

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

Note: FAXED OR E-MAILED PROPOSALS WILL NOT BE ACCEPTED

Inquiries and response submissions related to this RFP are to be addressed to:

Cindy Gillespie
Office of Operations
Alabama State Department of Education
50 N. Ripley Street, Room P305
Gordon Persons Building
Montgomery, AL 36104
Email: cgillespie@alsde.edu

Issued January 20, 2021 with the following Deadline:

You must request a USB flash drive with the bid sheets by contacting SWP@alsde.edu in order to bid

Proposals must be received no later than 4:00 p.m. CST on March 31, 2021

- **Vendors are required to clearly mark RFP ALSDE 2021-03 in the lower left corner of the envelope.**
- **Response packages that are not marked will be rejected.**

The proposal package must contain and comply with the following:

1. Response packages must contain and comply with the required documents found on the checklist for required materials that must be submitted with your acceptable bid found on page 3 of this RFP.
2. The proposal must be signed by an official authorized to legally bind the vendor to the information provided.
3. It is the bidding vendors responsibility to review and comply with all information within this RFP.

Proposal Opening

9:00 a.m. CST on April 1, 2021
Gordon Persons Building
50 North Ripley Street
Montgomery, Al. 36104
(No Visitors Due to COVID-19)

USDA NONDISCRIMINATION STATEMENT

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, audiotope, 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: [How to File a Complaint](#), 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

IMPORTANT POINTS TO REMEMBER:

1) Successful distributors will be notified by an intent to award letter after all bids are fully evaluated.

2) RFP Table of Contents:

- Section 1 General Conditions
- Section 2 Special Conditions - Distributor Bid and Distribution (Groups A and B)
- Section 3 Special Conditions - USDA Foods
- Section 4 Region Grand Total Bid Sheets
- Section 5 Distributor Information Form
- Section 6 State of Alabama Regions Map
- Section 7 List of Participating School Food Authorities (SFA) (*see USB flash drive*)
- Section 8 Group A Bid List (*see USB flash drive*)
- Section 9 Group B Bid Sheets (*see USB flash drive*)
- Section 10 Group C Bid Sheets (*see USB flash drive*)
- Attachment A Appendix A
- Attachment B Child Nutrition Programs Required Federal Provisions

3) The following checklist is for required materials that must be submitted with your acceptable bid.

___ You must submit four (4) complete bid packages that include all required documents.

- Submit one (1) original copy
- Submit three (3) exact copies
- All hard copies require original signatures
- Failure to comply will result in a rejected bid.

___ You must complete, sign, and return the "Region Grand Total Bid Sheet" for each region you are bidding. (Original + 3)

___ You must complete and return printed copies of the entire bid sheet from the USB flash drive for each region you are bidding. (Original + 3)

___ You must completely fill out and return the USB flash drive. Return only the one (1) USB flash drive you received with this RFP. You may request a USB flash drive by contacting SWP@alsde.edu.

___ You must return Attachment A – Appendix A (Original + 3)

___ You must return the Performance Bond Letter of Commitment from your bonding company. (Orig + 3)

___ You must return the Insurance Letter of Commitment from your insurance company. (Original + 3)

4) The following materials must be submitted within 10 days of receipt of the intent to award letter. Do not submit the below documents with your bid!

1. Manufacturer's Nutritional Specification Sheets, including Child Nutrition label, for items listed in Group B. This is required for every Group B item. These may be sent electronically as PDF's via email and/or additional USB flash drives.
2. E-Verify Certificate of Compliance
3. E-Verify MOU
4. W9
5. Proof of STAARS Vendor Registration
6. Proof of Current Liability Insurance
7. Proof of Product Casualty Insurance on USDA Foods
8. Proof of Current Alabama Business License
9. Performance Bond
10. Power of Attorney
11. Financial Statement
12. Crediting Policy
13. Delinquent Payment Policy
14. Special Products Stocking and Recovery List

1. GENERAL CONDITIONS

1.1 General Conditions

The bid shall be offered, and the contract shall be entered into in accordance with the general conditions. However, should a conflict exist between the general conditions and the special conditions, the special condition shall take precedence. Further, it is to be understood that the Alabama State Department of Education (ALSDE) reserves the right to waive any general or special condition if it is in the best interest to the State of Alabama, so long as the waiver is not given so as to deliberately favor any single distributor and the waiver would have the same effect on all distributors.

1.2 Distributor Responsibility:

It shall be incumbent upon each distributor to understand the provisions of this bid document and, when necessary, obtain clarifications prior to the time and date set for the bid opening. Failure to obtain a clarification will be no excuse or justification for non-compliance with the provisions set forth herein.

1.3 Clarification:

If clarification is required, the request shall be made to cgillespie@alsde.edu. Responses from ALSDE regarding any inquiries to this RFP will be sent directly to the distributor inquiring. ALSDE will provide a written addendum if it is determined that all prospective distributors should have benefit of any clarification provided. An addendum may serve to delay that opening for a time sufficient for all distributors to respond to the addendum. ALSDE will respond to requests for clarification until 4:00 p.m. CST on March 30, 2020.

Distributors shall acknowledge receipt of any addendum to the solicitation by returning the addendum with the bid, by identifying the addendum number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment must be received by the ALSDE.

Please note: A non-compliant bid offered as a result of a verbal response to a telephone request will be rejected. Any protest based on such a rejection will not be heard!

1.4 Product Identification:

This is a qualified product specification. Distributors must bid on the specific products requested. Deviations from this requirement will not be considered. Any bid submission of "alternates" will be rejected. Any bid submission of non-preapproved items where required may be rejected.

1.5 Liability:

Subsequent to the awarding of a contract, the distributor will be liable for any expense, including legal fees, incurred by ALSDE or any school district as a result of violations of the contract terms by any distributor.

1.6 Error in Bid:

No altered or amended bid will be accepted after the specified time and date set for the bid submission.

1.7 Award:

- a. Contracts will be established between the most qualified, responsive, and responsible distributor with the lowest price and ALSDE, except as may otherwise be specified in the RFP. Awards will be based on the total price for each region on the "Region Grand Total Bid Sheet" for Groups A, B, and C. **The figure quoted on the Region Grand Total Bid Sheet will be the only figure that will be read at the bid opening.** No award will be made either stated or implied at the bid opening.
- b. ALSDE reserves the right to ascertain, subsequent to the bid opening, whether or not a distributor meets the requirements to be considered a responsible distributor. If it is determined that the distributor is not a responsible distributor and the determination is substantiated and justified to the satisfaction and approval of ALSDE, bids submitted by that distributor will be rejected. ALSDE reserves the right to award to a distributor other than the low bidder if there is sufficient justification that doing so is in the best interest of the state.

- c. There will be a thorough review process after the bid opening. A bid evaluation team will check all aspects of each proposal. If the apparent low bidders' proposal is found to be error free and does, in fact, represent the lowest responsible offering, that bid will then be recommended for approval and the successful distributor will be notified by award letter. If, however, an error is discovered and the error is a mistake in the extension, the correct extension will be applied. Should a corrected extension cause the bid price to be escalated to such an extent that the bid was no longer "low," then the same evaluation would be applied to the next low bidding distributors offering until a true low bid is awarded.
- d. Contracts will be established between the lowest qualified bidding distributor that meets expectations and ALSDE except as may otherwise be specified in the Request for Proposal (RFP). Awards will be based on the bottom-line prices submitted on the bid form for each region. The figure quoted on the Bid Form for each region will be the only figure that will be read at the bid opening.
- e. Bids will only be awarded to foodservice distributors who meet requirements with ALSDE officials.
- f. Although it is unlikely that ALSDE will award a contract for the six regions to one distributor, ALSDE officials reserve the right to award all regions to one or more distributors. In addition, ALSDE reserves the right to award regions based on what is most advantageous to the School Food Authority (SFA) and in the best interest of the ALSDE.

1.8 Taxes:

Purchases made under provisions of any contract established as a result of this invitation are exempt from Federal, state and local taxes and distributors should quote prices which do not include such taxes.

1.9 Gifts, Rebates, Gratuities:

Acceptance of gifts from distributors and the offering of gifts by distributors is prohibited. No employee of ALSDE or any school district within Alabama or any other entity purchasing or receiving food under provision of the RFP shall accept or receive, either directly or indirectly, from any person, firm or corporation to whom any contract for the purchase of commodities, equipment or services has been issued, any gift, rebate or gratuity. Violations of this provision and conflicts of interest are punishable under the laws of the State of Alabama and Federal Regulations.

1.10 Application:

It is understood and agreed to by the distributor that this contract is entered into solely for the convenience and for any economic advantage afforded to the SFA's of the State of Alabama participating in our programs. These SFA's are made up of public schools, private schools, and child and adult care facilities. All purchases made by or for the SFA's of products included under provisions of this contract shall be purchased from the distributor receiving the award and shall be the product as specified by the contract. Distributors cannot substitute items unless approved by ALSDE.

1.11 Disclaimer:

Employees of the SDE and participating entities have acted exclusively as agents of the state for the award, consummation and administration of this contract and are not liable for any performance or non-performance on the part of any school district, or other qualified participant or any third-party participant.

1.12 Bid Openings:

Due to COVID-19, until further notice bid openings will not be conducted open to the public. No public access is currently permitted into our building due to COVID-19. The opening will serve only to open and read the Region Grand Total Bid Sheet prices of each region. No discussion will be entered into with any distributor as to the quality or provisions of the specifications and no award will be made either stated or implied at the bid opening. Any distributor making provisions to service a contract on the basis of information obtained at the bid opening does so at their own risk. ALSDE has no obligation to any contract except as would be authenticated by a written award letter from ALSDE.

1.13 Substitute Bidder/Distributor:

The term substitute bidder for purposes of this document shall mean the distributor selected to take over the administration of a contract cancelled by the original awarded distributor. The selection of a substitute distributor may result in awarding the contract to the next low responsible bidder based on the bids received when the original award was made, or the selection may be made on the basis of a new competitive bid process. If the latter is the case, a bid from the distributor causing cancellation will not be considered.

1.14 Assignment:

The distributor shall not assign, sell or subcontract in whole or in part, its rights or obligations under this agreement without prior written ALSDE consent. Any attempted assignment or sale of the contract without said consent shall be void and of no effect.

1.15 Bid Submission:

You must submit an original and three (3) exact copies (total of four) of all required documents in your bid package. Your bid must be signed by an authorized officer of the company.

1.16 Standard Contract Conditions:

- a. This contract shall be governed in all aspects as to jurisdiction, validity, construction, capacity, performance, and otherwise by the laws of the State of Alabama and the United States. Distributor shall comply with applicable Federal, state and local laws and regulations. The state of Alabama has legal jurisdiction.
- b. State Sales and Use Tax Certificate of Exemption form will be issued upon request.
- c. The distributor agrees to retain all records and other documents relative to this agreement for three (3) years after the end of each contract year. The school, school food authority, its 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 stated matter is closed.
- d. Any product offered which is not labeled in such a manner as to permit interstate transport will be rejected. Packers and/or producers located within the State of Alabama must understand that Alabama Department of Agriculture inspection labels will not qualify under provisions of this RFP.
- e. By signing this document, the distributor certifies that this bid is made without prior understanding, agreement or connection with any 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 distributor certifies that collusive bidding is a violation of Federal law and can result in fines, prison sentences and civil damage awards.
- f. Distributors must comply with the Buy American provision (7 CFR part 210.21). The term 'domestic commodity or product' means an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. The term "substantially" is defined by USDA as meaning that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. The Federal Nutrition Service encourages specifications using Federal funds to require 100% domestically grown and processed products. The exceptions to the Buy American requirements that ALSDE may consider are:
 - 1) The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality.
 - 2) Competitive research and bids reveal the costs of a U.S. product are significantly higher than the non-domestic product. ALSDE will consider approving non-domestic items resulting in savings of a minimum of 10%.
- g. ALSDE further requires that all non-food items being bid comply with the Buy American provision as domestic products. Due to the nature and high volume of school orders, it is necessary to ensure a constant supply of items from readily available sources.

1.17 Federal Contract Conditions:

All funds being administered through ALSDE under the Child Nutrition Program are Federal and are governed by Federal Regulations. All distributors must comply with and report violations of the following Federal contract requirements as applicable. Please see Attachment B Child Nutrition Programs Required Federal Provisions to ensure all requirements are met by the distributor.

1.18 E-Verify Requirement:

Distributors must be E-Verified to enter into a contract with ALSDE. E-Verify is a free service that can be completed at <http://www.uscis.gov>. It is the distributor's duty to make sure that the following materials are still on file with ALSDE if submitted previously. The following materials are required:

- a. A completed E-Verify Certificate of Compliance will be required within 10 days of award.
- b. A correctly completed and full-length copy of the distributors E-Verify Memorandum of Understanding (MOU) will be required within 10 days of award.

1.19 STAARS Vendor Registration:

Each distributor must be a registered vendor with the State of Alabama to enter into contract with ALSDE. Each awarded Distributor is to register themselves within 10 days of award through the Vendor Self Service Portal in the STAARS Procurement website. This online service is at <http://vendors.alabama.gov/>.

1.20 W9:

A current W9 that matches and verifies STAARS vendor registration will be required within 10 days of award.

1.21 Beason Hammon Certificate of Compliance:

You must be in compliance with and return Attachment A, the Certificate of Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act.

2 SPECIAL CONDITIONS: DISTRIBUTOR BID AND DISTRIBUTION (Groups A and B)

2.1 Scope & Purpose:

The purpose of this Request for Proposal (RFP) is to establish a contract or contracts between the State of Alabama, ALSDE, and Distributors for food and supplies and the distribution of those products. This contract will establish a maximum price that participating SFA's will pay for any item covered by the contract during the term of that contract. These SFA's are made up of public schools, private schools, and child and adult care facilities. Participating SFA's will be responsible for managing their own accounts with the distributor(s). These SFA's may be added and removed from this contract at any time as required based on their participation with our programs.

The successful distributor(s) will be responsible for purchasing, warehousing and distributing the food and supplies. Distributors are obligated to furnish the items covered by the contract at prices that do not exceed the contract price. No additional charges, such as slotting fees, unloading charges, or sales commissions may be charged to the manufacturer.

2.2 Contract Duration:

The duration of these contracts shall be from June 1, 2021, through May 31, 2022. The effective date (date of issue) is expected to be June 1, 2021. ALSDE reserves the right to extend this contract for up to four (4) additional twelve (12) month periods. Any contract extension is contingent upon written approval of both the distributor and ALSDE. ALSDE reserves the right to rebid at the end of each contract year.

In the event of an emergency identified by ALSDE, the contract may be extended as needed with written notification and mutual agreement between both parties.

2.3 Product Groups:

Group A items are those food items priced through a contract between ALSDE and Manufacturer(s) and which are to be purchased, warehoused and delivered by the successful distributor to the SFA's. The distributor will be reimbursed on the basis of price established by the ALSDE/Manufacturer contract plus a fixed fee for delivery. These items should be invoiced at the price established by ALSDE. These items are listed in Section 8 of the bid (Group A Bid Sheets).

Group B items are those food items purchased by distributors for delivery to the SFA's. These items shall meet the requirements set forth in Section 9 of the bid (Group B Bid Sheets). The distributor will be reimbursed by the SFA's for Group "B" items on the basis of the price plus a fixed fee for delivery established by the contract between ALSDE and the distributor.

Group C USDA Foods. These may be dry groceries, refrigerated or frozen foods.

ALSDE reserves the right, during the term of the contract, to delete items from Group "B" and either remove the item from the bid or add them to Group "A" and bid the item directly with manufacturers. If the latter method is chosen, ALSDE will provide pricing to the distributor(s) holding the contract at that specific time. The distributor would then be required to deliver the items to the SFA for the awarded price plus the fixed fee as established in the contract.

2.4 Volume:

The quantities indicated on the bid form are based on previous year's purchases and are accurate to the best of our ability to gather data. However, distributors must understand that the fact that a quantity is stated on an item does not constitute a guarantee to purchase an amount in excess of actual requirements. Usage may increase or decrease on an item. ALSDE and participating SFA's are not liable for excess inventory. The distributor should have adequate staff in place to buy the necessary amount of bid items based on school orders to fill those needs.

2.5 Restriction:

No purchase shall be made under the provisions of the contract of items not specifically listed and authorized by the contract except as set forth in the specifications in this RFP or by special permission from ALSDE.

2.6 Manufacture Direct Pricing:

All items designated herein as “Direct to Manufacturer” or Group “A” are priced through a contract established between ALSDE and a manufacturer. The successful distributor will purchase these items from the designated manufacturer and the SFA’s will pay the distributor based on the price set by the ALSDE/Manufacturer contract plus the distributor’s fixed fee. No additional fees or costs may be added after the award to these items by the manufacturer or the distributors except as identified as a distributor freight item in Section 2.21 – Fuel Surcharge. Shipments of Group A items must be received and unloaded at the distributor’s warehouse. No slotting fees, unloading fees, or lumber fees may be added to the manufacturer’s cost. The distributor shall purchase the exact item from the designated manufacturer. To deviate in either case shall be cause for cancellation of the distributor contract.

2.7 Bid Pricing:

Each item will be priced separately on the Group A, B and C Bid Sheets. Payment term discounts will not be considered. This is a bottom-line bid. Distributors must bid on every item on the Group A, B and C Bid Sheets. Distributors must bid on Groups A, B, and C. Bids for each region will be awarded based on the most qualified, responsive, and responsible bidding distributor with the overall lowest price. Enter the sum total of the Group A, B and C Bid Sheets on the Region Grand Total Bid Sheet for each region for which bids are submitted. Failure to bid on all items in the bottom-line bid may result in a rejected bid.

2.8 Rebates, Promotional Allowances and Volume Incentives:

The distributor is required to identify any and all rebates, promotional allowances, and incentives to ALSDE. Federal law regarding the Federal Funds used in the awarding of this bid requires all rebates, promotional allowances and incentives to be returned to ALSDE for distribution back to the SFA’s that purchased those qualifying rebate items.

Each distributor must list all rebates, promotional allowances, and volume incentives by product line and designate the amount of the promotional allowance or volume incentive on the Product Identification Bid Sheet(s) for each item. ALSDE will file promotional allowance requests to distributors on a monthly basis. Remittance shall be made to ALSDE. The distributor must pass through any and all rebates, promotional allowances, and incentives to ALSDE on behalf of the SFA’s in the form of Net-Off Invoice (NOI). ALSDE has the right to audit distributor invoices to ensure that rebates are being passed through to the SFA’s via NOI if no rebates are being provided after purchase. NOI requires that the distributors provide the lowest possible price to the SFA’s including all rebates, promotional allowances and volume incentives.

Distributor understands that product(s) are purchased by distributors and then sold to recipients. Monthly promotional allowance requests filed by ALSDE on behalf of recipients are based on the month the product is sold to the recipients. In the event of cancellation by the distributor of the entire contract or specific product(s) during the contract period or at the time of annual renewal, the distributor is responsible for payment of promotional allowances for product(s) delivered to recipients for 90 days after the cancellation or until all distributor’s inventory of that product(s) is depleted whichever comes first.

Promotional allowances must be quoted on the Product Identification Bid Sheet(s) and will be included in the determination of the award.

2.9 Bids Based on ALSDE Specifications:

Distributors are required to bid on items meeting the specifications. Approved products may be listed by distributor and only those products if specifically listed are eligible to be bid. Where name brands are specified, bids offered on any other than the name brands specified will not be considered unless expressly specified as “Brand Name or Equal” in the bid document. If the words “Brand Name or Equal” is provided in the specification it is to serve to show the expected quality deemed acceptable for that bid line. Successful distributors are required to provide a hard copy of the manufacturer’s specification sheet, to include all nutritional information, for foods listed in Group B within 10 days of award.

2.10 Bid Submission:

All bids must include the USB flash drive, an original and three (3) printed copies of the bid sheets for each region from the flash drive. An original and three (3) copies of any other materials listed may also be required.

Discrepancies between the paper copy and the USB flash drive will defer to the paper copy. Any USB flash drive in which the file appears to have been altered in any way other than intended may be cause for dismissal of the distributor's entire submission.

2.11 Future Modifications:

ALSDE reserves the right to add, delete, and change items and/or distributors that are within the original scope of the contract during the term of the contract. During the term(s) of a contract awarded under this solicitation, additional purchases not included in this solicitation list and resulting awarded contract may become necessary and benefit the program. Both parties agree that the aggregate value of added purchases during each year of the contract, if renewable, shall not exceed 10% of the estimated total value of the contract. The total value of the contract must be agreed upon and the dollar value listed in every contract and contract renewal. Such additions may be included in the awarded contract list during the contract renewal through a contract amendment, and the total contract value adjusted accordingly. For each contract renewal, the total actual value of the contract in the preceding year and the additions made during the contract term, will be the basis for determining the maximum dollar amount (not to exceed 10%) of additional goods that will be allowed during the next contract renewal year. The aggregate value of added purchases during each year of the contract, if renewable, shall not exceed 10% of the estimated total value of the contract.

2.12 Award:

- a. Bids will only be awarded to foodservice distributors who meet the criteria listed below. Bids submitted by other non-foodservice distributors, brokers, manufacturers, and other organizations may be rejected.
- b. ALSDE officials reserve the right to award regions based on what is most advantageous to ALSDE and the SFA's.
- c. ALSDE reserves the right to ascertain, subsequent to the bid opening, whether or not a distributor meets the requirements to be considered a responsible bidding distributor. If it is determined that the distributor is not a responsible distributor and the determination is substantiated and justified to the satisfaction and approval of ALSDE, bids submitted by that distributor will be rejected. The criteria used to determine responsibility shall include, but is not limited to, the following:

1. Delivery Ability:

Distributor must demonstrate or have demonstrated to ALSDE the ability to promptly and efficiently deliver all the items on the bid list. All distributors must have the proven capacity to deliver to all SFA's in a given region at a minimum of once per week.

2. Capacity:

Distributor must demonstrate to ALSDE that they have the physical as well as financial capacity to procure and store the merchandise covered by the contract in the volume necessary to efficiently administer the provisions of the contract. Distributor must realize that due to the tremendous volumes anticipated, substantial capital is required based on each region's total usage requirements. To give some idea of the capital required, the best dollar estimate based on past usage figures is provided below. The SFA's participating the in statewide procurement and the USDA Foods program are listed in Section 7 of this RFP.

Region 1

Total anticipated value for this bid period shall be approximately \$23,500,000

Region 2

Total anticipated value for this bid period shall be approximately \$21,000,000

Region 3

Total anticipated value for this bid period shall be approximately \$28,500,000

Region 4

Total anticipated value for this bid period shall be approximately \$27,000,000

Region 5

Total anticipated value for this bid period shall be approximately \$30,000,000

Region 6

Total anticipated value for this bid period shall be approximately \$25,000,000

Proof of current liability insurance is required and must be submitted with the bid. The Distributor must increase their product liability insurance to an amount satisfactory to the ALSDE. Proof of the increase in product liability insurance is required within 10 days after the notification of the intent to award. Failure to provide proof of insurance within the stated 10 days may be cause for the rejection of the bid.

Distributors must provide a copy of the company's most recent financial statement. The ending date of the period covered by the financial statement shall not be prior to May 1, 2020.

3. Reliability:

The initial two months of the contract will require considerably more capital than an average monthly figure. For a distributor to be declared a responsible vendor, they must have a proven record of service in the administration of a contract of this size and this type. A distributor may be considered unreliable, thus non-responsible, if for any reasons other than reasons beyond their control, they have violated any of the requirements listed herein or have caused the cancellation of a contract of this type or have failed to properly communicate with participating entities on matters essential to a contract of this type.

4. Accounting Procedures:

A distributor, to be considered for award, must clearly demonstrate to ALSDE the capability to provide accurate, reliable and timely invoices, statements, and credits. Further, they must demonstrate the ability and capability to provide at a minimum any and all data necessary to accomplish an accurate and time efficient audit of cost on Group "B" items being purchased under the cost process.

5. Facilities and Equipment:

Distributor must have the warehouse facilities required to safely and securely store the products required by these specifications. Refrigeration facilities used for storing chilled and frozen products must meet recommendations of the Refrigeration Research Council. Delivery temperatures of frozen and chilled food shall be in compliance with AFDOS code as recommended by the Federal Food and Drug Administration. The ALSDE reserves the right to pre-qualify any or all distributors and to reject any distributor not meeting the requirements in the areas of warehouse facilities and equipment associated with and necessary for the safe and sanitary storage and delivery of the food items requested in these specifications. The facilities and operating practices must, at all times, be in compliance with the United States Food, Drug, and Cosmetic Act as well as any State and local Statutes, Regulation or Ordinance.

6. Delivery Equipment:

Distributors must show evidence of ownership or the ability to lease, rent or otherwise obtain vehicular equipment necessary to affect an efficient day-to-day delivery schedule to participating entities within the region(s) the distributor has bid on. ALSDE does not presume to dictate the type of trucks or tractor trucks necessary to accomplish an efficient day-to-day delivery schedule. However, distributors should know that all delivery sites do not provide state-of-the-art unloading

and food handling facilities. Some sites in fact, fall far short of that standard. Some sites will not accommodate trailer rigs and in fact are not easily accessible with bob trucks having overall lengths in excess of twenty-seven (27) feet. Distributors having no experience in making deliveries to the sites in the region being bid are encouraged to visit all sites to determine if they have the capacity to perform the services.

2.13 Special Products Stocking and Recovery:

Because of the nature of this contract, distributors may be required to stock food items not normally maintained in their inventory. To remove some risk that would be inherent in a contract of this type, distributors must provide a Special Products Stocking and Recovery List (to be submitted after the award) of those food items being stocked specifically for the child nutrition statewide contract. In the event that a distributor should not be successful in securing the contract for the next contract period, ALSDE will require that the new distributor purchase the items designated as "special to the contract."

This shall not be construed to cover normal stocking items. The ALSDE will determine if the designation of "Special Products Stocking" is valid.

However, such repurchase requirement would apply only to those food items that were undamaged and current dated and were not in inventory as the result of an unusual order being placed during the period subsequent to the awarding of a new contract and prior to the effective date of that new contract. The requirement of repurchase would be void if the contract is terminated by the distributor or is terminated for justifiable cause by ALSDE. Nothing would preclude a substitute distributor purchasing items from the defaulted distributor. Any such transaction would be an agreement between the two parties and not required by ALSDE. Failure to provide the listing of special stocked food items within 10 days of award will rule the distributor ineligible for the "buy back" provisions. Further, it shall be understood that repurchase of any product covered by this clause shall be at a price that does not exceed the acquisition price paid by the original distributor.

2.14 Termination:

- a. This contract shall be in effect for twelve (12) months with the option of renewal for four (4) additional 12-month periods unless cancelled for justifiable cause by ALSDE or the distributor. Notwithstanding any other provision of this agreement, both parties shall be deemed to have retained any and all administrative, contractual and legal rights and remedies to which they may be entitled upon termination. The Contract may be canceled by either party for cause or convenience with sixty (60) days written notice. ALSDE is the responsible authority for the settlement and satisfaction of all contractual and administrative issues.
- b. ALSDE will provide written notice and communication of breach of contract issues prior to contract termination. The distributor will then be given 30 days to respond and remedy the issue(s) prior to termination.
- c. In the event of termination by either party, the Distributor will be required to honor the contract, all orders and rebates/promotional allowances.
- d. The Alabama Department of Education, by written notice, may terminate this contract, in whole or in part, if funds supporting this contract are reduced or withdrawn.
- e. The contract would be offered to an alternate bidding distributor if it is canceled within the first year after award. If the alternate distributor will not accept and a rebid is required, the prime distributor who was cancelled by ALSDE may not be allowed to bid.
- f. The contract may be canceled by ALSDE due to non-compliance with warehouse management on the part of the distributor. If this contract is terminated for non-compliance by ALSDE and a rebid is required, the prime distributor who was terminated by ALSDE may not be permitted to bid. Further, that distributor, by having the contract terminated for non-compliance, shall have forfeited the right to bid on any contract originating from this office for the remaining contract period of the original contract plus the next contract period or for not less than twenty-four (24) months.
- g. Recurring or excessive pricing errors shall be reason for contract termination.
- h. In the event of a termination initiated by the contract distributor, the distributor will be required to honor all orders or requisitions issued by organizations prior to the effective date of the termination and received by the

distributor within a seven (7) day period subsequent to the effective date of the termination. Any orders covered by this clause will be delivered at or below the price set by the contract. Termination by ALSDE does not relieve the distributor of any liability arising out of a default or non-performance.

- i. Termination by the distributor prior to the expiration date will be considered an express admission of non-performance and failure to perform and fulfill the terms and conditions of the contract. Such admission shall constitute automatic grounds for the issuance of payment of the Performance Bond to ALSDE.
- j. In the event of a termination initiated by the contract distributor, the procedures as outlined in 2.11 will not apply.
- k. Any of the following such occurrence(s) shall be referred to as a Force Majeure: war, riot, acts of public enemies, or other disorders, strike or labor of other work stoppage, fire, flood, natural disasters, epidemics, pandemics, Acts of God, or any other act not within the control of the party whose performance is interfered with or material shortage is a result of, and which, by reasonable diligence, such party is unable to prevent.

In the event of a Force Majeure the distributor will take all reasonable steps to continue to provide service upon the terms and conditions satisfactory to the distributor and ALSDE. Neither the distributor nor ALSDE shall be responsible for any losses resulting from failure to perform any terms or provisions of the contract, except for payments of monies owed, if the party's failure to perform is attributable to circumstances beyond the reasonable control.

2.15 Micro Purchase Catalog:

This section will cover the Micro Purchases of food or items not specifically listed in Group "A" and Group "B" of this document. The Code of Federal Regulations defines the Micro-purchase as an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold of \$10,000 (48 CFR part 2.101). Micro Purchases are those products that SFA's occasionally purchase as supplemental bid options, in lower volumes, or for special functions. ALSDE reserves the right to add and remove awarded bid lines that either exceed or fail to meet annual, statewide sales of at least \$10,000. Alabama SFA's receive training on the correct and legal use of Micro Purchases and will be accountable for the correct use of this method of procurement.

The successful distributor will be required to make a Micro Purchase Catalog of in-stock items available to ALSDE no less than once per month in order for the SFA's to have additional options to supplement the awarded bid items. The distributor will also be required to provide a Usage Report detailing the Micro Purchase Catalog sales to ALSDE monthly and to SFA's as needed. Nutritional data must be made available directly to the SFA's as needed for these additional items purchased from the Micro Purchase catalog.

2.16 Service Level:

The distributor shall fill all original orders at a monthly average of 98% or above per SFA on the scheduled delivery day. The remainder shall be delivered within 24 hours of the scheduled delivery day or at the discretion of the receiving entity. It shall not be mandatory that "next day" deliveries be made if the receiving entity agrees to an alternate time. The alternate time may even be the next regularly scheduled delivery date. All arrangements for re-delivery are to be made between the distributor and the receiving entity. This shall not include items brought in for a specific SFA on a special-order basis.

2.17 Failure to Deliver:

The distributor is expected to deliver all items as ordered on the original order. While outs are a normal part of business, excessive outs or continued outs of any product are not acceptable. Excessive outs are defined as:

- (1) Failure to deliver the approved product for more than two consecutive delivery periods.
- (2) Failure to deliver the approved product more than one time in a month or more than once in a billing cycle.
- (3) A continued fill rate of less than 98% per SFA. If the awarded distributor cannot deliver the approved items at the appropriate time the SFA may obtain the necessary item from any other available source. Any excess cost over the approved bid amount may be charged back to the awarded distributor. The excess cost shall be deducted from the next billing cycle. A copy of the invoice from the alternate source must be provided by the SFA with the payment identifying the amount of the deduction. Distributors experiencing difficulty in obtaining items, especially those in Group A, must contact the ALSDE immediately. Distributors should make every effort to fill school orders in the order they were placed.

2.18 Product Cancellation:

The quality of Group B products is expected to be acceptable to students. However, in the event that written notification of an unsatisfactory product(s) is received from 5% of the Child Nutrition Program directors of the systems participating in the statewide procurement program, the distributor will be notified the product(s) in question is proving to be unsatisfactory. Unsatisfactory includes, but is not limited to, the following:

- (1) Portion/serving size is consistently less than the size required for that item as listed in the specifications.
- (2) Product description and/or packaging is different from that which was preapproved and/or affects the requirements of the SFA staff in cooking/preparing the product for serving.
- (3) Failure to provide an adequate supply of product.
- (4) Taste and/or texture of the product is unacceptable to the students.
- (5) Sales decrease five percent (5%) or more on the days the product is served due to any of the above reasons.

ALSDE will notify the awarded distributor in writing as to the nature and extent of the problem. The distributor will be advised that upon written notification that a product(s) is unsatisfactory from thirty percent (30%) of the Child Nutrition Program directors of the systems participating in a region, the product(s) may be cancelled, and no additional orders will be placed for the unsatisfactory product(s). Inventories of the cancelled product(s) will be the responsibility of the distributor and removal must be coordinated with the participating SFA's within thirty days. The distributor and the ALSDE will work together to find a different name brand for the product in question that is acceptable to students. The quoted bid price shall apply to any substituted name brand product

2.17 Fixed Fees for Added Products:

The fee associated with adding a new item will be calculated using the following method. The distributor's fixed fee per case from the original bid will be totaled for the applicable group (Group A or B) and the distributor's bid case price from the original bid for all items in the group will be totaled. The total fixed price fees will then be divided by the total of all the bid case prices for this group to derive a percentage. The percentage will then be multiplied by the price of the new item to determine the fee associated with the new item. Example: The new item will be added to Group B. If the derived fee percentage for that group is 6%, the 6% will be multiplied by the price of the new item. If the price of the new item is \$32.50, the calculation will be $.06 \times \$32.50 = \1.95 . The fixed fee to be charged by the distributor for the new item will be \$1.95. The derived percentage in the above formula will be utilized to determine fixed fees for new products.

The price for any new item which is added will be made through the competitive bid process and shall not involve any item(s) covered by the original contract.

2.18 Other Agreements:

Upon the effective date of the contract, all other agreements or portions of other agreements held by participating entities which pertain to items covered by the contract shall be void except as noted in 2.11.

2.19 Firm Bid Price:

ALSDE is requesting firm pricing for the term of the contract. It is understood that, with some categories of food, firm pricing for the entire bid period may not be realistic. Therefore, distributors will be permitted to apply for price changes not more than twice during the term of the contract. The first request will not be considered within the one hundred eighty (180) day period immediately following the effective date of the contract (June 1, 2021). A second request for a price change shall not be considered until after an additional 180-day time frame. Any request for a price increase must be substantiated by product cost figures applicable to the pricing for the original bid and to the increase being requested. These figures must be verifiable by legitimate market bulletins, Consumer Price Index, Agricultural Marketing Service reports, etc. Requests without the accompanying market bulletin will not be accepted. Copies of invoices are not acceptable documentation. Copies of both the original market report and the market report verifying the increase in the item market must be provided. No request will be entertained without this information. Any in-bound freight cost shall be included in the bid unit price and listed on invoices.

The 180-day price change requirement will be waived in approved situations where the market is affected by natural causes, "Acts of God," Force Majeure, or any other emergency beyond the parties' control.

In the event there is an uncustomary drop in the market price of any item(s) covered by the contract, ALSDE will request a reduction in pricing by the distributor based on verifiable legitimate market bulletins.

2.20 Usage Estimates:

ALSDE provides the most accurate usage estimates based on the most current data available from previous years. It will be the duty of the distributor to have enough inventory available for each specified product at the beginning of the contract period. It will also be the distributor's responsibility to maintain monthly usage figures to forecast the future inventory needed to meet the demands of the schools. Due to the nature of these fluctuating needs and demands, the usage estimates provided for the purposes of the RFP do not obligate the purchase of those estimated quantities and do not prevent schools from exceeding and purchasing more than estimated.

It is in the best interest of the schools that the distributor assumes the responsibility of ensuring that their ordering lead times do not cause product shortages. Likewise, the schools will not be obligated to purchase the distributors product due to advanced over-ordering of product that cannot meet certain usage figures due to lack of acceptability after the award.

2.21 Fuel Surcharge:

When the cost of diesel has increased by no less than \$0.30 above the baseline fuel price per gallon (baseline + \$0.30) the distributor may petition the ALSDE Child Nutrition Program for a \$2.00 surcharge per invoice. Baseline fuel price will be set as the price per gallon of diesel on the US Department of Energy website on the date the bid is opened found at <https://www.eia.gov/petroleum/gasdiesel/>. For each additional \$0.15 increase in diesel prices, the surcharge may be increased by \$1.00 surcharge per invoice with ALSDE written approval. Verbal confirmation is not acceptable and will not be allowed to be paid. This information is provided in the chart below.

No surcharge will be approved for the initial thirty days of the contract. After thirty days distributors may contact the ALSDE Child Nutrition Program and petition for a surcharge as described below. Surcharges may be adjusted once every 30 days. The approved surcharge may be placed on invoices for all orders submitted the following day. The ALSDE will notify all participating SFA's of these charges by e-mail.

Baseline Fuel Price per Gallon*	Current Price	Surcharge
\$X.XX	\$X.XX + .30	\$2.00
	\$X.XX + .45	\$3.00
	\$X.XX + .60	\$4.00
	\$X.XX + .75	\$5.00
	\$X.XX + .90	\$6.00

*Baseline will be set as the price per gallon of diesel on the DOE web site on the date the bid is opened.

The ALSDE Child Nutrition Program will monitor the price of fuel once a surcharge has been instituted. Fuel surcharges shall be reduced based on the same formula. For each \$0.15 cent decrease \$1.00 will be removed from the approved surcharge. Should the price go below baseline + \$0.30, there will be no surcharge authorized.

2.22 Freight vs. Fixed Fee:

In-bound freight costs should not be included in the fixed fee.

Items designated as Group "A" are priced through a contract between a manufacturer and ALSDE which is a delivered price. Group A products will not be subject to any inbound freight cost to the distributor and such freight cost will not be a part of the fixed fee. Fixed fee cost for Group "A" items shall be firm for the duration of this contract except as may be otherwise provided for elsewhere in this document.

Distributors must determine the in-bound freight cost per each stocking unit (i.e., case, box, bag, etc.) of the items in Group "B" of this RFP. The in-bound freight per stocking unit will then be converted to the in-bound freight cost per bid unit. Any in-bound freight cost shall be included in the base bid per bid unit price. Any changes in the in-bound freight cost shall be in the semi-annual price adjustments.

The fixed fee exclusive of the in-bound freight cost, shall be firm for the full term of the contract. In the event that an SFA picks up their purchased food from the distributor, then the fixed fee will be reduced 50% on those items.

To provide a bottom-line price for this proposal, distributors must bid the fixed fee in terms of delivery unit (case). The fixed fee shall be firm for the full term of the contract unless there is a pack size change.

2.23 Packaging:

All packaging shall conform to current standards acceptable to the trade and required by ICC Regulations.

2.24 Default:

In case of default on the part of a distributor, the ALSDE may elect to have those entities affected by the default purchase and receive needed items from other sources until a substitute distributor is designated. In such cases, the distributor in default will be held liable for any cost differential between the approved contract price and the acquisition cost of items purchased from another source. Provided, however, that items purchased by the SFAs in this manner shall be approved equal in quality and quantity to those required by the specifications. The distributor in default will not be expected to pay a price differential on a product considered by the industry to be superior in quality to the product specified in the original bid invitation. Provisions of Section 2.11 dealing with cancellation shall apply in this instance. In the case of default on the part of a manufacturer, the ALSDE will authorize distributors to acquire items affected by the default from other duly approved manufacturers.

2.25 Reports:

Utilization reports shall be issued to the ALSDE upon request. The beginning and ending dates of the utilization period shall be noted on the report. Distributors are expected to notify ALSDE in event that inventory items are not being utilized by the SFA's at levels commensurate with the estimated usage stated in the RFP.

2.26 Contract Application:

The terms and conditions set forth in this RFP shall become a contract binding on the successful distributor. Any documents submitted to satisfy a requirement of this invitation and any assurances made by the successful distributor in satisfaction of the RFP shall become a part of the agreement between the ALSDE and the successful distributor. ALSDE shall have the right to rely upon documents and assurances submitted by the distributor.

2.27 Delivery Times and Places:

Deliveries shall be required to all sites listed in Section 7 of this RFP as follows:

- a. Twelve (12) months plus applicable extensions.
- b. Frequency of delivery shall be at a minimum weekly to all ordering sites unless otherwise agreed upon by the distributor and the SFA.
- c. Deliveries shall be completed prior to 3:00 p.m. local time unless agreed upon by the distributor and the SFA.
- d. SFA's shall be required to provide a list of observed holidays and other closings to the distributor serving their region so the distributor does not make an unnecessary delivery trip. The distributor shall review this list prior to scheduling deliveries. If an SFA fails to provide this list of closings, the distributor may charge for an unnecessary delivery trip. Make up deliveries are to be worked out in advance during these weeks and shall be scheduled during the same week as the closing on a mutually agreed on date.
- e. ALSDE reserves the right to add or delete recipients to this program during the term of the agreement. The distributor also agrees to provide service at the proposed bid price for any SFA that may be approved to receive purchased foods or non-food items within an assigned geographical region.
- f. In the event of inclement weather or other "acts of God" the distributor should communicate with the SFA to determine an alternate delivery date. SFA's will be required to submit a list of emergency contact information for each site to the distributor and ALSDE.

2.28 Delivery Schedules:

- a. Initial delivery schedules shall be submitted to participating entities and to ALSDE by July 10, 2021.
- b. Drivers and helpers shall deliver merchandise to designated storage areas (dry, chilled and frozen). Drivers or helpers shall not be required to stow merchandise on shelves nor stack in reach-in coolers, freezers, or other cabinets or to rotate stock.
- c. Drivers and helpers shall request the authorized receiver or the designated representative, to verify the accuracy of quantities of each item, brand and code numbers of each item and condition of merchandise. Each delivery ticket shall be signed by a designated receiver. Variations from the norm, i.e., shortages, damages, etc., shall be noted on each ticket/invoice by the designated receiver and initialed by both the truck driver and receiver. The distributor shall not be required to issue credits for errors not detected at the time of delivery, except for hidden damage. Hidden damages are to be credited if the distributor is notified per their established credit/refund policy.
- d. Special or intermediate deliveries shall be required if a distributor fails to deliver a product on a regularly scheduled delivery.
- e. Special considerations must also be made to SFA's that have specific delivery schedule requests due to not being able to receive orders during certain times of day. These specific delivery schedule requests must be requested by the distributor at least annually for review.
- f. If deliveries are made wherein shortages or damaged items are noted, the distributor will be required to make "next day" deliveries to correct the discrepancies. However, if the shortage had been noted and transmitted to the affected SFA during the order process, the requirement for "next day" shall not apply. The term "next day" is used to allow SFA's to exercise that option. However, it shall not be intended as mandatory. The SFA may elect to have the merchandise delivered at some other time.
- g. In the event that a distributor fails to make a delivery prior to 3:00 p.m. local time on the scheduled day of delivery the distributor is required to make said delivery the following day unless an alternative is agreed upon by the distributor and the SFA.

2.29 Transmittal of Orders:

Distributors shall not have the option to receive orders in any manner other than the ALSDE CNP Online Ordering System. All orders are to be placed through the Online Ordering System and distributors shall have in place this capability. Distributors shall have the capability to check each order, note shortages, and transmit shortage data, if applicable, back to the SFA with a two (2) hour period immediately following receipt of the order. SFA's shall submit orders at least 24 hours prior to a scheduled delivery unless a shorter period of time is acceptable to the distributor. Distributors may require a longer lead time for order submission, but it may not be greater than 7 days prior to the scheduled delivery date. Failure by the SFA to submit orders accordingly may result in no food deliveries for the next scheduled delivery date. Distributors shall identify a telephone contact within their organization that SFA's can contact to reorder items that have been identified by the distributor as short or out. Faxed orders or salesperson written orders are not acceptable.

ALSDE will provide detailed requirements for CNP Online Ordering System. ALSDE systems personnel will coordinate the information with all prospective distributors.

2.30 Item Substitute and Out-of-Stocks:

Distributor will not substitute brands without prior approval of ALSDE. When the term substitute, as it applies to a food or supply items covered by this contract, is used, it shall mean a switch in category, i.e., an SFA may request that chicken thighs be substituted for the chicken breasts that were out-of-stock. It shall not mean that different manufacturer's chicken breast could be substituted. Distributors will make no substitution which has not been requested by the ordering SFA.

Unauthorized substitutions will be done so at the distributor's expense; no payment shall be made for items substituted without the specific permission as authorized by the SFA placing the order. Substituted items shall be only those prior approved items as identified on the original bid. At no time shall the price of a substituted item

exceed the bid price. Items not specifically identified by brand name and code number shall be of equal or higher quality. Items of lower quality may not be delivered, or if delivered are done so at the expense of the distributor.

2.31 Payments:

All invoices for products received and accepted prior to the last working day of the month shall be paid on or before the 15th of the next month. A penalty charge may be added to all bills that become delinquent on the first day of the following month in accordance with the distributor's prevailing policy for commercial business. Distributor should notify ALSDE of any delinquencies. The awarded distributor is required to provide ALSDE with its delinquent payment policy after receiving the notification of intent to award.

2.32 Audits:

ALSDE personnel shall have the right to audit distributor records relative to any transaction conducted under the provisions of the contract established pursuant to this bid.

a. Audits may be made of a distributor's cost records as follows:

1. Prior to contract award on items supported by 3rd party invoice
2. In response to any request for price increase of either product or freight cost.
3. At any time that price reviews indicate that a problem might exist.
4. At any time related to rebates, discounts, and bill backs
5. At any time to ensure that all product being delivered is from the correct manufacturer.

b. The distributor shall provide acceptable documentation as follows:

1. Manufacturer's Invoices
2. Freight Bills
3. Inventory Records
4. Market Bulletins – used for distributor manufactured items and inner company billing items when price changes are requested.

c. Recurring or excessive pricing errors shall be reason for contract termination.

2.33 Product Requirements:

a. Item Identification (ID):

The product/description column on the bid sheets are not complete specifications. Product descriptions are limited to requirements which can be verified on delivery or information essential for communication between distributor and participating entities. For example, "U.S." Grades are generally not specified unless there is an inspection certificate accompanying a grade shield on the container or the product. The use of pre-approved brands makes it unnecessary to utilize detailed specifications. Some product identifications may contain the phrase "equal or greater quality than..." and list a brand name and manufacture code. In these cases, ALSDE has approved a single brand but will accept products that meet the product identification and are equal or greater quality than the brand and manufacture code listed.

After receiving the intent to award letter distributors must provide specification AND nutritional sheets for all products listed in the Group B bid sheets.

b. Product Protection Guarantees:

Participating SFA's have "automatic" product protection recourse against suppliers for product safety. According to Federal regulations, the supplier whose name and address appear on the package is the responsible party. Distributors are expected to take immediate action to correct any situation in which product integrity is violated.

c. Import Products:

Food products, which are canned or packed outside of the United States, will not be accepted unless the product(s) meet an exception to the Buy American requirements. Please note this rule applies to "Private Labels" as well as other labels. Exceptions to this rule are strictly non-domestic items such as bananas, pineapple, mandarin oranges, olives, tuna, tea and coffee. Products not in compliance with this section shall be in violation of the Federal "Buy American" policy. If a review of a specification finds a product is not domestic, the awarded distributor must first attempt to provide a domestically sourced product at the awarded price.

d. Approved Brand: The "approved brand" space on the product lists indicates one of the following:

1. Packer Label – A product identification is in itself sufficient, in the case of certain generic items such as sugar. The word "packer" will appear in the approved brands column and the distributor may bid any label that meets the product description. However, the brand being bid must be identified. **When offering a packer label, you must offer the 1st quality label if applicable.**
2. Private Label – The word "Private" will also appear in the "approved brands" space on the bid sheet for those items where a specific manufacturer's brand is not listed. You may offer your private label or your buying group's private label. **When offering a private label, you must offer the 1st quality label if applicable.** Your private label or your buying group's private label is acceptable, but you must provide only 1st quality products and you must provide the complete description. Example: "All Kitchens Green." The designation of "All Kitchens" is not acceptable.
3. Manufacturer's Label – Items not covered by instructions item 1 or 2 above will have manufacturer's name and product number under "approved brands." Potential distributors may offer bid only on those products which are preapproved.

Bidding on a manufacturer's label and then later shipping a different product stating that it is packed by that same manufacturer may be considered grounds for cancellation of the contract.

e. Quality Level:

When the item identification specifies "Packer/Private" it shall be intended that only those products carrying a first quality label will be acceptable.

f. Bid Unit:

The unit of measure utilized to compare all bid line items. Each bidding distributor must provide the standard case sizes for comparison by specifying the Delivery Unit Pack Size and Delivery Units per Case in the bid sheets.

2.34 Distributor information to complete:

Bidder Name :						Region 1					
Item No	Stock Number	Item Name	Product/ Description		Approved Brands	Bid Unit	Estimated Usage (in cases)	Case Base Bid Price	Case Fixed Fee	Case Net Bid Price	Extended Total
10001		Beef, Stew Meat	Beef for Stewing, IMPS 135A, (Not to be substituted with IMPS 135, Diced beef) Visible surface fat not to exceed 1/4" (6mm), at least 85% by weight of the dices shall be not less than .75" (19mm) nor greater than 1.5" (3.8 cm), fat content not to exceed		Packer/Private	Case	3,307	\$0.0000	\$0.0000	\$0.0000	\$0.0000
Brand Quoted:	Manufacturer Code:		Delivery Unit Pack Size:		Delivery Units per Case:	Price per Case:	\$0.00	Fixed Fee per Case:	\$0.00	Net Bid Price:	\$0.00

a. Bidder Name:

Include your Company name at the top of each bid sheet.

b. Shelf/Stock #:

A potential distributor shall identify the code by which the specific product is identified in the warehouse.

c. Brand Quoted:

A potential distributor shall identify the brand being quoted.

d. Manufacturer Code:

The alphanumeric code utilized by the manufacturer to identify the specific product being bid.

e. Delivery Unit Pack Size:

Potential distributors must identify exact pack sizes of each item being bid that will be sold and delivered to SFA's. Examples: pounds/lbs., #10 can, gallon(s), 2.5 ounce/oz., count, each, bag(s), serving(s), etc.

Delivery Unit Pack Size:	pounds or lbs	Delivery Units per Case:	40
Delivery Unit Pack Size:	2.5 ounce serving	Delivery Units per Case:	96
Delivery Unit Pack Size:	#10 Can	Delivery Units per Case:	6
Delivery Unit Pack Size:	1 gallon	Delivery Units per Case:	4
Delivery Unit Pack Size:	count or each	Delivery Units per Case:	200
Delivery Unit Pack Size:	5 lb bags	Delivery Units per Case:	4

f. Delivery Units per Case:

The number of Delivery Unit Pack Sizes per Case. See example above.

g. Price per Case:

The case price for the entire delivery unit.

h. Fixed Fee per Case:

The distributors additional fixed fee applicable to the delivery unit.

2.35 Definitions:a. Fixed Fee:

The term fixed fee as used in this document shall mean the amount the distributor will be paid for receiving, storing, and delivering the items covered by the contract. All inbound freight charges incurred in the delivery of the items to the distributor's warehouse shall be recovered in the "base bid amount" by the Distributor and shall not be part of the fixed fee. The fixed fee shall be firm for the term of the contract. Distributor fuel costs are subject to allowable surcharges and shall not be part of the fixed fee. The fixed fee portion of the bid sheets must be completed. Group A products will not be subject to any inbound freight cost to the distributor and such freight cost will not be a part of the fixed fee.

b. Count:

Shall be stated as numbers of pieces, servings, gallons, etc., per delivery unit.

c. Delivery Unit:

The package configuration (i.e., case, carton, box, bag, etc.) by which the product would normally be sold. This shall also mean packaging being referred to when the term “cash price” is applicable.

d. Bid Unit:

The unit designation which shall be applicable to all pricing offered for bid evaluation purposes.

e. Cooked/Uncooked/Pre-Cooked:

Meats, poultry and seafood are deemed to be raw (uncooked) unless the term “cooked” is used, which, implies “fully” cooked unless a lesser degree of doneness is specified. The term “precooked” implies that additional cooking is necessary before service.

f. IQF:

The term “Individually Quick Frozen,” or IQF, essentially means that the parts can be removed individually from packages. “Quick” means frozen in a freezer tunnel, either by air blast, nitrogen or carbon dioxide.

g. CN Label:

When a product is CN (Child Nutrition) labeled, it is “certified” by the packer to conform to the nutritional requirements of the USDA Food and Nutrition Service (FNS). The label shows the contribution made by a given amount of product toward meal requirements.

h. Canned Foods:

Three (3) important Federal regulations pertaining to canned foods are listed below. These and other Federal and state regulations are automatic requirements.

1. Net Container Quantity – The minimum net quantity of all products in cans and jars shall be in accord with Section 401 of the Federal Food, Drug, and Cosmetics Act, regarding individual specifications for standards of fill (21 CFR Part 100-169).
2. Fill of Containers – All products shall be filled as full as practical under good commercial packing practices without impairment of quality and otherwise in accord with Section 401 of the Federal Food, Drug and Cosmetics Act, regarding individual specifications for standards of fill (21 CFR Part 100-169).
3. Drained Weight – Drained weight of “wet pack” items shall conform to good industry practices and the minimum requirements of the Federal Food, Drug and Cosmetics Act for drained weight, as prescribed in the individual specifications of each product in 21 CFR Part 100-169. Except for whole tomatoes, drained weight is not a factor of USDA grade.

3 SPECIAL CONDITIONS: USDA FOODS

3.1 Scope and Purpose:

ALSDE participates in a Federal program to receive and provide the distribution of United States Department of Agriculture (USDA) USDA Foods to public and private SFA's in Alabama that provide meals to students.

The purpose of this RFP is to establish a contract or contracts between ALSDE and distributors for the distribution of USDA Foods to participating SFA's in Alabama. This contract will establish a set price per case for the storage and weekly delivery of USDA Foods that participating SFA's will pay for items covered during the contract terms. All payments for these services will be made by the SFA's directly to the distributor(s). No payments or warrants will be issued from ALSDE.

This bid is directed primarily toward full line food service distributors who currently have adequate facilities and delivery equipment to warehouse and deliver additional volumes of foods. The distributor must have the capability to receive, store, and deliver dry groceries, chilled or refrigerated groceries, fresh fruits and vegetables, as well as frozen foods which are provided by the USDA.

ALSDE reserves the right to reject bids from firms whose facilities and/or delivery equipment are deemed inadequate or fail to meet sanitation requirements as set forth by the Health Department and/or Department of Agriculture. ALSDE reserves the right to accept the bid(s) which seem to best benefit the State of Alabama school systems and other institutions regardless of price. ALSDE reserves the right to reject any and/or all bids.

Bids must be made with the foregoing in mind.

3.2 Contract Duration:

Contract services will begin June 1, 2021, and terminate on May 31, 2022, but may be extended at the option of both parties for four (4) additional twelve (12) month periods in accordance with applicable Federal Regulations. If the emergency justification exists, ALSDE may request a contract extension past the standard four (4) additional twelve (12) month periods. On March 1, each party shall notify the other of its intention to either extend or terminate the contract. If the contract is extended, the distributor must update all pertinent information requested for the agreement and demonstrate that all USDA Foods received during the previous contract period have been accounted for. In accordance with 7 CFR 250.12(c)(3) this contract may be terminated for cause prior to the expiration date by either party upon receipt of a 30-day written notice, however, this contract may be terminated immediately due to noncompliance on the part of warehouse management. Termination by the distributor prior to the expiration date will be considered an express admission of non-performance and failure to perform and fulfill the terms and conditions of the contract. Such admission shall constitute automatic grounds for the issuance of payment of the Performance Bond to ALSDE.

ALSDE reserves the right to rebid at the end of each contract year.

3.3 Service Regions:

The SFA's and delivery sites for each of the six distribution regions can be found in Section 7 of this RFP. Separate bid amounts are required for each region. Bids may be made for more than one region, but distributors may be limited to the number of regions awarded because of storage capacity of the warehouse and/or ability to deliver the USDA Foods in a timely manner. The size of the distributors' delivery fleet, distance from the warehouse to the SFA's, and the number of employees are factors considered in the award.

3.4 Items:

SFA's in Alabama may receive approximately eighty (80) different USDA Foods and DOD Fresh Produce items. Sixty-one (61) USDA Foods items were shipped into Alabama during the 2020-2021 school year. These sixty-one (61) items are categorized according to warehouse requirements as follows:

DRY	21
CHILLED	17
FROZEN	23

3.5 Warehousing Requirements:

Distributors must have adequate warehouse facilities for the following:

- Dry groceries
 - Frozen foods
 - Chilled items
- regular care: Ventilated Space to maintain temperature at 70°F or less
 - 0°F or below.
 - Normally 36°F (32° to 45°F depending on the item), a separate produce cooler that can be divided to store several different items at different temperatures
 - Fresh Produce must be stored specifically to each variety's needs.

Distributors shall store the USDA Foods and DOD Fresh Produce as outlined above. Temporary or extended periods of improper storage are prohibited and shall be considered negligence. The amount of warehouse space required will vary among regions. Should warehouse space become filled to capacity, the distributor must obtain additional facilities and be responsible for receiving shipments as they arrive. Loss of USDA Foods due to improper storage is a breach of this contract. Such loss will require financial restitution of the USDA Foods.

3.6 Staffing Requirements:

Each distributor must have knowledgeable, full-time staff available from 7:00 a.m. to 4:00 p.m. Central time, to receive and provide information to ALSDE and SFA's as necessary.

ALSDE will require 24/7 access during emergency situations (weather related disasters, etc.) where USDA Foods is needed to support relief efforts. The distributor shall provide emergency contact information of the employees who will be available during such an emergency to provide access to personnel, facilities and USDA Foods 24 hours a day, 365 days a year. In the event that additional services are provided by the distributor during an emergency declaration they may be compensated for any work performed including services outside the scope of the contract with prior approval.

3.7 Truck Docks:

Truck docks must be accessible to shipments by truck and to vehicles from SFA's that choose to pick up their USDA Foods at the warehouse rather than have it delivered.

3.8 Delivery Vehicle Requirement:

The number of vehicles required will depend on the size of the trucks and will vary from one region to another. Distributors must have and utilize proper delivery vehicles as follows:

- Van trucks for delivery of dry groceries, and/or
- Dual compartment trucks for combined deliveries of dry groceries, and refrigerated items, and/or
- Single compartment refrigerated trucks (0°F) for separate or integrated deliveries of dry and refrigerated items.

3.9 Receiving Requirements:

All USDA Foods shipped to a distributor's warehouse will be totally prepaid, i.e., product and freight. Distributors will be notified in advance of expected dates of arrivals, types of carriers, contents of loads and other critical information as soon as USDA notifies ALSDE of this information. Frequency and volume of warehouse receipts will vary from one region to another.

Distributors shall receive inbound freight in accordance with acceptable industry practices and FNS Instruction 709-5, Shipment and Receipt of Foods. Distributors will be responsible for the following:

- Inspect load for condition on arrival and verify accuracy of count.
- Report overages and shortages as may be required.
- Distributor shall give carrier's agency the opportunity to inspect all shortages and damages that occur.
- Promptly forward all receiving reports electronically to ALSDE.
- Recoup damaged merchandise to the fullest extent possible.
- Place seals on outbound split shipments.
- Brace in-transit loads for trans-shipment as may be required.
- Assume all freight demurrage, detention and/or diversion charges which might occur unless specifically exempted by USDA.

- Distributor shall provide sufficient warehouse space for all inbound freight. Costs for additional warehouse space shall be borne solely by the distributor.
- Stock and space foods in a manner so that USDA Foods are clearly identifiable.

Immediate email notification upon arrival of USDA Foods with all required information. Certain USDA Foods will have shorter shelf lifespans due to the sensitive shelf nature of the items. Delivery notification of certain shelf sensitive items needs to be sent to ALSDE immediately. This allows the schools to start ordering their products and receive their shipments as soon as the following day. Delayed notification of these shelf sensitive items will result in the Distributor assuming responsibility for losses contributed to items that could have been ordered and used sooner. Examples of shelf sensitive items are listed but not limited to the ones below:

DOD Fresh Produce
 USDA Foods Fresh Produce
 Dairy products (Milk, Cheese, Yogurt)

- Receiving Notification from the Distributor is to include the following:

USDA Foods material number and description
 USDA sales order number with three-digit suffix
 Cases received including shortages/overages/damages
 Date received

3.10 Shipment Identification Numbers:

Each individual shipment received into a distributor's warehouse is assigned an identification number and each unit of a shipment is assigned to that particular number. USDA Foods should be stored and shipped by their assigned ID number. This is especially important due to the possibility of USDA Foods being put on "hold" or having to be recalled. No mixing of slots and deliveries is allowed by the distributor

3.11 Outbound Deliveries:

SFA's shall submit orders to the distributor no less than seven (7) days, specifically one week prior to scheduled delivery dates. However, deliveries may be made on shorter notice if agreeable with the distributor.

Regarding USDA Foods orders, there is a ten (10) case minimum delivery per stop. SFA's are encouraged to order more cases per stop if storage space permits. All deliveries of only USDA Foods are required to be a minimum of ten (10) cases per delivery site. An SFA may order less than the minimum order size at any time within in a month by paying for a ten (10) case order. For example, if an SFA wishes to order only five (5) cases of USDA Foods, they will pay the ten (10) case minimum, the charge would be ten (10) times the rate per case.

USDA Foods may be delivered weekly as ordered with purchased items. The ten (10) case minimum delivery does not apply to SFA's that participate in the Statewide Procurement program (SWP) since those orders would have minimum purchased requirements to be met in place of minimum cases.

Regarding SWP orders, there is a minimum purchase requirement of \$500.00 that will apply to all deliveries. All SFA's must have notice of the delivery schedule from the distributor and must provide staff to be available to receive their scheduled deliveries. If an SFA is not present during a delivery stop then they are liable to the distributors return and restocking fee policy.

3.12 Frequency of Deliveries:

Deliveries to SFA's shall be made weekly. Distributors should deliver on the same day of each week and SFA's shall be notified of delivery schedules. If an emergency arises the distributor shall notify each SFA which is scheduled for delivery on the day of the emergency and reschedule the delivery. Charges will not be allowed for unscheduled deliveries that the SFA is unable to accept.

3.13 Delivery Times:

Deliveries shall be completed prior to 3:00 p.m. local time unless a later time is agreed upon. In writing, by the distributor and the SFA. Deliveries shall be made Monday through Friday, except on school holidays. SFA's shall be required to provide a list of observed holidays and other closings to the distributor serving their region so the

distributor does not make an unnecessary trip. The distributor shall review this list prior to scheduling deliveries. If a SFA fails to provide this list of closings, the distributor may charge for an unnecessary delivery trip.

3.14 Delivery Drops:

Drivers and helpers shall deliver merchandise to designated storage areas (dry, chilled and frozen). Drivers or helpers shall not be required to stow merchandise on shelves nor stack in reach-in coolers, freezers, or other cabinets or to rotate stock.

Drivers and helpers shall request the authorized receiver or the designated representative, to verify the accuracy of quantities of each item, brand and code numbers of each item and condition of merchandise. Each delivery ticket shall be signed by a designated receiver. Variations from the norm shall be noted on each ticket by the designated receiver and initialed by both the truck driver and receiver. The distributor shall not be required to issue credits for errors not detected at the time of delivery, except for hidden damage.

Every case of USDA Foods is pre-assigned to specific SFA's of ALSDE. Due to this stipulation, if a delivery shortage occurs, the distributor must not replace from USDA inventory, but may have the option, if approved by ALSDE, to replace the shorted USDA Foods with the same product of equal or higher quality from commercial stock. If the replacement option is not chosen and the shortage remains unresolved at the end of school year, the distributor may be required to make financial restitution to ALSDE when the annual audit is finalized.

Special or intermediate deliveries shall be required only if a distributor fails to deliver a product on a regularly scheduled delivery or in emergency situations.

3.15 Straight or Mixed Loads:

The distributor may deliver commercially purchased and USDA Foods together to the SFA's. Food may not be stored or delivered with chemicals or other products which may harm the quality or safety of the food.

3.16 Pickup by SFA's:

Some SFA's may choose to pick up their food directly from the distributor's warehouse. SFA's that choose to pick up must submit a written form to arrive at the distributor's warehouse at least 24 hours prior to pick up. In absence of a pick-up form, the distributor will deliver. SFA's shall pick up a minimum of five (5) total cases of product at a time from the warehouse unless specifically exempted by the distributor.

3.17 Standards for Storage Facilities:

The awarded distributor must ensure that they provide facilities for the handling, storage and distribution of USDA Foods which:

- a. Are sanitary and free from rodent, bird, insect and other animal infestation.
- b. Safeguard against theft, spoilage and other loss.
- c. Maintain foods at proper storage temperatures.
- d. Excepting SFA's, stock and space foods in a manner so that USDA Foods are readily identified.
- e. Store USDA Foods off the floor in a manner to allow for adequate ventilation.
- f. Take other protective measures as may be necessary.
- g. Shall ensure that storage facilities have obtained all required Federal, State and/or local health inspections and/or approvals and that such inspection/approvals are current. For the award process, during renewals and upon request, the distributor must be able to provide ALSDE with evidence that inspections and approvals are current.
- h. Distributors' warehouses may be routinely inspected by state officials for general compliance, sanitation and temperature requirements.

- i. Trucks delivering USDA Foods may also be inspected for general compliance, sanitation and temperature either by USDA or state authorities.

3.18 Reports:

Receiving: All electronic reports related to the receiving of products at warehouses shall be forwarded to ALSDE immediately upon unloading and verification of receipts.

Inventory: ALSDE shall require an annual inventory in conjunction with the annual audit. In the case of a natural disaster, an inventory may be required to determine what food or foods may be used to assist with the disaster relief efforts. A monthly inventory may also be required. ALSDE must have access to USDA Foods on hand in the distributor's warehouse. This requires access to the distributor's personnel and facilities after hours, on weekends and on holidays in the event of a disaster. The distributor will set up an account for ALSDE for the purpose of billing and payments for USDA Foods pick-ups or deliveries during the disaster relief effort.

Annual Delivery: The distributor shall at least annually provide ALSDE a report that details the number of cases of USDA Foods delivered to each SFA for the period of October 1 through September 30 and other specified periods as required.

3.19 Records:

Records should be retained for a period of three years after the end of the contract. In the event of unresolved audits, records must be maintained until a resolution has been reached. All delivery tickets and other records pertaining to the USDA Foods Program should be filed separately from the distributors commercial business records. ALSDE will conduct an annual audit; however, the program may be audited or reviewed by state or Federal officials any time.

3.20 Shortages and Damages:

All unresolved delivery shortages of USDA Foods will be addressed after annually occurring end of year audits of the distributors' warehouse. Distributors shall be financially responsible to ALSDE for shortages, damages, or otherwise unaccounted for losses, including infestation of products or product deterioration due to improper storage conditions, as well as physical damages, including the rusting of cans. Shortages and damages shall be accounted for annually in conjunction with the annual audit. USDA Foods losses of \$500 or more must be reported to ALSDE on a USDA Foods Loss Report within 30 days of the date of the loss.

A distributor's payment for shortages and damages shall be based on the most current value of USDA Foods. Payments can be made in the form of cash or by replacement in kind (ALSDE option).

3.21 Product Carry-Over:

SFA's shall have the option of carrying over USDA Foods through the summer at the distributor's warehouse, unless the contract is not extended for the next school year. Any foods which accrue extra storage prior to June 1 shall be billed at the extra month's storage rate for that contract year. If the contract is extended, the rates which apply to the new contract year shall be charged after June 1.

3.22 Payments:

Distributors must submit statements and signed copies of each invoice to SFA's on the first of each month. The statement shall also include a summary of the signed invoices for the period. Each referenced invoice shall be listed in numerical sequence and show the total number of cases, bags, etc. delivered. Charges for pickups by SFA's shall be listed separately on the statement. The Distributors return and restocking fee policy is to be provided annually to the SFA's and billed accordingly. Distributors have the right to recover their losses due to shipping orders placed by SFA's for days schools are closed and/or the SFA failed to provide adequate notification of closures, and/or failed to have orders cancelled.

All invoices for products received and accepted prior to the last working day of the month shall be paid on or before the 15th of the next month. A penalty charge may be added to all delinquent bills on the first day of the following month in accordance with the distributor's prevailing policy for commercial business. Distributor's delinquent payment policy must be submitted within 10 days of receiving the intent to award letter.

If a SFA's bill has become delinquent for two months, the distributor is to notify ALSDE and shipments to this delinquent agency shall be terminated until payment is received. Distributors should notify ALSDE of any delinquencies.

3.23 Insurance:

Distributors shall carry product casualty insurance (theft, storm and fire damage, etc.) on all USDA Foods in the distributor's custody or control regardless of the food's location, in accordance with acceptable industry practices. The insurance carrier shall have a rating of A- or better as rated by the A. M. Best Company. ALSDE shall be an additional named insured agency on the certificate of insurance and all payments for losses shall be made payable jointly to the contracting party and ALSDE. The extent of coverage has been established by ALSDE officials in advance of contract implementation in the following amount for each region:

Region 1	\$1,600,000
Region 2	\$1,875,000
Region 3	\$1,890,000
Region 4	\$1,835,000
Region 5	\$1,750,000
Region 6	\$1,480,000

Bids shall be accompanied by a statement from an insurance carrier, licensed to conduct business in the State of Alabama, indicating the carrier's agent has reviewed the bid and insurance requirements, can satisfy all requirements and can provide all required coverage specifying the type of policy/coverage providing said coverage. The successful distributor shall provide proof of insurance to ALSDE within 10 working days after receiving the official letter of notification. Coverage shall not lapse during the period of the contract. Contract extensions will require proof of insurance for the extension year and will be due by May 1. Each item below must be covered in writing on the certificate of insurance:

- 1) The policies must state "all risks," or "special causes of loss," or "broadest coverage available in the marketplace" and the dollar value limit.
- 2) In the event of insurance cancellation, the Distributor will provide to ALSDE a copy of the insurer's cancellation notice within two business days of receipt of cancellation notice from the insurer.
- 3) The USDA Foods inventory must be expressly covered using one of the following acceptable terms: marine, cargo, inventory, contents, stock, or warehouse legal liability.
- 4) ALSDE shall be provided a certificate of insurance.

3.24 Licenses and Fees:

The distributor shall be responsible for obtaining all necessary licenses and paying all fees required by local, state and Federal governments. License information may be obtained from the county probate offices.

Proof of business license to operate in the State of Alabama will be required within 10 days of award.

3.25 Performance Guarantees:

Distributors will provide a performance bond in the amount of **\$75,000** for each region awarded. The guarantee provided shall be a surety bond issued by a company licensed to do business in the State of Alabama and have a rating of A- or better as rated by the A. M. Best Company. A letter from the bonding company confirming commitment to provide bond coverage in accordance with the specifications of this RFP shall be included with your bid. In addition to the performance guarantee, the bond shall also provide coverage for failure of the distributor to maintain appropriate records and to account for lost or otherwise unaccounted for USDA Foods. If either of these situations are discovered during audits or accountings by ALSDE and/or the USDA, it will be deemed unfaithful performance and constitute automatic grounds for the issuance of payment of the surety bond

to ALSDE without additional proof, documentation or evidence. The cost of the guarantee must be included in the bid. The bond, accompanied by a Power of Attorney, must be filed by the successful distributor within 10 days after receiving the official letter of notification. ALSDE shall be the custodian of the performance guarantee. The performance guarantee must reference this bid and shall be made payable to ALSDE. The distributor shall provide continuous performance coverage for the duration of the contract. If the contract is extended, the distributor shall provide proof of coverage for the ensuing year of the contract by May 1.

3.26 Price Adjustments:

If the option to extend the contract is exercised, the prices may be renegotiated with the new prices becoming effective on the June 1st of the new contract year. The prices shall be subject to increases or decreases based on the United States Department of Labor Consumer Price Index. The United States Annual Average of the All-Item Group or category of the All-Urban Consumers (CPI-U) Index will be used to determine price changes.

The maximum allowable percentage change in prices will be the same as the percentage change in the Annual Average Index. Price changes will be rounded to the nearest whole cent using standard rounding procedures. No change in prices will be allowed if there is less than one percent change in the Annual Average Index. No price increase or decrease will become effective unless requested by the distributor in the case of an increase, or by ALSDE in the case of a decrease. Any such request shall be made in writing by March 1, each year to become effective June 1. In the absence of a written notice from the Distributor to ALSDE or from ALSDE to the Distributor regarding a price change for the ensuing contract year, the price then in effect shall continue for the next contract year.

3.27 Bid Price:

Bid prices from distributors shall be quoted on a per case basis regardless of the weight or cubic volume of a case in strict accordance with this RFP. Do not bid on hundredweight. Quotations shall be based solely on weekly deliveries to SFA's. Where options other than weekly deliveries are scheduled or selected, rates will be determined by multiplying the following fixed percentages times the weekly rate using standard rounding procedures:

Pickups by SFA's – 50 percent

Extra Storage charges (monthly storage beyond the initial two months) – 25 percent

Size of deliveries: There is a ten (10) case minimum delivery per stop. SFA's are encouraged to order more cases per stop if storage space permits. Each delivery site is entitled to one (the first) delivery a month at the regular rate per case regardless of the number of cases ordered. The second or any additional deliveries in a month are required to be a minimum of ten (10) cases per delivery site. A SFA may order less than the minimum order size at any time within a month by paying for a 10-case order. For example, if a SFA wishes to order 7 cases and pay the 10 cases minimum, the charge would be 10 times the rate per case.

Note: The ten (10) case minimum delivery does not apply to agencies that participate in the statewide procurement program. USDA Foods may be delivered weekly as ordered with purchased items.

Size of pickups: SFA's shall pick up a minimum of five (5) total cases of product at a time from the warehouse unless specifically exempted by the distributor.

Charges for storage beyond two months: Charges for USDA Foods remaining in inventory for periods exceeding 60 days after arrival may be assessed a full month of extra storage on the first day following the expiration date.

3.28 Operational Requirements:

Distributors must have email capabilities in order to receive and transmit information between themselves and ALSDE and/or SFA's. Certain communications such as reports and urgent notices need to be communicated by email to ALSDE contacts immediately after they are available.

ALSDE uses the CNP Online Ordering System to manage all orders for ALSDE and SFA's. The appropriate access will be provided to whomever is awarded the contract. Information will be available regarding orders on this website. It will be the distributors' duty to pull information that is made available regarding orders from this

website. The distributor must also have the capability to troubleshoot technical issues that may arise during the export and import process. Representatives from ALSDE are available to assist in the ordering process when needed. However, it is the distributor's responsibility to obtain information that they have been given access to on a daily basis.

The distributor's computer system requires the ability to perform all of the following operating procedures:

- Sort USDA Foods information by USDA Foods item, shipment identification number, invoice number, sales order, purchase order, quantity, overages, shortages, SFA and weight
- Match material number/description of the product with the correct sales order number to ensure the correct inventory and order accuracy
- Generate receiving reports based on the above information
- Separate USDA and Statewide Purchasing invoices
- Notice of urgent information like damages, shortages, special deliveries, fresh food, etc.
- Export/import orders for SFA's based on electronic information that will be made available by ALSDE

3.29 Volume:

It is anticipated that approximately 400,000 cases, or equivalent, of USDA Foods and DOD Fresh Produce will be available for annual distribution to SFA's during the life of the contract.

This volume is based on approximate 2020 -2021 quantities. This quantity might be reduced or increased during each year due to circumstances beyond the control of ALSDE. Circumstances might also affect changes in the product mix and the number of items. It is currently ALSDE's goal to reduce the amount of USDA Foods and DOD Fresh Produce cases at the distributors warehouse significantly. However, there is no guarantee that will occur in the immediate future related to this bid.

3.30 Warehouse Receiving and Inventory:

Amounts of USDA Foods arriving for SFA's for each region are shown below. Distributors should be able to accept and store up to 1/3 of the total volume for a year within each region. Take 1/3 of quantities indicated in the chart below to determine the approximate volume that could be on hand at any given time. This volume is for each storage condition during the 2020-2021 contract year but may fluctuate materially from time to time. The number of items in each category indicates the number of different USDA Foods that were received for that particular type of storage.

The majority of the USDA Foods will be shipped into the distributors' facilities between August and March of each school year. Distributors should expect incoming volume to be heaviest in the September – November and January – February timeframes.

The average weight per case is approximately thirty-eight (38) pounds and measures approximately 1.1 cubic feet.

STATEWIDE VOLUME (CASES) OF USDA FOODS RECEIVED DURING SCHOOL YEAR 2020-2021

Storage	Items	Region 1	Region 2	Region 3	Region 4	Region 5	Region 6	Total
Dry	21	30,283	24,731	35,395	30,630	30,932	26,623	178,594
Chilled	17	39,477	48,779	42,539	41,739	43,032	36,987	252,553
Frozen	23	51,391	67,539	64,118	65,667	57,554	47,635	353,904
Total	61	121,151	141,049	142,052	138,036	131,518	111,245	785,051

SECTION 4

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

REGION GRAND TOTAL BID SHEET

REGION 1

NAME OF BIDDING FIRM _____

THIS BID FORM APPLIES TO REGION 1 (a separate form must be submitted on each region)

Grand Total Bid for this Region: \$ _____

The figure quoted in the blank immediately above is the grand total for the Groups A, B, and C

Authorized Signature _____

SECTION 4

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

REGION GRAND TOTAL BID SHEET

REGION 2

NAME OF BIDDING FIRM _____

THIS BID FORM APPLIES TO REGION 2 (a separate form must be submitted on each region)

Grand Total Bid for this Region: \$ _____

The figure quoted in the blank immediately above is the grand total for the Groups A, B, and C

Authorized Signature _____

SECTION 4

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

REGION GRAND TOTAL BID SHEET

REGION 3

NAME OF BIDDING FIRM _____

THIS BID FORM APPLIES TO REGION 3 (a separate form must be submitted on each region)

Grand Total Bid for this Region: \$ _____

The figure quoted in the blank immediately above is the grand total for the Groups A, B, and C

Authorized Signature _____

SECTION 4

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

REGION GRAND TOTAL BID SHEET

REGION 4

NAME OF BIDDING FIRM _____

THIS BID FORM APPLIES TO REGION 4 (a separate form must be submitted on each region)

Grand Total Bid for this Region: \$ _____

The figure quoted in the blank immediately above is the grand total for the Groups A, B, and C

Authorized Signature _____

SECTION 4

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

REGION GRAND TOTAL BID SHEET

REGION 5

NAME OF BIDDING FIRM _____

THIS BID FORM APPLIES TO REGION 5 (a separate form must be submitted on each region)

Grand Total Bid for this Region: \$ _____

The figure quoted in the blank immediately above is the grand total for the Groups A, B, and C

Authorized Signature _____

SECTION 4

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

REGION GRAND TOTAL BID SHEET

REGION 6

NAME OF BIDDING FIRM _____

THIS BID FORM APPLIES TO REGION 6 (a separate form must be submitted on each region)

Grand Total Bid for this Region: \$ _____

The figure quoted in the blank immediately above is the grand total for the Groups A, B, and C

Authorized Signature _____

SECTION 5

Alabama State Department of Education



Request for Proposal

RFP ALSDE 2021-03

STATEWIDE PROCUREMENT & DISTRIBUTION

Child Nutrition Programs: Statewide Procurement and Food Distribution

Distributor Information Form

The following checklist is for required materials that must be submitted with your acceptable bid.

- You must submit four (4) complete bid packages that include all required documents.
 - Submit one (1) original copy
 - Submit three (3) exact copies
 - All copies require original signatures
 - Failure to comply will result in a rejected bid.

- You must complete, sign, and return the "Region Grand Total Bid Sheet" for each region you are bidding. (Original + 3)
- You must complete and return printed copies of the entire bid sheet from the USB flash drive for each region you are bidding. (Original + 3)
- You must completely fill out and return the USB flash drive. Return only the one (1) USB flash drive you received with this RFP. You may request a USB flash drive by contacting SWP@alsde.edu.
- You must return Attachment A – Appendix A (Original + 3)
- You must return the Performance Bond Letter of Commitment from your bonding company. (Orig + 3)
- You must return the Insurance Letter of Commitment from your insurance company. (Original + 3)

NAME OF DISTRIBUTOR: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

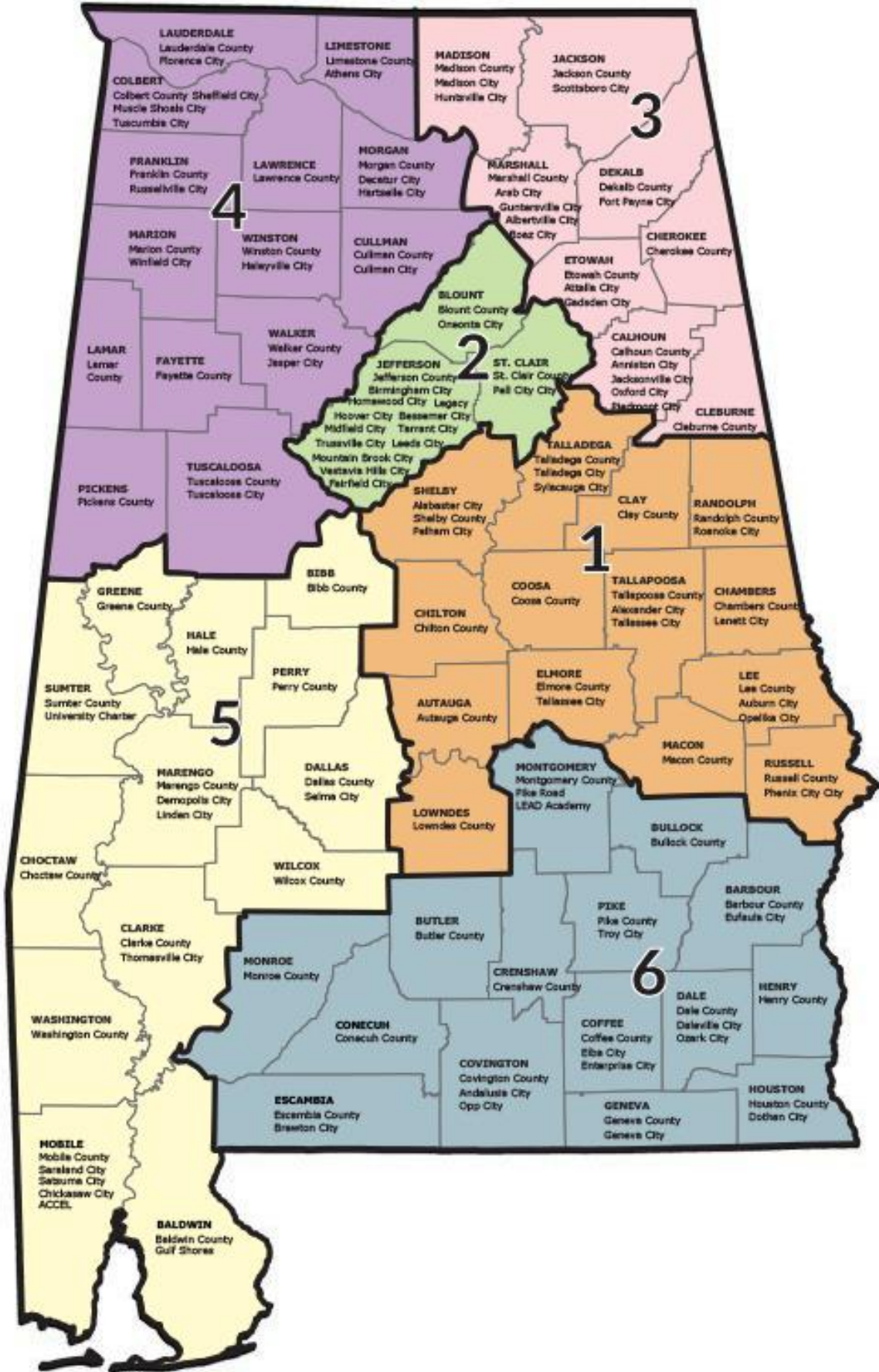
DATE SUBMITTED: _____

PRINT NAME: _____

AUTHORIZED SIGNATURE: _____

SECTION 6

Alabama USDA Foods and Statewide Procurement Regions for School Year 2020-2021



SECTIONS 7, 8, 9, & 10

- Section 7 List of Participating School Food Authorities (SFA)
- Section 8 Group A Bid List
- Section 9 Group B Bid Sheets
- Section 10 Group C Bid Sheets

These sections will be included in the USB flash drive that you must request by contacting us at:

SWP@alsde.edu

The bid sheets will then be sent to you on a USB flash drive which must be returned with the documents required by the RFP.

Request for Proposals (RFP)
RFP ALSDE 2021-03
Alabama State Department of Education

APPENDIX "A"

State of _____
County of _____

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by Act 2012-491)

DATE: _____

RE Contract/Grant/Incentive (describe by number or subject):

_____ By and between
_____ (Contractor/Grantee) and
_____ (State Agency, Department or Public Entity)

The undersigned hereby certifies to the State of Alabama as follow:

- I. The undersigned holds the position of _____ with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.

BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but not be limited to the following:

- a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.
b. Any business entity that possess a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

_____(a) The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

_____(b) The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

- 3. As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;
4. Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this _____ day of _____ 20 ____

Name of Contractor/Grantee/Recipient

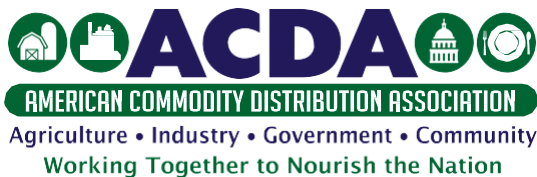
By: _____

Its: _____

The above Certification was signed in my presence by the person whose name appears above, on this _____ day of _____ 20 ____.

WITNESS: _____

Printed Name of Witness



**American Commodity
Distribution Association**
P.O. Box 841
Pensacola, FL 32591

CHILD NUTRITION PROGRAMS REQUIRED FEDERAL PROVISIONS

Disclaimer: This is a living document and is subject to revision. This is merely a guidance document and does not necessarily contain every requirement that pertains to a contract; ACDA accepts no liability for any of its contents. This document was created with input from the ACDA Education Committee, State Agencies, Recipient Agencies, and the Urban School Food Alliance.

In addition to other contracts provisions required by the program regulations for the Federal award, all contracts made by a non-Federal entity under a Federal award must contain provisions set forth in 2 CFR 200.318 -.326 and 2 CFR 200 Appendix II., **as applicable**. Please note, however, that not all of these provisions must be included in every contract awarded by a program operator. If you are unsure whether you will need to include a specific Federal provision in your contract, please consult with your State Agency or an Attorney. There may be additional State or local requirements required, please consult with your State Agency. Program operators always need to follow the strictest of Federal, State, or local requirements.

Below are the required Federal Provisions listed in [2 CFR 200 Appendix II](#) that may pertain to your contract:

- **REMEDIES:** If the contract is for more than the simplified acquisition threshold currently set at **\$150,000**, your contract must include a clause that addresses administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. The USDA does not prescribe the form or content of these clauses. Check with an attorney to determine if state or local law prescribes the use of specific language.
- **TERMINATION:** If the contract is in excess of **\$10,000**, your contract must contain a clause that addresses termination for cause and for convenience by the school district including the manner by which it will be effected and the basis for settlement. The USDA does not prescribe the form or content of these clauses. Check with an attorney to determine if state or local law prescribes the use of specific language.
- **EQUAL EMPLOYMENT OPPORTUNITY:** This clause would be required only for contracts that meet the definition of “federally assisted **construction** contract.” You should consult with the State agency or an attorney to determine whether this clause should be included.
- **DAVIS-BACON ACT CLAUSE:** This clause would be required only for prime **construction** contracts in excess of **\$2,000** awarded by non-Federal entities. You should consult with the State agency or an attorney to determine whether this clause should be included.
- **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT CLAUSE:** This clause would be required only for contracts awarded by the non-Federal entity in excess of \$100,000 that involve the **employment of mechanics or laborers**. You should consult with your State agency or an attorney to determine whether this clause should be included.

- **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT:** This clause is only necessary when the award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the school food authority 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. A food service department generally does not award contracts of this nature. You should consult with your State agency or an attorney to determine whether this clause should be included.
- **CLEAN AIR / CLEAN WATER:** For contracts and sub grants of amounts in excess of **\$150,000**, your contract must include a clause requiring the contractor 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) and the contractor must agree to report all violations to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Neither the State agency nor the USDA prescribes the form or content of these clauses. The following are suggestions of clauses that can be used:

- The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the USDA and the appropriate EPA Regional Office.
- The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 et seq. The Contractor agrees to report each violation to the USDA and the appropriate EPA Regional Office.
- **SUSPENSION AND DEBARMENT:** The Contractor understands that 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.”

The entity can verify the vendor is not debarred or suspended using the SAM system:
<https://www.sam.gov/SAM/pages/public/index.jsf>

While there is not a specific form, the following is suggested language that can be used:

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **{insert name of school district}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert name of school district}**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR 180.220 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- **LOBBYING:** Contractors that apply or bid for an award exceeding **\$100,000** must file the required certification pursuant to Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

Neither the State agency nor USDA prescribes the form or content of these clauses. The following is a

suggestion of clause that can be used:

The Contractor will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and certifies to the tier above that it will not and has not used Federal appropriated funds to pay an 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 U.S.C 1352. If applicable, contractor will complete the disclosure of lobbying with non-Federal funds using Lobbying Activities Form ([Form SF-LLL](#)) and submit to {insert name of contracting entity} annually.

Below are the required Federal Provisions listed in [2 CFR 200.318 – 200.326](#) that may pertain to your contract:

- **COOPERATIVE AGREEMENTS AKA PIGGYBACKING ((ONLY IF ALLOWING) 2 CFR 200.318):** To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

While there are no specific Federal requirements for language to be included, USDA memo [SP 02-2016](#) and [SP 05-2017](#) includes the requirements that must be in original solicitation and resulting contract.

- **CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (2 CFR 200.321):** 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. Many states have websites that includes resources to find these vendors, as well as the links below.

While there are no specific Federal requirements for language to be included, the following excerpt from 2 CFR 200.321 summarizes the process:

Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) 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;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) 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
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

- **PROCUREMENT OF RECOVERED MATERIALS (2 CFR 200.322):** This provision only applies to 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. You should consult with your State agency or an attorney to determine whether this clause applies to you and your contractors.

ADDITIONAL CONTRACT PROVISIONS REQUIRED BY THE FEDERAL AGENCY (USDA) FOR NSLP, SBP, AND FOOD DISTRIBUTION CONTRACTS

Please remember that Program Operators must also include additional required contract provisions identified in the program regulations for the Federal award (7 CFR 210, 250, etc.).

- **BUY AMERICAN PROVISION:** The Buy American provision was added to the National School Lunch Act (NSLA) by Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336). Section 12(n) to the NSLA (42 USC 1760(n)), requiring school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodity or product.

The following clause language is suggested, but not mandatory:

- “Domestic Commodity or Product” are defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States.
- “Substantial” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.
- Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.
- The Buy American provision (7 CFR Part 210.21(d), 7 CFR 220.16(d), 7 CFR 250.23) is one of the procurement standards SFAs must comply with when purchasing commercial food products served in the school meals programs.
- Buy American: Schools participating in the federal school meal programs are required to purchase domestic commodities and products for school meals to the maximum extent practicable. Domestic commodity or product means an agricultural commodity that is produced in the US and a food product that is processed in the US substantially (at least 51 percent) using agricultural commodities that are produced in the US.
- Farmed fish must be harvested within the United States or any territory or possession of the United States. Wild caught fish must be harvested within the Exclusive Economic Zone of the United States or by a United States flagged vessel (section 4207 of the Agriculture Improvement Act of 2018).
- Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when:
 - the product is not produced or manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple; and
 - competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.
- All products that are normally purchased by Distributor as non-domestic and proposed as part of this solicitation must be identified with the country of origin. Distributor shall outline their procedures to notify School when products are purchased as non-domestic.
- Any substitution of a non-domestic product for a domestic product (which was originally a part of the solicitation), must be approved, in writing, by the Food Service Director, prior to the delivery of the product to the School. Any non-domestic product delivered to the School, without the prior, written approval of the Food Service Director, will be rejected.
- Distributor must affirm their willingness to assert their best and reasonable efforts to ensure compliance with this Federal rule.

- **GEOGRAPHIC PREFERENCE (OPTIONAL):** A school food authority participating in the NSLP may apply a geographic preference when procuring **unprocessed** locally grown or locally raised agricultural products. School food authorities have the discretion to determine the local area to which the geographic preference option will be applied. Other types of geographic or local preference are prohibited when using Federal Child Nutrition Program funds.

While the State Agency and USDA does not have specific language around this provision, USDA has numerous guidance documents and examples on the [USDA Geographic Preference tip sheet](#).

- **COST REIMBURSABLE CONTRACTS (ONLY IF USING):** 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.
 - The contract language provided below is mandatory (7 CFR 210.21(f), 7 CFR 220.16(e), and 7 CFR 250.53).
 - 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;
 - 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
 - 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;
 - 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;
 - 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;
 - 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
 - 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.
 - 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.
- **DURATION OF CONTRACT (FSMC SPECIFIC):** This requirement is for all school food authority's that enter into a contract with a Food Service Management Company.

- (7 CFR 210.16 (d)) Duration of contract. The contract between a school food authority and food service management company shall be of a duration of no longer than 1 year; and options for the yearly renewal of a contract signed after February 16, 1988, may not exceed 4 additional years. All contracts shall include a termination clause whereby either party may cancel for cause with 60-day notification.
- **RECALL CONTACTS (USDA FOODS PROCESSING SPECIFIC):** The following two provisions must be included in all bids/responses for USDA Foods Processing ([Responding to a Food Recall – Procedures for Recalls of USDA Foods](#)).
 - A provision for information for processor food recall procedures.
 - Contact information for a point and backup person for handling food recalls.
- **USDA NONDISCRIMINATION STATEMENT:** All publications that mention USDA Child Nutrition Programs must include the following revised nondiscrimination statement. This includes solicitation and bid documents.
 - 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: [How to File a Complaint](#), 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.

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