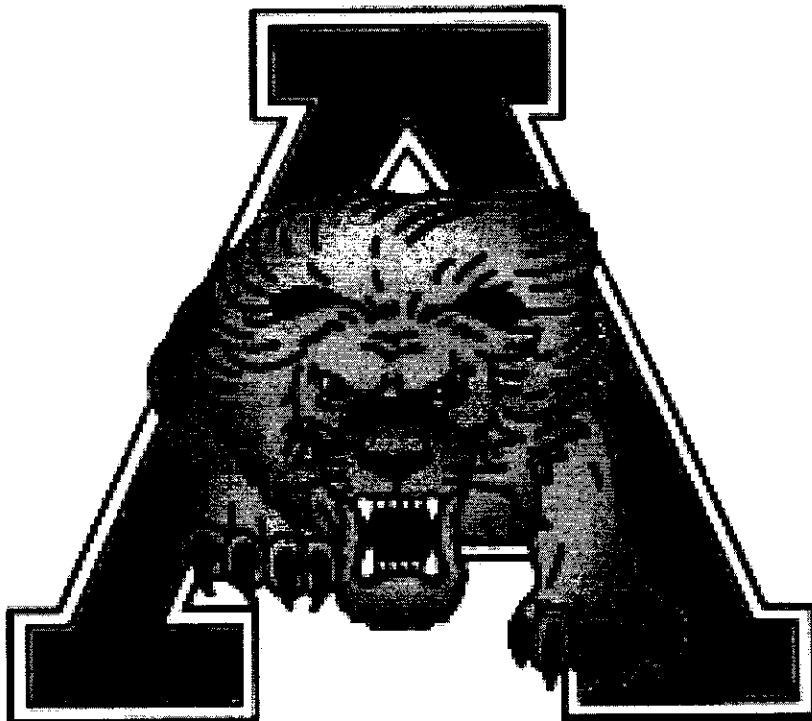


Albany ISD
Child Nutrition Department

OPERATING MANUAL



BOARD APPROVAL

June 21, 2021 – Original Adoption by AISD Board of Trustees

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SECTION 1

Procurement Procedures

This Section (2 CFR 200.318) has been created to ensure that all purchases made with the Child Nutrition (CN) Federal Funds are in compliance as regulated by all Federal, State, and Local written policy.

Albany ISD uses the following resources for all procurement methods:

Super Circular 2 CFR part 200

Texas Department of Agriculture's (TDA) "Administrative Review Manual," Section 16 and 17 (including 17A), and the Education Department Guidelines and Regulations (EDGAR)

The following standards will be applied to all procurement methods. Solicitations will...:

1. Allow for "full and open" competition
2. Be handled with integrity and fairness to all potential bidders
3. Award responsive and responsible contractors
4. Be fully documented to allow for complete transparency and follow the 5-years record retention requirement

Albany ISD allows the Child Nutrition Department to participate in the following:

1. Agreements
 - a. Inter-governmental agreements (operator-only/ESC)
 - b. Third Party Cooperatives
 - c. Agents
2. Informal Purchases
 - a. Micro-Purchase: any purchase that does not exceed the State threshold of \$10,000.
 - b. Small Purchase Acquisition: any purchase that exceeds \$10,000 but is not greater than the State threshold of \$50,000.
 - c. Albany ISD does not have a more restrictive Small Purchase threshold
3. Formal Purchases
 - a. Competitive Bid (IFB-Invitation for Bid)
 - b. Competitive Proposal (RFP-Request for Proposal)
 - c. Non-Competitive Proposal. TDA "pre-award approval" required
4. Other Purchases
 - a. Sole Source – as determined through a failed procurement method due to no competition. Requires TDA approval prior to awarding the vendor or purchasing from the vendor.
 - b. Capital Expenditures – any single piece of equipment that exceeds \$5,000 in cost must be approved by TDA prior to purchase.

Albany ISD will use the following 5 phases of procurement:

1. **Planning.** Below is a list of the first steps that will be taken prior to any purchase.
 - a. What is needed in the way of product/products and/or services?
 - b. When are the products or services needed?
 - c. What is an estimated cost of the products or services needed? Multiple resources will be used to determine an “estimate” of the value or cost. The cost/price analysis will be used to determine the most appropriate procurement method.
 - d. How we will pay for the products and/or services?
2. **Forecasting.** Below is a list of the resources to be used for forecasting our needs.
 - a. We will review our past program to determine if the products or services were used in the previous program year.
 - b. Current program needs will be assessed and product amounts and/or service needs will be determined.
 - c. Upcoming program years will be considered in regard to future needs and possible renewal or extensions of contracts if necessary.
3. **Soliciting.** The following general steps will be taken to start the solicitation process. Each procurement method is more specifically outlined later in this manual.
 - a. Based on the cost/price analysis in our planning phase, the most appropriate procurement method will be used.
 - b. A general specification with details will be written to document the product or service needed.
 - c. Terms and conditions of the contract will be outlined and reviewed to ensure the solicitation clearly describes our needs and deliverables required.
 - d. Each solicitation will include the following information:
 - a. Deadline (date and time) the quotes or responses are to be received.
 - b. The method the quotes or responses are to be submitted and to whom.
 - c. Evaluation criteria, if any is used, clearly outlined to include scoring rubric.
 - d. Date and time by which the solicitation will be awarded.
 - e. Term and Conditions of the contract and if any renewals or extensions will be allowed.
 - f. All USDA Federal and State-required certifications and affidavits if applicable to the procurement method used.
 - e. Research will be done to identify potential suppliers.
4. **Awarding.** Based on the procurement method, the following general processes will be used:
 - a. A winner will be selected using the following methods.
 - a. Equitable distribution for all Micro-Purchases.

- b. Low bid winner for Small Purchases and IFB's.
 - c. A single winner through evaluation criteria for Small Purchases and RFP's.
 - d. Pre-award approvals must be obtained from TDA for any solicitation that is deemed non-competitive or sole source.
 - e. Multiple winners are selected for RFP's when a "line-item" award approach is taken to procure the best price for each product specified in the solicitation.
5. **Contract Management.** The following items will be monitored during the life of an awarded contract.
- a. Quantities specified are made available and delivered.
 - b. Delivery times and schedules are being met per contract terms.
 - c. Product deliveries and/or services are occurring at the correct location if multiple locations are part of the awarded contract.
 - d. Products and/or services are meeting the specifications as described in the solicitation.
 - e. Substitutions of products are being handled as outlined in the Terms and Conditions and are adequate to the specified product.
 - f. Vendor response time to product or service issues is appropriate in regard to each situation, if any.

Procurement Methods: Informal and Formal (2 CFR 200.320)

Albany ISD will follow the below steps with each procurement method.

1. Micro-Purchases

The micro-purchase method is an "Informal Procurement Method" for purchases where the aggregate value in a single transaction is at or below \$10,000. This enables the District to purchase supplies or services without soliciting competitive quotes if the school considers the price reasonable. The District may purchase products and/or services that are similar or dissimilar, purchased as a single or collective unit.

- a. All unplanned, non-routine purchases with an aggregate total that does not exceed the threshold of \$10,000 are allowed (2 CFR 200.67) and will include:
 - i. Documentation that explains the reason for the purchase and vendor name.
 - ii. List of items or service purchased.
 - iii. Receipt.
 - iv. All documentation will be kept in a file labeled "Micro-Purchases."
- b. Types of Micro-Purchases allowed:
 - i. Emergency and/or equipment repair parts
 - ii. Small to medium catering events
 - iii. Emergency food shortages
 - iv. Staff training and travel expenses

- v. Small kitchen equipment purchases
- c. The following employee positions have permission to make a Micro-Purchase:
 - i. Food Service Director - District
 - ii. Cafeteria Manager – High School
 - iii. Superintendent, Business Manager – Business Office
- d. Eligible vendors.
 - i. Equitable distribution of purchases will be made to all vendors within an appropriate proximity to the district’s school sites
 - ii. Only district approved and qualified vendors
- e. Payment for Micro-Purchases.
 - i. Purchase order with approval from a pre-acquisition
 - ii. Credit card with approval from a pre-acquisition

2. Small Purchases

The small purchase method is an “Informal Procurement Method” for purchases that exceed the micro-purchase threshold but have an aggregate amount no greater than the Simplified Purchase Acquisition threshold of \$50,000. The District must contact a minimum of 3 potential suppliers and attempt to get a minimum of 2 quotes.

- a. Based on the determination through a cost/price analysis that a purchase will exceed the Micro-Purchase threshold (2 CFR 200.67) but will not exceed the State’s/District’s Simplified Purchase Acquisition (Small Purchase) threshold of \$50,000.
- b. Allowable types of Small Purchases:
 - i. Single/one-time purchase with an aggregate amount between \$10,000<\$50,000
 - ii. Multiple purchases of same or similar products and/or services from a prime vendor during the fiscal year with an aggregate amount between \$10,000<\$50,000
- c. Albany ISD will use the following steps to make a Small Purchase (2 CFR 200.320 [b])
 - i. Identify potential suppliers; who to contact for bids; what is available on the market.
 - ii. Write the product and/or service specification to include details but not restrictive as to exclude competition.
 - iii. Draft the solicitation to include contract terms and conditions, invoice methods, delivery and/or service requirements, duration of contract, and evaluation criteria if any is being used with the scoring rubric.
 - iv. Contact a minimum of 3 vendors (if possible) and provide each one with the same information to include all details of the solicitation. Emailed or faxed documents is the preferred method but verbal delivery of solicitation details is allowed.
 - v. Document vendor responses to include:
 - 1. Vendor name and contact with email address and phone

2. Contact method
3. Price quoted to include the date received
4. Duration of the price quote
5. If less than 3 quotes are received, explanation of why this occurred will be included in the documentation
- vi. Award will go to the most responsive and responsible vendor with the lowest price or highest evaluation score if used. A responsive vendor is one whose response conforms to all the material terms and conditions of the solicitation. A responsible vendor is one whose financial, technical, and other resources indicate an ability to perform the services required.
- vii. All documentation will be kept
- d. The following employee positions have permission to make a Small Purchase:
 - i. Food Service Director - District
 - ii. Cafeteria Manager – High School
 - iii. Superintendent, Business Manager – Business Office
- e. Eligible vendors
 - i. All suppliers that have been identified as potential bidders
 - ii. Only district-approved and qualified suppliers
- f. Payment for Small Purchases.
 - i. Purchase order with approval from a pre-acquisition
 - ii. Credit card with approval from a pre-acquisition

3. Capital Expenditures

Texas Department of Agriculture (TDA) requires a CE to get pre-approval on expenditures for food service equipment or alterations to equipment, only if the total equipment “per unit” cost is greater than \$5,000.

- a. Albany ISD will submit a request for approval prior to purchasing the item via email to TDA including:
 - i. District Name, CE ID, and contact information (phone and email address)
 - ii. Description of the equipment, including the purpose and how it supports the operation or maintenance of the District
 - iii. Provide an estimated cost and whether or not we have sought bid pricing
 - iv. Describe how the old equipment (if any) will be disposed of and acknowledge that any proceeds from the disposal will be used to offset the cost of the replacement
 - v. Acknowledge that any equipment purchased will be used exclusively (100%) by the District

4. Competitive Sealed Bidding (IFB – Invitation for Bid)

The competitive sealed bidding method is a “Formal Procurement Method” that is used when the contract value is at or above the Small Purchase threshold, which is \$50,000 in the state of Texas. The formal procurement method requires a District to post a public advertisement in a newspaper of general circulation for two consecutive weeks upon

release of the solicitation. It is recommended that the District post the advertisement on their website or a trade website as well as email or make phone calls as a means of advertising to potential bidders.

- a. Albany ISD will ensure the following conditions:
 - i. A complete, adequate, and realistic specification or purchase description will be made available
 - ii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price
 - iii. Evaluation criteria will be included in the solicitation in regard to determining a winner if the same price has been received from 2 or more different vendors
- b. Albany ISD will adhere to the following requirements:
 - i. The solicitation will be publicly advertised
 - ii. Provide detailed information such as response time, date and time responses are to be received, how responses must be submitted, date and time of public opening, and any other pertinent details
 - iii. Provide product and/or service specifications that allow multiple responses
 - iv. Award the contract to the most responsive and responsible bidder. Factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest.
 - v. Any or all bids may be rejected if there is a sound documented reason
- c. The following employee positions will participate in the IFB Procurement Method:
 - i. Superintendent
 1. Write product or service specifications
 2. Write the solicitation document
 3. Send the IFB to potential suppliers
 4. Participate in the opening of the submitted bid quotes and determine a winner
 - ii. Food Service Director
 1. Assist the Superintendent as needed
 2. Write product or service specifications
 3. Write the solicitation document
- d. Eligible vendors
 - i. All suppliers that have been identified as potential bidders
 - ii. Only district-approved and qualified suppliers
- e. Payment for IFB Purchases
 - i. Purchase order to be created after approved pre-acquisition
 - ii. Credit card with approval of approved pre-acquisition

5. **Competitive Proposals (RFP – Request for Proposal)**

A request for proposal is a “Formal Procurement Method” used for purchases when an

IFB is not appropriate. An RFP describes in a general way what is needed and requests that vendors submit a proposal for servicing the needs of the district. RFP's can be used for either goods or services and require the prospective vendor to submit a technical proposal that explains how they will meet the objectives of the solicitation document and a cost element that identifies the costs to accomplish their proposal. Price is to remain the major consideration but can be one of many evaluation factors used to determine the most advantageous winner. The RFP also allows for negotiation as a means to obtain the best value or price.

- a. Albany ISD will ensure the following conditions:
 - i. A complete, adequate, and realistic specification or purchase description will be made available
 - ii. The procurement lends itself to a firm fixed price contract or cost reimbursable price
 - iii. The selection of the successful bidder will be made after an evaluation of criteria with price being the "heaviest weighted factor"
 - iv. Negotiation of price or best value will be handled with complete fairness and integrity
- b. Albany ISD will adhere to the following requirements and required documents (2 CFR 200.318 - 326):
 - i. The solicitation will be publicly advertised
 - ii. Solicitation document will include a cover sheet with the RFP description, contact information, issue date, closing date and opening date
 - iii. Written instructions and bidder information sheet to be completed by the proposer
 - iv. Clear product and/or service specifications
 - v. Clear description of district demographics and product usage (as relevant)
 - vi. Clearly stated evaluation criteria to include scoring rubric
 - vii. Standard and/or Special Terms and Conditions of the contract
 - viii. Discounts, Rebates, and/or credits provisions where applicable
 - ix. Questionnaires as appropriate
 - x. Reference Sheet
 - xi. Certifications per ARM Section 17 and Appendix II to Part 200 of 2 CFR 200:

Intangible Property	<u>2 CFR 200.315</u>
Procurement of Recovered Materials/Solid Waste Disposal	<u>2 CFR § 200.322</u>
Profit as a Separate Element of Price	<u>2 CFR 200.323(b)</u>
Record Retention Requirements	<u>2 CFR § 200.333</u>
Rights to Inventions	<u>37 CFR §401.2 (a)</u>
Anti-trust Certification	<u>Section 2155.005</u>
Certification of Residency	<u>Chapter 2252, Subchapter A</u>
Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization	<u>Chapter 2252, Subchapter F</u>

Compliance with the Energy Policy and Conservation Act	<u>Pub. L. 94-163, 89 Stat. 871</u>
Compliance with Texas Family Code	Section <u>231.006</u>
Food/Product Recall and HACCP Procedures Form 1295	Section <u>2252.908</u>
Health & Safety Certificates, Licensing and Regulation	<u>ARM 17.62</u>
No Israel Boycott	Section <u>2270.002</u>
Prohibited Employment Assistance	<u>20 USC 7926</u>
Non-Collusion Declaration	<u>Section 15.01</u>
Non-Collusion Affidavit	<u>Section 15.01</u>
Signature and Declaration of Compliance	Notary of Public Required
Proposal Form	<u>200.326 Appendix I To Part 200</u>
Breach of Contract Terms, Sanctions and Penalties	<u>200.326 Appendix II to Part 200 (A)</u>
Termination for Cause or Convenience	<u>200.326 Appendix II to Part 200 (B)</u>
Certificate of Insurance	<u>2 CFR 200.447</u>
Cooperative Agreements	<u>2 CFR 200.24</u>
Byrd Anti-Lobbying	<u>2 CFR 200.450; 200.326 Appendix II Part 200 Sec. "I"</u>
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts	<u>200.326 Appendix II To Part 200 Sec H</u>
Clean Air and Water Certificate	<u>200.326 Appendix II Part 200 Sec. "G"</u>
Equal Opportunity Employment	<u>200.326 Appendix II Part 200 Sec. "C"</u>
Contracting with Small, Minority, Women Business Enterprises, and Labor Surplus Area Firms	<u>2 CFR 200.321</u>
Conflict of Interest Questionnaire	<u>24 CFR § 3282.359</u>
Disclosure of Lobbying Activities	<u>Appendix B To Part 418 2 CFR</u>
Felony Conviction Notification (Exhibit Only)	<u>21 CFR 1301.90</u>
Nutrition Services Certification For "Buy American" Provision	<u>7 CFR 210.21 Sec. D</u>
Nutrition Services "Buy American Waiver Exception List	<u>7 CFR 210.21 Sec. D</u>
Certificate Regarding Worker's Compensation	<u>48 CFR 970.2803-1</u>
Certificate Regarding Drug-Free Workplace	<u>38 CFR § 48.635</u>
Certificate Regarding Alcoholic Beverage And Tobacco-Free Campus Policy	<u>21 CFR § 1140.1</u>
E-Verify	<u>48 CFR 52.222-54</u>
Iran Contracting	<u>48 CFR 25.703-3</u>
Civil Rights/Discrimination	<u>FNS Instruction 113-1</u>
W9	<u>Most Current Version Required</u>

xii. Awarding of the contract:

1. Evaluation will consist of product quality, services, or past performance, but not limited to, along with price as the heaviest weighted factor
2. Cost plus percentage of cost will not be allowed as a basis for award (2 CFR 200.320)
- xiii. Any or all bids may be rejected if there is a sound documented reason
- c. The following employee positions will participate in the RFP Procurement Method:
 - i. Superintendent
 1. Write product or service specifications
 2. Write the solicitation document
 3. Send the IFB to potential suppliers
 4. Participate in the opening of the submitted bid quotes and determine a winner
 - ii. Food Service Director
 1. Assist the Superintendent as needed
 2. Write product or services specifications
 3. Write the solicitation document
- d. Eligible vendors
 - i. All suppliers that have been identified as potential bidders
 - ii. Only district-approved and qualified suppliers
- e. Payment for RFP Purchases.
 - i. Purchase order to be created after approved pre-acquisition
 - ii. Credit card after approved pre-acquisition
 - iii.

6. Noncompetitive Negotiation and Sole Source Procurements

These types of procurement methods are used to compensate for the lack of competition. This lack of competition may result from overly restrictive solicitation documents, an inadequate number of suppliers in the area or the procurement environment may have been compromised by inappropriate supplier actions (i.e. market allocation schemes). Non-competitive negotiation occurs after the solicitation (sealed bid, competitive negotiation or small purchase) has been issued, but competition on that solicitation has been deemed inadequate.

- a. Noncompetitive negotiations or sole source procurements are restricted to specific situations and may only be used when:
 - i. Inadequate competition in a formal procurement method
 - ii. Public emergency exists
 - iii. Goods or services are only available from one manufacturer through only one supplier
- b. Albany ISD will obtain TDA's approval prior to award and purchase of products or services. All requests for approval must be submitted through the State Agency's online system, TX-UNPS.

- c. The following employee positions will oversee the approval process for a Noncompetitive and/or Sole Source Procurement Method:
 - i. Superintendent
 - 1. Determine if the procurement is Noncompetitive (public emergency or unexpected emergency) or Sole Source (single vendor)
 - 2. Submit and obtain approval from TDA by providing the following information:
 - a. Description of product and/or services to be purchased and the cost
 - b. Description of the method used to determine if the cost is reasonable
 - c. Copies of the CE's solicitation, advertising, and other relevant documentation that indicate why the sole source method is appropriate
 - d. Description of the CE's actions to ensure that the supplies, distributor, or manufacturer is sole source i.e. including documentation of the CE's effort to contract other vendors to confirm that the product or service is not available from another source
 - e. Description of the CD's review of solicitation, advertising and other actions to ensure that the original solicitation was competitively solicited
 - i. Period of time (i.e., week, number of months, year) the CE plans to use sole source method
 - 3. Albany ISD will receive TDA approval
 - 4. Albany IDS will not accept statement from vendor as verification for sole source and will attempt to solicit offers from other vendors
 - 5. Albany ISD will document why a special feature(s) is required and not just preferred when only one source offers such special feature
 - 6. Albany ISD will maintain documentation demonstrating the following:
 - a. Product and/or service availability from only one source
 - b. Efforts to determine if other vendors provide the product and/or service
 - c. All procurement related activities
 - ii. Food Service Manager
 - 1. Assist the Superintendent as needed with all/any activities listed above
 - iii. Business Manager
 - 1. Assist the Superintendent as needed with all/any activities listed above

Bid/Proposal Questions and Protest Procedures

An interested party may protest any of the following situations:

- Solicitation or other request for offers for a contract for the procurement of property or services
- Cancellation of a solicitation or other request
- Award or proposed award of a contract
- Termination of a contract, if the protest alleges that the termination was based on improprieties in the administration of the contract.

Albany ISD will do the following:

1. Include clear instructions in each solicitation document about questions and protest procedures.
2. Follow all written procedures to resolve protests.
3. Ensure that all protests are resolved.
4. Retain all documentation related to a protest.
5. Notify TDA when a protest is received.

Albany ISD will address all respondent protests within 24 hours of the bid award. Albany ISD will provide evaluation scores and pricing at the request of the respondent. Violations of law should be referred to the local, state or Federal authority. (2 CFR, Section 200.318[k])

Albany ISD will allow respondents to request clarification of information prior to the close of the bid/proposal. These requests must be received a minimum of 3 business days prior to the close of the bid/proposal. Albany ISD will address the request for additional information as an addendum to all respondents.

Economic Price Adjustments in Vendor Contracts

The economic price adjustments, which allow a District to adjust costs in the contract, must be tied to an appropriate standard or cost index. Relating the price adjustments in a contract to an index allows the District to ensure that increases under the contract are not without basis. For example, if fuel prices are increasing drastically, an appropriate index such as the Consumer Price Index (CPI) will reflect this change.

This index is preferred because the USDA uses this index for the National School Lunch Program (NSLP) yearly funding increases. The intention is that if the USDA increased funding by a certain percentage the District would be able to allow the increase in food cost to rise at the same percentage. Vendors will be able to bid on multi-year contracts that allow for inflation and the District will be able to maintain a consistent level of service and food cost percentage from year to year.

Applying Geographic Preferences in Procurement

As amended, the National School Lunch Act (NSLA) allows SFA's receiving funds through the CN Programs to apply a geographic preference when procuring unprocessed, locally grown or locally raised agricultural products. This applies to operators of all of the School Lunch Programs.

Albany ISD will apply geographic preference to the procurement of agricultural products that:

1. Are unprocessed and retain their inherent character
2. Are locally grown or locally raised
3. Have not been cooked, seasoned, canned, or combined with any other products

USDA allows the entity to define local as long as it is not too restrictive. TDA allows the CE to define local as a boundary or area, such as counties, State, or multi-State as long as it is not too restrictive. Regulation prevents Albany ISD from awarding any contract based solely on "local," and Albany ISD will provide clear instructions and information in each solicitation as to our definition of local and evaluation criteria. Albany ISD will adhere to the policy of using their USDA Federal Funds in the most efficient way possible.

Albany ISD determines local as "within the United States territory and a distance of 100 miles from the Districts' main campus" (mileage may vary for items dependent on bidding preference).

Discounts, Rebates, and Credits

Albany ISD requires that all discounts, rebates, and credits accrue back to the school nutrition account. The contractor will be required to identify the amount of each discount, rebate, or other applicable credit on bills and invoices presented to the Albany ISD. Contractors will be required to identify the method by which they will report discounts, rebates, and credits. All discounts, rebates, and credits will be tracked via monthly invoices or annual velocity reports. Contractors will be required to maintain documentation of costs, discounts, rebates, and credits and make those available to Albany ISD upon request.

Buy American Provision

Albany ISD adheres to the Buy American Provision (7 CFR 210.21) when purchasing commercial food products to be served in the district's SNP meals. This provision will be included in all solicitations for food to be used in the school nutrition programs.

Per Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 {Public Law 105-336} added a provision, Section 12(n) to the NSLA (42 USC 1760(n)}, requiring School Food Authorities (SFA's) to purchase, to the maximum extent practicable, domestic commodity or product. Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Products from Guan,

American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States. The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards SFA's must comply with when purchasing commercial food products served in the school meals programs.

Albany ISD will purchase domestic food products per the Buy American Provision unless:

1. The product needed is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; or
2. Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product

Albany ISD will maintain all documentation in regard to any food purchases that are deemed "non-domestic" to include cost comparisons if the product is available as a "domestic" product that is seen as unreasonable in cost; or if not available as a U.S. grown product the documentation will include the "country of origin."

Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Firms and/or Disabled Veteran Business Enterprise (MWDVBE)

Albany ISD will encourage open competition amongst small, minority, woman, and disabled veteran's businesses by:

1. Reducing barriers in Formal and Informal Contract solicitations by:
 - a. Allowing for businesses that may be MWDVBE to compete on an equal footing. This will be accomplished by having a qualification process where MWDVBE bids are given points equal to the requirements that may be restrictive, such as length of service in business, size of distribution facilities, etc...
 - b. Allowing for extra points in the evaluation if a bidder/proposer qualifies as an MWDVBE
 - c. Structuring contracts to allow "awards to more than one Proposer in the best interest of the District in order to award a portion of the agreement to MWDVBE vendor that may not be able to perform to an agreement that is too large for current financial/logistical capabilities.
2. Structuring Contracts that May allow for Cost Credit to Small, Minority and Women owned businesses:
 - a. Albany ISD may structure an RFP Formal Procurement agreement to allow for price variation of not more than 5% of total cost above the lowest responsive bidder to award to a small, minority or women owned business. For example, the lowest bidder was \$100 dollars, a certified small, minority or women owned enterprise bid \$105, the contract may be awarded to the small, minority or women owned enterprise if it is in the best interest of the District.
3. Providing Positive Outreach
 - a. Albany ISD will place qualified small, minority and women owned enterprises on solicitation lists; and

- b. Assure that small, minority and women owned enterprises are solicited whenever they are potential sources

Local Sourced Products: Farm to School Initiative

Albany ISD is committed to local markets and family farmers in the State of Texas. Our objective is to support the local agricultural economy and reduce the environmental impact of long distance shipping. Albany ISD defines “Local Sources Products” as products that are grown within the State of Texas, with preference to sources located within 100 miles of the school’s main campus.

When purchasing local sourced products, Albany ISD will follow the planning phase as stated earlier in this manual and do a cost/price analysis to determine the most appropriate procurement method.

In order to encourage the bidders to purchase locally sourced produce, Albany ISD may assign additional point values in the “Award of Contract” section of the solicitation that can demonstrate:

1. The bidder is purchasing produce locally by submitting a list of local farmers, their addresses, the produce that is anticipated to purchase from each farm location, and the anticipated harvest dates of the produce
2. The bidder must also agree to the ability to submit a report during the term of the contract that demonstrates continued purchases from local farms

Use of Excess and Surplus Property

Albany ISD, to the best of the district’s ability, may utilize excess and surplus property when available. The TDA allows a district to use a significant portion of our entitlement (PAL) allocation from USDA to purchase DOD fresh fruit and vegetable products. The TDA manages the solicitation and award of the DOD Produce Vendors. Contracting Entities (CE’s) in the state of Texas and participating in the DOD Fresh Program can receive weekly deliveries as outlined in the awarded contract.

Cooperative Membership and Procurement

The USDA allows for “Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third-Party Services.

Albany ISD may participate in a purchasing cooperative when it is determined to be in the best interest of the district. As a governmental agency, Albany ISD has the option to legally join a “governmental agency or Education Service Center (ESC) agency” purchasing cooperative through an Inter-local or Inter-Agency Agreement.

If determined in the best interest to join an ESC Agency cooperative, Albany ISD will request a

copy of the Inter-local or Inter-Agency Agreement and complete and submit to the appropriate contact of the co-op. Albany ISD will do the following once membership in the cooperative has been confirmed:

1. Provide product estimated quantities planned for purchase for each bid selected.
2. Review that all procurement documents and cooperative processes have been conducted in accordance with applicable Federal, State and local regulations.
3. Will confirm that their addition to any contract selected does not create a material change as outlined in the contract per 2 CFE 200.318[e] that states a material change occurs when the change in scope of the contract is significant enough that potential bidders might have bid differently had they been award of the impacts from adding additional agencies.
4. Request access to all documentation related to the contract for compliance with records retention requirement to include but not limited to:
 - a. Solicitation
 - b. Verification of Published Advertisement
 - c. Contract Terms and Conditions
 - d. Evaluation Criteria, if any
 - e. Responses
 - f. Notification of Awarded vendor(s)
 - g. Documentation of any extensions or Amendments
 - h. Recall Procedures

Unnecessary or Duplication of Goods/Services

Albany ISD will avoid acquisition of unnecessary or duplicative items/services. Purchases will be justified using the following criteria:

1. Purchaser will determine if there are like items in the District that may not be in use and consider transferring item before determining if purchase is necessary
2. The item is being considered for menus or is needed to serve, prepare, receive, transport or store an item on the menu
3. The item is replacing an obsolete, broken, damaged or outdated piece of equipment

Recalls

Albany ISD will use the following procedures in regard to products that have been recalled, or are discovered to be defective or faulty:

1. The Food Service Director/Cafeteria Manager will register for email notifications of recalled products through USDA Food Safety and Inspection Service (usfsis@public.govdelivery.com) and/or recalls.gov or any other viable resource in regard to food and product safety and recalls

2. Vendors' Recall procedures will be requested with every Small Purchase, IFB and RFP procurement method used
3. Any notices or alerts from awarded vendors or distributors in regard to a recalled product will be handled immediately, following all instructions from the vendor or distributor in regard to the handling of the recalled product
4. Actions may include but not be limited to:
 - a. Disposal of all affected product
 - b. Photos of products affected, documentation of case lot numbers, distributor codes or any other pertinent information as documentation of product origin
 - c. Removal of affected product to a safe area to be picked up by the vendor or distributor
 - d. Credits issued for all affected product that could not be used

SECTION 2

Code of Conduct

As representatives of the Albany ISD Food Services Department, all employees are expected to conduct themselves in a professional and ethical manner, maintaining high standards of integrity and the use of good judgment. Employees are expected to be principled in their business interactions and act in good faith with individuals both inside and outside the Albany ISD.

The following Code of conduct shall govern the performance, behavior and actions of the Albany ISD Food Services Department, including employees, directors, officials, or agents who are engaged in any aspect of procurement, including – but not limited to – purchasing goods and services; awarding contracts; or the administration and supervision of contracts.

Code of Conduct

- No employee, directors or agent of the Albany ISD Food Services Department shall participate in the selection, award or administration of a bid or contract supported by federal funds if a conflict of interest is real or apparent to a reasonable person.
- Conflicts of interest may arise when any employee, directors or agent of the Albany ISD Food Services Department has a financial, family or any other beneficial interest in the vendor selected or considered for an award.
- No employee, directors or agent of the Albany ISD Food Services Department shall award contracts to, or show favoritism toward a member of his/her immediate family, spouse's family or to any company, vendor or concern who either employs or has any relationship to a family member; or award a contract or bid which violates the spirit or intent of Federal, State and local procurement laws and policies established to maximize free and open competition among qualified vendors. Those circumstances where interests, financial or otherwise, are not substantial or are within the limits of applicable Federal, State and local laws and the policies and procedures of the Albany ISD, the Superintendent's Cabinet shall determine whether the conflict is material under the circumstances.
- The Albany ISD Food Services Department employees, directors, and agents will not solicit gifts, including but not limited to travel packages or other incentives, and/or donations from prospective contactors. However, incentive language may be included as part of the competitive procurement (formal bid and request for proposal) solicitation language to acquire the most favorable terms for the operation and benefit of the non-profit food service account. Such incentives include but are not limited to volume rebates, timely payment discounts, program promotion assistance, upfront savings, etc...

Conflicts of Interest

Albany ISD employees must not solicit or accept gratuities, favors, or anything of value to perform improper financial actions, including actions related to procuring contractors or parties to subcontracts. When this occurs, there is a conflict of interest.

A conflict of interest is *any action that allows a person to benefit at the expense of the public interest or the expense of his or her employer*. A conflict of interest may be real or apparent, i.e., a conflict of interest does not have to be acted upon to be considered a conflict of interest.

A real or apparent conflict of interest occurs in situations such as the following:

- Albany ISD employee has a financial or other interest in a business being considered for a contract.
- Albany ISD employee receives a tangible personal benefit from a business being considered for a contract.
- Albany ISD employee has a personal relationship or friendship with a business being considered for a contract.
- Albany ISD employee is employed by, about to be employed by, or is seeking employment from a business being considered for a contract.

Albany ISD will consult with their attorney or legal counsel if there is a question about whether a specific situation is a conflict of interest.

Albany ISD's "nominal value" may be no more than the value of a cup of coffee. Acceptance of such offerings is highly recommended against, but Albany ISD is aware that sometimes such offerings are unavoidable. It is required that all vendors be informed by the district staff that such offerings are not allowed.

Albany ISD considers all "tangible benefits," as defined below but not limited to, to be a conflict of interest.

- Offering a special item at a much lower price than the price structure for a current contract.
- Offering an item not presently used by the Contracting Entity at a special price that is below market value.
- Offering an incentive, such as equipment or other prizes for purchasing items.
- Allowing staff to make purchases from a Contracting Entity procured contract.

Incentives, Gratuities, or Kickbacks

In accordance with the State of Texas Department of Agriculture (TDA) "Administrative Review Manual" (ARM) Section 16, 16.18, Albany ISD Food Services Department employees; officials; agents acting on the Albany ISD Food Services Department behalf; any member of the

immediate family of the Albany ISD Food Services Department employee, officer, or agent acting on the Albany ISD Food Services Department behalf; or business partner of the employee, officer, or agent acting on Albany ISD Food Services Department behalf cannot accept anything of value from a vendor. Incentive, gratuities, or kickbacks include, but are not limited to, personal gifts or gratuities that may be construed to have been given to influence the purchasing process.

Although such practices may be accepted in the private sector, giving and receiving gifts in the public sector may constitute a violation of law. Gift to a Public Servant is a Class A misdemeanor offense if the recipient is a government employee who exercises some influence in the purchasing process of the governmental body.

Albany ISD Food Services Department employee or former employee must not knowingly use confidential SNP information for the actual or anticipated personal benefit or benefit for any person or entity.

Albany ISD will apply disciplinary actions (as listed below) for violations of above stated standards by Albany ISD Food Services Department employees, officers, or agents acting on the Albany ISD Food Services Department behalf.

Albany ISD will apply the following disciplinary actions:

1st Offense: Documented “verbal” reprimand and review Code of Conduct. Two district staff (Principal, Food Service Director and/or Superintendent) will be present and sign document as witnesses.

2nd Offense: Written reprimand and review of Code of Conduct. Two district staff (Principal, Food Service Director and/or Superintendent) will be present and sign document as witness.

3rd Offense: Termination.

Albany ISD Food Services Department will provide guidance to each employee, officer, or agent acting on the Albany ISD Food Services Department’s behalf at the time of hire on how to avoid undue influence. Albany ISD Food Services Department will offer training and provide all employees, officers, and agents acting on behalf of Albany ISD Food Services Department a copy of Albany ISD’s Employee Manual that addresses professional and ethical standards.

Albany ISD Food Services Department requires any employee, officer, or agent acting on behalf of Albany ISD Food Services Department to disclose in writing any possible situations where there is an appearance of incentives, gratuities, or kickbacks being received.

Benefits Received

Albany ISD Food Services Department employees; officials; agents acting on the Albany ISD Food Services Department behalf; any member of the immediate family of the Albany ISD Food Services Department employee, officer, or agent acting on the Albany ISD Food Services

Department's behalf; or business partner of the Albany ISD Food Services Department employee, officer, or agent acting on Albany ISD Food Services Department's behalf must not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

When incentives are offered by the contractor and accepted by an individual, the incentive must become the property of Albany ISD Food Services Department. Under no condition can the incentive become the property of an individual.

Albany ISD Food Services Department use the following written procedures on how it will avoid unallowable practices based on benefits received:

1. Annually Albany ISD Food Service Department employees will be given a copy of the Code of Conduct section from the Operating Manual for review.
2. Albany ISD will post the Child Nutrition Operating Manual on the District's website for employee access.
3. Annually Albany ISD Food Service Department employees will sign a Code of Conduct form as shown in the Appendix.

Conflicts of Interest, Other Individuals or Entities

Albany ISD defines "other" as the following but not limited to:

- Agent
- Business
- Consultant
- Contractor
- Cooperative
- Distributor
- Food Processor
- Food Service Management Company (FSMC)
- For Profit Organization
- Nonprofit Organization
- Third party
- Vendor

Albany ISD will communicate its expectations and applicable procedures related to program integrity to individuals and entities acting on Albany ISD's behalf. Albany ISD will review all solicitations, agreements, contracts, and other communications prepared on their behalf to ensure compliance with all Federal and State requirements and regulations.

Certification Regarding Lobbying

Lobbying certification requirements are applicable to grants, sub-grants, cooperative agreements, and contracts exceeding \$100,000 in federal funds.

Albany ISD Food Services Department uses the following procedures

1. **Documentation:** Albany ISD Food Services Department will take actions to ensure that the proper documentation is prepared, shared as required, and retained.
2. **Use of Funds:** Albany ISD Food Services Department requires that federal funds must not be paid by or behalf of the Albany ISD Food Services Department to any person 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.

Debarment and Suspension

Albany ISD and their subcontractors must not make or permit any award, sub-award, sub-grant, or contract with an individual or entity that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs, per the TDA Administrative Review Manual (ARM), Section 16.20.

- Albany ISD Food Services Management Department will Include the following debarment and suspension certification in every written agreement with subcontractors: *"{name of subcontracting organization} certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency or by the State of Texas. {name of subcontracting organization} shall immediately provide written notice to Albany ISD Food Services Management Department if at any time the {name of subcontracting organization} learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. Albany ISD may rely upon a certification of a subcontractor that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless it knows that the certification is erroneous.*
- Albany ISD Food Service Management Department will require the subcontractor to sign and submit the TDA form entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts (H2048)12" and maintain the signed form with its contract record.
- Albany ISD Food Service Management Department will print the page from the System for Award Management (SAM) which indicates the subcontractor is not presently debarred or otherwise excluded from participation in the contract by any federal

department or agency or by the State of Texas and will maintain that document on file with the contract documents. The System for Award Management can be accessed at www.sam.gov/portal/SAM/#1

Staff Purchase of Items on Awarded Contracts

Albany ISD Food Service Management Department does not allow any employee, officer or agent acting on behalf of Albany ISD Food Service Management Department to take advantage of Albany ISD Food Service Management Department's procurement by purchasing off an awarded contract.

Per the ARM, Section 16.22, Confidentiality and Program Integrity, this type of activity as actually accepting the cash difference between the bid or discount price and the amount the individual would have paid for the item in the regular retail market. This is a financial incentive. When an individual pays for the purchase, the payment does not remove the financial incentive. Even if the contractor were to charge retail price, the individual would still be receiving the convenience of a personal delivery and would be accepting a favor from the contractor—therefore, this is an unallowable practice.

Contracting with Persons and Companies for Assistance in Developing a Solicitation

Per the ARM, Section 16.22, Confidentiality and Program Integrity, when acquiring goods and services, contracting entities (CEs) may contract with agents or companies that provide technical information in drafting procurement specifications and/or technical requirements. This provision is intended to encourage program administrators to obtain information from as many sources as possible to assist them in drafting procurement documents.

- Potential Offerors or Interested Parties Involved in Developing a Solicitation
Albany ISD Food Service Management Department will not accept a contractor or other interested party's offer if the contractor or other interested party assisted with or drafted the procurement specifications and/or technical requirements, procedures, or documents.

Food Taken From Schools

Albany ISD Food Service Management Department does not allow any employee, officer, or agent acting on behalf of the Albany ISD Food Service Management Department to take food or leftover food (including milk) from the premises for personal use, personal gain, or benefit to another person or entity.

Reporting of Fraud, Bribery, and Gratuity Violations

Albany ISD will report, in writing to TDA, all violations of federal criminal law – fraud, bribery, or gratuity.

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in CFR 200.338 Remedies for noncompliance, including suspension or debarment. (2 CFR 200.113; 31 U.S.C. 3321).

Albany ISD defines fraud as:

Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program [and/or Special Milk Program] whether received directly or indirectly, shall, if such funds, assets or property are of a value of \$100 or more, be fined no more than \$25,000 or imprisoned not more than 5 years or both; or if such funds, assets or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than 1 year or both. Whoever receives, conceals or retains for personal use or gain, funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program, whether received directly or indirectly, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud, shall be subject to the same penalties.

SECTION 3

Civil Rights Complaint Procedures

Albany ISD, in accordance with Federal civil rights laws and USDA civil rights regulations and policies, provides CN benefits to all eligible individuals without discrimination. Albany ISD will assist in providing documentation to anyone who wishes to file a complaint as outlined in the procedures documented below. Any complaint not filed directly with the Texas Department of Agriculture (TDA) or the USDA will be forwarded to the TDA. Albany ISD will initiate a resolution of the complaint while waiting for a response from TDA and will maintain documentation of what was done to resolve the complaint.

Child Nutrition Civil Rights Complaint Procedures

Albany ISD, in accordance with Federal civil rights law and USDA civil rights regulations and policies, provides Child Nutrition program benefits to all eligible individuals without discrimination on the basis of race, color, national origin, sex, disability, age, marital status, sexual orientation, family/parental status, income derived from a public assistance program, political beliefs or reprisal or retaliation for prior civil rights activities in any program or activity conducted or funded by USDA.

If you feel in any way that your child has been discriminated against while participating in the Child Nutrition program offered by Albany ISD, including during the serving of meals to him/her, please follow one of these procedures in voicing your complaint:

- 1) To file a complaint with Albany ISD complete the attached Child Nutrition Complaint form. The form can be returned to the Superintendent's secretary located at 501 E. South 1st Street. For assistance please call 325-762-2823. All complaint forms received will be forwarded to Texas Department of Agriculture.
- 2) To file a complaint directly with the Texas Department of Agriculture download the instructions and the Food & Nutrition (F&N) Complaint form found on-line at <http://www.squaremeals.org>. For assistance with the complaint process, please call 1-877-TEX-MEAL (1-877-839-6325).
- 3) To file a complaint directly with the USDA download the instructions and the USDA Program Discrimination Form (AD-3027) found online at http://www.ascr.usda.gov/complaint_filing_cust.html. To request a copy of the form call (866) 632-9992 or request a copy of the form from any USDA office. A written letter may be submitted which should include all the same information as requested in the form.

SECTION 4

Records Retention

Albany ISD is required to maintain an organized accounting and financial system that includes documentation that demonstrates compliance with program regulations. All documentation must be accessible to state and federal reviewers during both on and off site review processes. Albany maintains all documentation on file (either paper or electronic) for a minimum of 5 years.

APPENDIX

Forms

In this section are sample forms that may be used by Albany ISD.

ALBANY ISD CHILD NUTRITION CODE OF CONDUCT

ALBANY ISD is committed to the highest ethical standards based on the unique trust placed in ALBANY ISD to serve the district.

The success of ALBANY ISD and our reputation depend upon the ethical conduct of everyone affiliated with ALBANY ISD. We set an example for each other by pursuit of excellence in high standard of performance, professionalism, and ethical conduct.

While no document can anticipate all of the challenges that may arise, the Code of Conduct communicates key guidelines and will assist ALBANY ISD in making good decisions that are ethical and in accordance with applicable legal requirements. All are encouraged to discuss any questions or concerns they have.

1. PERSONAL AND PROFESSIONAL INTEGRITY

A personal commitment to integrity in all circumstances benefits each individual as well as the organization. We therefore:

Strive to meet the highest standards of performance, quality, service, and achievement in working towards the ALBANY ISD mission.

Communicate honestly and openly and avoid misrepresentation.

Promote a working environment where honesty, open communication, and opinions are values.

Exhibit respect and fairness toward all those with whom we come into contact.

2. ACCOUNTABILITY

ALBANY ISD is responsible to those who have placed faith in it. To uphold this trust we:

Promote good stewardship of ALBANY ISD resources, including monies that are used to pay operating expenses and salaries.

Refrain from using organizational resources for non-ALBANY ISD purposes.

Observe and comply with all laws and regulations affecting ALBANY ISD.

Regulations: 2 CFR Part 200.318(c)(1), formerly 7 CFR Part 3016.36(b)(3) and & CFR Part 3019.42, State Procurement Code and Regulations, and ALBANY School District Department of Purchasing.

3. DIVERSITY AND EQUAL OPPORTUNITY

ALBANY ISD is an equal opportunity employer.

We therefore:

ALBANY ISD respects other without regard to race, color, religion, creed, age, sex, national origin, marital status, sexual orientation, or status as a qualified disabled or handicapped individual.

Refuse to engage in or tolerate in any other form of discrimination or harassment.

4. CONFLICTS OF INTEREST

To avoid any conflict of interest or the appearance of a conflict of interest which could tarnish the reputation of ALBANY ISD as well as undermine the public's trust in ALBANY ISD.

We will:

Avoid any activity or outside interest which conflicts or appears to conflict with the best interest of ALBANY ISD, including involvement with a current or potential ALBANY ISD vendor, grantee, or competing organization, unless disclosed to and not deemed to be inappropriate.

Ensure that outside employment and other activities do not adversely affect the performance of their ALBANY ISD duties or the achievement of ALBANY ISD's mission.

Ensure that travel, entertainment, and related expenses are incurred on a basis consistent with ALBANY ISD and not for personal gain or interests.

Decline any gift, gratuity, or favor in the performance of ALBANY ISD duties except for promotional items of nominal value, and any food, transportation, lodging or entertainment, unless directly related to ALBANY ISD business.

Refrain from influencing the selection of consultants or vendors who are relatives or personal friends or affiliated with, employ, or employed by a person with whom they have a relationship that adversely affects the appearance of impartiality.

If an employee is found to have committed fraud or financial impropriety, the Superintendent or designee shall take or recommend appropriate disciplinary action which may include suspension of duties or termination of employment. If circumstances warrant, the Board or Superintendent may refer matters to appropriate law enforcement authorities.

If a contractor or vendor is found to have committed fraud or financial impropriety, the District shall take appropriate action which may include cancellation of the District's relationship with the contractor or vendor.

ALBANY ISD and their subcontractors must not make or permit any award, sub award, or contract with an individual or entity that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs. ALBANY ISD

will require subcontractors to sign and submit the TDA form entitled Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts and maintain the signed form with its contract record. If the contractor is not currently debarred or otherwise excluded from participation in the contract by any federal department or agency or by the State of Texas, a form stating so will be signed and maintained on file with the contract documents.

5. ALBANY ISD EMPLOYEES

Should not knowingly take any action or make any statement intended to influence the conduct of ALBANY ISD in such a way to confer any financial benefit on themselves, their immediate family members, or any organization in which they or their immediate family members have a significant interest in ALBANY ISD.

Disclose all known conflicts or potential conflicts of interest in any matter.

A disclosure of all known potential conflicts of interest shall be filed with Central Administration.

6. CONFIDENTIALITY AND PRIVACY

Confidentiality is a hallmark of professionalism. We therefore:

Ensure that all information, which is confidential, privileged, or nonpublic, is not disclosed inappropriately.

Respect the privacy rights of all individuals in the performance of their ALBANY ISD duties.

7. POLITICAL CONTRIBUTIONS

ALBANY ISD may not make contributions to any candidate for public office or political committee and may not intervene in any political campaign on behalf of or in opposition to any candidate for public office. We therefore:

Refrain from making any contributions to any candidates for public office or political committee that may create the appearance that a contribution is from ALBANY ISD.

Refrain from using any organizational financial resources, facilities, or personnel to endorse or oppose a candidate for public office.

Clearly communicate that we are not acting on behalf of the organization, if identifies as an official of ALBANY ISD, while engaging in political activities in an individual capacity.

Refrain from engaged in political activities in a manner that may create the appearance that such activity is by or on behalf of ALBANY ISD.

8. DOCUMENT DESTRUCTION

The Law makes it a crime to alter, cover up, falsify, or destroy any document or persuade someone else to do so, or to prevent its use in an official proceeding (e.g., federal investigations or bankruptcy proceedings). Intentional document destruction will be monitored, justified, and carefully administered.

ALBANY ISD follows document retention and destruction guidelines set by the Internal Revenue Service.

9. GUIDANCE AND DISCLOSURE

Reports of possible breaches of the Code of Conduct will be handled in the following manner:

All reports of possible breaches will be treated in confidence as much as the organization’s duty to investigate and the law allow. If the confidentiality cannot be maintained, the individual disclosing the possible breach will be notified.

All reported breaches will be investigated by the Superintendent or designee, as appropriate. If needed, appropriate action will be taken based upon the policies of the organization.

No ALBANY ISD employee who in good faith reports a violation of the Code shall suffer harassment, retaliation, or adverse employment consequence. An employee who retaliates against someone who has reported any violation in good faith is subject to discipline up to and including termination of employment.

This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the Organization prior to seeking resolution outside the Organization.

ALBANY ISD affirms prompt and fair resolution of all reported breaches.

Date Adopted: ___12/17/2017___

Date of Revision: _____

Signature: _____

Albany ISD
Child Nutrition Complaint Form

To file a complaint, complete this form and submit it to the Superintendent's Secretary located at 501 E. South 1st Street. For additional assistance call 325-762-2823. All complaints, written or verbal, are automatically forwarded to the Texas Department of Agriculture.

Check if you'd like to remain anonymous

I. Contact Information for Person Submitting the Complaint

(Please record your name, address, telephone number, and additional contact information in the spaces below.)

First Name	Middle Initial	Last Name
------------	----------------	-----------

Address	City, State, and Zip Code	Best Telephone Number for You
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Are there other ways we can contact you? *(If yes, list them in the box. Other ways might include an email address or a different telephone number.)*

II. Reason for the Complaint

(Provide information about the complaint with as much detail as possible for questions (A-E). Attach additional paper if more space is needed.)

A. What is the name and address of the entity you are filing the complaint about?

B. If this complaint is against an individual, enter the person (or persons) name and contact information in this box. If the complaint is not against an individual, record a check in the box in front of N/A.

N/A—This complaint is not against an individual.

C. Describe the complaint with as much detail as possible, including the date and time incident occurred. If you have any relevant documentation that supports the complaint or alleged violation, attach that documentation to this form.

D. If there are other people who have knowledge about this event, please provide their names, titles, and address/contact information. *(Attach additional sheets if you need more space.)*

Name	Title	Address/Contact Information

E. What is the basis or the type of discrimination you feel occurred? *If the complaint is not based on discrimination, record a check in the box in front of N/A.*

N/A— This complaint is not based on discrimination.

(Check the boxes that apply.)

Race Sex
 Color Age
 National Origen Disability

Signature of Complainant

	Date:
--	-------

— This Space to Be Completed by Person Receiving the Complaint —	
Name of Person Receiving Complaint:	<input type="checkbox"/> Complaint was translated <i>(Check this box if this complaint from was completed by a person other than the complainant)</i>
Staff Person Assigned to Address Complaint:	Date Forwarded to the Texas Department of Agriculture:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. This institution is an equal opportunity provider.

Albany ISD
Cost/Price Analysis Form

DETERMINATION OF COST OR PRICE ANALYSIS
(REASONABLENESS)

Purpose: Federal regulations require documentation of cost analysis or price analysis for every procurement action at or above \$250,000 (*see* 2 C.F.R. § 200.323), however, the state of Texas "Simplified Acquisition Threshold" is \$50,000. The Determination of Cost or Price Reasonableness form is used to document the analysis showing that the offered price is fair and reasonable. The form is kept as part of the procurement file to demonstrate that the procurement process was conducted in an open and fair manner and that Albany ISD received the most advantageous price.

Instructions:

1. Complete a separate Determination of Cost or Price Reasonableness form for each vendor being recommended for contract award. Complete all sections.
2. Provide a detailed discussion of your price analysis or cost analysis. A Determination of Cost or Price Reasonableness form that lacks sufficient detail cannot be approved.
3. Sign in blue ink and date the form.
4. Maintain a copy subject to retention schedules and file in specific school year for future Procurement Reviews.

Prepared by:

Phone Number:

Email Address:

Department:

Subject: Determination of Cost or Price Reasonableness

Goods or Services to be purchased:

RFP#/Solicitation Title:

Vendor Name:

Total Amount including Estimated Quantities:

(Attach written quotation or other information that documents the estimate of cost or price reasonableness)

(As necessary include unit costs, rates, schedules, price estimates, and budgets, etc.)

This expenditure is being made under one or more of the following (check those that apply and attach supporting documentation):

- Sole source (as defined under ARM 17.50-55)
- Emergency procurement (as defined under ARM 17.52)
- Interlocal agreement or purchasing cooperative (TEC 44.031(a)(4) / Tex. Gov't Code Ch. 791; 2 C.F.R. § 200.318(e))
- Request for Quotations for goods or services at or below \$50,000
- Request for Proposals for goods or services at or above \$50,000 Albany ISD has a policy of procuring goods and services valued at \$50,000 or above in accordance with TEC 44.031(a), CFR 200.318 and ARM Section 17)
- Request for Quotations, Invitation for Bids or Requests for Proposals (where the solicitation is advertised) where only one (1) quote/proposal is received. Non-Competitive Bid.
- Professional services (as defined under TEC 44.031(f) and/or Ch. 2254 of the Tex. Gov't Code)
- Price adjustment to Purchase Order No. [Click or tap here to enter text.](#) or Contract No. [Click or tap here to enter text.](#) and already procured under item A – G)
- Extension of an existing contract past its initial term. Contract extension is allowed under procurement method or contract. Extension must adhere to Albany ISD's local policy.
- Other condition (specify):

Cost or price offered or fee negotiated is considered fair and reasonable for the following reason(s), and if applicable, is supported by attached documentation and/or a detailed discussion of the cost or price analysis (select at least one applicable situation):

- Comparison of previous Cooperative contract prices with current proposed price, for the same or similar items. Both the validity of the comparison and the reasonableness of the previous price(s) have been established *Attach the referenced Cooperative contracts, amounts, issuance dates, and how they are similar to the current purchase.*
- Comparison with Vendor's published price lists, market prices, pricing indexes, and discount or rebate arrangements. *Attach published price list or other published pricing information used (a vendor's quotation or correspondence does not qualify as a published price list).*
- Comparison of proposed price with independent cost estimates. *Attach estimates used.*
- Comparison of proposed price with prices obtained through market research for the same or similar items. *Attach documentation of research conducted.*
- Analysis of Offeror's cost information. *Attach cost information.*
- The order is priced in accordance with existing Albany ISD Purchasing Cooperative Contract/RFP No. _____, which was competitively established.
- Other reason (specify):

CERTIFICATION:

I certify that the information provided above is true and correct to the best of my knowledge and belief. I further certify that I have determined that the costs or prices proposed are necessary, fair, and reasonable.

Printed Name of Individual Preparing Form

Title of Person Preparing Form

Signature

Date

Federal Regulations – Certifications & Affidavits

2 CFR 200 Regulations

- | | CFR Link |
|---|---|
| 1. Proposal Form | <u>200.326 Appendix I To Part 200</u> |
| Breach of Contract Terms, Sanctions and | |
| 2. Penalties | <u>200.326 Appendix II to Part 200 (A)</u> |
| 3. Termination for Cause or Convenience | <u>200.326 Appendix II to Part 200 (B)</u> |
| 4. Certificate of Insurance | <u>2 CFR 200.447</u> |
| 5. Cooperative Agreements | <u>2 CFR 200.24</u> |
| 6. Byrd Anti-Lobbying | <u>2 CFR 200.450; 200.326 Appendix II Part 200 Sec. "I"</u> |
| Certification Regarding Debarment, | |
| Suspension, Ineligibility and Voluntary | |
| 7. Exclusion for Covered Contracts | <u>200.326 Appendix II To Part 200 Sec H</u> |
| 8. Clean Air and Water Certificate | <u>200.326 Appendix II Part 200 Sec. "G"</u> |
| 9. Equal Opportunity Employment | <u>200.326 Appendix II Part 200 Sec. "C"</u> |
| Contracting with Small, Minority, Women | |
| Business Enterprises, and Labor Surplus | |
| 10. Area Firms | <u>2 CFR 200.321</u> |

Other CFR and FNS Regulations

- | | CFR Link |
|---|---|
| 11. Conflict of Interest Questionnaire | <u>24 CFR § 3282.359</u> |
| 12. Disclosure of Lobbying Activities | <u>Appendix B To Part 418 2 CFR</u> |
| Felony Conviction Notification (Exhibit | |
| 13. Only) | <u>21 CFR 1301.90</u> |
| Nutrition Services Certification For “Buy | |
| 14. American” Provision | <u>7 CFR 210.21 Sec. D</u> |
| Nutrition Services “Buy American Waiver | |
| 15. Exception List | <u>7 CFR 210.21 Sec. D</u> |
| Certificate Regarding Worker's | |
| 16. Compensation | <u>48 CFR 970.2803-1</u> |
| Certificate Regarding Drug-Free | |
| 17. Workplace | <u>38 CFR § 48.635</u> |
| Certificate Regarding Alcoholic Beverage | |
| 18. And Tobacco-Free Campus Policy | <u>21 CFR § 1140.1</u> |
| 19. E-Verify | <u>48 CFR 52.222-54</u> |
| 20. Iran Contracting | <u>48 CFR 25.703-3</u> |
| 21. Civil Rights/Discrimination | <u>FNS Instruction 113-1</u> |

Other Required Documents

- | | |
|--------|--|
| 22. W9 | <u>Most Current Version Required</u> |
|--------|--|

PROPOSAL ACKNOWLEDGEMENT FORM¹

Proposal Closing Date:

Proposal Closing Site:

Region 10 ESC; 400 E. Spring Valley Rd., Richardson, TX 75081

To: Proposer

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

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

¹ Proposal Form: 200.326 Appendix I To Part 200

VIOLATION OR BREACH OF CONTRACT TERMS²

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

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

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

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

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

² Breach of Contract Terms 200.326 Appendix II to Part 200 (A)

TERMINATION FOR CAUSE OR CONVENIENCE³

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

Proposer Certification for "Termination for Cause or Convenience:"

YES, I Agree to the above Initial: _____

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

³ Termination for Cause or Convenience 200.326 Appendix II to Part 200 (B)

CERTIFICATE OF LIABILITY INSURANCE (Exhibit Only)⁴

⁴ Certificate of Insurance: 2 CFR 200.447

**CONTRACTOR'S CERTIFICATE REGARDING
COOPERATIVE AGREEMENT⁵**

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use;

(b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(c) The term does not include:

(1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or

(2) An agreement that provides only:

(i) Direct United States Government cash assistance to an individual

(ii) A subsidy

(iii) A loan

(iv) A loan guarantee, or

(v) Insurance.

Proposer Certification for "Cooperative Agreement:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

⁵ Cooperative Agreement: 2 CFR 200.24

BYRD ANTI – LOBBYING⁶

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

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

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

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

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

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

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

Proposer Certification for "Byrd Anti-Lobbying:"

YES, I Agree to the above Initial: _____

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

⁶ Byrd Anti-Lobbying: 2 CFR 200.450; 200.326 Appendix II Part 200 Sec. "I"

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

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

(Read Instructions On Next Page Before Completing Certification)

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

ORGANIZATION NAME	PR/AWARD NUMBER OR PROJECT NAME
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)	
SIGNATURE(S)	DATE

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

⁷ Debarment and Suspension: 200.326 Appendix II To Part 200 Sec H

Instructions for Certification⁸

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

⁸ (Cont.) Debarment and Suspension: 200.326 Appendix II To Part 200 Sec H

CLEAN AIR AND WATER CERTIFICATE⁹

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

Company Name: _____ AGREES AS FOLLOWS:

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

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

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

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

YES, I Agree to the above Initial: _____

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

⁹ Clean Air and Water: 200.326 Appendix II Part 200 Sec. "G"

EQUAL OPPORTUNITY EMPLOYMENT¹⁰

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

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

CERTIFICATE

I/We hereby certify that the

_____ Company Name

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

Respondent Name (printed)

Title of Respondent

Respondent Signature

Date

¹⁰ Equal Opportunity Employment: 200.326 Appendix II Part 200 Sec. "C"

HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) – MINORITY & WOMEN’S BUSINESS ENTERPRISE (MWBE), SMALL BUSINESS ENTERPRISE (SBE), AND LABOR SURPLUS AREA (LSA) FIRM PARTICIPATION¹¹

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

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

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

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

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

Minority Owned Business

Women Owned Business

Small Business

Labor Surplus Area Firm

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

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

¹¹ SMWBE: 2 CFR 200.321

CONFLICT OF INTEREST

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

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

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

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

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

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

The vendor filing the questionnaire must:

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

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

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

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

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

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

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

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

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

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

CONFLICT OF INTEREST QUESTIONNAIRE¹²

¹² Conflict of Interest Questionnaire: 24 CFR § 3282.359

DISCLOSURE OF LOBBYING ACTIVITIES¹³

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

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

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

¹³ Disclosure of Lobbying Activities: Appendix B To Part 418 2 CFR

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES¹⁴

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

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

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

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

¹⁴ Cont...Disclosure of Lobbying Activity: Appendix B To Part 418.2 CFR

FELONY CONVICTION NOTIFICATION¹⁵

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

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

This notice is not required of a publicly held Corporation.

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

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

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

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable:

B. My firm is not owned nor operated by anyone who has been convicted of a felony.

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon: _____

Details of Conviction: _____

Signature of Company Official: _____

¹⁵ Felony Conviction Notification: [21 CFR 1301.90](#)

Buy American Provision Certification¹⁶

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

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

Proposer Certification, Compliance with Buy American Provision:

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

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

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

Company Name:

Proposer Certification for "Buy American Provision:"

YES, I Agree to the above Initial: _____

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

¹⁶ Buy American Certification: 7 CFR 210.21 Sec. D

"BUY AMERICAN" WAIVER EXCEPTION LIST¹⁷

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

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

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

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

PLEASE COMPLETE THE BUY AMERICAN DEVIATIONS ATTACHMENT IN THIS RFP.

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

¹⁷ Buy American Waiver Exception List: 7 CFR 210.21 Sec. D

**CONTRACTOR'S CERTIFICATE REGARDING
WORKER'S COMPENSATION ¹⁸**

(To be executed by Vendor and Submitted with Proposal)

Labor Code section 3700 in relevant part provides:

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

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

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

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

Proposer Certification for "Worker's Compensation:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

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

¹⁸ Worker's Compensation: 48 CFR 970.2803-1

**CONTRACTOR'S CERTIFICATE
REGARDING DRUG-FREE WORKPLACE¹⁹**

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.

Proposer Certification for "Drug-Free Workplace:"

YES, I Agree to the above Initial: _____

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

¹⁹ Drug-Free Workplace: 38 CFR § 48.635

**CONTRACTOR'S CERTIFICATE REGARDING
ALCOHOLIC BEVERAGE AND TOBACCO-FREE CAMPUS POLICY²⁰**

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

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

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

²⁰ Alcoholic Beverage & Tobacco-Free Policy: 21 CFR § 1140.1

E-VERIFY PROGRAM²¹

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

Declaration

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

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

Company Name

Respondent Name (printed)

Respondent Signature

Date

²¹ E-Verify: [48 CFR 52.222-54](#)

IRAN CONTRACTING ACT
CERTIFICATION OF ELIGIBILITY TO PROPOSAL FOR CONTRACTS OF \$ 1 MILLION OR MORE
(Public Contract Code sections 2202-2208)²²

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

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

OPTION #1 - CERTIFICATION

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

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

OPTION #2 - EXEMPTION

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

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

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

²² Iran Contracting: [48 CFR 25.703-3](#)

CIVIL RIGHTS/DISCRIMINATION²³

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

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

Proposer Certification for "Civil Rights/Discrimination:"

YES, I Agree to the above

Initial: _____

NO, I do NOT Agree to the above

Initial: _____

²³ Civil Rights/Discrimination FNS Instruction 113-1

FORM W-9²⁴: Vendor must submit the most recent version with this Proposal.

²⁴ Form W-9, Required

State of Texas: Regulations for Formal Procurement Resource

CFR Regulations

- | | CFR Link |
|--|-----------------------------------|
| 1. Intangible Property | 2 CFR 200.315 |
| 2. Procurement of Recovered Materials/Solid Waste Disposal | 2 CFR § 200.322 |
| 3. Profit as a Separate Element of Price | 2 CFR 200.323(b) |
| 4. Record Retention Requirements | 2 CFR § 200.333 |
| 5. Rights to Inventions | 37 CFR §401.2 (a) |

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

- | | Link |
|--|--|
| 6. Anti-trust Certification | Section 2155.005 |
| 7. Certification of Residency | Chapter 2252, Subchapter A |
| 8. Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization | Chapter 2252, Subchapter F |
| 9. Compliance with the Energy Policy and Conservation Act | Pub. L. 94-163, 89 Stat. 871 |
| 10. Compliance with Texas Family Code | Section 231.006 |
| 11. Food/Product Recall and HACCP Procedures | |
| 12. Form 1295 | Section 2252.908 |
| 13. Health & Safety Certificates, Licensing and Regulation | ARM 17.62 |
| 14. No Israel Boycott | Section 2270.002 |
| 15. Prohibited Employment Assistance | 20 USC 7926 |
| 16. Non-Collusion Declaration | Section 15.01 |
| 17. Non-Collusion Affidavit | Section 15.01 |

Other Required Documents

- | | |
|---|---------------------------|
| 18. Signature and Declaration of Compliance | Notary of Public Required |
|---|---------------------------|

INTANGIBLE PROPERTY¹

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

Proposer Certification for "Intangible Property:"

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

¹ Intangible Property 2 CFR 200.315

PROCUREMENT OF RECOVERED MATERIALS²

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

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

Proposer Certification, for "Procurement of Recovered Materials:"

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

² Recovered Materials 2 CFR § 200.322

PROFIT AS A SEPARATE ELEMENT³

For purchases using federal funds in excess of \$150,000, a Cooperative Member may be required to negotiate profit as a separate element of the price. [See, 2 CFR 200.323(b).]

When required by a Cooperative Member, Proposer agrees and certifies that it will to provide information and negotiate with the Cooperative Member regarding profit as a separate element of the price for a particular purchase. However, Proposer agrees that the total price, including profit, charged by Proposer to the Cooperative Member shall not exceed the awarded pricing, including any applicable discount, under Proposer's Cooperative Contract.

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

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

³ Profit as a Separate Element 2 CFR 200.323(b)

RECORD RETENTION REQUIREMENTS⁴

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all goods and/or services provided by Vendor to the school district and/or purchasing cooperative, under this Agreement. These records and accounts shall be retained by Vendor and made available for review and copying by school district and/or purchasing cooperative for a period of not less than five (5) years from the date of completion of the services, receipt of goods, or the date of the receipt by school district and/or purchasing cooperative, of Vendor's final invoice or claim for payment in connection with this Agreement, whichever is later. If an audit or compliance review has been announced, Vendor shall retain its records and accounts until such audit or compliance review has been completed. When federal funds are expended by school district and/or purchasing cooperative, Vendor further certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333.

Proposer Certification for "Record Retention Requirements:"

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

⁴ Records Retention 2 CFR § 200.333

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT⁵

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

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

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

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

⁵ Rights to Inventions 37 CFR §401.2 (a)

COMPLIANCE WITH ANTI-TRUST LAWS⁶

Pursuant to Texas Government Code § 2155.005, I affirm under penalty of perjury of the laws of the State of Texas that:

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

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

Proposer Certification "Compliance with Anti-Trust Laws:"

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

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

⁶ Anti-Trust Laws 2155.005

CERTIFICATION OF RESIDENCY⁷

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

Section 2252.001

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

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

- Yes
- No

Section 2252.002

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

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

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

Proposer Certification for "Resident Bidder:"

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

⁷ Certification of Residency Chapter 2252, Subchapter A

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

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

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

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

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

⁸ Companies Engaged with Terrorist Organizations 2252, Subchapter F

COMPLIANCE WITH ENERGY POLICY AND CONSERVATION ACT⁹

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

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

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

⁹ Energy Policy and Conservation Act Pub. L. 94-163, 89 Stat. 871

COMPLIANCE WITH TEXAS FAMILY CODE PROVISION¹⁰

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

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

Printed Name	Ownership (by %)	Signature

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

Printed Name	Signature

¹⁰ Texas Family Code 231.006

FOOD/PRODUCT RECALL AND HACCP PROCEDURES¹¹

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

Primary Contact:

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

Secondary Contact:

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

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

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

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

¹¹ Product Recall Procedures and HACCP

CERTIFICATE OF INTERESTED PARTIES – FORM 1295¹²

Definitions and Instructions for Completing Form 1295

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

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

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

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

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

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

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

Instructions to Vendors:

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

¹² Form 1295 [2252.908](#)

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

Definitions:

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

Resources:

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

Instructional Video – First Time Business User:

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

Instructional Video – How to Create a Certificate:

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

HEALTH AND SAFETY CERTIFICATES, LICENSING AND REGULATION¹³

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

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

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

¹³ Health and Safety Certificates [ARM 17.62](#)

NO ISRAEL BOYCOTT¹⁴

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

Proposer Certification for "No Israel Boycott:"

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

¹⁴ No Israel Boycott 2270.002

PROHIBITED EMPLOYMENT ASSISTANCE¹⁵

Vendor certifies and agrees that it shall not assist an employee, contractor, or agent of the purchasing cooperative and/or of any other school district in obtaining a new job if the Vendor knows, or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition.

Proposer Certification for "Employment Assistance:"

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

¹⁵ Prohibited Employee Assistance 20 USC 7926

NON-COLLUSION AFFIDAVIT¹⁷

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

Offeror (Firm)

Signature of Offeror or Agent

ATTESTATION

STATE OF _____ §
 §
COUNTY OF _____ §

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

Notary Public, State of _____

¹⁷ Non-Collusion Affidavit Section 15.01

SIGNATURE AND DECLARATION OF COMPLIANCE¹⁸

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

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

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

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

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

(continued on next page...)

¹⁸ Signature and Declaration (must be notarized)

Corporate/Company Name: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Date: _____

Company Address (Street) _____

Company City, State Zip Code: _____

Authorized Person Phone Number: _____

Fax Number: _____

Authorized Person Email Address: _____

Corporate/Company Website: _____

DUNS #: _____

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

Authorized Signature of Joint Party: _____

Printed Name: _____

Title: _____

[REQUIRED NOTARY FOR SIGNATURES ON NEXT PAGE]

ATTESTATION

STATE OF _____ §
 §
COUNTY OF _____ §

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

Notary Public, State of _____

BUY AMERICAN PROVISION: JUSTIFICATION FORM FOR FOOD AND BEVERAGE ITEMS

Campus: _____
Date: _____

Buy American Provision Requirements: Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, Section 12(n) to the NSLA (42 USC 1760(n)), requiring school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodity or product. Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. "Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States. The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards SFAs must comply with when purchasing commercial food products served in the school meals programs. See USDA-FNS memo SP-24-2016 Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

Product Code #	Product Description:	Country of Origin:	Check-box	Justification	If Applicable: Domestic \$ Price per Case
				1. There is no domestic alternative source or substitute food product.	
				2. Domestic product is not available in the specified quantity or quality.	
				3. The cost difference of domestic product vs non-domestic is unreasonable.	
				1. There is no domestic alternative source or substitute food product.	
				2. Domestic product is not available in the specified quantity or quality.	
				3. The cost difference of domestic product vs non-domestic is unreasonable.	
				1. There is no domestic alternative source or substitute food product.	
				2. Domestic product is not available in the specified quantity or quality.	
				3. The cost difference of domestic product vs non-domestic is unreasonable.	
				1. There is no domestic alternative source or substitute food product.	
				2. Domestic product is not available in the specified quantity or quality.	
				3. The cost difference of domestic product vs non-domestic is unreasonable.	

Printed Name of Receiving Staff Member

Signature of Receiving Staff Member

Small Purchase Acquisition: Procurement Tool

Instructions

- 1 Create your list of product (s) you plan to purchase. "Bid Specifications Template" can be used.
- 2 You will want to determine if a "Small Purchase Acquisition" is the correct procurement method? You must begin by completing the "Cost/Price Analysis." Ask yourself these questions:
 - a. Is this an "unplanned" one-time purchase or emergency purchase that might not exceed the \$3500 threshold? That would qualify as a Micro-Purchase.
 - b. Will these same products be purchased more than once throughout the year as "forecasted/planned" purchases and could the aggregate amount exceed the \$3500?
 - c. Have you looked at some pricing and the quantities you need and realized the aggregate amount may exceed the Simplified/Small Purchase Acquisition threshold of \$50,000 (state) or less if your district has a more restrictive threshold amount? That might qualify as a Formal Bid.
- 3 Once you determine that the Small Purchase Acquisition is the appropriate procurement method, complete the "Cost/Price Analysis." Routine/forecasted purchases throughout the year that exceed an aggregate amount of \$3500 but not \$50,000 or less if your district has a more restrictive threshold.
- 4 List the items in the "Small Purchase Log" that you need to buy. You can insert more rows if needed. This is for simple documentation and easy tracking of your quotes.
- 5 Research vendors or distributors that offer those products. I.e. Walmart, HEB, Brookshire, etc...
- 6 Enter all the contact information for the vendors. A minimum of 2 quotes is required even if you know one of the vendors will be a no response due to distance or other factors.
- 7 There are several areas of the Small Purchase Log that have "drop-down" menus and auto-calculation functions to make completion of that log easy.
- 8 Once you have completed the Small Purchase Log determine if you will be doing an "evaluation" to decide who gets awarded or if you will be awarding the lowest bid. If you plan to use an "evaluation," you will need to decide what criteria you will use. A "sample" has been provided in this tool so please feel free to use what is there or make your own. Keep in mind, price must be the "heaviest weighted" factor.
- 9 Once all documents are completed, you will want to send the following to each vendor:
 - a. Bid specifications and delivery requirements form.
 - b. Buy American Provision form if purchasing "food" products.
 - c. Evaluation criteria if being used to award.
 - d. Statement letting the bidders understand how this will be awarded:
 - i. By "line-item," to multiple bidders based on lowest price of each item.
 - ii. By "vendor" with best overall value.
 - e. No response form in case they do not want to provide a proposal.
- 10 Information you will want to include in your email might be:
 - a. Reason for invitation.
 - b. Deadline to submit their proposal.
 - c. Name of contact if they have questions and person to whom the proposal should be emailed.
 - d. You might state that all attached documents are required with exception to the "no response" form unless they are a "no response."
- 11 **SAVE EVERYTHING! DOCUMENT EVERYTHING!** Don't forget to "cc" yourself on all outgoing emails and save copies of all outgoing and incoming emails.

Products to be Purchased: Please complete all required information in Columns H - J

Term of Contract: _____ Due Date: _____
 Delivery Frequency: _____ Please Submit to: _____
 # of Campus Drops: _____ Via Email: _____

Bid Code	Product Name and Description	Recommended Brand or Equivalent	Product nbr	Units per Case	Unit of Measure	Est. Usage (cases)	Proposer's Brand:	Proposer's Product Code:	Proposer's Bid Price:

Delivery Requirements or Fees (please provide any delivery fees or minimum delivery requirements in provided space below):

Minimum Delivery Requirement: _____

Delivery Fee: _____

Other: _____

 Company Name
 Name of Authorized Representative

 Signature of Authorized Representative
 Email address of Authorized Representative

Cost/Price Analysis Form
DETERMINATION OF COST OR PRICE ANALYSIS
(REASONABLENESS)

Purpose: Federal regulations require documentation of cost analysis or price analysis for every procurement action at or above \$150,000 (*see* 2 C.F.R. § 200.323), however, the state of Texas "Simplified Acquisition Threshold" is \$50,000. The Determination of Cost or Price Reasonableness form is used to document the analysis showing that the offered price is fair and reasonable. The form is kept as part of the procurement file to demonstrate that the procurement process was conducted in an open and fair manner and that " _____ " ISD received the most advantageous price.

Instructions:

- 1 Complete a separate Determination of Cost or Price Reasonableness form for each vendor being recommended for contract award. Complete all sections.
- 2 Provide a detailed discussion of your price analysis or cost analysis. A Determination of Cost or Price Reasonableness form that lacks sufficient detail cannot be approved.
- 3 Sign in blue ink and date the form.
- 4 Maintain a copy in an appropriate file subject to retention schedules
- 5 Submit completed form to the Purchasing Specialist prior to contract award if required.

Prepared By: _____ **Date:** _____

Email: _____ **Phone Number:** _____

Subject: Determination of Cost or Price Reasonableness

Good or Service to be acquired: _____

Independent Estimate Produced before Receiving Bids or Proposals:

Yes, attach supporting docs.

Vendor: _____

Amount: _____

(Attach written quotation or other information that documents the estimate of cost or price reasonableness)

(As necessary include unit costs, rates, schedules, price estimates, and budgets, etc.)

I. This expenditure is being made under one or more of the following (check those that apply and attach supporting documentation):

A. **Sole source** (as defined under TEC 44.031(j))

B. **Emergency procurement** (as defined under TEC 44.031(h))

D. **Small Purchase Acquisition.** Request for Quotations for goods or services at or below

\$50,000 (the district has a procedure of procuring and securing quotes for items under \$50,000, the Texas state Simplified Acquisition Threshold and above \$3,500, the Micro-Purchase Threshold)

E. **Formal Bid.** Request for Proposals for goods or services at or above \$50,000 (the district has a policy of procuring goods and services valued at \$50,000 or above in accordance with TEC 44.031(a))

G. **Professional services** (as defined under TEC 44.031(f) and/or Ch. 2254 of the Texas Government code)

H. **Price adjustment** to Purchase Order No. _____;
or Contract No. _____ and already procured under items A-G.

I. **Extension** of an existing contract past its initial term. Contract extension is allowed under procurement method or contract. Extension must adhere to CH Local requirements for board approval and rationale is beneficial to Region 10 ESC/Multi-Region

J. **Other condition** (specify):

I. Cost or price offered or fee negotiated is considered fair and reasonable for the following reason(s), and if applicable, is supported by attached documentation and/or a detailed discussion of the cost or price analysis (*select at least one applicable situation*):

Comparison of previous Region 10 ESC/Multi-Region Purchasing Cooperative contract prices with current proposed price, for the same or similar items. Both the validity of the comparison and the reasonableness of the previous price(s) have been established. Attach the referenced Region 10 ESC/Multi-Region Purchasing Cooperative contracts, amounts, issuance dates, and how they are similar to the current purchase.

Comparison with Vendor's published price lists, market prices, pricing indexes, and discount or rebate arrangements. Attach published price list or other published pricing information used (a vendor's quotation or correspondence does not qualify as a published price list).

Comparison of proposed price with independent cost estimates. *Attach estimates used.*

Comparison of proposed price with prices obtained through market research for the same or similar items. Attach documentation of research conducted.

Analysis of Offeror's cost information. *Attach cost information.*

The order is priced in accordance with existing Region 10 ESC/Multi-Region Purchasing Cooperative Contract/RFP No. _____ which was competitively established.

Other reason (specify): _____

CERTIFICATION:

I certify that the information provided above is true and correct to the best of my knowledge and belief. I further certify that I have determined that the costs or prices proposed are necessary, fair, and reasonable.

Individual Preparing Form

Date

Signature

Informal Procurement Log: Small Purchase Acquisition
(Purchases costing less than \$50,000 or SFA Threshold if less than \$50,000)

The Informal Procurement Log can be used to document all price quotes received as a result of the school's solicitation for purchasing products/services with an estimated value of less than \$50,000 (Simplified Purchase Acquisition threshold) or the School Food Authority (SFA) Local Purchase Threshold, whichever is most restrictive. The SFA will need to solicit price quotes from at least three vendors in order to achieve competition and to satisfy federal procurement requirements. The SFA will need to document the price quotes and all other pertinent information discussed with the responsive bidders. The SFA must make certain that all bidders receive the same product specifications and information. All procurement records must be kept for at least three prior years plus the current year from the date the last invoice is paid.

Delivery Frequency:

Contract Dates:

Product Specifications <i>(separate list of products can be attached with more details or more rows can be inserted)</i>	Supplier Name:	Quantity Estimated	Unit Price	Extended Price (Quantity x Unit Price)	Awarded		Awarded		Awarded						
					Item	Unit Price	Item	Unit Price	Item	Unit Price	Extended Price (Quantity x Unit Price)	Item	Unit Price	Extended Price (Quantity x Unit Price)	
				0				0							
				0				0							
				0				0							
				0				0							
				0				0							
				0				0							
				0				0							
				0				0							
				0				0							
Totals:				0				0							
Bidder Selected*															

*Bidder Selected (BS): the SFA can award all items to one bidder (lowest total price) or award purchase on a line item basis (lowest line item price). The SFA need to tell the bidders which option they will use for awarding the purchase when they are asking for pricing. The SFA can state that either option may be used by the SFA to award the purchase. If "evaluation method" was used, provide documentation of evaluation scores.

Method of Contact:

Name of Person Contacted/Providing Bid:

Date Contacted:

Additional Notes:

Bidder selected was notified on: Method of notification:

Signature of Person Completing this Form: _____ Date: _____

Compliance with Buy American Provision

The Buy American provision, set out in 7 C.F.R. Part 210.21(d), requires participants in the National School Lunch Program and School Breakfast Program to use the nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products. A "domestic commodity or product" is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. "Substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Vendor certifies that, in compliance with the Buy American provision, its products are "domestic commodities or products" as defined by 7 C.F.R. § 210.21(d).

Initials of Authorized Rep

Vendor further certifies that its product(s) _____
have at least _____ **% U.S. content.**

Alternatively, Vendor hereby acknowledges its products DO NOT comply with the Buy American provision, set forth in 7 C.F.R. § 210.21(d).

Initials of Authorized Rep

REQUEST FOR EXCEPTION FROM THE BUY AMERICAN PROVISION

Exceptions to the Buy American provision should be utilized as a last resort; however, an exception may be approved upon request. If Vendor did not certify compliance with the Buy American provision above, it may request an exception by checking one or both of the following grounds for an exception:

The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality.

The costs of a U.S. product are significantly higher than the non-domestic product.

Vendor certifies that it submits this request for an exception from the Buy American provision in good faith and with the reasonable belief that: (a) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and/or (b) the costs of a U.S. product are significantly higher than the non-domestic product.

Company Name

Printed Name of Authorized Representative

Authorized Representative Signature

Authorized Representative Email

Authorized Representative Phone

Date Signed

NO PROPOSAL NOTIFICATION

We are interested in receiving competitive pricing on all items. We place significant value on quality vendors and we also desire to keep your firm as a proposer and a supplier of materials, equipment and/or services; therefore, it is important for us to determine why you are not proposing on this contract item. We will analyze your response and attempt to determine if future changes are necessary in our specification development and procurement procedures.

I/WE DID NOT SUBMIT A PROPOSAL FOR THE FOLLOWING REASONS:

(Please place an **X** by one or more of the reasons listed below.)

- Do not supply the requested product/service.
- Quantities offered or scope of job is **TOO SMALL** to be supplied by my company.
- Quantities offered or scope of job is **TOO LARGE** to be supplied by my company.
- Specifications are "too tight" or appear to be written around a proprietary product. (Please elaborate on this item.)
- Time frame for proposing was too short. (Please elaborate on your primary reason for this judgment.)
- Other: _____

If you **DID NOT** submit a proposal, please indicate:

_____ I wish to remain on the bid list.

_____ I do not wish to remain on the bid list.

COMPANY NAME

PRINTED NAME OF AUTHORIZED REPRESENTATIVE

SIGNATURE OF AUTHORIZED REPRESENTATIVE

COMPANY ADDRESS

EMAIL OF AUTHORIZED REPRESENTATIVE

PHONE NUMBER OF AUTHORIZED REPRESENTATIVE

8-Criteria Scoring Sheet

Type of Solicitation: _____
 Vendor: _____

Goods/Services Evaluated: _____

Criteria	Allowed Points	Points Given	Justification/Reason
Purchase Price	60		
Reputation of Vendor and of the vendors goods/services	4		
Quality of Vendor's Goods/Services	10		
Vendor's Past Relationship	3		
Extent to which goods/services meet district needs	10		
Impact of ability of the district to comply with laws and rules relating to historically underutilized businesses	1		
Long term cost to acquire goods	4		
Any other relevant factors in the request for bids or proposals	8		
Percentage Totals:	100%	0	

District: _____
 Person Evaluating: _____
Print Name
 Signature: _____
Electronic ok
 Date: _____