

REQUEST FOR PROPOSAL
Request for Proposal # 19/20-04

**Distribution of Processed
USDA Commodity,
Commercial Equivalents
& Commercial Food
Products**

Westminster School District
Nutrition Services
14121 Cedarwood Ave.
Westminster, CA 92683

Issue Date	Wednesday, April 8, 2020	
Proposal Submission Deadline	Monday, May 11, 2020	2:00 PM PST
Bid Opening	Tuesday, May 12, 2020	9:00 AM PST
Expected Board Approval	Thursday, June 11, 2020	

To: Orange County Register Attn: Legal Notices	This Legal Notice is to be published on the following dates: First Publication: Date: Wednesday April 15, 2020 Second Publication: Date: Wednesday April 22, 2020
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NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that the Board of Education for Westminster School District, Westminster CA (Orange County), will receive Request for Proposals for the procurement of the following:

RFP #19/20-04 – DISTRIBUTION OF PROCESSED USDA COMMODITY, COMMERCIAL EQUIVALENTS & COMMERCIAL FOOD PRODUCTS

Sealed bids must be delivered no later than **2:00 PM PST, May 11, 2020** to: Westminster School District, Nutrition Services, Attn: Stephanie Tovar, 14121 Cedarwood Avenue, Westminster, CA, 92683.

Companies interested in submitting a proposal should request appropriate documents from Stephanie Tovar at the address listed above or email at stovar@wsdk8.us. Westminster School District is not responsible for proposals sent via U.S. Mail, common carrier, or any other delivery service. All proposals are due at the Nutrition Service Office located at 14121 Cedarwood Avenue, Westminster, CA 92683 by the posted or advertised closing date and time. It is the vendor's responsibility to ensure that their proposal is delivered to the location listed.

Questions or comments regarding this RFP must be put in writing and received by the Westminster School District, Nutrition Services Office no later than midnight April 29, 2020. Questions are to be e-mailed to stovar@wsdk8.us. The Westminster School District shall not be obligated to answer any questions received after the above-specified deadline or any questions submitted in a manner other than as instructed above.

Proposals will be opened at 9:00 AM PST, Tuesday, May 12, 2020, at the Nutrition Service Office, located at 6311 Larchwood St., Huntington Beach, CA 92647.

The Westminster School District's Board of Education reserves the right to reject any and all bids. No bidder may withdraw their bid for a period of ninety (90) days after the date set for the opening of bids. Refer to the formal bid documents and specifications for additional information, terms, and conditions.

Stephanie Tovar
Director, Nutrition Services
Westminster School District

TABLE OF CONTENTS

Notice of Request for Proposals	2
Signature Page	4
Notice of Intent	6
Letter to Vendors	7
Vendor Checklist	8
Instructions and Information for Proposers	9
Code of Conduct	18
General Conditions	21
Evaluation and Award	27
Vendor Questionnaire	29
Proposer Criteria Form	33
Provisioning Contract	34
Proposal Form	39
Non-Collusion Declaration	40
Equal Opportunity Employment	41
Certification Regarding Lobbying	42
Suspension and Debarment	45
Iran Contracting Act	47
Drug Free Workplace Certificate	48
Alcohol and Tobacco-free Work Place Certificate	49
Workers Compensation Certificate	50
Clean Air and Water Certification	51
Proposal Worksheet	52

**The Westminster School District
Request for Proposal # 19/20-04
Distribution of Processed USDA Commodity, Commercial Equivalents
and Commercial Food Products**

Issue Date	Wednesday April 8, 2020	
Proposal Submission Deadline	Monday, May 11, 2020	2:00PM

Request for Proposal Signature Page

This Request for Proposal (RFP) is for the pricing for delivery of processed USDA commodity end products, commercial equivalents and commercial food products.

Please bid your lowest prices for the services on the attached Proposal Worksheet. Before bidding, please read the **Introduction, Instructions and Conditions, and Sample Provisioning Contract** and other documents to thoroughly understand the bid.

Submit all bids in a sealed envelope showing the Company Name, Bid Number, and Due Date and Time on the outside. You are encouraged to follow the Bidder Checklist to assist with ensuring a complete bid package.

Sealed bids must be delivered no later than **2:00 PM, Monday, May 11, 2020** to: Westminster School District – Nutrition Services, 14121 Cedarwood Avenue, Westminster, CA 92683, Attn: Stephanie Tovar. Bids must reach the Westminster School District – Nutrition Services Department, at the address listed above by the time and date listed above.

Companies who submit a proposal should request appropriate documents from Stephanie Tovar at the address listed above or email at stovar@wSDK8.us. The Westminster School District is not responsible for proposals sent via U.S. Mail, common carrier, or any other delivery service. All proposals are due at Westminster School District Attn: Nutrition Service located at 14121 Cedarwood Avenue, Westminster, CA 92683 by the posted or advertised closing date and time. It is the vendor’s responsibility to ensure that their proposal is delivered to the location listed.

Questions or comments regarding this RFP must be put in writing and received by the Westminster School District, Nutrition Services Office no later than midnight **April 29, 2020**. Questions are to be e-mailed to stovar@wSDK8.us. The Westminster School District shall not be obligated to answer any questions received after the above specified deadline date or any questions submitted in a manner other than as instructed above.

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The Westminster School District’s Board of Education reserves the right to reject any and all bids. No bidder may withdraw their bid for a period of ninety (90) days after the date set for the opening of bids. Refer to the formal bid documents and specifications for additional information, terms, and conditions.

If further clarification is needed, email Stephanie Tovar at stovar@wSDK8.us.

By signing this, I certify that I am an authorized representative of the vendor (or individual) and that information contained in this proposal is accurate, true, and binding upon the vendor.	
Company Name	
Signature of Company Official	
Name of Signer	
Title of Signer	
Email Address	
Complete Mailing Address	
City, State, Zip	
Phone Number	
Date	

NOTICE OF INTENT

It is the intent of the Westminster School District to award one or more contract(s) as a result of this Request for Proposal (RFP). Products and/or services considered for award shall equal or exceed a minimum quality level of industry standards as defined within this RFP, and shall comply with all applicable federal, state, and local technical, environmental, and performance standards and specifications.

DEFINITIONS: In this RFP and in the Contract, the following terms are defined as follows:

- A. **“Best Value”** means the method by which a contract, if any, is awarded, in accordance with applicable laws, rules, and regulations. Best Value includes multiple parameters, including experience, references, quality of Vendor’s product(s) and/or services, and price.
- B. **“Contract”** means an agreement entered into between the District and a vendor as a result of this RFP. The Contract consists of the Request for Proposals, including all Addenda, Vendor’s Proposal that is satisfactory to the District, and the District’s Contract form(s), which may include, but are not limited to, a written contract, an agreement letter, or a purchase order.
- C. **“WSD”** refers to the Westminster School District
- D. **“Proposer”** refers to the person/firm that submits the proposal to this RFP.
- E. **“Project”** means the Scope of Work for furnishing goods and services as outlined in this RFP.
- F. **“Proposal”** refers to the documents submitted by a Proposer that addresses the scope and requirements of this RFP.
- G. **“RFP”** refers to this Request for Proposal.
- H. **“Responsible Vendor”** means a vendor with adequate financial resources (or the ability to obtain such resources), who can comply with the delivery requirements, and who is a qualified and established firm regularly engaged in the type of business that provides the goods and/or services herein.
- I. **“Responsive Proposal”** refers only to those proposals that comply with all material and administrative aspects of this RFP.
- J. **“Vendor”** refers to the person(s)/entity(ies) to whom a contract is awarded pursuant to this RFP.
- K. Singular terms shall include the plural and vice versa. A gender reference includes all genders.

Dear Vendor,

The Westminster School District is pleased to provide you with document forms enabling you to respond to this year's Request for Proposal.

Our District represents 17 schools serving more than 10,500 total meals daily.

The bidding documents in the packet must include:

- Notice of Request for Proposal
- Request for Proposal Signature Page
- Vendor Questionnaire
- Proposer Criteria Form (Provides minimum requirements of proposers and references)
- Proposal Form (Document in which proposer agrees to the terms of the proposal is awarded)
- Non Collusion Declaration with Signature
- Equal Opportunity Employment
- Certificate And Disclosure Statements
- Certification Regarding Lobbying
- Suspension and Debarment
- Iran Contracting Act Certification
- Contractor's Certification – Regarding Drug Free Workplace
- Contractor's Certification – Alcoholic Beverages and Tobacco Free Workplace
- Contractor's Certification – Worker Compensation
- Clean Air and Water Certification
- Completed Proposal Worksheet in Excel format via email or on a data storage device (provided by Vendor)
- Printed Proposal Worksheet with Signature
- Food Safety and Modernization Act (FSMA) Certification

The Westminster School District is trying to make the process of bidding and purchasing more efficient. For your convenience, we will provide an electronic spreadsheet via email for completion. However, a completed, signed printout of the spreadsheet is required and must be included in your sealed proposal package when it is returned.

Please take special notice of all the terms and conditions in the proposal document in order to be successful Proposer. A document check off sheet has been included to assist you.

Thank you for taking the time to submit a proposal. We hope many of you are successful Proposers and that we will enjoy a mutually profitable relationship with your company.

Sincerely,

Stephanie Tovar
Nutrition Services Director
Westminster School District

Westminster School District Nutrition Services

Document Check-Off Sheet

Please **COMPLETE, SIGN & RETURN** the following items with your sealed proposal:

- Notice of Request for Proposal
- Request for Proposal Signature Page
- Vendor Questionnaire
- Proposer Criteria Form (Provides minimum requirements of proposers and references)
- Proposal Form (Document in which proposer agrees to the terms of the proposal is awarded)
- Non Collusion Declaration with Signature
- Equal Opportunity Employment
- Certificate And Disclosure Statements (This certification is required to be completed by the contractor each time an SFA renews or extends an existing contract that exceeds \$100,000)
- Certification Regarding Lobbying (Required annually for any new contracts or extensions of contracts that could exceed \$100,000. Required to receive one from every existing or potential contractor to be considered for Proposal)
- Suspension and Debarment (Required annually for any new contracts or extensions of contracts that could exceed \$100,000. Required to receive one from every existing or potential contractor to be considered for Proposal)
- Iran Contracting Act Certification
- Contractor's Certification – Regarding Drug Free Workplace
- Contractor's Certification – Alcoholic Beverages and Tobacco Free Workplace
- Contractor's Certification – Worker Compensation
- Clean Air and Water Certification
- Completed Proposal Worksheet
- Printed Proposal Worksheet with Signature (& excel worksheet via email)
- Food Safety and Modernization Act (FSMA) Certification

Failure to return any of the above items completed and signed with the original sealed proposal may qualify your proposal as non-responsive.

Signature

Date

Westminster School District Nutrition Services

INSTRUCTIONS & INFORMATION FOR PROPOSERS

1. **PREPARATION AND SUBMISSION OF PROPOSAL FORM:** All pages of the Proposal must be completed and submitted via computer or in ink. Unit price for all line items must be shown where required on the *Proposal Worksheet*. Prices should be stated in units specified herein. All forms must be thoroughly completed and signed by the prospective vendor. A Bidder Checklist is included to assist bidders in returning a complete bid package. Attachment A: Proposal Worksheet must be returned in Excel format on a data storage device with Proposal documents.

Each proposal must be submitted in a separate sealed envelope bearing on the outside the appropriate name of the proposal:

**RFP #19/20-04 – DISTRIBUTION OF PROCESSED USDA
COMMODITY, COMMERCIAL EQUIVALENTS AND COMMERCIAL
FOOD PRODUCTS**

It is the sole responsibility of the Proposer to ensure that the proposal is received by **2:00 p.m. on Monday, May 11, 2020**. Any proposal received after the scheduled closing time for receipt of proposals will be returned to the Proposer unopened.

2. **PROPOSAL OPENING:**

All proposals shall be opened at **9:00 a.m. on Tuesday, May 12, 2020** at the:
WESTMINSTER SCHOOL DISTRICT
Nutrition Services Office
6311 Larchwood Dr.
Huntington Beach, CA
92647

3. **SIGNATURES:** All proposals must show the company name and must be signed by a responsible officer or employee fully authorized to bind the organization to the terms and conditions herein. Obligations assumed by such signature must be fulfilled. All signatures must be in original ink.

Listed below are the officers eligible to sign proposal pages requiring an officer's signature:

- | | |
|-----------------------------|----------------------------------|
| 1. Chairperson | 6. Assistant Corporate Secretary |
| 2. President or CEO | 7. Treasurer or CFO |
| 3. Vice-President | 8. Assistant Treasurer |
| 4. Assistant Vice-President | 9. General Counsel |
| 5. Corporate Secretary | 10. Assistant General Counsel |

Westminster School District will not accept a Proposal if a document requiring an officer's signature is not signed by one of the above individuals.

4. **MODIFICATIONS AND CORRECTIONS:** Changes in or additions to the Excel Pricing Spreadsheet, alternate proposals, or any other modifications of the proposal form which is not specifically called for in the proposal documents may result in rejection of proposal as not being responsive to the invitation to proposal. No oral or telephone proposals or modifications shall be considered. The proposal submitted must not contain any erasures, inter-lineation, or other corrections unless each such correction is initialed in the margin immediately opposite the correction by the person or persons signing the proposal. Proposals should be verified before submission and cannot be withdrawn after their opening. Hard copy proposals must match the electronic proposal.

5. **FAILURE TO BID:** If you do not wish to bid on any item, please mark "no bid" on RFP Signature Page, sign and return the bid, otherwise your name may be removed from the bidder's mailing list.
6. **ACCEPTANCE OF PROPOSALS:** The right is reserved to reject any or all bids and to accept or reject any line items thereon and to make any combination of line item awards. Bids may be rejected on grounds of non-responsiveness or non-responsibility. Bids are subject to acceptance at any time within ninety (90) days after opening of same unless otherwise stipulated.

Unsolicited items, services, or incentives offered as part of the bid response will not be evaluated or considered in the award process.

7. **WITHDRAWAL OF PROPOSAL:** Bid proposals may be withdrawn by the bidder prior to the time fixed for opening of the bids, but may not be withdrawn for a period of ninety (90) days after the opening of bids. A successful bidder shall not be relieved of the bid submitted without the consent of the District or bidders recourse to California Public Contract Code Sections 5100 et. seq.
8. **INTERPRETATION OF PROPOSAL DOCUMENTS:** If any Proposer finds discrepancies in, or omissions from the proposal documents, they may submit to Stephanie Tovar in writing to the address specified or via email to stovar@wsdk8.us a written request for clarification and the response thereto will be mailed to all proposers. Corrections will be made by addenda issued to each company that has been sent or picked up a proposal packet. The WSD will not be responsible for oral interpretations. All addenda issued during the time of bidding shall be incorporated into the proposal.
9. **AGREEMENT PERIOD:** It is anticipated that the Agreement to be awarded under this proposal shall be effective from July 1, 2020, through June 30, 2021. Prices must remain firm until December 31, 2020..

10. PRICING:

Contract prices awarded as a result of this bid shall remain firm for the contract period. Prices proposed for all items will be for the initial period of July 1, 2020 through June 30, 2021. Bidder certifies that prices offered are the lowest available and that the District will be given the benefit of any lower prices or price decreases during the term of the contract. District has the right to negotiate lower prices directly with manufactures. Bidder is to give the District immediate advantage of any price decreases, and inform District in writing of the decrease.

Pricing for distribution shall be offered in two categories:

1. Processed USDA Foods end products and commercial equivalents, and
 2. Additional commercial food products (frozen, refrigerated, and dry goods).
- a) Prices must be stated for the unit items specified herein as well as the delivery prices per case that the District will be charged. No additional charges other than the agreed upon delivery fee will be allowed. Bid on each item separately. Errors in price computations do not relieve the bidder from holding the price. Veracity of prices submitted is the sole responsibility of the bidder. No increase to prices will be allowed during the term of this contract.
- b) Processed USDA Foods End Products and Commercial Equivalents:
Vendors shall utilize the manufacturer pricing for 2020/2021 processed USDA Foods end-products and commercial equivalents price catalog for approved Super COOP Distributors that was released and awarded by the San Mateo-Foster City School District Food Services Agency on February 3, 2020. This price catalog can be found at www.super-coop.org by selecting "Price Catalog 2020-2021"
- c) For all items listed in the San Mateo-Foster City USDA Foods End Products and Commercial Equivalents price catalog for Super Coop Distributors, new products and price decreases will be considered mid-year using an Amendment, published on approximately December 2020 for manufacturer pricing January 1 – June 30, 2020. Successful bidders on this Proposal should be aware of this and are responsible to locate the results of the

amendment and offer such pricing to the District as part of this Proposal.

- d) Commercial Food Products – Frozen, Refrigerated, and dry goods:
Additional commercial food products should be quoted as specified on the Proposal Worksheet. Quote manufacture landed cost to distributor and delivery cost to District using the worksheet. Equal products may be quoted that meet the same specifications as those listed. The District will make the final determination if a substitution meets the Districts needs
- e) Additional Items: Additional items may be added to this Proposal, not to exceed 10% of the value of the award. The District shall contact the successful bidder for pricing on additional items to be added to the Proposal award at any time during the bid period. Pricing must be at landed cost to Distributor. The District has the right to audit pricing on all new items.

11. AWARD OF PROPOSAL: The award of this bid will be made to a single responsive and responsible bidder who meets the terms and conditions of the bid. Proposals found to satisfy the minimum qualification requirements will be evaluated against the evaluation criteria shown below by a review committee. “Minimum qualifications” shall mean: complete proposals meeting all RFP instructions and conditions, received by the due date and time.

Following the receipt of Proposals, bidders shall be ranked based on the following criteria:

<u>Evaluation Criteria</u>	<u>Maximum Points</u>
Experience	20
Competence, Responsive	
Customer References	20
Delivery Plan & Record of Service	20
Food Safety - HACCP Plan and Plant Security	10
Price	30
Total Points Possible	100

Each Proposal will be evaluated based on criteria and priorities defined by the District, with specific attention to those features, functional and technical aspects noted for each section. The District’s evaluation panel will award the contract based on the prospective vendor submission that best meets the needs of the District with regard to the RFP specifications contained herein. Presentations/Interviews (if needed) may be requested by the evaluation panel. Vendors are advised that award may be made without interviews or further discussion.

If presentations/interviews are needed, bidders will receive notification to interview with evaluation panel.

A bidder must be able to deliver the items within the required delivery date and time window in order to be declared responsive to this bid. The District reserves the right to make no award at all, reserves the right to reject any and all bids and to waive any irregularity or discrepancy associated with this bid.

Unsolicited services or incentives offered as part of the Proposal response will NOT be evaluated or considered in the award process.

12. COMMENCEMENT OF DELIVERIES: After receiving written notification of award, each successful Proposer shall be required to commence with the delivery of all items, which have been awarded immediately after receipt of a participating district purchase order. Failure to complete all deliveries within fourteen (14) calendar days after receipt of a district purchase order shall be considered sufficient cause for default action under the DEFAULT provision of this proposal.

13. SAMPLES: WSD reserves the right to request samples of items proposed prior to the award, if the Proposer is bidding items/brands other than those specified or where no brand is indicated in the proposal document, the following shall apply: **Samples are requested for the following items: All products bid that are equal but not the specified brand.**

14. **BRANDS, SIMILAR PRODUCTS, "Or Equal"**: Whenever WSD refers to a product by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied, as applicable. The specified product shall be understood as indicating type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products of comparable quality, design and efficiency, as applicable.
15. **GRADES OF CANNED PRODUCTS**: All canned fruits and vegetables are to meet the specified grades as defined by the USDA Agricultural Marketing Service "AMS". The AMS webpage may be found at: <https://www.ams.usda.gov/grades-standards>
16. **WARRANTY of QUALITY**: The vendor, manufacturer, or his assigned agent shall guarantee the food products against all defects.
- (a) Cases and packaging shall be constructed to ensure safe and sanitary transportation to point of delivery. Damaged cases or packages may be rejected and returned for credit or immediate replacement at no cost to the District(s).
 - (b) All product delivered shall be delivered in fresh form, with adequate shelf life, no less than thirty (30) days from the expiration date.
 - (c) The WSD reserves the right to discontinue service of any or all portion of any contract resulting from this bid for any reason determined by the WSD to be detrimental to the health and welfare of the students and school personnel, or failure to meet contract specifications or wholesomeness standards, and to hold the contractor in default.
17. **EVIDENCE OF RESPONSIBILITY**: A list of current customers must be provided.
18. **PROPOSAL DOCUMENT**: The complete proposal includes the following documents: Notice of Request for Proposal, Request for Proposal Signature Page, Vendor Questionnaire, Proposer Criteria Form, Proposal Form, Non Collusion Declaration with Signature, Equal Opportunity Employment, Certificate And Disclosure Statements, Certification Regarding Lobbying, Suspension and Debarment, Iran Contracting Act Certification, Contractor's Certification – Regarding Drug Free Workplace, Contractor's Certification – Alcoholic Beverages and Tobacco Free Workplace, Contractor's Certification – Worker Compensation, Clean Air and Water Certification, Completed Proposal Worksheet in Excel format, Printed Proposal Worksheet with Signature, Food Safety and Modernization Act (FSMA) Certification.
- Any of these shall be interpreted to include all the provisions of the other documents as though fully set out therein. The Proposer should fully acquaint themselves with the conditions and terms affecting the performance of the Agreement if awarded. The Proposer's submission of a proposal shall be taken as prima facie evidence of compliance with this section. Proposals should be verified before submission, as they cannot be withdrawn after their opening.
19. **PAYMENT**: Prompt payment may be requested after actual delivery of goods to the required destination as outlined in the conditions. In addition, successful bidder(s) are expected to pay manufacturers for goods in a timely fashion.
20. **FOB**: All pricing shall be quoted **FOB the District location(s) as specified below. Please quote both the single and multi-drop option.** All freight charges must be included in the bid price. Any minimum delivery amounts must be listed with the bid price.

Delivery Location (s) (school/location name, street address, city, zip)	Contact Person & Phone Number	Number of Deliveries Required per Week and Days	Preferred Delivery Times	Special Information
(Single Drop) Stacey Central Kitchen 6311 Larchwood St Huntington Beach, CA 92647	Cierra Husk (714) 893-3865	1 -Wednesday	6:30-10:30 AM	
Johnson Middle 13603 Edwards St Westminster, CA 92683	Maria Yaghoubi (714)-894-7244	1 -Wednesday	6:30-10:30 AM	No Dock
Warner Middle 14171 Newland Westminster, CA 92683	Katrina Taylor (714) 894-7281	1 -Wednesday	6:30-10:30 AM	No Dock

21. **TAXES:** Purchaser will pay for state and local taxes. Do not include taxes on the proposal form.

22. **DELIVERY:** The destination(s) shall be the District warehouse (single drop), with Johnson Middle School and Warner Middle School as two additional drops (multi-drop). No additional fees shall be charged for small orders. All shipments shall be accompanied by a delivery receipt. The purchase order number shall appear on all delivery receipts and invoices. All costs for delivery, insurance, freight or the packing of the said articles is to be borne by the Proposer. Deliveries will be made by appointment only when requested. DELIVERIES REQUESTED BY APPOINTMENT ONLY AND NOT DELIVERED BY APPOINTMENT WILL BE SUBJECT TO REJECTION. The above listed information is to be reproduced on the vendor's Bill of Lading. Vendor will be responsible for all assessorial charges associated with the shipping of goods ordered due to failure to follow above listed shipping instructions.

Delivery Requirements:

- A. Pallets used for product delivery must meet the following specifications: Size 48 inches by 40 inches
Construction/Grade Premium A, A or Premium B grade
- B. Products and/or cases must have the identifying labels facing out
- C. Pallets with multiple items (items not easily identifiable) must be broken down for receiving and repalletized if requested

23. **SUPER CO-OP APPROVED DISTRIBUTOR MEMORANDUM OF UNDERSTANDING:**

Westminster School District is a member of the Super Co-op, A California USDA foods Cooperative. Successful vendors under this Proposal must complete a (MOU) for Distribution Services for Delivery of USDA foods End Products for Super Co-Op Member Districts in the State of California. The vendor agrees to fulfill all provisions of that MOU, including but not limited to prompt USDA Foods end product sales reporting; maintaining records of inventory, sales and delivery; clearly stating Value Pass Through on delivery invoices.

Vendor agrees to report sales of USDA Foods end products on behalf of the processor on a daily basis to the manufacturer's reporting agency; e.g. ProcessorLink, K-12 Foodservice, etc. Prompt reporting is imperative to ensure proper draw down of the Districts entitlement balance. Vendor is responsible for all costs for transmitting daily sales updates. Value Pass Through methods and amounts shall be clearly indicated on all invoices for USDA Foods End Products.

24. **QUANTITIES:** WSD does not guarantee orders in these amounts nor shall orders be limited to these specific

figures. This is an indefinite-quantity bid, however the quantities listed are a good faith estimate. Bidders shall not specify minimum or maximum quantities or charges for order types, unless specifically allowed on the bid form. Unlimited orders within the term of the contract shall be allowed at the prices quoted. Estimated Quantities are for the purposes of forecasting and not to be considered a promise to purchase.

The provisions of the contract shall in no way prohibit the District from making an incidental purchase from another supplier for the same services listed herein.

25. **HOLD HARMLESS:** The vendor shall save, defend, hold harmless and indemnify the WSD and its members against any and all liability, claim, and costs of whatsoever kind and nature for injury to or death of any person and for loss or damage to any property occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations, or performance under the terms of this contract, resulting in whole or in part from the negligent acts or omissions of vendor, and subcontractor, or any employee, agent, or representative of vendor and/or subcontractor. Refer also to the Sample Provisioning Contract.
26. **CANCELLATION FOR INSUFFICIENT OR NON-APPROPRIATED FUNDS or USDA FOOD PRODUCTS:** The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items bid is public money appropriated by the United States Department of Agriculture and State of California or acquired by the WSD from similar public sources and is subject to variation. The District fully reserves the right to cancel this bid at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds and/or lack of availability of USDA Foods products.
27. **FAILURE TO FULFILL CONTRACT:** When vendor shall fail to deliver any article or service or shall deliver any article or service which does not conform to the specifications, the District may, at its sole discretion, annul and set aside the contract entered into with said vendor or contractor, either in whole or in part, and make and enter into a new contract for the same items in such manner as seems to the Board of Education to be to the best advantage of the WSD. Any failure for furnishing such articles or services by reason of the failure of the vendor or contractor, as above stated, shall be a liability against such vendor and his sureties. The Board of Education reserves the right to cancel any articles or services which the successful bidder may be unable to furnish because of economic conditions, governmental regulations or other similar causes beyond the control of the bidder provided satisfactory proof is furnished to the Board or Education, if requested. Failure to fulfill contract may result in bidder disqualification in subsequent year(s) due to non-responsible practices.
28. **INSPECTION OF FACILITIES – EVALUATION:** The WSD reserves the right to inspect the facilities of the Proposer prior to award or during the contract. The District may request to review the Proposer’s current Hazard Analysis Critical Control Points (HACCP) food safety system for their facility in order to insure optimum storage and distribution practices. If the District determines that after such inspection that the Proposer is not capable of performance within the District’s standards, their proposal will not be considered. The findings and decisions of the WSD shall be final.
29. **FOOD DEFENSE:** Proposer’s distribution facility must be registered with the Food and Drug Administration and meet the requirements of the Food Safety Modernization Act (FSMA). For further information visit the FDA’s official site at <http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm>. Failure to register prior to the close of the proposal may result in the Proposer’s disqualification for contract award.
30. **SAFETY AND SANITATION:** Food Services staff will only receive product that meets all food safety and sanitation requirements, therefore Food Services staff may at any time:
 - Inspect delivery trucks for any signs of contamination.
 - Check all expiration and best if used by dates.
 - Use thermometers to check temperatures.
 - Accept product only at acceptable temperatures.
 - Reject unacceptable items.

31. **PRODUCT RECALLS:** If a product recall is instituted on an item that has been furnished and delivered to participating school districts, Vendor must immediately notify the school districts Food Services/Nutrition Departments with all pertinent information regarding the recall.
32. **CREDIT MEMOS:** The Contractor's delivery driver shall provide each location with a credit at the time of delivery for all merchandise short on delivery, or damaged or spoiled product necessitating a return or reorder. A copy of this credit, priced and extended, shall be mailed with the corresponding invoice to the participating District's Food Services Accounting Departments.
33. **TERMINATION OF AGREEMENT WITHOUT CAUSE:** WSD may terminate this Agreement at any time by giving the Contractor thirty (30) days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for goods or services satisfactorily rendered prior to the effective date of said termination, Contractor shall be entitled to no further compensation or payment of any type from the WSD.
34. **DISTRICT'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF:** The WSD may withhold a sufficient amount or amounts of any payment otherwise due to the Contractor, as in its judgment may be necessary to cover defective items not remedied, and the District may apply such withheld amount or amounts to the payment of such claims, in its discretion.
35. **MULTI-YEAR EXTENSIONS:** Subject to the provisions of pricing-terms of contract, and pursuant to Education Code, Section 17596 and 81644, this proposal may be extended (by mutual consent expressed in writing) for two (2) additional fiscal school years.

The extension may be granted on a year by year basis provided that the following conditions are being met:

- A. WSD has deemed the products and services of the vendor satisfactory.
 - B. The Vendor shall submit a list of the price increases for the next fiscal year (July 1 to June 30) by the last business day in April.
 - C. The percentage of price increase for products are at or below the consumer price increase for **“All Urban Consumers”** Database Series for the statistical area of **“US City Average”** from the category **“Food Away From Home”** as listed on the Bureau of Labor Statistics (BLS) web site (<http://www.bls.gov/data/>). The Vendor may use the preceding twelve (12 Months) April to March, depending on the most recent months listed on the website two weeks prior to submittal of price increases. Vendor may provide alternate documentation if BLS data is not available. Acceptability of alternate documentation is at the discretion of the Westminster School District, Nutrition Services.
 - D. If prices were increased midyear (Instructions & Information for Proposers, Item #10) the total increase in contract prices (July to June) shall not exceed item “C” listed above.
 - E. Documentation of Insurance Coverage, (General Conditions, Item #9) shall be resubmitted with each request for contract extension.
36. **PROPOSAL FORM DIRECTIONS:**
- A. Proposer is to use the Proposal Form provided to provide pricing on this proposal
 - B. The District is a member of the Super Co-op. All product pricing for USDA End-products and Commercial equivalents shall be based on the San Mateo-Foster City School District 2020-2021 Price Catalog for approved Super Coop Distributors.
 - C. Proposer is to add the delivery charge per case (single and multi-drop) and provide the extended price per case for each product on the provided worksheet.

- D. For additional commercial food products not listed on the San Mateo-Foster City USDA End-Product and Commercial Equivalent Price Catalog, bidder shall add the per case delivery charge to the landed cost and quote the total price for each food item
- E. Proposer may submit "equal" products in accordance with the sample provision
- F. The District reserves the right to purchase additional units, at various quantities, under the terms and conditions provided in this proposal.
- G. WSD reserves the right to reject any or all proposals, in whole or in part, and to be the sole judge of the merits and qualifications of all proposals and the products submitted as "equal" to the District's specifications and not necessarily accept the lowest price offered.**
- H. The District reserves the right to reject proposals with multiple entries per line item. Proposers submitting proposals with more than one entry per line item may be rejected on grounds of non-responsiveness or non-responsibility.

37. **PROPOSAL PROTESTS PROCEDURES:** Any Proposer may file a bid protest. The protest shall be filed in writing with the Director of Nutrition Services not more than five (5) business days after the date of the bid opening. An e-mail address shall be provided and, by filing the protest, protesting Proposer consents to receipt of e-mail notices for purposes of the protest and protest related questions and protest appeal, if applicable. The protest shall specify the reasons and facts upon which the protest is based.

A. **Resolution of Bid Controversy:** Once the bid protest is received, the lowest responsible Proposer will be notified of the protest and the evidence presented. If appropriate, the low Proposer will be given an opportunity to rebut the evidence and present evidence that the low Proposer should be allowed to perform the Work. If deemed appropriate by the District, an informal hearing will be held. District will issue a written decision within fifteen (15) calendar days of receipt of the protest, unless factors beyond the District's reasonable control prevent such resolution. The decision will be copied to all parties involved in the protest.

B. **Appeal:** If the protesting Proposer or the apparent low Proposer is not satisfied with the decision, the matter may be appealed to the Chief Business Official or their designee, within three (3) business days after receipt of the District's written decision on the bid protest. The appeal must be in writing and sent via overnight registered mail with all accompanying information relied upon for the appeal and an e-mail address from which questions and responses may be provided to:

Westminster School District
 Attn: Art Jimenez
 14121 Cedarwood Ave.
 Westminster, CA 92683

C. **Appeal Review:** The Chief Business Official or their designee shall review the decision on the bid protest and issue a written response to the appeal, or if appropriate, appoint a Hearing Office to conduct a hearing and issue a written decision. The written decision of the Director of Nutrition Services or the Hearing Officer shall be rendered within fifteen (15) calendar days and shall state the basis for the decision. The decision concerning the appeal will be final and not subject to any further appeals.

38. **COURIER DELIVERIES:** It is each Proposer's sole responsibility to ensure its proposal is timely delivered and received at the location designated as specified above. Any proposal received at the designated location after the scheduled closing time for receipt of proposals shall be returned to the Proposer unopened. **The Westminster School District is not responsible for proposals sent via U.S. Mail, UPS, and Federal Express or by any other delivery service. All proposals are due in the Nutrition Services Department by the posted or advertised closing date and time. It is the Proposers' responsibility to ensure that their proposal is delivered to the Nutrition Services Department located at 14121 Cedarwood Ave., Westminster, CA 92683.**

39. **CONTRACT:** The Provisioning Contract shall be completed with the respective successful bidder, following the award of the Proposal.

40. **TERM OF CONTRACT:** Minimum contract term is one (1) year. Quoted prices must stay in effect for one (1) year beginning on July 1, 2020 through June 30, 2021. Pursuant to California Education Code, Sections 17596 and 81644, this bid may be extended (by mutual consent expressed in writing) for up to two (2) additional one (1) year increments (total potential bid life of three (3) years from Board of Education award).
41. **NON-COLLUSION DECLARATION:** Each bidder submitting a proposal shall execute and deliver a non-collusion declaration in the form attached hereto. Failure to submit such non-collusion affidavit shall be grounds to reject a proposal as non-responsive.
42. **“BUY AMERICAN” PROVISION:** Federal regulations require that to the maximum extent possible only domestic products are to be purchased consistent with the “Buy American” provisions of Public Law (P.L) 105- 336 under the Richard B. Russell National School Lunch Act. Manufactured end products must be manufactured in the United States AND the cost of domestic components must exceed 50 percent of the cost of all components.

Upon offer of award, Vendor will be required to provide upon request certification of the food products. The vendor will use the following language when certifying food products as U.S. produced and processed products;

“I certify the following item(s) _____ are produced and processed in the U.S. and contains over 51% of its agricultural food components, by weight or volume, from the U.S.”

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

- a. Recipients have unusual or ethnic food preferences which can only be met through purchases of products not produced in the U.S.;
- b. The product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality;
- c. The cost of the U.S. produced food products is significantly higher than foreign products.

The WSD reserves the right to purchase non-domestic grown or manufactured food products if the cost of the U.S. produced item, that contains (51%) or more domestically grown commodities is significantly higher. For this RFP, WSD has determined that any item cost that is ten percent (10%) or more in price than the non- domestic product is considered significantly higher.

WSD reserves the right to purchase non-domestic grown or manufactured food products if the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality.

Westminster School District Nutrition Services

PROCUREMENT POLICY

CODE OF CONDUCT

Procurement Standards

All employees and agents representing Westminster School District Nutrition Services must conduct all procurement transactions in a manner that allows for full and open competition consistent with the standards stated in 2 CFR Section 200.319.

To ensure objective vendor performance and eliminate any unfair competitive advantage, vendors that develop or draft specifications, requirements, statements of work, invitations for bid, or requests for proposal must be excluded from competing for the bid (2 CFR, section 200.319 (a))

Actions that restrict competition include, but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business
- Requiring unnecessary experience or bonding
- Conducting noncompetitive pricing practices between firms
- Awarding noncompetitive contracts to consultants who are on retainer contracts
- Allowing organizational conflicts of interest
- Specifying a brand name product without allowing an equal product to be offered by describing product performance or descriptors or indicating “or equal” as an acceptable alternative
- Engaging in an arbitrary action during the procurement process, such as awarding a contract, without a valid reason, to a vendor that did not rank first (or lowest in price) according to the agencies evaluation criteria when awarding a contract

Discounts, Rebates, Points and Other Incentives

Employees and staff members in the Nutrition Services Department who are involved in procurement including vendor selection, contract awards and administration of contracts may not solicit gifts or favors from prospective vendors, contractors, or parties to sub-agreements.

Accepting incentives that may serve to induce or influence an employee engaged in vendor selection, contract award or administration of contracts is prohibited.

The District may use points earned from vendors to purchase goods or services or to redeem points for travel to CNP related conferences as long as the goods, services and travel support the operation and maintenance of the nonprofit school food service program.

Per 2 *CFR*, Section 200.405, costs are allocable if the cost:

- Is incurred specifically for the federal award
- Benefits both the federal award and other work of the nonfederal entity and can be distributed in proportions that may be approximated using reasonable methods
- Is necessary to the overall operation of the nonfederal entity and is assignable in part to the federal award in accordance with the principles in this subpart (i.e. Revenues received by the nonprofit school food service are to be used only for the operation or improvement of such food service)

All incentives received must directly benefit the Food Service program.

To the extent that such credits accruing to or received by the nonfederal entity relate to allowable costs, they must be credited to the federal award either as a cost reduction or cash refund, as appropriate.

Unsolicited gifts valued under \$40 are considered to be of nominal value and may be acceptable.

Soliciting donations from existing vendors that benefit the entire Department or District may be allowed if approved by the Chief Business Official and the School Board however such donations must not create a barrier to full and open competition

Conflicts of Interest

A conflict of interest arises when the District's or Departments employee or agent, or any member of their immediate family, a partner, or an organization that employs that employee or a member of the employees immediate family or a firm that the employee or his/her family member has a financial or other interest in, or that the employee or his/her family member would gain a tangible personal benefit from is a firm considered for, or offered a contract.

Employees of the Department are strictly prohibited from participating in the selection, award and administration of any contract supported by a federal award if the employee has a real or apparent conflict of interest.

California Government Code, section 87100 states,

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Confidentiality

All staff and staff members involved in the procurement, bidding and contract award process must maintain the highest level of confidentiality.

Providing confidential information to any person or entity that was not designated to be privy to that information is unethical and strictly prohibited.

All information with respect to bid opening, bid pricing, bid evaluations, and contract awards will be kept confidential and announced publicly only after approved by the School Board.

Conflict of interest violations may be punishable by the following disciplinary actions:

- Verbal warning
- Written reprimand
- Suspension or termination

Federal 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, 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) (PDF) found online at the Filing a Discrimination Complaint as a USDA Customer Web page External link opens in new window or tab. 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:

mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
fax: 202-690-7442; or
email: program.intake@usda.gov.

USDA is an equal opportunity provider.

End of Instructions and Information for Proposer

GENERAL CONDITIONS

- a. AWARD OF AGREEMENT:** The Westminster School District reserves the right to reject any or all proposals, or to waive any irregularities or informalities in any proposals or the bidding, and to make its selection of items awarded based upon its specifications, or which are most economical and/or best suited for the purpose of acceptance for sixty (60) calendar days after the proposal opening date. The WSD reserves the right to award to one or more Proposers.

The WSD reserves the right to reject any or all proposals, in whole or in part, and to be the sole judge of the merits and qualifications of all proposals and the products submitted as "equal" to the WSD's specifications and not necessarily accept the lowest price offered.

It is the intention of the WSD to select the items to be purchased on an item-by-item basis wherever practical. However, the WSD reserves the right to combine items of like design to maintain uniformity.

The WSD further reserves the right to not necessarily purchase all items and/or quantities listed in the proposal documents. The quantities listed are estimates of the needs of the respective districts and may be adjusted to meet the actual needs, when determined.

- b. PLACEMENT OF ORDERS & LEAD TIME:** Orders shall be issued directly to the vendor by WSD commencing from proposal award (July 1, 2020 through June 30, 2021). The District will place its own orders. Ordering and lead time procedures will be mutually agreed upon between vendor and district. Lead times for manufacturer will be provided by vendor.

- c. SUBSTITUTIONS:** Substitutions for awarded items must be pre-approved by the District and delivered at or below awarded price.

The attached lists of proposal items have been vetted through our menu item review process and have been determined acceptable in regards to nutrient content including saturated fat, sodium, and trans fat. Any substituted proposal items must include nutrient content documentation (Product Formulation Statement) that also contains specific information that includes saturated fat, sodium, and trans fat.

- d. ORDER LIABILITY:** Any liability created by an order issued against this agreement shall be the sole responsibility of the participating school district placing the order.

- e. DISCOUNTS :** The vendor 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.

- f. INVOICES:** Invoices shall be submitted to the school district and shall contain the following information: purchase order number, item number, item description, quantity, unit price, extended totals, and applicable discounts for items delivered. Failure to enter the above information on the invoice may cause delay in payment. Payment shall be made on partial deliveries accepted by the school district.

- g. GOVERNING LAW AND VENUE:** In the event of litigation, the bid documents, specifications and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate state or federal court located in Orange County.

- h. ATTORNEYS' FEES:** If suit is brought by either party to this Contract to enforce any of its terms (including all component parts of the contract documents), and the District(s) prevails in such suit, the Contractor shall pay all litigation expenses incurred by the District(s), including attorneys' fees, court costs, expert witness fees and investigation expenses.

i. INSURANCE: Without limiting vendor's indemnification of the District, Proposer shall provide and maintain at its own expense during the term of the resulting contract, the following program(s) of insurance covering its operations hereunder. Such insurance shall be provided by insurer(s) satisfactory to the District and evidence of such program(s) satisfactory to each participating school district shall be delivered to participating school district on or before the effective date of Contract. Such evidence shall specifically identify the contract and shall contain express conditions that District is to be given at least thirty (30) days written notice in advance of any modification or cancellation of any policy of insurance.

i. Liability

Such insurance shall be primary to and not contributing with any other insurance maintained by individual school districts, and shall name each individual school district as an individual issuer, and shall include but not be limited to:

1. Comprehensive General Liability Insurance

Endorsed for Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury with a combined single limit of two million dollars (\$2,000,000.00) per occurrence.

2. Comprehensive Automobile Liability

Endorsed for all owned and non-owned vehicles with a combined single limit of two million dollars (\$2,000,000.00) per occurrence.

ii. Worker's Compensation

A program of Worker's Compensation Insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, and which specifically covers all persons providing services on behalf of vendor and all risks to such persons under this contract

iii. Product Liability

Vendor must maintain liability insurance including extended coverage for product liability in an amount not less than one million dollars (\$2,000,000.00) combined single limit and provide Westminster School District with a certificate evidencing insured and specifying that coverage shall not be canceled or modified without 30 days prior notice

j. CAL-OSHA: The Vendor certifies by delivery, that all items furnished under this Agreement meet or exceed applicable CAL-OSHA Codes.

k. DEFAULT: Westminster School District may, by written notice of default to the Vendor, terminate the whole or any part of their order under this Agreement if:

A. The Vendor fails to make delivery within the time specified herein.

OR

B. The products received are of inferior quality and not the same as specified or shown at the sampling. These items shall be returned at the seller's cost. Seller shall arrange for pick up after written notification by the District. Seller shall be responsible for cost of replacement if purchaser deems it necessary to procure suitable substitute items from supplier other than original seller. Purchaser may hold inferior items until delivery of suitable items and cost of replacement are suitably concluded.

OR

C. If the successful Proposer fails or neglects to furnish or deliver any equipment, products, materials or services at the prices quoted, or at the times and places stated, or otherwise fails to comply with the terms of this proposal document in its entirety, the District reserves the right to purchase the items herein

specified from another vendor, after providing the vendor with a three (3) calendar day (72 hours), or mutually agreed upon cure period. All additional costs or expenses incurred by reason of the failure of the successful Proposer, as above stated, shall be paid by such Proposer and his sureties, if any. The price paid by the District shall be considered the prevailing market price at the time such purchase is made. In the event that the school district terminates its orders in whole or in part, it may procure supplies or services similar to those so terminated from other sources, and the Vendor shall be liable to the school district for any additional costs for such similar supplies or services.

The Vendor shall not be liable for any excess cost if the failure to perform under this Agreement arises out of causes beyond their control.

Such causes may include, but are not restricted to: acts of God or the public enemy, acts of the Government, acts of any of the patriating school districts or anyone employed by them, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Normal price increases are excluded from this sections. The Vendor shall be required to deliver all supplies or services under this Agreement, which are not terminated.

I. DETERMINATION OF APPLICABILITY OF EMPLOYEE FINGERPRINT REQUIREMENTS OF CONTRACTORS AND INDEPENDENT CONTRACT CONSULTANTS

Background

Pursuant to Education Code Section 45125.1, it is necessary for Westminster School District to determine whether a contractor of independent contract consultant must have its employees fingerprinted and screened for criminal records.

There are two bases for exemption:

1. Emergency Contacts – Exempt

Subsection (b) states that Section 45125.1 shall not apply to a contractor of independent contract consultant providing services to Westminster School District in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repair are needed to make school facilities safe and habitable.

2. Limited Pupil Contact – Exempt

Subsection (c) states that Section 45125.1 shall not apply when Westminster School District determines that the employees of the entity or the independent contract consultant will have limited contact with pupils.

In determining whether a contract employee or independent contract consultant has limited contact with pupils, the site, program, or project manager shall consider the totality of the circumstances, including factors such as the length of time the contractor or independent contract consultant will be on school grounds, whether pupils in the proximity of the site the contractor/independent contract consultant will be working, and whether the contractor's employees/independent contract consultant will be working by themselves or with others.

In all cases, the site, program, project administrator SHALL take appropriate steps to protect the safety of any pupils that may come in contact with these individuals.

The WSD has made an initial determination that the infrequent delivery requirements of short duration to meet the terms of this contract are such that supplier access to pupils will be limited and unnecessary. Accordingly, employee fingerprinting and background check for criminal records will be at the discretion of the supplier unless and until such time as an incident involving supplier employee(s) making deliveries to the WSD sites have been cleared by the California Department of Justice regarding background check.

By accepting the award of this bid, the successful supplier agrees to the terms outlined herein and will take such action as is necessary to insure the supplier employee(s) have no direct contact with students at the delivery sites. Failure to comply with this requirement will be satisfactory cause for cancellation of the contract.

m. EXCUSE FOR NONPERFORMANCE – FORCE MAJEURE CLAUSE

The Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining, delivering or performing in the customary manner by act of God, fire, strike, partial or total interruption of, loss or shortage of transportation facilities, lockout, commandeering of raw materials, products, plants, or facilities by the government, when satisfactory evidence thereof is presented to the other party providing it is satisfactorily established that the nonperformance is not due to the fault or negligence of the party not performing.

n. PREVAILING LAW

In the event of any conflict or ambiguity between a) the Instructions to Bidders, General Conditions, Specifications, Agreement, or any other document forming a part of this invitation for bids, and b) state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under the bid proposal shall conform to all applicable requirements of local, state and federal law.

o. ENERGY POLICY AND CONSERVATION ACT: Vendor will comply with the requirements of 42 USC § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this act.

p. INDEPENDENT CONTRACTORS: While providing the items included herein, the Vendor is an independent contractor and not officer, employee, or agent of any participating school district.

q. NON-DISCRIMINATION ENDORSEMENT: Vendor agrees to comply with all applicable Federal and California state anti-discrimination laws and regulations and agrees not to unlawfully discriminate against any prospective or active employee engaged in the work on basis of race, color, age, ancestry, national origin, sex, religious creed, marital status, or physical or mental disability, or sexual orientation or any other category protected by the law, including but not limited to, the California Fair Employment Practice Act, beginning with Labor Code Section 1410, and Labor Code Section 1735. In addition, the Vendor agrees to require like compliance by all subcontractors employed, or any other category protected by the law. Vendor is required to sign the Equal Opportunity Act endorsement included with this agreement.

r. ASSIGNMENT OF THE AGREEMENT: No agreement awarded under this proposal shall be assigned without the prior written approval of the participating districts.

s. LIABILITY/COPYRIGHT: The Bidder shall hold any participating school district, its officers, agents, servants and employees harmless from liability or any nature of kind whatsoever on account of use by the publisher or author, manufacturer, or agent, or any copyrighted composition, secret process, patented or unpatented invention, or appliance furnished or used under this bid.

t. DELIVERY FREQUENCY: All prices shall be quoted FOB destination. Destination shall be the Nutrition Services warehouse or individual school sites placing the order. No additional fees shall be charged for small orders. All shipments shall be accompanied by a delivery receipt. Purchase order number shall appear on all delivery receipts and invoices. All costs for delivery, drayage, insurance, freight or the packing of the said articles is to be borne by the Proposer.

Deliveries will be made to destinations located at each specific school site. Locations and frequencies of deliveries are specified in Attachment B.

u. QUANTITIES: Quantities shown are estimated usages of the WSD for the proposal period based on historical data. The WSD reserves the right to purchase more or less of the units specified. The district will order in quantities best suited to their needs and storage facilities. Prices proposed shall be firm and shall not increase or include shipping or any additional handling fees.

v. "PIGGYBACK" CLAUSE: For the term of the Contract and any mutually agreed extensions pursuant to this proposal, at the option of the vendor, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within the State of California may purchase the identical item(s) at the same price and upon the same terms and conditions pursuant to sections 20118 (K-12) and 20652 (community colleges) of the Public Contracts Code.

The WESTMINSTER SCHOOL DISTRICT waives its right to require such other districts and offices to draw their warrants in favor of the District as provided in said Code Sections.

Any school district and the awarded Proposer(s) engaged in the execution of orders under this Proposal, acting in accordance with Public Contracts Code, section 20118, shall not be construed as an officer, agent or employee of the Westminster School District and shall indemnify and hold harmless its officers, agents and employees from any and all liabilities resulting from the use of this Proposal.

Acceptance or rejection of this clause **will not** affect the outcome of this proposal. Please initial your preference below.

Piggyback option granted: _____

Piggyback option not granted: _____

w. PROPOSERS DISCLOSURE INFORMATION: All disclosure, certification and non-collusion forms or affidavits contained in this proposal must be completed and submitted prior to the final award.

x. PROPOSER CRITERIA FORM: The Proposer Criteria Form must be completed and submitted with the proposal.

y. CERTIFICATIONS:

A. The VENDOR shall comply with Title VI of the Civil Rights Act of 1964, as amended; USDA regulations implementing Title IX of the Education Amendments; Section 504 of the Rehabilitation Act of 1973; and any additions or amendments to any of these regulations.

B. The VENDOR shall comply with all applicable standards, orders, or regulations issued, including:

- Section 306 of Clean Air Act (42 U.S.C. 1847[h]):
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap85-subchapIII-sec7602.pdf>
- Section 508 of the Clean Water Act (33 U.S.C. 1368):
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title33/pdf/USCODE-2013-title33-chap26.pdf>

• Environmental Protection Agency (EPA) regulations at Title 40, *Code of Federal Regulations*, Part 15, et seq.

Environmental violations shall be reported to the USDA and the U.S. EPA

Assistant Administrator for Enforcement, and the VENDOR agrees not to use a facility listed on the EPA's List of Violating Facilities

C. Debarment Certification

The USDA Certification Regarding Debarment must accompany this proposal and each subsequent additional one-year renewals (7 *CFR* Section 3017.510). Contract renewals that do not include this certification will not be accepted for consideration.

D. Lobbying

The Certification Regarding Lobbying and a Disclosure of Lobbying Activities form (Appendix A: 7 *CFR* Part 3018) must accompany this proposal and each additional one-year renewals (7 *CFR* Section 3017.510). Contract renewals that do not include this certification will not be accepted for consideration.

E. Energy Policy and Conservation Act: <http://legcounsel.house.gov/Comps/EPCA.pdf>.

The VENDOR shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state conservation plan issued in compliance with the Energy Policy and Conservation Act.

F. Contract Work Hours and Safety Standards Act Compliance: In performance of this Contract, the VENDOR shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act

G. The Certification Regarding the Iran Contracting Act

H. The Contractors Certification –Drug Free Workplace must accompany this Proposal

I. The Contractors Certification – Alcoholic Beverages and Tobacco Free Workplace must accompany this proposal

J. The Contractors Certification – Worker Compensation must accompany this proposal

K. Clean Air and Water Certification

End of General Conditions

EVALUATION AND AWARD

TECHNICAL and PRICE EVALUATION for RESPONSIVE PROPOSERS

To be deemed responsive and qualify for evaluation, a proposal must be timely submitted and materially satisfy all mandatory requirements identified in this RFP. Nonresponsive Proposers will not be evaluated. Contracts are awarded to the responsive & responsible Proposer, with the maximum awarded points.

<u>Evaluation Criteria</u>	<u>Maximum Points</u>
Experience	20
Competence, Responsive	
Customer References	20
Responsibility and Business Sustainability	10
Food Safety - HACCP Plan and Plant Security	10
Price	30
Total Points Possible	100

1. **GEOGRAPHIC PREFERENCES:** WSD may not apply geographic preferences in procurements and/or contracts involving federal funds unless the procurement and/or contract involves unprocessed locally grown or locally raised agricultural products for use by WSD in a Child Nutrition Program. *See* 2 C.F.R. § 200.319.
2. **CONFLICT OF INTEREST:** No employee, officer, or agent may participate in the selection, award, or administration of a Contract if he or she has a real or apparent conflict of interest. *See* 2 C.F.R. § 200.318(c)(1). District officers, employees, and agents may not solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Districts maintain written standards covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.
3. **NON-EXCLUSIVITY AND MULTIPLE AWARDS:** Any Contract resulting from this RFP is non-exclusive. WSD reserves the right to make no awards or award one or more Contracts, in part or in whole, to a single Vendor or to multiple Vendors.
4. **DISQUALIFICATION:** Proposer may be disqualified before or after WSD opens proposals upon evidence of collusion with the intent to defraud, upon evidence of intent to perform other illegal activities for the purpose of obtaining an unfair competitive advantage, upon evidence of debarment and suspension, or upon indebtedness to the District. Non-Responsive Proposals and deviations/exceptions stipulated in Vendor's response may also result in disqualification.
5. **SMALL BUSINESS AND MINORITY, WOMAN, AND DISABLED VETERAN BUSINESS ENTERPRISE (MWDVBE):** In an effort to encourage minority, women and disabled veteran owned business enterprises to participate in the WSD bid process, Vendors may submit proposals based upon their capacity to perform and be successful. This project may be awarded to more than one Proposer if it is in the best interest of the WSD to do so. MWDVBE must submit documentation of qualification as outlined in Public Contract Code (PCC) Division 2., Part 1., Chapter 2., **Responsive Bidders.**
 - A) Further information can be found at the following PCC web sites.
http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PCC&division=2.&title=&part=1.&chapter=2.&article=

Certification for Small Business and Disabled Veteran Business Enterprise Services is located at the following California website, <https://www.dgs.ca.gov/PD/Services/Page-Content/Procurement-Division-Services-List-Folder/Certify-or-Re-apply-as-Small-Business-Disabled-Veteran-Business-Enterprise>

6. **AWARD OF CONTRACT:** In accordance with applicable laws, rules, and regulations for public procurement, an award(s) will be made to the Responsible Vendor(s) whose Proposal(s) is/are determined to be the Best Value to WSD.
7. **FORMATION OF CONTRACT:** A signed and submitted Proposal constitutes an offer to Contract with WSD to provide the goods and/or perform the services specified in this RFP, thus eliminating the need for the formal signing of a separate contract. An RFP does not become a contract unless and until it is accepted by The WSD after approval by the Westminster School District Board of Trustees. **No Vendor shall obtain any interests or rights in any award until the District issues a Purchase Order in the name of the vendor(s).**
8. The WSD does not sign Vendor contract forms. In the event that WSD awards a project to Vendor and Vendor request changes to the District's standard Contract form, the District reserves the right to cancel the award and re-award the project to an alternate Proposer.

**The Westminster School District
Request for Proposal #19/20-04
Distribution of Processed USDA Commodities, Commercial Equivalents, and
Commercial Food Products**

VENDOR QUESTIONNAIRE

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

No proposals shall receive consideration by Westminster School District unless they include responses to each and every question below. Prospective bidders should respond in detail to each of the following questions. Additional pages may be used as needed for thorough, yet concise, responses.

1. Is your storage facility approved by the California Department of Education Food Distribution Division to receive, store, handle, and distribute Processed USDA Foods?
Check: Yes _____ or No _____ N/A

2. Will you be able to meet the specified delivery days, hours, and deliveries per week?
Check: Yes___ or No ___
If NO, attach proposed delivery schedule.

3. Do you require a minimum number of cases, pounds, or value for deliveries?
Check: Yes___ or No ___
If YES please state your minimum delivery amounts (dollar amount, case quantity, etc.)

4. What is your procedure for notifying customers of shortages and /or substitutions?

5. What is your procedure for notifying customers of a product recall?

6. Has your firm backed out of a distribution contract to a school district(s) mid-year within the last 2 years? If so, please explain.

7. Has your firm defaulted or been replaced at the will of a district during the school year within the last 2 years? If so, explain.

8. What is your company's average "fill rate" to your customers? Please explain how you calculate this fill rate. What provisions does your firm take to achieve a high level of execution?

Company Name:

Request for Proposal #19/20-04
USDA Commodities

9. What is the lead time you require for orders that ensures a 95% fill rate?
10. Do you have an on-line order system? Please explain.
11. How will emergency deliveries (deliveries not on a scheduled date) be handled?
12. How late can add-ons be added to next day delivery? Is there a limit on the number of cases that can be added on?
13. Please describe the reports that you make available to your customers (e.g. monthly usage, data analysis, business intelligence, etc.). How are customers able to access these reports?
14. Describe your USDA Foods tracking and reporting abilities in detail. N/A
15. What Value Pass Through methods do you utilize for processed USDA Foods?
- Rebate N/A
 - Fee for Service
 - Modified Fee for Service
 - Net Off Invoice
 - Other-please list: _____

Company Name:

Request for Proposal #19/20-04
USDA Commodities

- 16. Describe your policy regarding your delivery driver/staff assisting sites in moving received products to storage areas?

- 17. Briefly describe your food safety - HACCP plan and provisions for plant/delivery security.

- 18. Do you offer a percentage discount for early payment? If yes, please state terms for discount.

- 19. How many years has your company been in the K-12 food service business? How would you describe your company's financial stability?

- 20. Will combination refrigerated/freezer trucks be used to deliver frozen and refrigerated items at the same time? Check: Yes ___ or No ___ N/A

- 21. Provide your process for applying Credit Memos. (INSTRUCTIONS & INFORMATION FOR PROPOSERS Item #32)

- 22. **Attachment A: Proposal Worksheet.** On the Excel spreadsheet provided, indicate the delivered cost per case for all items listed.

By signing this, I certify that I am an authorized representative of the vendor (or individual) and that information contained in this proposal is accurate, true, and binding upon the vendor.	
Company Name	
Signature of Company Official	
Name of Signer	
Title of Signer	
Date	

Westminster School District



**CERTIFICATIONS and DOCUMENTATION TO BE
SUBMITTED WITH
AGREEMENT**

PROPOSER CRITERIA FORM

The WSD requires that the successful Proposer meet the following minimum requirements:

- In business for minimum of 2 years
- Must maintain a warehouse/distribution center no less than 50,000 sq. ft. within a 100-mile radius of the delivery points of the District
- Have three current school district references

Please provide a list of no fewer than three (3) current school district references:

A. School District: _____
 Address: _____
 Contact Person: _____
 Telephone Number: _____
 Number of Deliveries per year: _____

B. School District: _____
 Address: _____
 Contact Person: _____
 Telephone Number: _____
 Number of Deliveries per year: _____

C. School District: _____
 Address: _____
 Contact Person: _____
 Telephone Number: _____
 Number of Deliveries per year: _____

Name of Preparer

Title

Signature of Preparer

Date

By signing this form, you are verifying that your company meets the requirements stated above.

Westminster School District
Request for Proposal #19/20-04
Distribution of Processed USDA Commodity & Commercial Equivalent
Food Products

PROVISIONING CONTRACT

THIS PROVISIONING CONTRACT (this “**Contract**”) is made and entered into as of this **1st** day of **July**, 2020, by and between _____ (“**Provisioner**”), and the _____ (the “**District**”).

RECITALS

- A. The Westminster School District (the “District”) has solicited proposals for Grocery Products via Request for Proposal Number NS-20-06 (the “RFP”), whereby the District Agrees to purchase specified products for the Districts’ use from the successful bidder.
- B. “Provisioner” is the successful bidder under such request for proposal, and the District and Provisioner hereby desire to set forth their agreement with respect to the sale to the District, and the purchase from Provisioner, of Products on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Provisioner and the District hereby agree as follows:

1. **Provision of Products.** Provisioner shall provide to the District, from time to time as ordered by the District or their successor or assign (the “District Contact Person”) in accordance with the procedure described in Section 2 below, Products as described in the **Request for Proposals** information attached hereto.
2. **Delivery of Products.** The District Contact Person shall order Products from time to time by delivery to Provisioner of a Purchase Order. Provisioner shall deliver Products of the type, kind and quantity ordered in any such Purchase Order F.O.B. to District location(s) specified. The Distributor hereby agrees that the minimum delivery time required for the delivery of any Products is 2 days, and the Distributor shall not deliver any Purchase Order requiring delivery of Products within less than 2 days after the delivery of such Purchase Order to Provisioner.
3. **Price.** The price shall be per case or unit. The Provisioner shall provide pricing based on case packaging, catalog, price list, or any other commonly recognized methodology that is standard in the specific industry. The per case/unit delivery fee per this contract shall be as follows on the attached Price Worksheet (Attachment A).

The provisions of this contract shall in no way prohibit the District from making incidental purchases from another supplier for the same services listed herein. The District reserves the right to make purchases direct from manufacturers.

4. **Term of Contract.** Minimum contract term is one (1) year starting July 1, 2020. Quoted prices must stay in effect for one (1) year after award of bid and may be extended upon mutual consent of the District and vendor for an additional two (2) one year periods in accordance with provisions contained in the California Education Code, Sections 17596 (K-12) and 81644 (Community Colleges). In the event of a general price decrease the District reserves the right to revoke the bid award unless the decrease is passed on to the District.
5. **Insurance.** Provisioner shall carry and maintain during the entire term of this Contract the following insurance coverage:
- (a) Comprehensive General Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate. The policy(s) so secured and maintained shall include, among other things, coverage for contractual or assumed liability, products liability, and owned, hired and non-owned automobiles insurance and shall be maintained with so self-insured retention; Workers' Compensation Insurance in such amounts as may be required by law; and Such other insurance as is customarily maintained by large-scale processors and distributors of food products of the type, quality and grade provided for under this Contract.
- (b) Provisioner shall furnish to the District certificates of insurance, signed by an authorized representative of the insurance carrier no later than thirty (30) days after the District board's approval of the Contract or prior to the first delivery of food products hereunder, whichever occurs first, which certificates shall be endorsed as follows:
- “This policy shall not be suspended, cancelled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the District. Date of suspension, cancellation, reduction or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the District with respect to the matters covered by such policy shall be excess and non-contributing.”
- (c) The certificates of insurance and insurance policies required under this Contract shall name the District indemnities named in the Request for Proposals as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the District within the time period provided in subsection (b) above, the District may declare the Contract unexecuted and void. The District reserves the right to require complete certified copies of the required insurance policies.
- (d) The insurance companies providing the insurance required under this Contract shall be subject to the District's prior written approval, which shall not be unreasonably withheld.
- (e) If Provisioner fails to purchase and maintain any insurance required under this Section 5, the District may, but shall not be obligated to, upon five (5) days' written notice to Provisioner, purchase such insurance on behalf of Provisioner and shall be entitled to be reimbursed by Provisioner promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Provisioner hereunder. Any amounts expended by the District hereunder shall bear interest from the date expended until repaid to the District at the rate of ten percent (10%) per annum.

6. **Indemnification.** Provisioner shall hold harmless, indemnify and defend (with counsel acceptable to the District) the District, their board, directors, employees, agents and consultants from and against any and all obligations, liabilities, claims, losses, damages, costs and expenses (including attorneys' fees and costs) arising from or in connection with (a) any defects in the food products, (b) Provisioner conduct or negligent, willful or improper procedures in connection with the discharge of its responsibilities and obligations hereunder (including, without limitation, the processing of food products) or any other negligent behavior or willful misconduct of Provisioner, or (c) any breach or default by Provisioner under this Contract. The terms and provisions of this Section 6 shall survive the expiration or earlier termination of this Contract.
7. **Default Remedies.** The delivery of defective products, or the breach of any other term or provision of this Contract by Provisioner, shall constitute a **"Default"** of Provisioner hereunder. Provisioner shall have seven (7) days after delivery of notice of any Default from the District to cure any such Default, other than a Default relating to the delivery of defective products. No cure period shall be provided Provisioner with respect to any Default relating to the delivery of defective products. If Provisioner fails to cure the Default within the aforementioned cure period (or the Default relates to the delivery of defective products for which no cure period applies), the District may, without prejudice to any other right or remedy of the District, elect to terminate this Contract by delivery of a written termination notice to Provisioner. Immediately upon the delivery of such termination notice, this Contract shall be terminated and all rights and obligations of the parties hereunder, except those that expressly survive the termination of this Contract, shall terminate and be of no further force or effect. In addition to the right to terminate the Contract pursuant in the preceding sentence, the District may pursue any other right or remedy that may be available to it at law or in equity, which may include an action for damages measured by all additional costs and expenses incurred by the District to procure food products from other sources for the remaining term of this Contract (including, without limitation, the difference between the price charged by such other sources for the food products and the price that would have been charged for the same or similar food products hereunder).
8. **Provisions Required by Law.** Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.
9. **Due Authorization.** This Contract is duly authorized, executed and delivered by Provisioner, is the legal, valid and binding obligation of Provisioner enforceable against Provisioner in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and does not and will not violate any provisions of any agreement to which Provisioner is a party or may become a party or to which is it subject or may become subject. Each individual and entity executing this Contract hereby represents and warrants that he, she or it has the capacity set forth on the signature page hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Contract to the terms and provisions hereof.
10. **Assignment.** Provisioner shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties or obligations under this Contract (or any part hereof) without the prior

written consent of the District, which may be granted or withheld in the District's sole and absolute discretion.

11. **Notices.** All notices, requests, demands, consents, instructions or other communications hereunder shall be in writing (which shall include telex, telegram or telecopy) and shall be deemed to have been duly given or made upon transmittal thereof by telex, answer back received, if transmitted on a business day, otherwise on the first business day after transmittal, or on the date of confirmed dispatch if sent by telecopy on a business day, otherwise on the first business day thereafter, or upon the delivery thereof to the telegraph office if sent by telegraph on a business day, otherwise on the first business day thereafter, or three (3) business days after deposit in the mail if sent by certified mail, postage prepaid, return receipt requested, or on the next business day if sent by overnight personal delivery, in each case addressed to the party to which such notice is requested or permitted to be given or made hereunder, at the addresses and facsimile numbers set forth underneath such party's signature line to this Contract, or at such other address and/or facsimile number of which such party shall have notified in writing the party giving such notice. For purpose of this Contract, the term "business day" shall mean a day other than a Saturday, Sunday or any day on which the District is authorized or required by law to be closed.
12. **Attorneys' Fees.** In the event of any dispute between the District and Provisioner pertaining to this Contract or the services or products provided for hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this Section 12 shall survive the expiration or earlier termination of this Contract.
13. **Waiver.** No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically agreed in writing.
14. **Entire Agreement: Amendments.** This Contract and all documents comprising the RFP constitute the entire and integrated agreement between the parties hereto with respect to the matters set forth therein and supersede all prior negotiations, representations or agreements, either written or oral. The documents comprising the RFP are hereby incorporated into this Contract and made a part hereof. The Contract may be amended or modified only by a writing executed by both parties hereto.

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year first above written.

DISTRICT:

PROVISIONER:

(Insert District Name)

(Insert Provisioner Name)

By:_____

By:_____

Its (Title):_____

Its (Title): _____

Address:

Address:

Phone No.:
FAX No.:

Phone No.:
FAX No.:

**Authorized Officers
Or Agents
(CORPORATE SEAL if required)**

WESTMINSTER SCHOOL DISTRICT

PROPOSAL FORM

Proposal Number #19/20-04 – Distribution of Processed USDA Commodity & Commercial End Products

Proposal Closing Date: 2:00 p.m. on Monday, May 11, 2020

Proposal Closing Site: Westminster School District, Nutrition Services

To: Director of Nutrition Services,

- 1) Pursuant to and in compliance with the Notice Inviting Proposals, Information for Proposers, General Conditions, Proposal Form, Addenda, if any, and other documents relating thereto, the undersigned Proposer, having familiarized him/herself with the terms of the proposal and the conditions affecting the performance of the proposal, hereby proposes and agrees to perform, within the time stipulated everything required in this proposal for the amount herein set forth.
- 2) This proposal shall continue to remain in effect after the initial period indicated for as long as all parties remain in agreement for additional purchases.
- 3) Proposer shall complete and have notarized, the provided Non-Collusion Declaration and include it with proposal response.

Name of Firm _____

Address of Firm (street, city, state) _____

(Name) _____

(Title) _____

of the Proposer, hereby certify under penalty of perjury in accordance with the laws of the State of California, that all the information submitted by the Proposer, in connection with Proposal #19/20-04, and all the representations herein made, are true and correct.

Executed this _____ day of _____,

2019, at _____ County.

Signature () _____
Telephone

Date _____

WITNESS my hand and official seal.

(Seal) Notary Public in and for said
State

END OF PROPOSAL FORM

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

(Public Contract Code section 7106)

(Amended by Stats. 2011, Ch. 432, Sec. 37. Effective January 1, 2012.)

The undersigned declares:

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

The proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The proposal is genuine and not collusive or sham. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal. The Proposer has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham proposal, or to refrain from bidding. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Proposer. All statements contained in the proposal are true. The Proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof, to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose.

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

(Signature of Officer)

(Typed Name of Officer)

(Office)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on

_____ [date], at _____ [city], _____ [state].

EQUAL OPPORTUNITY EMPLOYMENT

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

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

CERTIFICATE

I/We hereby certify that the _____

_____ (Company)

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

DATE: _____

CONTRACTOR

By: _____

CERTIFICATION REGARDING LOBBYING

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

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

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

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

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Name of School Food Authority Receiving Child Nutrition Reimbursement In Excess of \$100,000:		Agreement Number:	
Address of School Food Authority:			
Printed Name and Title of Submitting Official:	Signature:	Date:	
OR			
Name of food Service Management or Food Service Consulting Company (Vendor):			
Printed Name and Title:	Signature:	Date:	
Name of School Food Authority		Agreement Number:	

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See reverse for public burden disclosure)

1. Type of Federal Action: <input type="checkbox"/> Contract <input type="checkbox"/> Grant <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Loan <input type="checkbox"/> Loan Guarantee <input type="checkbox"/> Loan Insurance	2. Status of Federal Action: <input type="checkbox"/> Proposal/offer/application <input type="checkbox"/> Initial award <input type="checkbox"/> Post-award	Report Type: <input type="checkbox"/> Initial filing <input type="checkbox"/> Material change FOR MATERIAL CHANGE ONLY: Year: _____ Quarter: _____
3. Name and Address of Reporting Entity: Prime _____ Subawardee Tier _____, if known Congressional District, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:
6. Federal Department/Agency:		7. Federal Program Name/Description: CFDA Number, if applicable:
8. Federal Action Number, if known:		9. Award Amount, if known: \$
10. a Name and Address of Lobbying Entity (if individual, last name, first name, MI):		10. b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
(attach Continuation Sheet(s) if necessary)		
11. Amount of Payment (check all that apply): \$ _____ actual planned	12. Type of Payment (check all that apply): <input type="checkbox"/> Retainer <input type="checkbox"/> One-time fee <input type="checkbox"/> Commission <input type="checkbox"/> Contingent fee <input type="checkbox"/> Deferred <input type="checkbox"/> Other; specify: _____	
13. Form of Payment (check all that apply): <input type="checkbox"/> Cash <input type="checkbox"/> In-kind; specify: <input type="checkbox"/> Nature _____ <input type="checkbox"/> Value _____		
14. Brief description of services performed or to be performed and date(s) of service, including officer(s), employees(s) or member(s) contacted, for payment indicated in No. 11: (Attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: Yes No		
16. Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No: (_____) _____ Date: _____

INSTRUCTIONS FOR COMPLETION OF SF LLL, DISCLOSURE OF LOBBYING ACTIVITIES

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in No. 4 checks "Subawardee," then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (No. 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in No. 1 (e.g., Request for Proposal (RFP) number; Invitation for Proposal (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in No. 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in No. 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from No. 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (No. 4) to the lobbying entity (No. 10).
12. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
13. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

SUSPENSION AND DEBARMENT CERTIFICATION U.S. DEPARTMENT OF AGRICULTURE

INSTRUCTIONS: SFA to obtain from any potential vendor or existing contractor for all contracts in excess of \$100,000. This form is required each time a proposal for goods/services over \$100,000 is solicited or when renewing/extending an existing contract exceeding \$100,000 per year. (Includes Food Service Management and Food Service Consulting Contracts.)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722 4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name of School Food Authority

Agreement Number

Potential Vendor or Existing Contractor (Lower Tier Participant):

Company Name

Address

Printed Name

Title

Signature

Date

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant (one whose contract for goods or services exceeds the Federal procurement small purchase threshold fixed at \$100,000) is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment

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

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

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

OPTION #1 - CERTIFICATION

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

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

OPTION #2 – EXEMPTION

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

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

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

**CONTRACTOR'S CERTIFICATE
REGARDING DRUG-FREE WORKPLACE**

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

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

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

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

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

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

DATE: _____

CONTRACTOR

By: _____
Signature

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

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

DATE: _____

CONTRACTOR

Signature of Authorized Representative

Contractor's Certificate Regarding Worker's Compensation

(To be Executed by Vendor and Submitted with Proposal)

Labor Code section 3700 in relevant part provides:

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

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

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

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

Signature of Authorized Representative

Type Name of Above

Title of Authorized Representative

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

Clean Air and Water Certification

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

Name of Vendor Company

THE VENDOR AGREES AS FOLLOWS:

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

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

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

Authorized Representative

Title

Date

PRICING PROPOSAL WORKSHEET