

Chilton County Board of Education

Bid NO 23-1

By way of this Invitation to Bid (“Invitation”) and in accordance with Alabama Code Section 16- 13B-1 et seq, the Chilton County Board of Education (the “Board” or “Owner”), DBA Chilton County Schools, shall receive sealed bid responses for Milk and Related Products – Child Nutrition Program hereinafter described and specified on the Effective Date hereof until 2:00 PM CST, November 10, 2022. Responses must be submitted in sealed envelopes addressed as follows and mailed or hand-delivered to:

Chilton County Board of Education

Attn: Tasha Hayes, CNP Director

1705 Lay Dam Road

Clanton, AL. 35045

All responses submitted shall be opened and read November 10, 2022 in the Board Room at Chilton County Board of Education.

General Terms and Conditions

1. All bids are to be sealed. Envelopes containing bids shall be marked on the outside “BID 23- 1, to be opened at, 2022”. An envelope is enclosed for bidder’s convenience. All bids shall be mailed or hand delivered in accordance with the foregoing instructions. The Chilton County Board of Education, at its sole discretion, reserves the right to consider any Bids that are improperly labeled (in accordance with this provision) and deemed deficient. Any such bids may be declared non-responsive and consequently may not be considered.
2. Bids shall be opened in accordance with the foregoing instructions. Bids may be hand delivered or mailed; however, it is the Bidder’s responsibility to ensure bids are received not later than 2:00 PM CST, November 10, 2022. Bids received after this time shall be declared non-responsive and shall not be considered.
3. Each bid shall be submitted on the Bid Proposal Form furnished by the Chilton County Board of Education. Bids submitted in any other form, format or on any other medium shall not be considered.
4. By submitting a bid(s) pursuant to this Invitation to Bid, Bidders agree to and accept the terms and conditions specified herein.
5. All bids shall be typewritten or prepared using a text editor.
6. F.O.B.: Unless otherwise noted herein, the F.O.B. point shall be the Board’s designated sites or ordering location, Clanton, Alabama. As applicable, successful Bidders shall bear all risk of loss

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for all merchandise covered by this Invitation until said goods have been delivered to the designated location.

7. The omission of explicit reference or enumeration from this document to rights otherwise accorded to the Chilton County Board of Education in accordance with Federal Law, the Alabama Competitive Bid or other State Laws, and ordinances, is not intended to affect and shall not be construed to affect a waiver of said rights.
8. All bids submitted must be valid for a minimum period of 60 days after the bid opening date.
9. Bid Bond. A Bid Bond shall not be required by the Chilton County Board of Education.
10. Bid Evaluation. The Chilton County Board of Education shall evaluate this bid based on specified criteria herein in accordance with the Alabama Competitive Bid Law. The resultant contract shall be awarded to the Lowest Responsible Bidder for all items as specified herein, taking into consideration, among other factors, historical performance commensurate with services requested herein, conformity with specifications set forth herein, and the terms and conditions of delivery of service(s). The right is reserved by Chilton County Board of Education to award the bid on a categorical, item-by-item, or all-to-one basis. Bids shall be submitted on the premise the Chilton County Board of Education intends to enter into a contract(s) with a single Bidder pursuant to an acceptable Bid proposal, as determined by the Chilton County Board of Education in its sole discretion.
11. Effective Date. The "Effective Date" of a resulting contract pursuant to this Bid Advertisement shall be the day immediately following the date upon which the Chilton County Board of Education, or its controlling entity, effectuate Award of Contract.
12. RESERVED
13. Initial Contract Term and Expiration. The Initial Contract Term shall continue in effect from the Effective Date for a One-year period and shall expire on the last day of the Contract Term unless the Chilton County Board of Education and the successful bidder mutually agree to exercise the Contract Extension Option(s) stipulated in Provision 14 below.
14. Contract Extension Options. Upon mutual agreement, the Parties, may elect to extend the Initial Contract Term stipulated in Provision 12 for a period of up to 4 years, in one-year increments. Such extension(s) shall be contingent on the successful Bidder's consent to honor its original bid prices pursuant to all terms, conditions, and stipulations specified herein. Contract Extension(s) shall be subject to Chilton County Board of Education approval prior to the Contract Term's Expiration Date.
15. Contract Termination. The Chilton County Board of Education reserves the right to terminate the contract award for non-performance or a material breach of stipulated terms and conditions set forth in this Invitation to Bid. In the event a contract is terminated for nonperformance, the Chilton County Board of Education reserves the right to award this bid to the next Lowest Responsible Bidder pursuant in accordance with Alabama Code Section 16-13B-1 et seq. (Source: Alabama Competitive Bid Law)

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16. Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Act No. 2011-535). Alabama laws require that, as a condition for the award of a contract by a school Chilton County Board of Education to a business entity or employer with one or more employees working in Alabama, the business entity or employer must provide documentation of enrollment in the E-Verify program. During the performance of the contract, the business entity or employer shall participate in the E-Verify program and shall verify every employee that is required to be verified according to the applicable federal rules and regulations. The contractor's E-Verify Memorandum of Understanding MAY be included with the bid or at a time determined and requested by the Purchasing Department to facilitate approval by the Chilton County Board of Education. Bidders who do not believe these requirements are applicable to their entity should include an explanation justifying such exemption. An entity can obtain the E-Verify Memorandum of Understanding upon completion in the E-Verify enrollment process located at the federal web site www.uscis.gov/everify. The Alabama Department of Homeland Security (<http://immigration.alabama.gov>) has also established an E-Verify employer agent account for any business entity or employer with 25 or fewer employees that shall provide a participating business entity or employer with the required documentation of enrollment in the E-Verify program. An Employer Identification Number (EIN), also known as a Federal Tax Identification Number, is required to enroll in E-Verify or to establish an E-Verify employer agent account.
17. Electronic Communication Disclaimer. The Chilton County Board of Education makes no warranties of any kind, whether expressed or implied, that a bidder's Electronic-Mail (EMail) shall not be intercepted by the Chilton County Board of Education's network firewall, which is utilized to ensure network security. Bidder assumes all risks of communication relying solely on its E-mail or facsimile. The Chilton County Board of Education shall not be responsible for any damages suffered due to loss of data resulting from delays, non-deliveries, mis-deliveries, or service interruptions caused by the Bidder's own negligence, user errors, or omissions.
18. Act No. 2012-491. Act No. 2012-491 now requires school Chilton County Board of Educations to include the following clause in all contracts or agreements: "By signing this contract, the contracting Parties affirm, for the duration of the agreement, that they shall not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting Party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom."
19. Bid Amendment. The Chilton County Board of Education reserves the right to issue a Bid Amendment necessary to clarify, modify, or support the information in this Invitation to Bid as stipulated herein. Said Bid Amendment shall be considered part of this Invitation to Bid as though it had been issued at the same time and shall be incorporated integrally therewith. Where provisions of modified or revised information differ from those of the original bid documents, the Bid Amendment shall govern and take precedence. **BIDDERS MUST SIGN THE BID AMENDMENT AND SUBMIT IT WITH THEIR BIDS.** An issuance of a Bid Amendment to this Invitation to Bid shall be communicated to Bidders by the effective posting of said Bid

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Amendment to the Board's website <https://chiltoncsal.schoolinsites.com/>. No other changes or revisions, regardless of source, shall be valid or binding.

20. Bid Addendum. The Chilton County Board of Education reserves the right to issue a Bid Addendum necessary to clarify, modify, or support the information in this Invitation to Bid as stipulated herein. Said Bid Addendum shall be considered part of this Invitation to Bid as though it had been issued at the same time and shall be incorporated integrally therewith. Where provisions of the supplementary information differ from those of the original bid documents, the Bid Addendum shall govern and take precedence. BIDDERS MUST SIGN THE BID ADDENDUM AND SUBMIT IT WITH THEIR BIDS. An issuance of a Bid Addendum to this Invitation to Bid, shall be communicated to Bidders by the effective posting of said Bid Addendum to the Board's website: <https://chiltoncsal.schoolinsites.com/>. No other changes or revisions, regardless of source, shall be valid or binding.
21. Tax Exempt Status. Chilton County Board of Education is exempted from the payment of Alabama Sales and Use Tax as accorded by Section 40-23- 4(11), Code of Alabama 1975 as amended, and as further clarified in Alabama Department of Revenue Regulation 810-6-3-.47.03.
22. Governing Law and Venue. This solicitation shall be governed by and construed in accordance with the laws of the State of Alabama. Bidder agrees and consents to the exclusive jurisdiction of the courts in the State of Alabama for all purposes regarding this solicitation, and further agrees and consents that venue of any action hereunder shall be exclusively in the County of Chilton, Alabama.
23. Alternate Bids. This Invitation is not an advertisement for "Alternate Bids". All bids that contain "Alternate Bids" shall be a basis for disqualification.
24. Bid Publication. In accordance with the Alabama Competitive Bid Law, this Bid Advertisement is posted on the bulletin Chilton County Board of Education. Additionally, this Invitation is posted on Chilton County Board of Education' website: <https://chiltoncsal.schoolinsites.com/>.
25. Non-responsive Bid. Bidder shall submit its bid proposal or response strictly in accordance with the requirements and specifications stipulated on the proposed Bid Form as provided herein. The Chilton County Board of Education reserves the right to declare any bid that fails to comply with this provision, a "Non-responsive Bid".
26. Non-responsible Bid. The Chilton County Board of Education reserves the right to declare any bid a "Non-responsible Bid" if it determines, in its sole discretion, that the bid demonstrates the bidder is unable or does not have the capability or capacity to perform the services specified herein.
27. Bid Cancellation. The Chilton County Board of Education reserves the right not to award or to otherwise cancel this Invitation to Bid at any time prior to its stipulated "Public Reading Time/Date".
28. Signature Authorization. A duly authorized officer or designee shall sign with the firm's legal name on the bid form. Obligations assumed by said signature shall be fulfilled in accordance with the specifications, terms, and conditions as prescribed herein.

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29. Invoice Payment Term. Net 30 (Payment 30 days after invoice date).
30. Bid Formalities. As time is of the essence, the Chilton County Board of Education reserves the right to reject any or all responses, bids, and offers, and to waive, at its discretion, any informalities or irregularities involving the bid process or evaluation in order to expedite administrative processes, accommodate minor error, or respond to unforeseen circumstances. However, the following formalities listed below shall not be waived:
 - 30.1 Bids received after the specified bid submission date and time indicated on the bid document AND Bids postmarked prior to bid opening time, but not received, shall not be considered and shall be returned to the bidder unopened.
 - 30.2 Bids received in accordance with bid instructions but have not been signed by an authorized signatory, shall not be considered.
 - 30.3 Bids submitted without a corresponding Bid Bond if required, shall be deemed a "Nonresponsive Bid".
31. Collusive Agreements (AL Code § 16-13B-5)
 - 31.1 Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement, to bid at a fixed price or to refrain from bidding or otherwise shall render the bids of such bidders void and shall cause such bidders to be disqualified from submitting further bids to the awarding authority on future purchases.
 - 31.2 Whoever knowingly participates in a collusive agreement in violation of this section involving a bid or bids of fifteen thousand dollars (\$15,000) and under shall be guilty of a Class A misdemeanor and, upon conviction, shall be punished as prescribed by law.
 - 31.3 Whoever knowingly and intentionally participates in a collusive agreement in violation of this section involving a bid or bids of over fifteen thousand dollars (\$15,000) shall be guilty of a Class C felony, and upon conviction shall be punished as prescribed by law.
32. General Liability Insurance Coverage. The successful bidder shall have in effect a minimum of \$1,000,000.00 General Liability Insurance Coverage and a copy of the Certificate of Insurance shall be submitted along with bid submittal.
33. Indemnification. Bidder shall indemnify, defend and hold harmless Chilton County Schools, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever arising from or connected with Bidder's operations, goods and/or commodities or services provided hereunder. This indemnity shall include, but not be limited to, claims for or by reason of any actual or alleged infringement of any United States patent or copyright or any actual or alleged trade secret disclosure.

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34. Termination for Non-appropriation of Funds. Notwithstanding any other provision or stipulation of this Invitation to Bid and resultant Contract, the Chilton County Board of Education shall not be obligated for the successful Bidder's and subsequent Contractor's performance hereunder unless and until Funds for this Contract are appropriated for each future fiscal year. If Funds are not appropriated for Contracted good and/or services prescribed herein, then said Contract shall terminate as of September 30 of the last fiscal.
35. Liabilities and Claims. The contractor shall defend any and all suits and assume all liability for any and all claims made against MCBOE or any of its officials or agents for the use of any patented process, device or article forming a part of the articles or equipment furnished under the provisions of this bid.
36. References. Bidder shall submit along with bid, the name and addresses of three (3) firms or comparable school systems (medium/large-size) for which it has provided the scope, scale, and type of service in which Chilton County Schools stipulates herein or with which it is presently under contract for the same goods or services as specified in this solicitation. Chilton County Schools reserve the right to contact any reference for the purpose of evaluating historical performance or the quality-level of performance. Chilton County Schools reserves the right to utilize any additional references other than the references provided by the bidder.
37. Price Escalation. All price increases shall be based on new published manufacturer's selling price for the goods specified herein. Price increase shall be supported by acceptable documentation from the primary mill or raw materials and shall be based on the mill's general increases for all affected accounts within the industry.
38. . Penalty Clause. Chilton County Schools reserves the right to adjust any invoice on a pro rata basis for late, delayed, or overdue pickups or service. The pro rata adjustment shall be based on the prescribed service or pickup schedule. All such pro rata adjustments shall be equal to the assessed charge(s) for the affected site and shall be reflected as a line item adjustment or credit on the invoice for the billing period. The pro rata adjustment shall be applicable for any late, delayed, or overdue pickups or services, when the site is serviced six (6) hours or more past the agreed upon pickup or service schedule. Chilton County Schools shall rely solely on its means, personnel, and other factors in the determination of late, delayed or overdue pickups or service.
39. Default. In the event Bidder fails to perform hereunder and does not cure such failure within seven (5) calendar days from date of notice, or as otherwise specified herein, Chilton County Schools may at its sole discretion, cancel or terminate contract or award. Such cancellation or termination shall be at no cost to Chilton County Schools, which may at its sole discretion, procure the goods or services from other sources. Bidder shall be liable to Chilton County Schools for any excess costs, as determined by Chilton County Schools, for any such goods and/or services as prescribed herein.
40. Compliance with Laws. Bidder shall fully comply with all applicable provisions of federal, state and local laws, rules and regulations, and bidder agrees to hold Chilton County schools, its

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agents, officers, and employees harmless from any and all liability, costs including, but not limited to attorney's fees, and damages resulting from failure of compliance.

41. Force Majeure. Neither party will be liable for delays in performance beyond its reasonable control, including, but not limited to, fire, flood, act of God or restriction of civil or military authority.
42. Independent Contractor Status. Bidder shall at all times act in the capacity of an independent contractor. This solicitation and its subsequent award should not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association, between Montgomery Public Schools and bidder. The employees and agents of one party shall not be, or construed to be, the employees or agents of the other party for any reason whatsoever.
43. Required Federal Provisions for Procurement in Child Nutrition Program. Bidder shall review and submit bid proposal based on applicable provisions stipulated in the Appendix A (Required Federal Provisions for Procurement in Child Nutrition Program), and said appendix is hereby incorporated by reference into the Terms and Conditions stipulated in this Invitation to Bid.

Tasha Hayes

CNP Director

Chilton County Schools

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TECHNICAL SPECIFICATIONS AND BID PROPOSAL FORM

SCOPE OF SERVICES:

The Chilton County Board of Education (CCBOE) is seeking to enter into an agreement with a service provider to supply the school district's cafeterias with Milk and Related Products. Said services shall be rendered in accordance with the bid specifications and Terms/Conditions that are stipulated in this bid advertisement:

Vendor Qualifications

Potential bidders must meet the following criteria:

- Be able to provide a quality product as specified
- Offer reasonable pricing
- Provide dependable delivery of items ordered
- Meet specifications and bid conditions
- Demonstrate successful past performance

Item	Size	Bid Price Per Unit
1. Milk, Fresh Chocolate Fat Free	8 oz carton/Plastic Container	each/case
2. Milk, Fresh White Low-Fat/Fat Free	8 oz carton/Plastic Container	each/case
3. Milk, Fresh Strawberry Fat Free	8 oz carton/Plastic Container	each/case
4. Buttermilk	½ Gallon/1 Quart	each

- All milk should contain vitamins A and D. Low-fat and skim milk are required to be fortified with vitamin A at levels specified by the Food and Drug Administration; added vitamin D must also meet Food and Drug Administration specifications.

- Milk, fluid must be in cups or ounces. Unflavored low-fat (1%) milk or unflavored or flavored fat-free milk. Must meet state and local standards for fluid milk and comply with any appropriate comply with any appropriate special requirements:

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- The fluid milk products shall have been produced and processed in the United States. The plants in which the product is to be processed shall be in compliance with the requirements of the latest revision of the United States Public Health Service / Food and Drug Administration Grade "A" Pasteurized Milk Ordinance (PMO)
<https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocuments>
- The product shall have a shelf life of at least 12 days from the delivery date, OR the maximum days allowed by local or state regulation upon delivery, whichever is less. The "Use By," "Sell By," or "Best By" date on the container shall match this shelf life requirement.
- The eligible dairy organization shall comply with all applicable testing requirements of the latest revision of the PMO.
- Containers shall be marked with a "Use By," "Sell By," or "Best By" date indicating the month and day of best product quality.
- Vendor must be able to deliver directly to the sites within the timeframe of the site staff schedule

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Technical Specifications & Bid Proposal Form

A	B	C	D	E	F	G
Item Number	Item Description	Size	UoM	Quantity	Unit Cost	Price Extension
1.	Buttermilk	1/2 Gallon	each		\$	\$
2.	Milk, Fresh Chocolate FF	8 ounce	case		\$	\$
3.	Milk, Fresh White FF	8 ounce	case		\$	\$
4.	Milk, Fresh Strawberry FF	8 ounce	case		\$	\$
5.	Milk, Fresh White 1 %	8 ounce	case		\$	\$

Grand Total (Column G: 1-5) \$ _____

Bidder's Legal Name: _____

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Technical Specifications & Bid Proposal Form Vendor Name:

Requisition Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Toll Free: _____ Fax: _____ E-mail
Address: _____ Internet Address: _____ Customer
Service Contact _____ Sales Representative _____ For
Chilton Co. Bd. of Ed. Phone: _____ Federal Tax ID#: _____
_____ SPIN Number _____ SS# if Sole
Proprietor: _____ (E-RATE ONLY) Annual Sales
Volume _____ Year Company Established: _____ Remittance
Address: (if different from Requisition Address above) Bidder's Legal Name:

Remittance Address: _____
City: _____ State: _____ Zip: _____
Accounts Receivable Contact Name: _____

List type of product(s) and/or service(s) with the appropriate Standard Industrial Classification (SIC) for company, if known:

The following information refers to company ownership and shall be used for informational purposes only. Contact your Regional or District U.S. Small Business Administration Office if clarification is needed for small or large business classification (As defined by Code of Federal Regulation (CFR) 13 Part 121). Failure to respond to this section will result in your company being classified as a large business.

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Technical Specifications & Bid Proposal Form The undersigned certifies signature authority is duly vested by his/ her organization and the information provided herein is correct.

Submitted by:

Signature Date

Title

Legibly print full legal name (Signatory) Business
Entity's Legal Name _____
Federal ID No. or Business Entity's Trade Name
(DBA) Social Security No. (Sole Proprietor) Contact Information:

Street
Address (Physical Address) P.O. Box _____

City/State/Zip Code City/State/Zip Code (____)

Ext. _____ (____) _____ Business
Telephone Alternate Telephone _____

E-mail Address Business Entity's Web Address

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APPENDIX A Required Federal Provisions for Procurement in Child Nutrition Program Contract Provisions for Non-Federal Entity Contracts Under Federal Awards Title 2: Grants and Agreements PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS Subpart F—Audit Requirements Appendix II to Part 200 In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable. (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 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. (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the nonfederal entity including the manner by which it will be effected and the basis for settlement. (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the

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compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient 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 subrecipient 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. (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification.

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Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. (J) See §200.322 Procurement of recovered materials. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include 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, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; 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. Title 7: Agriculture PART 210—NATIONAL SCHOOL LUNCH PROGRAM Subpart E— State Agency and School Food Authority Responsibilities §210.21 Procurement. (d) Buy American— (1) Definition of domestic commodity or product. In this paragraph (d), the term ‘domestic commodity or product’ means— (i) An agricultural commodity that is produced in the United States; and (ii) A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. (2) Requirement. (i) In general. Subject to paragraph (d)(2)(ii) of this section, the Department shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products. (ii) Limitations. Paragraph (d)(2)(i) of this section shall apply only to— (A) A school food authority located in the contiguous United States; and (B) A purchase of domestic commodity or product for the school lunch program under this part. (f) Cost reimbursable contracts— (1) Required provisions. The school food authority must include the following provisions in all cost reimbursable contracts, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts: Montgomery County Board of Education, Alabama ITB No. 4-822: Milk and Related Products – Child Nutrition Program 20 (i) Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority; (ii) (A) The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service

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account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (B) The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification; (iii) The contractor's determination of its allowable costs must be made in compliance with the applicable Departmental and Program regulations and Office of Management and Budget cost circulars; (iv) The contractor must identify the amount of each discount, rebate and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the State agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually; (v) The contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and (vi) The contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the school food authority, the State agency, or the Department. (2) Prohibited expenditures. No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include the requirements of this section, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs. (g) Geographic preference. (1) A school food authority participating in the Program, as well as State agencies making purchases on behalf of such school food authorities, may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied; (2) For the purpose of applying the optional geographic procurement preference in paragraph (g)(1) of this section, "unprocessed locally grown or locally raised agricultural products" means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish;

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and the pasteurization of milk. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. This institution is an equal opportunity provider.

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APPENDIX B U.S. DEPARTMENT OF AGRICULTURE Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participant's responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is being presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the prospective lower tier 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 and Title of Authorized Representative

Signature(s) Date

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, continued
Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the form in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "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. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier 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 with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.
7. 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 determined the eligibility of its principals. Each participant may, but is not required to, check the Non-Purchase List.
8. Nothing contained in the foregoing shall be construed to require the establishment of a system of records to render in good faith the certification required by this clause. The

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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.

9. Except for transactions authorized under paragraph five 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 with which this transaction originated may pursue available remedies, including suspension and/or debarment.