TO: Prospective Vendors

FROM: Shan Burkhardt

DATE: April 1,2024

Request for Proposal

Sealed proposals will be received by the Andalusia City Board of Education, Child Nutrition Program, 1201 C C Baker Avenue Andalusia, AL 36421, until **10:00 a.m. on Tuesday April 23, 2024**, at which time they will be opened and read for the furnishing of supplemental grocery products to the State Line CNP Cooperative. Proposal period shall begin July 1, 2024 and extend through June 30, 2025 with the option to renew for an additional 2 years if both the vendor and State Line CNP Cooperative agree. Vendors will be obligated to provide the items quoted and award to them is for the duration of the proposal period only.

Vendors must fill in all blank spaces for each item proposal on the “Request for Quotation”. Failure to do so will result in the classification of that particular proposal as non-respondent.

Attached are proposal documents for purchasing items for use by the State Line CNP Cooperative Members:

1. Instruction to Vendors
2. Member Districts

 3. Proposal Form

 4. Scope of Work

5. Vendor Certification

6. Debarment Form

7. E-Verify

8. Required Provisions for CNP Procurement and NON-Discrimination Statement

9. Specifications – see attached

**STATE LINE CNP COOPERATIVE**

**INSTRUCTIONS TO VENDORS**

All attached documents, proposal form, request quotation and debarment form must be returned in a sealed envelope clearly marked “2024 CNP Supplemental Grocery Bid” with date and time of proposal opening of April 23, 2024 at 10am.

The State Line CNP Cooperative reserves the right to accept the lowest proposal on all items combined from one vendor.

The State Line CNP Cooperative reserves the right to reject any and/or all proposal and to waive formalities. If you have any questions concerning this proposal contract, please call Shan Burkhart, Child Nutrition Director, Andalusia City Board of Education, 334-804-8093.

**PROPOSAL FORM**

DATE: April 1, 2024

 To: Andalusia City Board of Education

 1201 C C Baker Avenue

 Andalusia, AL 36421

THE VENDOR DECLARES THAT HE HAS EXAMINED THE PROPOSAL

DOCUMENTS AND FULLY UNDERSTANDS ALL CONDITIONS OF

SAME. IN COMPLIANCE WITH YOUR ADVERTISEMENT FOR

PROPSALS DATED\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ AND SUBJECT TO ALL

CONDITIONS THEREOF, THE UNDERSIGNED\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ IS A CORPORATION

ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE

OF ALABAMA.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

VENDOR

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ADDRESS OF VENDOR

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CITY STATE ZIP CODE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TELEPHONE NUMBER

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AUTHORIZED SIGNATURE

PROPOSAL PERIOD: JULY 1, 2024 THROUGH JUNE 30, 2025.

PROPOSALS MUST BE RECEIVED BY THE ANDALUSIA CITY SCHOOLS CHILD NUTRITION PROGRAM DEPARTMENT NO LATER THAN 10:00 a.m. ON APRIL 23, 2024.

**CNP State Line Cooperative**

**Members**

Andalusia City Schools Shan Burkhardt CNP Director 2 cafeterias

Brewton City Schools Samantha Sanks CNP Director 2 cafeterias

Escambia County Schools Susanne Boutwell CNP Director 9 cafeterias

Geneva County Schools Anna Whitehead CNP Director 5 cafeterias(9 schools)

Covington County Schools Samantha Carroll CNP Director 7 cafeterias

Opp City Schools Heather Short CNP Director 3 cafeterias

Coffee County Betsy Wood CNP Director 4 cafeterias

Other K-12 School Districts in the State Line area may join the State Line CNP Cooperative with their Board’s approval, and approval of the current State Line CNP Cooperative members.

**SCOPE OF WORK**

**Purpose**

The State Line CNP Cooperative seeks responses from qualified food and supply distributors. Experienced distributors are invited to submit a bid for consideration by the member districts. Bidder must bid on a minimum of ninety percent of the items requested. This bid is for the purchasing of food and miscellaneous non-food supplies for Cooperative member districts.

**Introduction and Background**

The State Line CNP Cooperative seeks written bids for fee for service contracts from qualified vendors able to provide groceries and miscellaneous non-food supplies.

The vendor must be able to deliver specified end products and ensure the return of quantity, quality and value of such food.

Sealed, written bids will be received by the Cooperative at the time and place specified on the Request for Bid. Dating of bid form or placing in mail by bid opening date will not meet requirements. Bid must be received on/or before date and time stated. The Cooperative reserves the right to reject any and all bids and to waive any and all informalities.

**Return Instructions**

Bid documents shall be in a sealed envelope, marked “2024 CNP Supplemental Grocery Bid” with the name and address of the vendor, and opening date on the outside of the envelope.

**Term of Contract**

The contract term will be 12 months with an option to renew for two additional 12-month periods. The start date for the contract will be July 1, 2024. If manufacturer costs increase significantly, bid prices per manufacturer may be increased upon bid renewal with supporting documentation from the manufacturer.

**Standard Contract Conditions**

1. This contract shall be governed in all respects to validity, construction, capacity, performance or otherwise- by the laws of the State of Alabama and the United States.
2. Vendor providing service under this Request for Bid, herewith, shall assure the school system that they are conforming to the provision of the Civil Rights Act of 1964, as amended.
3. Vendor shall comply with Executive Order 11246, entitled “Equal Employment Opportunity”, as amended by Labor regulations (41CFR Part 60).
4. State Sales and Use Tax Certificate of Exemption form will be issued upon request. Sales tax shall be included in prices where applicable.
5. Vendor shall comply with applicable Federal, State and local laws and regulations pertaining to wages, hours, and conditions of employment. In connection with vendor’s performance of work under this contract, vendor agrees not to discriminate against any employee(s) or applicant(s) for employment because of age, race, color, religion, sex, national origin or disability.
6. The vendor agrees to retain all books, records and other documents relative to this agreement for three (3) years after final payment. The Cooperative members, their authorized agents, and/or State/Federal representatives shall have full access to, and the right to examine any of said materials during said period. If an investigation or audit is in progress, records shall be maintained until slated matter is closed.
7. Vendor shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C 1857[h]), Section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.
8. By signing this document, the vendor certifies that this bid is made without prior understanding, agreement or connection with any other corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. The vendor certifies that collusive bidding is a violation of Federal law and can result in fines, prison sentences and civil damage awards.
9. Prohibition against conflicts of interest, gratuities and kickbacks; Any employee, any official of the Cooperative, elective or appointive, who shall take, receive or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money or other things of value as an inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm, or corporation, offering, bidding for, or in open market seeking to make sure sales to the school system shall be deemed guilty of a felony and upon conviction such person or persons shall be subject to punishment of a fine in accord with State and/or Federal laws.

**Buy American**

Vendor must be in compliance with the Buy American provision. Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a new provision, Section 12(n) of the NSLA (42 USC 1760(n)), requiring SFAs to purchase domestically grown and processed foods, to the maximum extent practicable. Purchases made in accordance with the Buy American provision must still follow the applicable procurement rules calling for free and open competition.

**Product Buy Change**

The State Line CNP Cooperative reserves the right to change the product mix as new products become available or student preferences change. The Cooperative will not change any more than ten percent of the products during each 12-month period beginning July 1st of each year.

**Quantity**

The State Line CNP Cooperative does not guarantee orders in the amounts listed nor shall they be required to limit its orders to specific figures. This is an indefinite quantity bid based on estimated usage and average daily participation. The amounts shown are estimates only. This does not guarantee any specific usage but the following represents the current meal participation.

**Pack Size**

The vendor will maintain the pack size during the term of the contract, unless circumstances arise that are out of the vendor’s control. Notice in writing will be given to the State Line CNP Cooperative prior to changes that may occur. In the event that the vendor change in pack size impacts the costs of the product, the price shall be adjusted accordingly.

**Equivalent Product Approval Request Process**

Bidders wishing to offer products equivalent to those identified by Brand and Manufacturer Number must receive approval from the State Line CNP Cooperative in order for the equivalent product to be considered. Products not identified by Brand and Manufacturer Number will be left up to the distributor as to what product they bid as long as it meets the specifications requested. Bidders will have up to five (5) business days prior to the bid opening to submit for approval. Approval will require product testing and evaluation with the school system. Bidders are responsible for providing product for the product testing and evaluation. If approval is given for a specific product, all bidders will be notified.

**Private Labels on Commercial Products**

No private labels will be accepted on commercial products.

**Delivery Requirements**

The vendor shall make deliveries to the member districts of the State Line CNP Cooperative Twice per month but limited to two delivery days per week. A delivery schedule will be agreed upon with the member districts and the vendor before the contract date starts. The member districts are listed within this document. Please reference this information to determine delivery locations. The delivery times will be conducted between the hours of 6:00 am and 2:00 pm. Deliveries made by the vendor without a scheduled appointment may result in delivery refusal by the district. Any cost accrued as the result of such refusal shall be born solely by the vendor and not result in any additional costs to the district. The vendor must be responsible for ensuring that delivery personnel remain with their equipment and unload the delivery. All frozen products must be delivered in a frozen state with a minimum temperature of -30 degrees F with a maximum temperature of 0 degrees F. This temperature range must be maintained during transit and delivery. A temperature above 0 degrees F is subject to further examination and may result in the rejection of the product. There shall be no signs of freezer burn and no evidence of thawing at the time of delivery. All refrigerated products will be delivered in a refrigerated state with an internal temperature not exceeding 40 degrees F. There should be no sign of freezing with refrigerated products. All HACCP regulations must be followed.

Additionally, the vendor shall:

* Ensure delivery personnel remain with their equipment and assist in unloading.
* Provide packing slips with each shipment identifying items ordered by the district item number, quantity ordered, purchase order and associated invoice numbers.
* Ensure that bottles with squared corners have a protective insert between bottles to protect bottles from damage during shipment.
* Be held responsible for any shortages in packages of delivered products by reshipping shortages at no additional cost to the district.
* Ensure deliveries are organized for easy off loading and receipting.
* Products that do not meet specifications may be rejected and replacement of the rejected products shall occur within five business days of the delivery date at no cost to the district.
* Deliver products in a clean truck.
* Maintain a 97% fill rate for products ordered.
* Ensure all packaging is wholesome, safe, and in sanitary condition.
* Allow for the district to have multiple end products delivered on the same truckload.

**Minimum Order**

Deliveries are to be made to all schools placing orders provided the average order is $1000.00, although an individual school may be below the $1000.00 order.

**Decimals**

Any mathematical calculation that involves decimals shall be treated as follows: All decimals shall be carried only two (2) places in the final extension. Unit price may be extended to four (4) decimal places.

**Delivery Delays or Shortages**

If delivery delays or shortages are foreseen the vendor shall notify the Child Nutrition Department of the member district three (3) days before the delivery.

In the event of default by the vendor of their obligations, the district reserves the right to obtain the required products elsewhere. The vendor would be responsible for the district’s documented differences in price for the replacement products.

**Fuel Surcharge**

In the event that fuel prices increase significantly over the life of the contract, then a fuel surcharge may be negotiated.

**Food Security Preventive Measures**

Food security preventive measures shall be employed by the selected contractor to minimize the risk that food under their control be subject to tampering or criminal or terrorist actions.

**Delivery Invoices**

The delivery invoice must be left at each delivery location. A copy of the delivery invoice must be sent to the central office for payment.

**Cancellation**

The State Line CNP Cooperative reserves the right to cancel this Request for Bid at any time if cancellation is deemed to be in the Cooperative’s best interest. In no event shall the Cooperative have any liability for the cancellation. The proposer assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

**Disputes**

In case of any doubt or differences of opinions as to the items or services to be furnished hereunder, or the interpretation of the provisions of the Request for Bids, the decision of the State Line CNP Cooperative shall be final and binding upon all parties.

**Clarification of Responses**

The State Line CNP Cooperative reserves the right to request clarification of any item in a firm’s proposal or the request additional information necessary to properly evaluate a particular bid. All requests for clarification and responses shall be in writing.

**Review and Award**

After the public opening of the Request for Bids, member districts shall require a maximum of ten (10) working days for review. The member districts shall award the Request for Bid at the next Board Meeting after opening.

**Termination of Contract**

Failure on the part of the State Line CNP Cooperative member districts or the vendor to meet requirements as stipulated of this contract may result in contract termination.

1. Each party shall follow the procedure outlines below if a contract is to be terminated. All transactions shall be sent by Registered or Certified mail.

Step 1: Verbal communication in regards to violation.

Step 2: Issue warning letter and outline violations and length of time to correct the problem.

Step 3: Issue letter of Intent to Cancel Contract if problem is not resolved by given date.

Step 4: Issue letter to cancel contract.

1. In the event that the physical facilities of the vendor are destroyed, the vendor will not be held liable by the Cooperative. The vendor may not be held liable for the terms of the contract should normal fulfillment of the contract be disrupted by an organized labor strike. The credibility of any such labor disruption claim should be verified by the Cooperative before allowing the termination of the contract.

**Federal Requirements**

A. The State Line CNP Cooperative member districts participate in the National School Lunch Program and School Breakfast Program and is required by law to use school foodservice funds, to the maximum extent practical, to buy domestic commodities or products for meals served under these programs. 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. The term “substantially” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Therefore, when school foodservice funds are used to acquire foods, Vendors shall ensure that the items are in compliance with this requirement. See specific USDA Federal Requirements in Attachment A, Sample Requirements Contract – FOOD.

B. Vendor is compliant with regulations implementing Executive Order 12549, Debarment and Suspension, 7DFR Part 3017, Section 3017.510, Participants’ 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.

1. Bidder/Contractor certifies by submission of its Bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Bidder/Contractor certifies that it shall provide immediate written notice to the District if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. Bidder/Contractor certifies that it has hereby been informed that Federal and State penalties exist for Bidders and Districts that knowingly enter into contracts with suspended/dared persons.

C. Bidder/Contractor certifies that by entering into this transaction it is subject to section 1352, Title 31, U.S. Coded, and this certification is a material representation of the fact upon which reliance was placed when this transaction was made and 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 signatory submitting this bid certifies to the best of their knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the signatory, 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.
3. The signatory 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 receipts shall certify and disclose accordingly.

**Vendor Certification**

Date Bid Issued: April 1, 2024

Below is to be completed by vendor:

Date Submitted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Firm Submitting Bid: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mailing Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I certify by my signature below that the costs quoted in this bid are correct and that I have the authority to obligate the company to perform under the conditions outlined in the contract.

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do solemnly affirm that the bid for Food and Supplies herein does comply with and meet in every aspect, the product identifications outlines in this bid.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print or Type Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Notary Seal**

**\*Must be Signed in Ink\***

**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, Participants’ 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 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.

 State Line CNP Cooperative

 Organization Name PR/Award Number or Project Name

 Name(s) and Title(s) of Authorized Representative(s)

 Signature(s) Date

Form AD-10-48 (1/92)

**E-Verify**

Alabama laws (see Title 31, Chapter 13 of the Code of Alabama 1975) require that, as a condition for the award of a contract by a school board to a business entity or employer with one or more employees working in Alabama, the business entity or employer must provide an affidavit and 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. An Affidavit of Alabama Immigration Law Compliance and the signature page from the contractor’s E-Verify Memorandum of Understanding must be included with the bid. If you do not believe these requirements are applicable to your entity, 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](http://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 will provide a participating business entity or employer with the required documentation of enrollment in the E-Verify program. An Employer Identification (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.

Please return E-Verify documentation with your proposal

**REQUIRED FEDERAL PROVISIONS FOR PROCUREMENT IN CNP PROGRAMS**

(These provisions must be met in bid document, if applicable)

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-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

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.

1. 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.
2. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. 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.”
4. 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 a 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 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.
5. 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 included 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.
6. 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 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.
7. 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 sub grants 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).
8. 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 government wide 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.
9. 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.  Each tier certifies to the tier above that it will not and has not used 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.
10. 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 items 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)(i) 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-

1. A school food authority located in the contiguous United States; and
2. 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:

 (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 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; and the pasteurization of milk.

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2. **fax:
(833) 256-1665 or (202) 690-7442; or**
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