services at the bid price and all other conditions contained in the Terms and Conditions, Specifications, other Special Options Proposal Forms and bid documents within this Proposal.
- i. Title to all supplies and equipment shall pass to Member District upon receipt except where hidden defects or other bid requirements or specifications are not met.
- j. Calhoun County Independent School District retains the right to request Special Pricing for the remaining contract period for products or services not specifically identified in this Proposal but purchased with sufficient movement as identified by mutual agreement of the Vendor and Calhoun County Independent School District.
- k. Calhoun County Independent School District may structure a bid with several "Pricing Area's" to allow for fair and open competition between large and small companies. Vendor's must have the ability to reach all cooperative members in the Service Area if Vendor decides to submit a response for that area.
- l. Calhoun County Independent School District may include "direct-drop" districts as separate "Service Areas" that a vendor may offer separate pricing.

33. CREDITS/DISCOUNTS/REBATES: Any credits, discounts and/or rebates a vendor may receive due to purchasing goods must be included in the pricing proposal or applied immediately upon purchase by the member and noted on the invoice.

Any discounts for early payments should be noted in the proposal. Vendor(s) may propose volume discounts or other adjustments to the price for large orders. Discounts may be considered in determining low proposal.

34. MARKET BASKET METHOD AND ADDING PRODUCTS: Calhoun County Independent School District utilizes the "Market Basket" solicitation method that allows Calhoun County Independent School District to procure a list of products with varied pricing options and evaluate using a "total price cost analysis" or "simplified total cost analysis." Per TDA's ARM, Section 17, pages 67-70

(https://squaremeals.org/Portals/8/files/ARM/ARM_Complete_200812.pdf) when a CE plans to make purchases beyond the products listed on a current market basket contract, these purchases should be made using the appropriate procurement method: micro, small purchase, sealed bid, or competitive proposal.

However, if Calhoun County Independent School District determines that adding the purchase of a limited number of products to a current market basket contract would be advantageous, Calhoun County Independent School District on behalf of the cooperative member may do so if:

The option to add products not included in the current market basket contract is described in the original solicitation and contract as a specific percentage of the estimated value of the contract. The specified percentage must be no more than 10% of the estimated value of the contract.

Adding new products to the contract must not cause the contract to exceed the estimated total value of the contract at the beginning of the contract year.

If the value for the purchase of the added products exceeds the specified percentage (no more than 10%), a separate procurement for those products will be conducted. The purchase of any additional products on an existing market basket contract that exceeds the specified percentage (no more than 10%) is an unallowable cost. Calhoun County Independent School District includes written item specifications that have zero known estimated quantities. Vendors are highly encouraged to propose bid pricing on all written specifications. Any product with a zero quantity listed will be placed on a "catalog list" if Vendor is awarded. Calhoun County Independent School District has the right to add items from the "catalog list" throughout the contract term if the addition of product/products does not exceed the material change threshold of 10% of total contract value.

35. SPECIAL TOOLS AND TEST EQUIPMENT: If the price includes the cost of any special test equipment fabricated or required by the Vendor for filling this order, such special tooling and/or test equipment and any related items shall become the property of Calhoun County Independent School District, and shall be identified by the Vendor as such.

36. PRICE CHANGES/ADJUSTMENTS: During the life of a contract only industry-wide published price changes as reflected in a manufacturer's printed price list, published documentation, or other approved method in a proposal may be submitted to the Calhoun County Independent School District for price adjustment consideration. Calhoun County Independent School District will accept or reject increases after receipt of a properly submitted request from the Vendor, which includes documentation as to the nature of the change substantiated by, but not limited to, the following indexes: The Food Institute Report, Urner Barry Market Indexes, Producer Price Index (PPI), Consumer Price Index (CPI) and any other relevant commodity price indexes.

- a. Price changes must be measurable and auditable, and supported by a published index, and supporting documentation must be submitted for review. The Producers Price Index is an accurate index for basing product price escalations and de-escalations. The monthly "PPI Detailed Report", "Table 9: Producer price indexes and percent changes for commodity and service groupings and individual items, not seasonally adjusted" can be used as a reference for price adjustments, both up and down.
- b. Calhoun County Independent School District will respond to such requests by 1) granting the request; 2) reassigning the item(s) to another awarded vendor; 3) rebidding the item(s); 4) taking any other action as deemed necessary.
- c. If a properly submitted increase is rejected, the vendor may cancel such items from the contract by giving Calhoun County Independent School District written notice. Cancellation will not go into effect for thirty (30) working days after receipt of the written request. Old prices must be honored on orders dated up to the official date of cancellation. Vendors are required to immediately implement any industry wide price decreases that become available. Calhoun County Independent School District must be notified in writing of any decrease for file updating purposes.

In the event a price change request is submitted based on Force Majeure due to COVID/or any Variant, or any other like-type pandemic, Calhoun County Independent School District will review each request on an as-needed basis. Vendor shall:

- a. Notify Calhoun County Independent School District of any pricing increases or decreases due to pandemic forces out of their control immediately
 - i. Submit a formal letter along with any available supporting documentation stating the reasons for the increase, the percentage of vendor's cost increase, and start date of new pricing (no sooner than 2-weeks from time of notice to Calhoun County Independent School District)
- d. Submit a copy of the awarded price list that shows both original bid price and new increased or decreased price for each affected item on bid
- e. Receive written approval from Calhoun County Independent School District to the acceptance of any increase
- f. Not increase original profit margin as submitted in the Vendor's original bid response. Only external cost increases incurred by the Vendor to manufacture the awarded product will be approved.

Pricing increases implemented without the knowledge of Calhoun County Independent School District, and proper documentation with minimum 2-week prior notice submitted to Calhoun County Independent School District will not be accepted and a credit back to the participating members will be required.

37. PRODUCT SUBSTITUTION: All substitutions require prior written approval by Calhoun County Independent School District and/or the cooperative member unless otherwise arranged by member (phone call, text, etc.). If applicable, the product substitution request must be accompanied with CN Label or Nutritional Analysis information, and/or other product information. Calhoun County Independent School District reserves the right to require the Vendor to offer possible substitutes if any material or equipment becomes unobtainable during the term of the contract. Outstanding orders are not automatically amended by an approved substitution. The Vendor must contact the qualified ordering entity 72-hours prior to shipment of the approved substitution.

- a. If substitutions are made without prior written or verbal approval of the ordering entity, under Uniform Commercial Code, the entity shall retain the Right to Remedy and purchase the product(s) from another supplier, charging the difference of the bid price to the Vendor.
- b. Bid pricing, based on "per serving cost," for the product substituted will apply to the substitute product unless substitute product is of a lesser price and/or vendor can prove that reason for substituted product is not the fault or their own.
- c. Calhoun County Independent School District provides all awarded contractors with estimated quantities. Vendors are required to gather forecasted products and quantities from all participating members. Failure to properly manage forecasts and order products in a timely fashion to meet the participating member's needs will be considered fault on the contractors' behalf. It is recommended to forecast a minimum of 4-6 weeks out to ensure proper and timely ordering.

- d. Vendors may not substitute a product that does not meet the Buy American Provision. If a non-domestic substitution is made without a 72-hour notice to Calhoun County Independent School District, contractor will be considered in breach of the awarded contract and may incur penalties as described in these Terms and Conditions.

- 38. ADDITIONAL GOODS AND/OR SERVICES:** Calhoun County Independent School District may request special pricing for new goods and/or services throughout the term of this contract. New goods and/or services must have prior written approval from Calhoun County Independent School District. Only goods and/or services not specified elsewhere in the contract may be considered new. The additional goods and/or services allows Calhoun County Independent School District, to order items under the umbrella of a "market basket", see definition above (#35).
 - 1) "Additional Goods and/or Services" shall cover all items carried by the successful Vendor that are not specifically listed on the Item specifications.
 - 2) The addition of new goods and/or services shall not exceed 10% of the contract value. Calhoun County Independent School District remains the right to add new goods and/or services at the time of each one-year extension option, if all parties are in agreement, for the following reasons:
 - 1) allows for the replacement of items that were discontinued during the contract year if no other comparable item is available on bid;
 - 2) allows for the replacement of goods and/or services that no longer meet the needs of the Calhoun County Independent School District due to nutritional changes or;
 - 3) allows for the addition of new goods and/or services introduced by existing awarded Vendors that may better serve Calhoun County Independent School District. Goods and/or services may not be added to avoid competitive procurement procedures. The addition of new goods and/or services cannot materially change the contract between Calhoun County Independent School District, and/or its cooperative members, and the Vendor. Calhoun County Independent School District may reject any proposed additions, without cause, in its sole discretion.
- 39. MATERIAL CHANGE:** If a material change occurs to a contract entered between Calhoun County Independent School District, and Vendor, the contract will not be renewed upon the conclusion of its term. Upon the expiration of the term, Calhoun County Independent School District may issue a new RFP for the goods or services procured under the previously existing contract. Material change means a modification that substantially exceeds and/or alters the terms of the original contract between Calhoun County independent School District, and Vendor, and/or the total contract value greater than 10%. The following anticipated and unanticipated changes are to be considered as well do not qualify as a material change: 5% upward or downward trend in student enrollment and/or participation to allow flexibility for program growth or decline or unanticipated program and/or regulation changes.
- 40. CUSTOMER SUPPORT:** Vendor shall provide timely and accurate technical advice and sales support to Calhoun County Independent School District. Vendor must provide an assigned Sales Rep(s) to the awarded contract and a direct phone number. General "800" numbers are not allowed. Response time must be within a 24-hour window unless during a holiday closure.
- 41. COMPLIANCE WITH LAWS:** Vendor shall comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations, including, if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations. For the entire duration of this contract/agreement, Vendor shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Agreement. When required or requested by Calhoun County Independent School District, Vendor shall furnish Calhoun County Independent School District with satisfactory proof of Vendor's compliance with this provision.
- 42. SAFETY:** Vendors, its subcontractors, and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Agreement, including, without limitation, those promulgated by Calhoun County Independent School District and by the Occupational Safety and Health Administration ("OSHA"). All items must meet all applicable OSHA standards and regulations and all electrical items must bear the appropriate listing from UL, FMRC or NEMA. In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by Calhoun County Independent School District. Vendor shall indemnify and hold Calhoun County Independent School District, harmless from all claims, demands, suits, actions, judgements, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

- 43. NUTRITIONAL FACT SHEETS AND CN ANALYSIS:** All labels and analysis are required to be within a 5-year range from the current year. Vendor is required to maintain current labels throughout the life of the awarded contract.
- 44. BUY AMERICAN PROVISION:** Calhoun County Independent School District members participate in the National School Lunch Program and School Breakfast Program and are required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A domestic commodity or product is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d).

Calhoun County Independent School District requires that all suppliers indicate in their proposal whether a bid product is domestic or non-domestic. Vendor is required to certify that each food product meeting the Buy American Provision is 51% of the final processed product (by weight or volume) that consists of agricultural commodities grown in the U.S. Any vendor not providing the required and requested information will be designated as "non-responsive."

Awarded vendors must provide all requested certifications and include information in their ordering systems if any product does not meet the Buy American Provision. Vendors found to be out of compliance repetitively with adhering to the terms of the awarded contract to provide Calhoun County Independent School District members with foods that meet the Buy American Provision will be terminated and the award will go to the next responsible and eligible bidder.

Calhoun County Independent School District requires each vendor to submit documentation to include but not limited to vendor certification letters, pricing comparison for products also offered as domestic, and questions regarding country of origin or other information pertaining to justifications. Vendors are required to contact a CE within 72-hours prior to delivery if a product is to be subbed with a non-compliant/non-domestic product. This allows the CE to reject the product or accept it after review of a justification for exception.

Vendor is required to certify that vendor complies with all applicable provisions of the Buy American Act. The Buy American Provision requires school food authorities to schools to purchase, to the maximum extent practicable, domestic commodities or products. For a product to meet the Buy American requirement, over 51% of the final processed product (by weight or volume) must consist of agricultural commodities that were grown domestically and processed domestically. Unprocessed foods must be 100% domestic. See [7 CFR § 210.21\(d\)](#), and USDA-FNS memo [SP 38-2017 Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program](#). The Buy American provision applies to all purchases made with School Nutrition Program (SNP) funds. Purchases made in accordance with the Buy American Provision must still follow the applicable procurement rules calling for full and open competition.

- 45. RECYCLED MATERIAL:** Texas state law requires that a purchasing preference be given to any product made from recycled material if the product meets written specifications as to quality and quantity. If a product bid on this solicitation contains recycled material, identify the item number, and report the percent of all recycled material in the product and the percent of post-consumer material used in the product. "Post-consumer" means material that has been recycled after sale to a consumer as opposed to reuse of manufacturing waste material prior to sale. In addition, identify any products that meet the criteria of "Environmentally Sensitive."
- a. Send information on any products not listed in this contract that are related and available through your company which contain recycled material along with the percent of post- and pre-consumer content to: ATTN: CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT, 525 N. COMMERCE ST., PORT LAVACA, TX 77979
 - b. Packing & Packaging: Use of the minimum amount of packing and packaging material consistent with assuring no damage to product in transit. The use of recyclable and recycled material content packing and packaging material is preferred.
 - c. New or Un-used: The terms shall not be interpreted to exclude the use of recycled content materials in products supplied. Nothing in a solicitation shall be construed to preclude the use of recycled content materials in a product regardless of any referenced specifications such as ANSI, ASTM, or Federal specifications so long as the material meets the performance requirements of such specifications and all required laws and regulations.

46. FORCE MAJEURE: If by any reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this agreement then such party shall give notice and full particulars of Force Majeure in writing to the other part within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as herein provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockout, or other industrial disturbances, pandemics, network failures, energy crisis, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, arrests, restraint of government and people, civil disturbances, explosions, acts of war, other catastrophes, or any other occurrences which are reasonably beyond such party's control. The parties to this Agreement are required to use due caution and preventative measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other party in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either party to this Agreement, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. Neither party shall have any claim for damages against the other resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Agreement, in the event the Vendor's performance is delayed or stopped by a force majeure event, Calhoun County Independent School District shall have the option to terminate this Agreement. This section shall not be interpreted as to limit or otherwise modify any of Calhoun County Independent School District's , contractual, legal, or equitable rights.

47. GOVERNING LAW AND VENUE: The laws of the State of Texas, without regard to its provisions on conflicts of laws, shall govern this Agreement. Any dispute under this Agreement may be brought in the state and federal courts located in Calhoun County, Texas, and the parties hereby submit to the exclusive jurisdiction of said courts.

48. PROPERTY: In the event of loss, damage, or destruction of any property owned by or loaned by Calhoun County Independent School District, or its cooperative members, that is caused by Vendor or Vendor's representative, agent, employee or contractor, Vendor shall indemnify Calhoun County Independent School District, and pay to Calhoun County Independent School District, the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of the Vendor's receipt of written notice of Calhoun County Independent School District's determination of the amount due. If Vendor fails to make timely payment, Calhoun County Independent School District, may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by Calhoun County Independent School District.

49. INDEMNIFICATION: The Vendor shall indemnify, defend, and hold harmless Calhoun County Independent School District, its board of directors, officers, employees, agents, and representatives from and against all claims, demands or liability for damages, losses, or other relief, including, without limitation attorneys' fees and costs which Calhoun County Independent School District, may incur arising from the Vendor's performance of its obligations under this agreement. The foregoing shall include, without limitation: (i) injuries to or death of person; (ii) damage to property; or (iii) theft or loss of property, resulting from, in whole or part, any acts omissions or other conduct of Vendor and/or of any of Vendor's agents, servants, or employees, or any other person or entity employed directly or indirectly by Vendor in connection with performance of the Vendor's obligations and their respective agents, officers or employees. If any action or proceeding, whether judicial, administrative, or otherwise, shall be commenced against Calhoun County Independent School District, on account of any claim, demand, or liability subject of this indemnification agreement the Vendor shall, at its sole cost and expense, defend the Calhoun County Independent School District, in such action or proceeding with counsel reasonably satisfactory to Calhoun County Independent School District. In the event that there shall be any judgment, award, ruling, settlement, or other relief arising out of any such action or proceeding to which the Calhoun County Independent School District is bound by, Vendor shall pay, satisfy or otherwise discharge any such judgment, award, ruling, settlement or relief; Vendor shall indemnify and hold harmless the Calhoun County Independent School District, from any and all liability or responsibility arising out of any such judgment, award, ruling,

settlement or relief. The Vendor's obligations hereunder shall survive notwithstanding Vendor's completion of the services or the termination of the Contract.

- 50. SUBCONTRACTORS:** If Vendor uses subcontractors in the performance of any part of this Agreement, Vendor shall be fully responsible to Calhoun County Independent School District, for all acts and omissions. Nothing in this Agreement shall create for the benefit of any such subcontractor any contractual relationship between Calhoun County Independent School District, and any such subcontractor, nor shall it create any obligation on the part of Calhoun County Independent School District, to pay or to see the payment of any moneys due to any such subcontractor except as may otherwise be required by law.
- 51. SUPPLEMENTAL CONTRACT:** Calhoun County Independent School District may enter a separate, Supplemental Contract with a Vendor, which utilizes the negotiated terms and conditions contained in the existing competitively procured contract between Calhoun County Independent School District and Vendor. Supplemental Contracts may further define the level of service and/or product requirements over and above the minimum defined in the Contract and RFP, including without limitation, invoice requirements, ordering requirements, on-site/campus service, specialized delivery, discounted pricing, etc. Supplemental Contracts are exclusive between Calhoun County Independent School District and Vendor and shall have no effect or impact on Calhoun County Independent School District. Vendor shall immediately notify Calhoun County Independent School District of all Supplemental Contracts entered with a cooperative member and provide a copy of the Supplemental Contract to Calhoun County Independent School District. If the Vendor requires a standardized Supplemental Contract, outside of this RFP.
- 52. INSURANCE:** Vendor is required to provide Calhoun County Independent School District with copies of certificates of insurance, naming Calhoun County Independent School District as an additional insured for Texas Workman's Compensation and General Liability Insurance. Certificates of insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to Calhoun County Independent School District prior to the commencement of any work under this Agreement. All policies of insurance shall waive all rights of subrogation against Calhoun County Independent School District, and its cooperative members, its officers, employees, and agents. The Vendor's insurance company shall be licensed in the State of Texas and shall be acceptable to Calhoun County Independent School District. Vendor shall give Calhoun County Independent School District a minimum of ten (10) days - notice prior to any modifications or cancellation of said Agreement to maintain coverage as specified below. Calhoun County Independent School District reserves the right to require additional insurance should Calhoun County Independent School District deem additional insurance necessary, in Calhoun County Independent School District's sole discretion. **Proof of insurance coverage must be submitted with the proposal.** Minimum insurance requirements for any activities conducted on school property:
Workman's Compensation/Employer's Liability:

- Statutory Limits
 - \$500,000 Each Accident
 - \$500,000 Policy Limit
 - \$500,000 Each Employee
- General Liability, Bodily Injury & Property Damage:
 - \$500,000 Combined Single Limits
 - \$1,000,000 Aggregate
- Automotive Liability:
 - \$250,000 Each Person
- Bodily Injury:
 - \$500,000 Each Accident
- Property Damage:
 - \$250,000

- 53. FINANCIAL HEALTH AND STABILITY:** The vendor must provide evidence of financial health and stability, such as an audited financial statement or financial audit "score," copy of most recent filed tax return, credit report, letter from financial institution, or other substantiating documentation. This information will be utilized as part of evaluation criteria to determine the financial health and stability of each vendor and if adequate financial

resources are available to fulfil the requirements of the RFP. Any issues associated with the vendor's financial health and stability to adequately service any award because of this RFP, in whole or in part, may be grounds for termination at the sole discretion of Calhoun County Independent School District.

- 54. INVOICES:** Invoices shall be directed to Calhoun County Independent School District, Accounts Payable Department. Vendor shall submit invoices within a timely manner during Calhoun County Independent School District's fiscal year in which the good(s) and/or service(s) are purchased, and:
- a. Submit separate invoices, in duplicate, on each purchase order at the time or shortly after each delivery.
 - b. Invoices shall indicate the purchase order number.
 - c. All invoices shall be itemized to include a description of each good(s) and/or service(s) rendered.
 - d. Items should be shown in numerical order and must correspond with the item numbers shown on the purchase order.
 - e. Quantity, unit, and price of each item must be shown. All prices should be extended on the invoice.
 - f. Total all extensions on the invoice.
 - g. Discounts, credits and/or rebates, if applicable, must be stated, extended, and deducted to arrive at a Net Total for invoice.
 - h. Transportation charges, if any, shall be listed separately.
 - i. A copy of the bill of lading, and the freight weight bill when applicable, should be attached to the invoice.
 - j. Shipment date of merchandise must be shown.
 - k. Date of purchase order must be shown.
 - l. Payment shall not be due until the above instruments are submitted after delivery.
 - m. Vendors should keep the Accounts Payable department advised of any changes to remittance addresses.
 - n. Buyer's obligation is payable only and solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void to the extent funds are not available and any delivered but unpaid for goods will be returned to Seller by Buyer.
 - o. Do not include Federal Excise, State or City Sales Tax. Calhoun County Independent School District, shall furnish exemption certificate, if required.
 - p. Calhoun County Independent School District for accuracy should verify each invoice.
 - q. If a credit is due, the next/subsequent invoice must show the credit owed and applied.
 - r. If Calhoun County Independent School District denies or rejects a product deemed unacceptable, they will make a notation directly on the invoice, initial and date it, along with the initials of the delivery driver.
- 55. TAX-EXEMPT:** Calhoun County Independent School District shall not pay taxes for goods and/or services provided under this Agreement. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Agreement, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. Calhoun County Independent School District shall not be liable for any taxes resulting from this Agreement. Taxes must not be included in the proposal. Tax exemption certificates will be executed by Calhoun County Independent School District and furnished upon request.
- 56. TAX RESPONSIBILITIES OF VENDOR AND INDEMNIFICATION FOR TAXES:** Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to their operation and any persons employed by Vendor and all subcontractors of Vendor. Vendor shall require all subcontractors to hold Calhoun County Independent School District harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.
- 57. PAYMENTS TERMS:** No payments shall be made prior to the delivery of the product or service. Texas Government Code § 2251.021 shall govern when payments are due to Vendor. In accordance with Texas Government Code § 2251.021, payments are due to Vendor by Calhoun County Independent School District whose governing body meets only once a month or less frequently, within **forty-five (45) days** after the later of the following: (1) the date Calhoun County Independent School District receives the goods under the Agreement; (2) the date the performance of the service under the Agreement is completed; or (3) the date Calhoun County Independent School District receives an invoice for the goods or service. For Calhoun County Independent School

District whose governing bodies meet more than once a month or more often, payments are due by those entities within **thirty (30) days** after the later of the following: (1) the date Calhoun County Independent School District receives the goods under the Agreement; (2) the date the performance of the service under the Agreement is completed; or (3) the date Calhoun County Independent School District receives an invoice for the goods or service. Vendor agrees to pay any subcontractors, if any, the appropriate share of the payment received from Calhoun County Independent School District no later than the tenth (10th) day after the date Vendor receives the payment from Calhoun County Independent School District. The exceptions to payments made by Calhoun County Independent School District, and/or Vendor listed in Texas Government Code § 2251.002 shall apply to this Agreement.

- 58. IRS FORM W-9:** In order to receive payment under this Agreement, Vendor shall have a current I.R.S. Form W-9 Form on file with Calhoun County Independent School District,
- 59. NO AGENCY OR ENDORSEMENTS:** Calhoun County Independent School District and Vendor are independent contractors and have no power or authority to assume or create any obligation or responsibility on behalf of the other party. This Agreement shall not be construed or deemed an endorsement of a specific company or product. It is the intention of the parties that Vendor is independent of Calhoun County Independent School District and is not an employee, agent, joint venture, or partner of Calhoun County Independent School District, and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venture, or partner between Calhoun County Independent School District and Vendor or Calhoun County Independent School District and any of Vendor's agents. Vendor agrees that Calhoun County Independent School District had no responsibility for any conduct of any Vendor's employees, agents, representatives, contractors, or subcontractors.
- 60. NON-APPROPRIATION CLAUSE:** Renewal of this Agreement, if any, will be in accordance with Texas Local Government Code § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Agreement or obligation imposed on Calhoun County Independent School District by this agreement, Calhoun County Independent School District shall have the right to terminate this agreement without default or liability to Vendor resulting in such termination, effective as of the expiration of each budget period of Calhoun County Independent School District if it is determined by Calhoun County Independent School District, in Calhoun County Independent School District's sole discretion, that there are insufficient funds to extend this agreement. The parties agree that this Agreement is a commitment of Calhoun County Independent School District, current revenue only.
- 61. TERMINATION OF CONTRACT:** This Agreement shall remain in effect until (1) the Agreement expires by its terms or (2) the Agreement is terminated by mutual agreement of Calhoun County Independent School District and Vendor. Calhoun County Independent School District reserves the right to terminate the Agreement immediately in the event the Vendor fails to:
- a. Meet schedules, deadlines and/or delivery dates within the time specified in this Agreement, the procurement solicitation and/or a purchase or work order.
 - b. Default in the payment of any fees.
 - c. Otherwise perform in accordance with this Agreement and/or the procurement solicitation
- Calhoun County Independent School District also reserves the right to terminate the Agreement immediately, with written notice to Vendor, if Calhoun County Independent School District believes, in its sole discretion that it is in the best interest of Calhoun County Independent School District to do so. Vendor agrees that Calhoun County Independent School District shall not be liable for damages if Calhoun County Independent School District declares Vendor to be in default or breach of this Agreement and/or the procurement solicitation. Vendor further agrees that upon termination of the Agreement for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor. All Supplemental Contracts, purchase orders, and/or orders for goods or services issued by Calhoun County Independent School District and accepted by Vendor shall survive the expiration or termination of this Contract. During the term of any Supplemental Contract entered between Vendor and Calhoun County Independent School District, all terms of this Contract shall continue to apply to the Supplemental Contract.

62. BREACH OF CONTRACT: In the event of a breach or default of the Agreement and/or the procurement solicitation by Vendor, Calhoun County Independent School District reserves the right to enforce the performance of the Agreement and/or procurement solicitation in any manner prescribed by law or deemed to be in the best interest of Calhoun County Independent School District. Calhoun County Independent School District may exercise any or all the following rights:

- a. Calhoun County Independent School District may take possession of the assigned premises and any fees accrued or becoming due to date.
- b. Calhoun County Independent School District may take possession of all goods, fixtures, and materials of successful bidder therein and may foreclose its lien against such personal property, applying the proceeds toward fees due or thereafter becoming due.
- c. Calhoun County Independent School District reserves the right to award canceled contract to next lowest and best bidder as it deems to be in the best interest of Calhoun County Independent School District.
- d. In such event, Calhoun County Independent School District may charge the successful bidder the difference for any additional cost of such bid item.

63. NONPERFORMANCE/IN THE EVENT OF DEFAULT: Contractor shall be deemed in nonperformance or default upon the occurrence of one or more of the following events: Contractor refuses or fails to perform all or part of its obligations; Contractor's untimely performance; Contractor is adjudged bankrupt or makes a general assignment for the benefit of creditors; a receiver is appointed on account of Contractor's insolvency; or Contractor or its subcontractors violate any of the provisions of this contract. In the event said nonperformance or default "is not" remedied to the satisfaction and approval of Calhoun County Independent School District within two (2) working days of receipt of such notice by the successful bidder, default will be declared, and all the successful bidder's rights shall terminate.

To terminate this contractor for nonperformance, Calhoun County Independent School District shall serve written notice on Contractor or its surety of Calhoun County Independent School District's intention to terminate this contract. This notice shall contain the reasons for Calhoun County Independent School District's intention to terminate contract, describing the nonperformance. Within ten (10) days of date of this notice, Contractor shall cease these acts of nonperformance or plan, satisfactory to Calhoun County Independent School District, to correct these acts of nonperformance. If cessation or satisfactory correction is not affected within this ten (10) day notice period, this contract shall cease and terminate. Non-performance or default resulting in a contract termination mid-year may result in the vendor being denied proposal rights for any or all future opportunities. Calhoun County Independent School District also retains the rights upon a "termination by default" of awarded vendor to:

- a. Transfer the award to the 2nd awarded vendor, if any, or
- b. Refer to and award the next most "responsible and responsive vendor" to the original solicitation, if any.
 - i. Vendor must have submitted a complete response to original solicitation.
 - ii. Vendor must have been approved and "eligible" for award.
 - iii. Vendor must approve award and confirm the ability to meet the terms and conditions of the contract.

2. SEVERABILITY: If any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

3. REPRESENTATION: The vendor represents that the items and/or services provided by the vendor hereunder shall conform to those represented and described in the attachments. Notwithstanding anything to the contrary herein, if for any reason Calhoun County Independent School District determines, in its sole discretion, that part or all such items and/or services fails to meet the expectation of Calhoun County Independent School District, Calhoun County Independent School District may issue a ten (10) days' notice to terminate this Agreement and receive the pro-rata portion of the contract sum paid to the vendor by Calhoun County Independent School District for the unexpired term of the Agreement.

4. WAIVER: No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of

any other term hereof or the breach thereof. No waiver, alternation, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

5. **PACKAGING/CONDITION:** Unless otherwise indicated, items will be new, unused and in excellent condition and delivered in containers suitable for damage-free shipment and storage. Calhoun County Independent School District will not accept "factory seconds" or otherwise inferior goods and reserves the right to return such item(s) within thirty (30) days of receipt at vendor's expense. If refurbished products are being offered, it must be clearly stated in proposal.
6. **WARRANTY:** All goods and/or services provided by the Vendor under this Agreement shall not be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended (the "FDC Act") for the period during which the vendor's guaranty is effective. Vendor guarantees that no Products shall be classified as hazardous materials subject to Department of Transportation regulations contained in [49 CFR 177.800 – 177.870](#). If the Vendor /manufacturer's warranty is less than the indicated period, the Vendor shall warrant the goods and/or services to the full extent as provided by the Vendor/manufacturer. Calhoun County Independent School District will endeavor to give the contractor written notice of the breach of warranty within thirty (30) days of the discovery of the breach of warranty, but failure to give timely notice shall not impair Calhoun County Independent School District's rights under this section. Vendor warrants that any services rendered by the Vendor in relation to warranty of items will be fully and timely performed in a professional and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Agreement, and all applicable Federal, State, and local laws, rules, and regulations. Vendor warrants that all goods and/or services furnished under this Agreement shall conform in all respects to the terms of this Agreement, including, without limitation, those detailed in the procurement solicitation issued by Calhoun County Independent School District. In addition, Vendor warrants all goods and/or services are suitable for and will perform in accordance with the purchases for which they are intended. Vendor shall assume all liabilities incurred within the scope of the consequential damages and incidental expenses, as set forth in the vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Agreement, the procurement solicitation, or Purchase Order.
7. **WARRANTY MAINTENANCE AGREEMENT:** Any information regarding warranties and/or maintenance agreements pertaining to the goods and/or services in this solicitation shall be noted. The Vendor shall provide warranty information and/or company guarantees concerning the goods and/or services proposed. Goods and/or services that is found to be defective shall be replaced or fully repaired to the satisfaction of Calhoun County Independent School District before payment is made.
8. **LIMITATION OF WARRANTY:** Vendor shall not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
9. **MANUFACTURER'S GUARANTEE:** A manufacturer's total satisfaction written guarantee shall be required, in accordance with Uniform Commercial Code (UCC), for the one-year Agreement term, with Calhoun County Independent School District reserving the right to have any item replaced should the original item prove unreliable or defective as expressed or implied by verbal or written specification. The items will then and after adequate time to remedy, be replaced without charge to Calhoun County Independent School District, satisfaction. This will be provided at no additional cost to Calhoun County Independent School District, during the term of the contract.
10. **CRIMINAL HISTORY RECORD INFORMATION REVIEW - SB 9:** Prior to commencing any work under the Agreement, if Vendor contracts with Calhoun County Independent School District, to provide services, Vendor must certify, on the form provided herein, that for each covered employee of Vendor who will have direct contact with students, Vendor has obtained, as required by Texas Education Code Section [§ 22.0834](#): (a) state criminal history record information from a law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for each covered employee of Vendor employed before January 1, 2008; and (b) national criminal history record information for each employee of Vendor employed on or after January 1, 2008. Vendor must also obtain similar certifications of compliance

with Texas Education Code Chapter 22's requirements from any subcontractors on the form provided herein. Covered employees with disqualifying criminal history are prohibited from serving at Calhoun County Independent School District; Vendor and any subcontracting entity may not permit a covered employee to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Tex. Educ. Code [§ 22.085\(a\)](#) (i.e., Title 5 felony or an offense requiring registration as a sex offender and victim was under 18 years of age or was enrolled in a public school at the time the offense occurred). The criminal history record review applies if Vendor contracts with Calhoun County Independent School District, to provide services; it does not apply to a contract for the purchase of goods or real estate. Calhoun County Independent School District requires persons who enter on-site to first report to the front office/receptionist and must be prepared to present a valid driver's license or another form of identification containing the person's photograph issued by a governmental entity in accordance with SB 9, for clearance through Calhoun County Independent School District's, security system. School districts could create electronic databases to store information about visitors to campuses. This information could be used only for school security and could not be sold or otherwise disseminated to a third party. Calhoun County Independent School District may verify whether a visitor is a sex offender registered with the computerized central database maintained by the Texas Department of Public Safety as provided by Article 62.005, Code of Criminal Procedure, or any other database accessible to Calhoun County Independent School District. Additionally, Calhoun County Independent School District may require fingerprinting and criminal background checks for persons who enter a campus when required by local policy.

11. PROTEST PROCEDURES: Calhoun County Independent School District maintains protest procedures to handle and resolve disputes relating to procurements made with federal funds and, in all instances, discloses information regarding the protest to TEA or other awarding agency. 2 CFR § 200.318(k). The protestor must exhaust all administrative remedies with the school before pursuing a protest with a federal agency. Reviews of protest by Calhoun County Independent School District will be limited to:

- Violations of federal law or regulations and procurement standards established by federal regulations (violations of state or local law will be under the jurisdiction of state or local authorities)
- Violations of the Contractor's or subcontractor's protest procedures for failure to review a complaint or protest

The Chief Financial Officer of Calhoun County Independent School District is the primary office responsible for handling and coordinating any disputes relating to procurements. In the event of a timely protest, the Purchasing Specialist shall take any action reasonably necessary to resolve a protest of an aggrieved bidder/offer concerning procurement. The Purchasing Specialist shall promptly issue a determination to the protester, which states the reasons for action taken, and inform the protester of the right to appeal to the Chief Financial Officer over Local Programs and Initiatives. The Chief Financial Officer shall promptly issue a determination to the protester and inform the protestor of the right to appeal to Calhoun County Independent School District. The Chief Financial Officer shall promptly issue a determination to the protestor and inform the protester of the right to appeal to the Board of Directors. The Purchasing Specialist shall also inform the granting agency, such as Texas Department of Education, Texas Department of Agriculture, or other granting agency of the protest for their own review and determination.

12. COPYRIGHT: All contracts paid from State or Federal grants administered by a State or Federal agency must retain copyright for the State and Federal government (if a Federally funded contract) unless otherwise negotiated in writing with the State or Federal Agency Pursuant to the provisions in [2 CFR § 200.315](#), title to intangible property vests Calhoun County Independent School District, as long as such property is used for authorized purposes. However, the State and Federal awarding agency reserve a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The Vendor agrees to protect Calhoun County Independent School District, from any claim involving infringement of patents or copyrights.

13. WITHDRAWAL OF PROPOSAL: Proposals may be withdrawn prior to the specified deadline by providing written notification to Calhoun County Independent School District. All approvals shall be based upon an acceptable written reason for the action.

- 14. NO RESPONSE:** Vendors who do not bid are requested to complete and sign the “No Response” form (Attachment F) if they wish to receive future bid notifications. Failure to do so may result in being deleted from Calhoun County Independent School District’s Bidder’s List. Vendors not submitting bids or submitting “no bids” may be removed without notice at any time and must reapply for inclusion in Calhoun County Independent School District’s Bidders List. Calhoun County Independent School District is not responsible for any errors occurring because of this procedure. It is the vendor’s responsibility to ensure the contact information on the Calhoun County Independent School District’s Bidders List is up to date. Vendors may report any changes/updates via email to martinezr@calcoisd.org.
- 15. TIE PROPOSAL:** In case of tie proposals, the award will be made in accordance with Local Government Code [271.901](#) and Government Code [2252.001 - 2252.004](#). (NON-RESIDENT BIDDERS). Consistent and continued tie bidding could cause rejection of the bids by Calhoun County Independent School District and/or investigation for antitrust violations.
- 16. GEOGRAPHIC PREFERENCE:** Calhoun County Independent School District may apply preference to agricultural products produced, processed, or grown in Texas if the cost to the school district is equal and the quality is equal; if agriculture products produced, processed, or grown in Texas are not equal in cost and quality to other products, the school district shall give preference to agriculture products produced, processed, or grown in other states of the United States over foreign products if the cost to the school district is equal and quality is equal; a school district that purchases vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation if the cost to the school district is equal and the quality is not inferior. Preferences must be explicitly claimed by Vendor and may not be applicable in procurements and/or contracts involving federal funds unless the procurement and/or contract involves unprocessed locally grown or locally raised agricultural products for use by Calhoun County Independent School District, in a School Nutrition Program. See 2 CFR § 200.319(b), and 7 CFR § 210 (National School Lunch Program), 215 (Special Milk Program for Children), 220 (School Breakfast Program), 225 (Summer Food Service Program), 226 (Child and Adult Care Food Program).
- 17. EVALUATION OF PROPOSALS:** A committee of Calhoun County Independent School District employees will review and evaluate proposals and make a recommendation to the Board of Directors. Calhoun County Independent School District will base a recommendation for contract/agreement award on the published evaluation criteria. Award will be made to the best responsive, responsible offer, price and other criteria factors considered. To be considered for an award, a Proposal Response must be considered “Acceptable”. The considerations to award the contract are specified under Evaluation Criteria. Calhoun County Independent School District reserves the right to conduct any test, evaluation, or comparisons it deems necessary to complete the evaluation process.
- Per regulation, pricing is the heaviest weighted factor in the evaluation rubric. The evaluation score for pricing is calculated using a mathematical equation (low bid/low bid x total pts, low bid/2nd low bid x total pts, etc.). To ensure accuracy in scoring, Calhoun County Independent School District will determine the best evaluation method to produce a pricing evaluation score based on products offered by each proposer.
- a. Total Cost based on Matched products by brand and product code
 - i. Total Cost will be determined by calculating “estimated quantities” times the “proposed case price”
 - ii. This method will only be used if all products can be matched, or
 - b. Simplified total cost analysis (Market Basket) based on a representative sample of products.
 - i. Aggregate value requires at least 75% of the total estimated value of the contract.
 - ii. Highest value products from the list of products to be procured will be selected and calculated to produce a score.
 - iii. “Estimated quantities” times “proposed case price” will be used to confirm “market basket” selection is equal to or greater than 75% of estimated value of contract.
 - iv. Estimated contract value can be found on the “Cost Analysis” attachment.
 - c. Calhoun County Independent School District follows a formal evaluation process that entails the following:
 - i. Calhoun County Independent School District employees will determine a “pass/fail” rating based on review that all requested documents were submitted on time and complete.

- ii. Calhoun County Independent School District Chief Financial Officer will evaluate three (3) criteria:
 - (1) Responsive and responsible vendor score is based on all documents submitted and complete.
 - (2) Qualification of HUB, SMWBE or Veteran-owned, requires proof of certification
 - (3) Pricing. Score is calculated using a mathematical equation of "low bid/low bid x total pricing points," "low bid/2nd low bid x total pricing points," etc...
 - (4) Calhoun County Independent School District will evaluate several criteria on each vendor that offers them service.
 - (A) Quality of Vendors goods and/or Services
 - (B) Extent to which vendors' proposal of products and/or services meets the districts' needs
 - (C) Reputation of Vendor
 - (D) Other Factors.
- iii. Calhoun County Independent School District Chief Financial Officer will determine the best approach for evaluating all received proposals. Calhoun County Independent School District prefers to award each RFP based on "overall best value" on each solicitation.
 - (1) Complexity in bid evaluation considerations may include but not limited to:
 - (A) All participating districts are not offered products or services by all proposers. Some vendors may only bid some of the participating members due to their limited area of delivery or service.
 - (B) Areas of "overlapping" offers are too many and too difficult to create an "all or none" evaluated bid,
 - (C) Due to individual district needs, awarding "all or none" may not produce the "best overall value" to each district.

18. COMPETITIVE RANGE: It may be necessary for Calhoun County Independent School District to establish a competitive range of acceptable proposals as part of the evaluation process. Proposals not in the competitive range are unacceptable and will not receive further award consideration.

- 19. SOLE SOURCE:** In order to become a Sole Source Vendor, a proposer must meet the requirements of Texas Education Code § 44.031 (j) Sole Source, as described below. Selected purchases may be exempt from competitive procurement if they meet the established criteria for a sole source purchase:
- a. Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process, or monopoly
 - b. Identification and confirmation that the product is a film, manuscript, book, utility service (including electricity, gas, or water), or a captive replacement part or component for equipment
 - c. Sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price more than \$15,000.

It is incumbent upon the Department to obtain and retain documents from the proposer, which clearly delineate the reasons that qualify the purchase to be made on a sole source basis. To do business with Calhoun County Independent School District as a Sole Source Vendor, Calhoun County Independent School District must receive a notarized Sole Source Affidavit along with proof of your company qualifying as a sole source.

Please mail this information to:

Calhoun County ISD, Attn: Purchasing, 525 N. Commerce St., Port Lavaca, Texas 77979.

Calhoun County Independent School District reserves the right to decide if your company is a qualified Sole Source Vendor.

- 20. CONTRACTS INVOLVING FEDERAL FUNDS:** Calhoun County Independent School District intends to competitively procure each contract awarded by Calhoun County Independent School District under Section 44.031 of the Texas Education Code and intends to comply with USDA and TDA for every procurement action. To comply, Calhoun County Independent School District will make an independent estimate of the value of goods or services in the current market before receiving bids or proposals. After Calhoun County Independent School District receives bids and proposals, but before awarding a contract, Calhoun County Independent School District will also conduct a price or cost analysis and document its findings.

- 21. REGISTER FOR GOVERNMENT CONTRACTING:** Follow these steps to certify your business and obtain the registrations required to begin bidding on government proposals:
- **Obtain a D-U-N-S Number:** Your Company will need to obtain a Dun & Bradstreet D-U-N-S® Number. This is a unique nine-digit identification number for each physical location of your business. The assignment of a D-U-N-S Number is free for all businesses required to register for Federal contracts or grants. Visit the [D-U-N-S Request Service](#) to register or read a quick [overview here](#).
 - **Register your Business with the System of Award Management (SAM)** –If your company wants to successfully pursue a contract, it is essential that your business registers in the Federal government’s vendor database; registration is free. The Federal government’s vendor database used to be known as CCR – Central Contractor Registration, but on July 30, 2012, it was replaced by SAM. If your company was registered in CCR, your company’s information migrated over to SAM. Information that has migrated into the SAM database should be checked and updated by vendors, at least annually. This registration is sometimes referred to as "self-certifying" your small business. Federal Acquisitions Regulations (FAR) require all prospective vendors to be registered in SAM prior to the award of a contract, basic agreement, basic ordering agreement, or blanket purchase agreement. Access SAM at <https://www.sam.gov>. Using SAM, you will be able to register your business size and socio-economic status while completing the required solicitation clauses and certification. By completing your required solicitation clauses and certifications, you certify that the information provided about your company and its business activities are correct. The certification information that you will be asked on SAM is explained in the Federal Acquisitions Regulations, Section 52.2123 https://www.acquisition.gov/far/current/html/52_212_213.html.
 - **NAICS Codes** – You may also find that you need a North American Industry Classification System (NAICS) code for administrative, contracting and tax purposes. The code classifies the economic sector, industry, and country of your business. For Region One Purchasing Cooperative Federal contracting purposes, you will need to identify in SAM all the NAICS codes (industries) applicable to your business. Read [Identifying Industry Codes](#) for more information.
 - **For assistance:** Contact the Association of Procurement Technical Assistance Centers at www.aptac-us.org, or call 615-268-6644.
- 22. ERRORS AND OMISSIONS:** Due care and diligence have been used in the preparation of the specifications and information contained in the solicitation and is believed to be sustainably correct. However, the responsibility for determining the full extent of the exposure and the verification of all information presented herein shall rest solely on the respondent. Calhoun County Independent School District and its representatives will not be responsible for any errors and omissions in the specifications nor the failure on the part of the Vendor to determine the full extent of the conditions, requirements, and specifications before submitting a proposal. Failure to do so will be at the Vendor’s own risk and Vendor cannot secure relief on the plea of error. Neither law nor regulation make allowance for errors of omission or commission of the part of the Vendor.
- 23. REGULATORY REQUIREMENTS:** Vendors submitting a proposal response to this solicitation are required to complete the following regulatory and legislative provisions. All federal and State required certifications begin on the pages following the Terms and Conditions of this solicitation.
- a. **Byrd, Anti Lobbying:** Required inclusions in solicitations/contracts exceeding \$100,000 using federal funds; requires a contractor to complete specific forms related to lobbying (influencing or attempting to influence) in connection with obtaining a contract.
 - b. **Civil Rights/Discrimination:** Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities
Required inclusion in solicitations/contracts using federal funds; prohibits discrimination of all eligible program participants based on age, color, disability, national origin, race, and gender.
 - c. **Clean Air and Water Act and Federal Water Pollution Control Act:** Clean Water Act, 42 U.S.C. 7401-7671q; Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387); and Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15)
Required inclusion when applicable to the services and/or products to be procured for solicitations/contracts exceeding \$150,000 using federal funds; requires compliance with all applicable standards, orders, and regulations; prohibits the award of contracts to contractors that are in violation of

Clean Air Act. Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- d. **Contract Work Hours and Safety Standards Act:** 40 U.S.C. 327-330 Sections 103 and 107 as supplemented by Department of Labor regulations (29 CFR Part 5)
Required inclusion when applicable to the services and/or products to be procured for solicitations/contracts that involve mechanics or laborers exceeding \$100,000 using federal funds; establishes standards for hourly and salaried employees related to workweek and overtime.
- e. **Copeland Anti-Kickback Act**
(18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3)
Required inclusion in construction solicitations/contracts using federal funds; prohibits a contractor or subcontractor from inducing kickbacks from employees.
- f. **Davis-Bacon Act**
40 U.S.C. 276a to 276a-7 as supplemented by Department of Labor regulations (29 CFR Part 5)
Required inclusion in construction solicitations/contracts exceeding \$2,000 using federal funds; requires contractors and subcontracts to include actual wage determinations in bid specifications and contracts.
- g. **Energy Policy and Conservation Act**
Public Law 94-163, 89 Statute 871
Required inclusion when applicable to the services and/or products to be procured for solicitations/contracts using federal funds; establishes standards for the promotion of energy and water conservation methods when feasibly obtainable.
- h. **Equal Employment Opportunity**
41 CFR, Chapter 60. Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60)
Required inclusion in construction solicitations/contracts using federal funds; prohibits hiring practices that do not provide an equal opportunity of all persons without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- i. **Health and Safety Certifications, Licensing, or Regulations**
Local, state, or federal health and safety certifications, licensing, or regulations
Required inclusion in solicitations/contracts using federal funds; requires all contractors to meet applicable local, state, and federal health and safety certifications, licensing, or regulations which include, but are not limited, to facility use, food establishment, and authorized providers.
- j. **Rights to Inventions (Pertaining to Patent Rights, Copyright and Rights)**
37 CFR 401.2
Required inclusion, if applicable to solicitations/contracts using federal funds; requires all contractors to observe all applicable patent rights, copyright, and rights laws in operating the program.
- k. **Solid Waste Disposal Act**
Section 6002 as amended by the Resource Conservation and Recovery Act
Required inclusion to the extent practicable when applicable to the services and/or products to be procured for to solicitations/contracts exceeding \$10,000 using federal funds; requires contractors to maximize energy and resource recovery by using recycled materials and/or recycling waste products when reasonable, cost appropriate, and available.⁸²
- l. **Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms (Historically Underutilized Business or HUB)**
2 CFR 200.321
Necessary affirmative steps to procure from minority firms, women's business enterprises, and labor surplus area firms whenever possible
Required inclusion in solicitations/contracts using federal funds; requires contractors to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises whenever to the maximum extent possible.

- 24. PRODUCT RECALL PROCEDURES:** Vendors are required to have, and follow, written Product Recall procedures, which includes a primary and secondary point of contact. If a product recall is instituted on any good that has been furnished and delivered to Calhoun County Independent School District, Vendor must immediately (i.e., within 24 hours but preferably sooner) notify the Calhoun County Independent School District Chief Financial Officer affected by e-mail or in writing and must include all pertinent information relating to the recall. If Vendor

is unable to contact the Chief Financial Officer, Vendor must contact the Calhoun County Independent School District Purchasing department. Vendor will be responsible for all costs associated with replacing the recalled product, including replacement cost, shipping charges, etc. This requirement shall survive payment and acceptance of the goods. **Vendor is required to submit their Recall Procedures to satisfy proposal submission requirements.**

- 25. ENTIRE AGREEMENT:** This Agreement, the procurement solicitation issued by Calhoun County Independent School District, and Vendor's proposal submitted in response to Calhoun County Independent School District's procurement solicitation, and the attached and incorporated addendum or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Agreement and supersede any other representations, agreements, arrangements, negotiations, or understanding, oral or written, between the parties to this Agreement. Vendor must comply with all terms and conditions contained in this procurement solicitation. Vendor must comply with all applicable federal, state, county, and local laws concerning the goods and/or services contained in this procurement solicitation.

- 26. QUESTIONS:** Calhoun County Independent School District requires bidders to submit all questions pertaining to this RFP through email to martinezr@calcoisd.org. All questions will be answered through email.

CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT

EVALUATION CRITERIA

According to the Texas Department of Agriculture, Administrator's Reference Manual, Section 17, page 79 of 96, in determining whom to award a contract, Calhoun County Independent School District shall consider the following:

- (1) The cost to Calhoun County Independent School District
Low Bid 50 points, Second Low Bid 45 points, Third Low Bid 40 points, etc.; **50 points**
- (2) Responsible and responsive bidder (all documents submitted as required with accuracy); **15 points**
- (3) The quality of the vendor's good(s); if unknown, samples will be requested and compared; **10 points**
- (4) The extent to which the goods or services meet Calhoun County Independent School District's needs; (applicability to SNPs, compliance w/ specifications, USDA regulations, variety of products, etc.); **15 points**
- (5) Reputation of Vendor and Vendor's goods/services per reference feedback; **4 points**
- (6) Qualifies as HUB, Minority, Woman-Owned, Small or Veteran-Owned Business; **1 point**
- (7) Any other relevant factor that Calhoun County Independent School District would consider in selecting a vendor, including but not limited to **5 points**
 - a. Online ordering system, ease of use if known. If unknown, a demonstration will be requested.
 - b. Reports available online or per request such as products purchased, revenue, etc.
 - c. Past performance if known regarding timeliness of deliveries, response to issues, compliance with contract, etc. which must include vendor performance tracking and documentation. If unknown, evaluator may not dock any points

Maximum points: 100

The evaluation Committee may consist of Robin Martinez, Joe Hernandez, Maggie Knight, and Sabrina Mickle, Calhoun County Independent School District employees at the time of evaluation. If a real or perceived conflict exists with any of the above noted individuals, and/or those listed in the Conflict of Interest section of this procurement solicitation, Vendor must note such conflicts on the enclosed Form CIQ and submit with the proposal.

This institution does not discriminate based on race, religion, color, national origin, gender, sex, or disability in providing education services, activities, and programs per Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972 and section 504 of the Rehabilitation Act of 1973

State of Texas: Certifications for Formal Procurement Resource

Please return with proposal response

CFR Regulations

1. Intangible Property
2. Procurement of Recovered Materials/Solid Waste Disposal
3. Profit as a Separate Element of Price
4. Record Retention Requirements
5. Rights to Inventions

CFR Link

- [2 CFR 200.315](#)
- [2 CFR § 200.323](#)
- [2 CFR 200.324\(b\)](#)
- [2 CFR § 200.334](#)
- [37 CFR §401.2 \(a\)](#)

Texas Government Code, TDA, and U.S. Regulations

6. Anti-trust Certification
7. Certification of Residency
8. Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization
9. Compliance with the Energy Policy and Conservation Act
10. Compliance with Texas Family Code
11. Food/Product Recall and HACCP Procedures
12. Form 1295
13. Health & Safety Certificates, Licensing and Regulation
14. No Israel Boycott
15. Prohibited Employment Assistance
16. Non-Collusion Declaration

Link

- Section [2155.005](#)
- [Chapter 2252, Subchapter A](#)
- [Chapter 2252, Subchapter F](#)
- [Pub. L. 94-163, 89 Stat. 871](#)
- Section [231.006](#)
- Section [2252.908](#)
- [ARM Section 17](#)
- Section [2270.002](#)
- [20 USC 7926](#)
- [Section 15.01](#)

Required Documents: To Be Printed, Signed, and Notarized

17. Non-Collusion Affidavit
18. Signature and Declaration of Compliance

- [Section 15.01](#)
- Notary of Public Required

INTANGIBLE PROPERTY¹

All contracts paid from State or Federal grants must retain copyright for the State and Federal government (if a federally funded contract) unless otherwise negotiated in writing with the State and Federal government. Pursuant to the provisions in [2 CFR 200.315](#), title to intangible property vests in the school district and/or purchasing cooperative, as long as such property is used for authorized purposes. However, the State and Federal awarding agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes when authorized to do so.

Proposer Certification for "Intangible Property:"

- YES, I agree to the above. (Initial: _____)

- NO, I do NOT agree to the above. (Initial: _____)

¹ Intangible Property [2 CFR 200.315](#)

PROCUREMENT OF RECOVERED MATERIALS²

For Cooperative Member purchases utilizing Federal funds, Proposer certified that it will comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and that it will provide such information and certifications as a Cooperative Member may require confirming estimates and otherwise complying.

Section 6002, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000, requires procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines, requires contractors to maximize energy and resource recovery by using recycled materials and/or recycling waste products when reasonable, cost appropriate, and available.

Proposer Certification, for "Procurement of Recovered Materials:"

- YES, I agree to the above. (Initial: _____)
- NO, I do NOT agree to the above. (Initial: _____)

² Recovered Materials [2 CFR § 200.323](#)

PROFIT AS A SEPARATE ELEMENT³

For purchases using federal funds in excess of \$150,000, a Cooperative Member may be required to negotiate profit as a separate element of the price. [See, [2 CFR 200.324\(b\)](#).]

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Proposer Certification for "Profit as Separate Element of Price:"

- YES, I agree to the above. (Initial: _____)
- NO, I do NOT agree to the above. (Initial: _____)

³ Profit as a Separate Element [2 CFR 200.324\(b\)](#)

RECORD RETENTION REQUIREMENTS⁴

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

- (a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
- (e) Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- (f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) ***If submitted for negotiation.*** If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) ***If not submitted for negotiation.*** If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation. [2 CFR § 200.334](#).

Proposer Certification for "Record Retention Requirements:"

- YES, I agree to the above. (Initial: _____)
- NO, I do NOT agree to the above. (Initial: _____)

⁴ Records Retention [2 CFR § 200.334](#)

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT⁵

If the Federal award meets the definition of "funding agreement" under [37 CFR §401.2 \(a\)](#) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by school district and/or purchasing cooperative, the vendor certifies that during the term of an award for all contracts by school district and/or purchasing cooperative, resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above to observe all applicable patent rights, copyright, and rights laws.

Proposer Certification "Rights to Inventions Made Under a Contract or Agreement:"

- YES, I agree to the above.** (Initial: _____)

- NO, I do NOT agree to the above.** (Initial: _____)

⁵ Rights to Inventions [37 CFR §401.2 \(a\)](#)

COMPLIANCE WITH ANTI-TRUST LAWS⁶

Pursuant to Texas Government Code § [2155.005](#), I affirm under penalty of perjury of the laws of the State of Texas that:

1. I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
2. In connection with this bid, neither I nor any representatives of the Company have violated any provision of the Texas Antitrust laws codified in Tex. Bus. & Comm. Code Chapter 15;
3. In connection with this bid, neither I nor any representative of the Company have violated any federal antitrust law; and
4. Neither I nor any representatives of the Company have directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Proposer Certification "Compliance with Anti-Trust Laws:"

YES, I agree to the above. (Initial: _____)

NO, I do NOT agree to the above. (Initial: _____)

⁶ Anti-Trust Laws [2155.005](#)

CERTIFICATION OF RESIDENCY⁷

The State of Texas has a law concerning non-resident Vendors and makes it necessary for school district and/or purchasing cooperative to determine the residency of its Vendors. This law can be found in Texas Government Code under [Chapter 2252, Subchapter A, http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm). In part, this law reads as follows:

Section 2252.001

- a. A 'non-resident bidder' refers to a person who is not a resident.
- b. A 'resident bidder' refers to a person whose principal place of business is in this state [Texas]; including a contractor whose ultimate parent company or majority owner has its principal place of business in this state [Texas].

If your company's principal location is out of State and you are claiming, "Resident Bidder" status, does your company employ 500 or more persons within the State of Texas?

- Yes
- No

Section 2252.002

Award of Contract to a non-resident bidder: A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in:

- a. the State in which the non-resident's principal place of business is located; or
- b. the State in which the non-resident is a resident manufacturer.

City and State of Vendor's principal place of business: _____

Proposer Certification for "Resident Bidder:"

- I certify my company is a "Resident Bidder" (Initial: _____)
- I certify my company is a "Non-resident Bidder" (Initial: _____)

⁷ Certification of Residency [Chapter 2252, Subchapter A](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm)

COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR A FOREIGN TERRORIST ORGANIZATION⁸

In accordance with Texas Government Code, [2252, Subchapter F](#), school districts in the State of Texas, are prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of this Agreement, Vendor certifies that it is not a listed company under any of those Texas Government Code provisions. Vendor hereby voluntarily and knowingly acknowledges and agrees that this Agreement shall be null and void should facts arise leading our organization to believe that the Vendor was a listed company at the time of this procurement.

Proposer Certification for “Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization:”

- YES, I agree to the above.** (Initial: _____)

- NO, I do NOT agree to the above.** (Initial: _____)

⁸ Companies Engaged with Terrorist Organizations [2252, Subchapter F](#)

COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT⁹

When federal funds are expended by school districts in the State of Texas, for any contract resulting from this procurement process, the vendor certifies that the vendor will comply with mandatory standards and policies relating to energy efficiency, which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Proposer Certification for "Compliance with Energy Policy and Conservation Act:"

- YES, I agree to the above. (Initial: _____)

- NO, I do NOT agree to the above. (Initial: _____)

⁹ Energy Policy and Conservation Act [Pub. L. 94-163, 89 Stat. 871](#)

COMPLIANCE WITH TEXAS FAMILY CODE PROVISION¹⁰

Pursuant to Texas Family Code, Section [231.006](#), a child support obligor who is more than thirty (30) days delinquent in paying child support or a business entity in which the child support obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five percent (25%) is not eligible to receive payments from State funds under a contract to provide property, materials, or services until all arrearages have been paid; the obligor is in compliance with a written repayment agreement or court order as to the existing delinquency; or a court of continuing jurisdiction over the child support order has granted the obligor an exemption as part of a court-supervised effort to improve earnings and child support payments. **Select applicable certification:**

The undersigned signatories each certify that each owns least twenty-five percent (25%) of the business entity submitting this proposal (whether partnership, corporation or other entity) and that each of them is not ineligible, under Section [231.006](#) of the Texas Family Code, to receive the payments of State funds which may be disbursed in connection with a contract arising from this solicitation. Each of the undersigned signatories further acknowledge that a contract resulting from this solicitation may be terminated and payment may be withheld if the certification provided herein is found to be inaccurate. **NOTE: Owners not owning at least twenty-five percent (25%) of the business entity submitting this proposal need not execute this certification and acknowledgement, note "N/A" below.**

Printed Name	Ownership (by %)	Signature

The undersigned proposer certifies that he or she, is the proposing individual, or the sole proprietor of the proposing business, and is not ineligible under Section [231.006](#) of the Texas Family Code, to receive the payments of State funds which may be disbursed in connection with a contract arising from this solicitation, The undersigned each further acknowledges that a contract resulting from this solicitation may be terminated and payment may be withheld if the certification provided herein is found to be inaccurate.

Printed Name	Signature

¹⁰ Texas Family Code [231.006](#)

FOOD/PRODUCT RECALL AND HACCP PROCEDURES¹¹

Vendor certifies that vendor has, and follows, written Food/Product Recall and Hazard Analysis Critical Control Point (HACCP) procedures, which includes a primary and secondary point of contact. Specify below primary and secondary point of contact, include name, title, email address and phone #:

Primary Contact:

Printed Name: _____
Title: _____
Email Address: _____
Phone: _____

Secondary Contact:

Printed Name: _____
Title: _____
Email Address: _____
Phone: _____

Food/Product Recall procedures must be provided with the proposal submission, which includes the notification process – at a minimum the method of notification and timeline. HACCP procedures must be provided with the proposal submission.

Proposer Certification for “Compliance with Food/Product Recall and HACCP Procedures:”

- YES, I agree to the above.** (Initial: _____)
- NO, I do NOT agree to the above.** (Initial: _____)

¹¹ Product Recall Procedures and HACCP

CERTIFICATE OF INTERESTED PARTIES – FORM 1295¹²

Definitions and Instructions for Completing Form 1295

School districts and/or Education Service Centers in the State of Texas are required to comply with House Bill 1295, which amended the Texas Government Code by adding Section 2252.908, Disclosure of Interested Parties. Section 2252.908 prohibits a school district or purchasing cooperative acting on behalf of school districts in the State of Texas from entering into a contract resulting from this RFP with a business entity unless the business entity submits a Disclosure of Interested Parties – Form 1295 at the time the business entity submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Texas Ethics Commission.

As a “business entity,” all vendors must electronically complete, print, sign, notarize and submit Form 1295 with their proposals or contracts even if no interested parties exist.

Proposers must file Certificate of Interested Parties – Form 1295 with the Texas Ethics Commission using the following online application, unless they are “exempt” from filing, in which case please refer to the acceptable exemptions below:

<https://www.ethics.state.tx.us/data/filinginfo/1295Changes.pdf>

- a sponsored research contract of an institution of higher education;
- an interagency contract of a state agency or an institution of higher education;
- a contract related to health and human services if:
 - the value of the contract cannot be determined at the time the contract is executed; and
 - any qualified vendor is eligible for the contract;
- a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;*
- a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code;* or
- a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.*

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

- Proposers must use the filing application on the Texas Ethics Commission’s website (see link above) to enter the required information on Form 1295.
- Proposers must print a copy of the completed form, which will include a certification of filing containing a unique certification number.
- A copy of the completed Form 1295 with the certification of filing must be included with the proposal response.
- The Business Office will notify the Texas Ethics Commission and acknowledge the receipt of the filed Form 1295 no later than the 30th day after the disclosure has been received.
- The Texas Ethics Commission will post the completed and acknowledged Form 1295 to its website within seven (7) business days after receiving notice.

Instructions to Vendors:

1. Read these instructions,
2. Go to the Ethics Commission Website
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

¹² Form 1295 [2252.908](#)

3. Register and complete Form 1295 online – include the proposal number, the contract/RFP name, and a short description of the services, goods, or other property.
4. Include a copy of the completed Form 1295 with the proposal response.

Definitions:

- **Contract** means a contract between the school district and/or purchasing cooperative and a business entity at the time it is voted on by the Board of Directors or at the time it binds the school district or purchasing cooperative, whichever is earlier, and includes an amended, extended, or renewed contract.
- **Business Entity** includes an entity through which business is conducted with the school district and/or purchasing cooperative, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or State agency.
- **Controlling Interest** means:
 - 1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent (10%);
 - 2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten (10) members; or
 - 3) service as an officer of a business entity that has four (4) or fewer officers, or service as one of the four (4) officers most highly compensated by a business entity that has more than four (4) officers. This section does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.
- **Interested Party** means:
 - 1) a person who has controlling interest in a business entity with whom the school district and/or purchasing cooperative contracts; or
 - 2) an intermediary.
- **Intermediary:** a person who actively participates in the facilitation of the contract or negotiation the contract, including a broker, advisor, attorney, or representative of or agent for the business entity who:
 - 1) receives compensation from the business entity for the person's participation;
 - 2) communicates directly with the school district and/or purchasing cooperative on behalf of the business entity regarding the contract; and
 - 3) is not an employee of the business entity or of an entity with a controlling interest in the business entity.
- **Signed** includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature.
- **Value** of a contract is based on the amount of consideration received or to be received by the business entity from the school district and/or purchasing cooperative under the contract.

Resources:

Form 1295 Frequently Asked Questions: https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html

Instructional Video – First Time Business User:

- <https://www.ethics.state.tx.us/filinginfo/videos/Form1295/FirstLogin-Business/Form1295Login-Business.html>

Instructional Video – How to Create a Certificate:

- <https://www.ethics.state.tx.us/filinginfo/videos/Form1295/CreateCertificate/CreateCertificate.html>

HEALTH AND SAFETY CERTIFICATES, LICENSING AND REGULATION¹³

Vendor certifies compliance with all applicable local, state, and federal health & safety certifications, licensing, or regulations, which include, but are not limited, to facility use, food establishment, and authorized providers. If applicable, this information must be provided with the proposal response or upon request.

Proposer Certification for "Compliance with Health and Safety Certificates, Licensing and Regulation:"

- YES, I agree to the above. (Initial: _____)
- NO, I do NOT agree to the above. (Initial: _____)

¹³ Health and Safety Certificates ARM Section 17

NO ISRAEL BOYCOTT¹⁴

In accordance with Texas Government Code section 2270.002, school districts and/or purchasing cooperatives, on behalf of school districts in the State of Texas, are prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Vendor hereby verifies that it does not boycott Israel and agrees that, during the term of this Agreement, shall not boycott Israel. Vendor further agrees and acknowledges that this Agreement shall be null, and void should facts arise leading the school district and/or purchasing cooperative, to believe that Vendor's verification herein is inaccurate, or should Vendor engage in activity reasonably reflecting that it is boycotting Israel during the term of this Agreement.

Proposer Certification for "No Israel Boycott:"

- YES, I agree to the above. (Initial: _____)
- NO, I do NOT agree to the above. (Initial: _____)

¹⁴ No Israel Boycott 2270.002

PROHIBITED EMPLOYMENT ASSISTANCE¹⁵

Vendor certifies and agrees

(a) In general

A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this chapter shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

(b) Exception

The requirements of subsection (a) shall not apply if the information giving rise to probable cause-

(1)(A) has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and

(B) has been properly reported to any other authorities as required by Federal, State, or local law, including title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under part 106 of title 34, Code of Federal Regulations, or any succeeding regulations; and

(2)(A) the matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law;

(B) the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or

(C) the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within 4 years of the date on which the information was reported to a law enforcement agency.

(c) Prohibition

The Secretary shall not have the authority to mandate, direct, or control the specific measures adopted by a State, State educational agency, or local educational agency under this section.

(d) Construction

Nothing in this section shall be construed to prevent a State from adopting, or to override a State law, regulation, or policy that provides, greater or additional protections to prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee who engaged in sexual misconduct regarding a minor or student in violation of the law in obtaining a new job.

Proposer Certification for "Employment Assistance:"

YES, I agree to the above. (Initial: _____)

NO, I do NOT agree to the above. (Initial: _____)

¹⁵ Prohibited Employee Assistance [20 USC 7926](#)

**NONCOLLUSION DECLARATION TO BE EXECUTED BY
PROPOSER AND SUBMITTED WITH PROPOSAL¹⁶**

The undersigned declares:

I am the _____ of _____, the party making the foregoing proposal.

By submitting an offer, Vendor affirms and certifies the following:

1. The Contractor, including its' officers, employees, or agents, have not prepared the submitted offer in collusion with any other bidder participating in this procurement solicitation.
2. The contents of their submittal have not been communicated by the Offeror nor by any employee, officer or agent of the offeror to any other person engaged in this type business prior to the official submission deadline.
3. Vendor has not offered, conferred or agreed to confer any pecuniary benefit, as defined by §1.07(a)(6) of the Texas Penal Code, or any other thing of value, as consideration for the receipt of information or any special treatment or advantage relating to this procurement solicitation.
4. The Vendor has not offered, conferred or agreed to confer any pecuniary benefit or other things of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this procurement solicitation.
5. The Vendor has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the school district and/or purchasing cooperative concerning this solicitation based on any consideration not authorized by law.
6. The Vendor has not received any information not available to other Vendors as to give the undersigned a preferential advantage with respect to this bid.
7. The Vendor has not violated any State, Federal or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like.
8. The Vendor will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the school district and/or purchasing cooperative, in return for the person having exercised the person's official discretion, power or duty with respect to this bid.
9. The Vendor has not nor will not in the future, offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the school district and/or purchasing cooperative, in connection with this solicitation.

Any person executing this declaration on behalf of a Proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Proposer.

Signature of Officer	Printed Name of Officer	Office
I declare under penalty of perjury under the laws of the State of _____ that the foregoing is true and correct and that this declaration is executed on:		
Date	at	City, State

¹⁶ Non-Collusion Declaration Section 15.01

NON-COLLUSION AFFIDAVIT¹⁷

The undersigned offeror or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor to prevent any person from making an offer nor to induce anyone to refrain from making an offer and that this offer is made without reference to any other offer.

Offeror (Firm)

Signature of Offeror or Agent

ATTESTATION

STATE OF _____ §
 §
COUNTY OF _____ §

SUBSCRIBED AND SWORN to before me by _____, on this the ___ day of _____, 20___ to certify which witness my hand and seal of office.

Notary Public, State of _____

¹⁷ Non-Collusion Affidavit Section 15.01

SIGNATURE AND DECLARATION OF COMPLIANCE¹⁸

The undersigned Respondent has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP and certifies that:

The Respondent entity named below; that is authorized to sign this Proposal Form (if a Corporation then by resolution with Certified Copy of resolution attached) for and on behalf of the entity, if any, named below, and that (s) he is authorized to execute same for and on behalf of and bind said entity to the terms and conditions provided for in the Proposal as required by this RFP, and has the requisite authority to execute an Agreement on behalf of Respondent.

By signing this I have read the Request for Proposal on which our Proposal is submitted with full knowledge of the requirements, and do hereby agree to furnish all services in full accordance with the requirements outlined in the Request for Proposal.

By signing and executing this proposal, I further certify on behalf of my organization and represent that Respondent has not offered, conferred or agreed to confer any pecuniary benefit, as defined by TEXAS PENAL CODE ANN.§ 218, or any other thing of value, as consideration for the receipt of information or any special treatment or advantage relating to this proposal; the Respondent also certifies and represents that Respondent has not offered, conferred or agreed to confer a pecuniary benefit or other things of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this proposal; the Respondent certifies and represents that Respondent has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the school district and/or purchasing cooperative concerning this proposal on the basis of any consideration not authorized by law; the Respondent also certifies and represents that Respondent has not received any information not available to other Respondent so as to give the undersigned a preferential advantage with respect to this proposal; the Respondent further certifies and represents that Respondent has not violated any state, federal or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that Respondent will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the school district and/or purchasing cooperative in return for the person having exercised the person's official discretion, power or duty with respect to this proposal; the Respondent certifies and represents that it has not nor and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the school district and/or purchasing cooperative in connection with information regarding this proposal, the submission of this proposal, the award of this proposal or the performance, delivery or sale pursuant to this proposal.

Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

(continued on next page...)

¹⁸ Signature and Declaration (must be notarized)

Corporate/Company Name: _____

Authorized Signature: **x** _____

Printed Name: _____

Title: _____

Date: _____

Company Address (Street) _____

Company City, State Zip Code: _____

Authorized Person Phone Number: _____

Fax Number: _____

Authorized Person Email Address: _____

Corporate/Company Website: _____

DUNS #: _____

(If Firm is a Joint Venture, an authorized signature from the representative of each party is required):

Authorized Signature of Joint Party: _____

Printed Name: _____

Title: _____

[REQUIRED NOTARY FOR SIGNATURES ON NEXT PAGE]

[One notary for each signature appearing on the Vendor Affidavits and Certifications]

ATTESTATION

STATE OF _____ §
 §
COUNTY OF _____ §

SUBSCRIBED AND SWORN to before me by _____, on this
the ___ day of _____, 20__ to certify which witness my hand and seal of office.

Notary Public, State of _____

ATTESTATION

STATE OF _____ §
 §
COUNTY OF _____ §

SUBSCRIBED AND SWORN to before me by _____, on this
the ___ day of _____, 20__ to certify which witness my hand and seal of office.

Notary Public, State of _____

ATTESTATION

STATE OF _____ §

COUNTY OF _____ §

SUBSCRIBED AND SWORN to before me by _____, on this
the ____ day of _____, 20____to certify which witness my hand and seal of office.

Notary Public, State of _____

Federal Regulations – Certifications & Affidavits

Please return with proposal response

2 CFR 200 Regulations		CFR Link
1.	Proposal Form	200.326 Appendix I To Part 200
2.	Breach of Contract Terms, Sanctions and Penalties	200.326 Appendix II to Part 200 (A)
3.	Termination for Cause or Convenience	200.326 Appendix II to Part 200 (B)
4.	Certificate of Insurance	2 CFR 200.447
5.	Cooperative Agreements	2 CFR 1401.220
6.	Byrd Anti-Lobbying	2 CFR 200.450; 200.326 Appendix II Part 200 Sec. "I"
7.	Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts	200.326 Appendix II to Part 200 Sec H
8.	Clean Air and Water Certificate	200.326 Appendix II Part 200 Sec. "G"
9.	Equal Opportunity Employment	200.326 Appendix II Part 200 Sec. "C"
10.	Contracting with Small, Minority, Women Business Enterprises, and Labor Surplus	2 CFR 200.321
Other CFR and FNS Regulations		CFR Link
11.	Conflict of Interest Questionnaire	24 CFR § 3282.359
12.	Disclosure of Lobbying Activities	Appendix B To Part 418 2 CFR
13.	Felony Conviction Notification (Exhibit Only)	21 CFR 1301.90
14.	Nutrition Services Certification For "Buy American" Provision	7 CFR 210.21 Sec. D
15.	Nutrition Services "Buy American Waiver Exception List	7 CFR 210.21 Sec. D
16.	Certificate Regarding Worker's Compensation	48 CFR 970.2803-1
17.	Certificate Regarding Drug-Free Workplace	38 CFR § 48.635
18.	Certificate Regarding Alcoholic Beverage And Tobacco-Free Campus Policy	21 CFR § 1140.1
19.	E-Verify	48 CFR 52.222-54
20.	Iran Contracting	48 CFR 25.703-3
21.	Civil Rights/Discrimination	FNS Instruction 113-1
Other Required Documents		
22.	W9	Most Current Version Required

PROPOSAL ACKNOWLEDGEMENT FORM¹

Proposal Closing Date: March 20, 2024
Proposal Closing Site: Calhoun County ISD; 525 N. Commerce St., Port Lavaca, TX 77979

To: Proposer

- 1) Pursuant to and in compliance with the Notice Inviting Proposals, Information for Proposers, General Conditions, Proposal Form, Addenda, if any, and other documents relating thereto, the undersigned Proposer, having familiarized him/herself with the terms of the proposal and the conditions affecting the performance of the proposal, hereby proposed and agrees to perform, within the time stipulated everything required in this proposal for the amount herein set forth.
 - 2) This proposal shall continue to remain in effect after the initial period indicated for as long as all parties remain in agreement for additional purchases.
 - 3) Proposer shall complete and have notarized, the provided Non-Collusion Declaration (part of the State Certifications) and include it with proposal response.
- 1) The respondent hereby certifies, by submission and signature of this proposal that the respondent complies fully with this RFP. In addition, the representative below is duly authorized to sign this proposal on behalf of the respondent, company, or corporation and fully understands that by virtue of executing and returning this Proposal Form represents complete and unconditional acceptance of the requirements, terms and conditions of this RFP and all appendices and any addendum released hereto.

_____ Company Name	_____ Federal I.D. #
_____ Mailing Address	_____ City, State, Zip
_____ Respondent Name (printed)	_____ Title of Respondent
_____ Telephone #	_____ Email
_____ Respondent Signature	_____ Date

¹ Proposal Form: [200.326 Appendix I To Part 200](#)

VIOLATION OR BREACH OF CONTRACT TERMS²

Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Provisions regarding Proposer default are included in the Contract Terms and Conditions. Any Contract award will be subject to such Contract Terms and Conditions, as well as the Contract entered into between the cooperative member and Proposer which must be consistent with and protect the Cooperative member at least to the same extent as the Contract Terms and Conditions. The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting a Proposal, you agree to the administrative, contractual, legal remedies for violation or breach of the Agreement, and providing sanctions and penalties, which are included in the Contract Terms and Conditions.

Proposer Certification for "Violation or Breach of Contract Terms:"

YES, I Agree to the above **Initial:** _____

NO, I do NOT Agree to the above **Initial:** _____

² Breach of Contract Terms [200.326 Appendix II to Part 200 \(A\)](#)

TERMINATION FOR CAUSE OR CONVENIENCE³

Pursuant to Federal Rule (B) above, when federal funds are expended by the school district and/or CN purchasing cooperative, the school district and/or CN purchasing cooperative, reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. The school district and/or CN purchasing cooperative, also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if the school district and/or CN purchasing cooperative, believes, in its sole discretion that it is in the best interest of the school district and/or CN purchasing cooperative, to do so. The vendor will be compensated for work performed and accepted and goods accepted by the school district and/or CN purchasing cooperative, as of the termination date if the contract is terminated for convenience of the school district and/or CN purchasing cooperative. Any award under this procurement process is not exclusive and the school district and/or CN purchasing cooperative, reserves the right to purchase goods and services from other vendors when it is in the best interest of the school district and/or CN purchasing cooperative.

Proposer Certification for "Termination for Cause or Convenience:"

YES, I Agree to the above Initial: _____

NO, I do NOT Agree to the above Initial: _____

³ Termination for Cause or Convenience [200.326 Appendix II to Part 200 \(B\)](#)

CERTIFICATE OF LIABILITY INSURANCE (Exhibit Only)⁴

CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)				
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.						
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).						
PRODUCER	CONTACT NAME PHONE (A/C, H/O, F/B) E-MAIL ADDRESS	TAX (A/C, H/O) NAIC #				
INSURED	INSURER(S) AFFORDING COVERAGE					
COVERAGES CERTIFICATE NUMBER REVISION NUMBER:						
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INCURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
NR LTD	TYPE OF INSURANCE <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MAKING <input type="checkbox"/> EXCLUS <input type="checkbox"/> GEN'L AGREE GATE LIMIT AFFLIES PERM <input type="checkbox"/> PUBLIC <input type="checkbox"/> PROJ <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	ADDL (USD) SUBM (USD)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS EACH OCCURRENCE DAMAGE TO RENTED PERSONAL & AUTO INJURY MED EXP (Any one person) PERSONAL & AUTO INJURY GENERAL AGREE GATE PRODUCTS - COMPROP AGG CLAIMS SETTLEMENT BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MAKING (E) (R) (T) (O) (S)						
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY AN EMPLOYEE COMPARTMENTALIZED OF FIVE PERCENT FACULTY (Standard in RW) If you describe under the description of the policies below						
PER STATUTE OTHER \$ L EACH OCCURRENCE \$ L EXCESS - CLAIMS PER YEAR \$ L EXCESS - POLICY LIMIT						
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Addition of Remarks Schedule, may be attached if more space is required)						
CERTIFICATE HOLDER				CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE		

ACORD 25 (2016/03)

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⁴ Certificate of Insurance: [2 CFR 200.447](#)

COOPERATIVE AGREEMENT⁵

Cooperative agreement means an award of financial assistance that, consistent with [31 U.S.C. 6305](#), is used to enter into the same kind of relationship as a grant (see definition of grant in [section 1401.250](#)), except that substantial involvement is expected between the Federal agency and the recipient when carrying out the activity contemplated by the award. The term does not include cooperative research and development agreements as defined in [15 U.S.C. 3710a](#).

1401.250

Grant means an award of financial assistance that, consistent with [31 U.S.C. 6304](#), is used to enter into a relationship whereby -

- (a) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Federal Government's direct benefit or use; and
- (b) In which substantial involvement is not expected between the Federal agency and the recipient when carrying out the activity contemplated by the award.

Proposer Certification for "Cooperative Agreement:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

⁵ Cooperative Agreement: [2 CFR 1401.220](#)

BYRD ANTI – LOBBYING⁶

INSTRUCTIONS: To be completed and submitted ANNUALLY by 1) any child nutrition entity receiving Federal reimbursement in excess of \$100,000 per year and 2) potential or existing contractors/vendors as part of an original proposal, contract renewal or extension when the contract exceeds \$100,000.

**Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts
Exceeding \$100,000 in Federal Funds**

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions: <https://www.gsa.gov/Forms/TrackForm/33144>.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub recipients shall certify and disclose accordingly.

Proposer Certification for "Byrd Anti-Lobbying:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

⁶ Byrd Anti-Lobbying: [2 CFR 200.450; 200.326 Appendix II Part 200 Sec. "I"](#)



United States Department of Agriculture

AD-1047

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552(a), as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. § 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 0.25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud privacy, and other statutes may be applicable to the information provided.

⁷ Debarment and Suspension: [200.326 Appendix II To Part 200 Sec H](#)

(Read Instructions On Next Page Before Completing Certification)

- A. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
1. Are not presently debarred, suspended, or proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (A.2.) of this certification; and
 4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- B. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME

PR/AWARD NUMBER OR PROJECT NAME

NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)

SIGNATURE(S)

DATE

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

Instructions for Certification

- (1) By signing and submitting this form, the prospective primary participant is providing the certification set out on page 1 in accordance with these instructions.
- (2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out on this form. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- (3) The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
- (4) The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (5) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (6) The prospective primary participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- (7) The prospective primary participant further agrees by submitting this form that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

CLEAN AIR AND WATER CERTIFICATE⁸

Applicable if the contract exceeds \$100,000 or the Contracting Officer has determined that the orders under an indefinite quantity contract in any one/ year will exceed \$100,000 or a facility to be used has been the subject of a conviction under the Clean Air Act (41 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act 33 1319(d) and is listed by EPA or the contract is not otherwise exempt. Both the School Food Authority (SFA) and Food Service Management Company (offeror) shall execute this Certificate.

Company Name: _____ AGREES AS FOLLOWS:

- A. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 U.S.C. 1857, et seq., as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued there under before the award of this contract.
- B. That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.
- C. To use his/her best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.
- D. To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph.

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

- A. The term "Air Act" means the Clean Air Act, as amended (41 U.S.C. 1957 et seq., as amended by Public Law 91-604).
- B. The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).
- C. The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1957c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).
- D. The term "Clean Air Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharge by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342) or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).
- E. The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.
- F. The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by the Food Service Management Company.

Proposer Certification for "Clean Air and Water Act and EPA:"

YES, I Agree to the above Initial: _____

NO, I do NOT Agree to the above Initial: _____

⁸ Clean Air and Water: [200.326 Appendix II Part 200 Sec. "G"](#)

EQUAL OPPORTUNITY EMPLOYMENT⁹

Federal affirmative action regulations mandate that Federal contractors include an Equal Opportunity (EO) clause in all contracts, subcontracts and purchase orders. The intent is to make the nondiscrimination and affirmative action provisions of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act, and the Jobs for Veterans act flow down to all tiers of contractors

This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

CERTIFICATE

I/We hereby certify that the

_____ Company Name

is an equal opportunity employer as defined in the Equal Opportunity Act.

Respondent Name (printed)

Title of Respondent

Respondent Signature

Date

⁹ Equal Opportunity Employment: [200.326 Appendix II Part 200 Sec. "C"](#)

HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) – MINORITY & WOMEN’S BUSINESS ENTERPRISE (MWBE), SMALL BUSINESS ENTERPRISE (SBE), AND LABOR SURPLUS AREA (LSA) FIRM PARTICIPATION¹⁰

Per [2 CFR §200.321](#) contracting with MWBE, SBE, and LSA firms both as prime and subcontractors is encouraged.

- a. The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b. Affirmative steps must include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

The prime contractor must take the affirmative steps outlined above. It will be the responsibility of the prime contractor to pre-qualify and subcontractors offered as Small and Minority Business, Women’s Business Enterprise, and Labor Surplus Area Firm participants. These entities must meet the same minimum standards and requirements as the prime contractor. Proposers shall indicate on their submitted proposals whether or not they are a Small and Minority Business, Women’s Business Enterprise, or Labor Surplus Area Firm and with whom they are certified, e.g. City, State, Federal, and include a copy of the certificate(s)/documentation with the proposal response.

I certify my company is NOT a Historically Underutilized Business (HUB)

I certify my company is a Historically Underutilized Business (HUB) in the following category (check all that apply): Attach copy of HUB or applicable certifications(s).

Minority Owned Business

Women Owned Business

Small Business

Labor Surplus Area Firm

Proposer Certification for “MWBE/SBE/LSA Participation:”

YES, I Agree to the above Initial: _____

NO, I do NOT Agree to the above Initial: _____

¹⁰ SMWBE: [2 CFR 200.321](#)

CONFLICT OF INTEREST

No employee, officer, or agent may participate in the planning, advertising, selecting, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest, *see* 2 CFR § 200.318(c)(1). Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm consideration for a contract. Chapter 176 of the Local Government Code requires any Vendor that does business with the school district and/or CN purchasing cooperative, to complete a

Conflict of Interest Questionnaire (Form CIQ) in the following situations:

The vendor has a business relationship with a local governmental entity and:

1. Has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer;
2. Has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with an aggregate value of more than \$100 in the 12-month period (excludes food);
3. Has a family relationship with a local government officer of that local governmental entity; or
4. The amount either of a contract that is executed or under consideration between the vendor and that local governmental entity exceeds \$1 million.

The completed conflict of interest questionnaire must be filed with the school district and/or CN purchasing cooperative's Business Office no later than the seventh business day after the later of:

1. The date that the vendor:
 - a. Begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - b. Submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
2. The date the vendor becomes aware of:
 - a. An employment or other business relationship with a local government officer, or a family member of the officer;
 - b. Giving one or more gifts, as defined above; or
 - c. A family relationship with a local government officer.

The vendor filing the questionnaire must:

1. Describe each employment or business and family relationship the vendor has with each local government officer of the local governmental entity;
2. Identify each employment or business relationship with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the vendor;
3. Identify each employment or business relationship with respect to which the vendor receives, or is likely to receive, taxable income, other than investment income, that:
 - a. Is received from, or at the direction of, a local government officer of the local governmental entity; and
 - b. Is not received from the local governmental entity; and
4. Describe each employment or business relationship with a corporation or other business entity with respect to which a local government officer of the local governmental entity:
 - a. Serves as an officer or director; or
 - b. Holds an ownership interest of one percent or more.

If no conflict of interest exists, you must type "N/A" on Box 1 of the Form CIQ, sign it, and date it.

A vendor shall file an updated completed questionnaire with the school district and/or CN purchasing cooperative's Business Office no later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate.

The school district and/or CN purchasing cooperative's Business Office shall:

1. Maintain a list of local government officers of the local governmental entity and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire; and
2. Maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.

In addition, Chapter 176 of the Local Government Code requires a local government officer to file a Conflict of Interest Disclosure (Form CIS) with respect to a Vendor if:

1. The Vendor enters into a contract with the local government entity or the local governmental entity is considering entering into a contract with the vendor, AND
2. The Vendor has:
 - a. An employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-months preceding the date that the officer becomes aware that:
 - i. A contract between the local governmental entity and Vendor has been executed; or
 - ii. The local governmental entity is considering entering into a contract with the Vendor;
 - b. Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - i. A contract between the local governmental entity and Vendor has been executed; or
 - ii. The local governmental entity is considering entering into a contract with the Vendor; or
 - c. A family relationship with the local government official.
 - d. The school district and/or CN purchasing cooperative's Board of Directors can be found on a separate attachment in the solicitation package.

Failure to comply with Chapter 176 of the Local Government Code requirements is an offense:

1. Class C misdemeanor if the contract amount is less than \$1 million;
2. Class B misdemeanor if the contract amount is at least \$1 million but less than \$5 million; or
3. Class A misdemeanor if the contract amount is at least \$5 million.

The governing body of a local governmental entity, at its discretion, may declare a contract void if the governing body determines that a violation of Chapter 176 of the Local Government Code has occurred.

CONFLICT OF INTEREST QUESTIONNAIRE¹¹

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY <hr/> Date Received	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>		
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p align="center">_____</p> <p align="center">Name of Officer</p>		
<p>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p align="center">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p align="center"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p align="center">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p align="center"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
<p>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p>6 <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p>7</p> <p align="center"> _____ Signature of vendor doing business with the governmental entity </p> <p align="right"> _____ Date </p>		

¹¹ Conflict of Interest Questionnaire: [24 CFR § 3282.359](#)

DISCLOSURE OF LOBBYING ACTIVITIES¹²

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application _____ b. initial award c. post-award	3. Report Type: a. initial filing _____ b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known: Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: Print Name: Title: Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)	

If your company “does not” participate in Lobbying Activities, please check this box:
If your company “does” participate in Lobbying Activities, please complete the form.

¹² Disclosure of Lobbying Activities: [Appendix B To Part 418 2 CFR](#)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the first tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item #4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a) Enter Last Name, First Name, and Middle Initial (MI).

The certifying official shall sign and date the form; print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

FELONY CONVICTION NOTIFICATION¹³

Notification of Criminal History, Subsection (a) states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states, "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

This notice is not required of a publicly held Corporation.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the information furnished is true to the best of my knowledge.

Company Name:	
---------------	--

Authorized Company Official's Name (Printed)	
--	--

- A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable:
- B. My firm is not owned nor operated by anyone who has been convicted of a felony.
- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon: _____

Details of Conviction: _____

Signature of Company Official: _____

¹³ Felony Conviction Notification: 21 CFR 1301.90

Buy American Provision Certification¹⁴

This Certification is required for all food items domestically grown and processed in the United States, which exceeds 50% domestic end product. Proposer is to provide certification for all products derived from non-domestic products to include Fruit, Vegetables, Grains, Legumes and Oil based products. Failure to certify such items may disqualify award of such line item.

Contracting Entities (CE) are required to retain all documentation for foods purchased as an exception to the Buy American Provision. Documentation must include vendor certification letters, pricing comparison for products also offered as domestic, and questions to vendors in regard to country of origin or other information pertaining to justifications. It is the CE's responsibility to ensure they are purchasing domestic products to the maximum extent possible.

Vendor certifies that vendor complies with all applicable provisions of the Buy American Act. The Buy American Provision requires school food authorities to schools to purchase, to the maximum extent practicable, domestic commodities or products. For a product to meet the Buy American requirement, over 51% of the final processed product (by weight or volume) must consist of agricultural commodities that were grown domestically, and processed domestically. Unprocessed foods must be 100% domestic. See [7 CFR § 210.21\(d\)](#), and USDA-FNS memo [SP 38-2017 Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program](#). The Buy American provision applies to all purchases made with School Nutrition Program (SNP) funds. Purchases made in accordance with the Buy American Provision must still follow the applicable procurement rules calling for full and open competition.

Proposer Certification, Compliance with Buy American Provision:

- YES, Vendor certifies all products bid comply with the above.
- NO, Vendor certifies not all products bid comply with the above.

Any exception to the Buy American Provision must be noted on the provided attachment in this solicitation for Buy American Deviations for each food and/or beverage item.

Company Name:

Every effort shall be made to follow the Buy American Provision required by the National School Lunch Act to include domestically grown products in school food programs. By signing this certification, the Proposer is acknowledging the Buy American requirements per Instructions and Information.

Proposer Certification for "Buy American Provision:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

¹⁴ Buy American Certification: [7 CFR 210.21 Sec. D](#)

“BUY AMERICAN” WAIVER EXCEPTION LIST¹⁵

This documentation is required for all food items that are not produced and processed in the U.S. with at least 51% of its agricultural food components, by weight or volume, from the U.S. The Buy American regulations states:

The “Buy American” provisions of Public Law (p.L.) 105-336 under the Richard B. Russell National School Lunch Act allows for an exception when the recipient agency determines that the following instances apply to non-domestic produced products:

- a. There is no domestic alternative source or substitute food product.
- b. Domestic product is not available in the specified quantity or quality.
- c. The cost difference of domestic product vs non-domestic is unreasonable.

[53 FR 27476, July 21, 1988, as amended at 58 FR 39122, July 22, 1996; 67 FR 65015, Oct. 23, 2002]

PLEASE COMPLETE THE BUY AMERICAN DEVIATIONS ATTACHMENT IN THIS RFP.

If any “domestic alternatives” are available, please provide the pricing comparison for all products on the attachment included in this RFP.

¹⁵ Buy American Waiver Exception List: [7 CFR 210.21 Sec. D](#)

**CONTRACTOR'S CERTIFICATE REGARDING
WORKER'S COMPENSATION ¹⁶**

(To be executed by Vendor and Submitted with Proposal)

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of work of this contract.

Proposer Certification for "Worker's Compensation:"

<input type="checkbox"/>	YES, I Agree to the above	Initial: _____
<input type="checkbox"/>	NO, I do NOT Agree to the above	Initial: _____

(In accordance with article 5 (commencing at section 1860), chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

¹⁶ Worker's Compensation: [48 CFR 970.2803-1](#)

CONTRACTOR'S CERTIFICATE REGARDING DRUG-FREE WORKPLACE¹⁷

This Drug-Free Workplace Certification form is required from all successful Proposers pursuant to the requirements mandated by Government Code sections 8350 *et. seq.*, the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- 1) Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition;
- 2) Establishing a drug-free awareness program to inform employees about all of the following:
 - a) The dangers of drug abuse in the workplace;
 - b) The person's or organization's policy of maintaining a drug-free workplace;
 - c) The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - d) The penalties that may be imposed upon employees for drug abuse violations;
- 3) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the DISTRICT determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of sections 8350 *et. seq.*

I acknowledge that I am aware of the provisions of Government Code sections 8350 *et. seq.* and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

Proposer Certification for "Drug-Free Workplace:"

¹⁷ Drug-Free Workplace: [38 CFR § 48.635](#)

**CONTRACTOR'S CERTIFICATE REGARDING
ALCOHOLIC BEVERAGE AND TOBACCO-FREE CAMPUS POLICY¹⁸**

The CONTRACTOR agrees that it will abide by and implement the DISTRICT's

Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, at any time, on DISTRICT-owned or leased buildings, on DISTRICT property and in DISTRICT vehicles. The CONTRACTOR shall procure signs stating "ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED" and shall ensure that these signs are prominently displayed in all entrances to school property at all time

Proposer Certification for "Alcoholic Beverage and Tobacco-Free Campus Policy:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

¹⁸ Alcoholic Beverage & Tobacco-Free Policy: 21 CFR § 1140.1

E-VERIFY PROGRAM¹⁹

Employment Eligibility Verification: (as amended at 74 FR 2731) requires, as applicable, a condition for the award of any Federal contract at \$250,000 or greater, for Vendor to certify they are enrolled in, and is currently participating in, E-Verify or any other equivalent electronic verification of work authorization program operated by the U.S. Department of Homeland Security and does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services. A breach in compliance with immigration laws and regulations shall be deemed a material breach of the contract and may be subject to penalties up to and including termination of the contract.

Declaration

1. I have reviewed 48 CFR 52.222-54 and have sufficient knowledge of the personnel practices of the Business Entity to execute this Declaration on behalf of the Business Entity.
2. The Business Entity has legal counsel and has had the opportunity to consult that counsel, and accordingly it has not relied on the Governmental Entity's advice or counsel in complying with the legal requirements addressed in this Declaration.
3. The Business Entity is enrolled in and uses the federal E-Verify program to verify the eligibility to work of all newly hired employees of the Business Entity. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: [http:// www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).
4. The Business Entity does not knowingly employ applicants or retain in its employ a person whose immigration status makes them ineligible to work for the Business Entity.
5. The Business Entity has verified that any subcontractors utilized to deliver services to the Governmental Entity through the Business Entity's contract with the Governmental Entity use the E-Verify system and do not knowingly employ persons whose immigration status makes them ineligible to work for the subcontractor.
6. As an authorized agent of the Business Entity, I acknowledge notice that 48 CFR 52.222-54 requires that the Business Entity's compliance with the terms of this Declaration be incorporated into the Business Entity's contract for services with the Governmental Entity, and if the Business Entity fails to remedy a violation of this provision of its contract for services with the Governmental Entity within the thirty (30) day period prescribed in 48 CFR 52.222-54, violation of this term of that contract for services requires termination of that contract and that the Business Entity is liable to the Governmental Entity for actual damages.

I declare under penalty of perjury, a Class D Felony, that the foregoing representations are true.

Company Name

Respondent Name (printed)

Respondent Signature

Date

¹⁹ E-Verify: [48 CFR 52.222-54](#)

IRAN CONTRACTING ACT
CERTIFICATION OF ELIGIBILITY TO PROPOSAL FOR CONTRACTS OF \$ 1 MILLION OR MORE
(Public Contract Code sections 2202-2208)²⁰

Pursuant to Public Contract Code 2204. (a) A public entity shall require a person that submits a proposal or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars (\$1,000,000) or more to certify, at the time the proposal is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5, as applicable. A state agency shall submit the certification information to the Department of General Services.

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to proposal on contracts. (Public Contract Code section 2205.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in (city, state)</i>

OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to proposal on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

²⁰ Iran Contracting: [48 CFR 25.703-3](#)

CIVIL RIGHTS/DISCRIMINATION²¹

It is the policy of the school district and/or CN purchasing cooperative not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), color, disability national origin, race, or gender. Vendor further agrees that every subcontractor entered into for the performance of this Agreement shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Agreement.

Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Program Activities: Applicable to contracts using Federal funds - Prohibits the discrimination to all eligible program participants on a basis of age, color, disability, national origin, race, and gender.

Proposer Certification for “Civil Rights/Discrimination:”

YES, I Agree to the above Initial: _____

NO, I do NOT Agree to the above Initial: _____

²¹ Civil Rights/Discrimination [FNS Instruction 113-1](#)

FORM W-9²²

Vendor must submit the most recent version (Oct. 2018) with this Proposal.

²² Form W-9, Required