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Instructions to Vendors

Non-Collusion Public Contract Code 7106 (Stats. 1988, Ch. 1548) requires that a form entitled “Non-Collusion Affidavit” be executed by the bidder and submitted with the Proposal.

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

Proposal Pages All proposals must be submitted on these forms. Only include pages on items you are bidding. Discard other proposal pages.

Information Sheet Estimated monthly product and supply usage and equipment requirements.

INSTRUCTIONS FOR CERTIFICATION

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

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017510, Participants' responsibilities. The regulations were published as Part IV of January 30, 1989. Federal Register (pages 4722-4733). Copies of the regulation may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION; READ INSTRUCTION ON REVERSE)

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

Organization Name

PR/Award Number or Project Name

Names and Titles of Authorized Representative

Signatures

Date

INSTRUCTIONS TO VENDORS

1. EXAMINATION OF SPECIFICATIONS:

a). Each Vendor shall examine the bid documents carefully and not later than three (3) given calendar days prior to the date for receipt of bid, shall make written request to the district for interpretation or correction of any ambiguity, inconsistency or error therein which may be discovered. Any interpretation or correction will be issued, as an addendum, by the district. Only a written interpretation or correction by addenda shall be binding. No vendor shall rely upon any interpretation or correction given by any other method.

b). It is intended that these specifications provide adequate descriptions in accordance with recognized standards of the school nutrition industry.

c). By submitting a bid, the Vendor implies that he or she has thoroughly investigated and is satisfied as to the character quality and quantities of material to be furnished, and as to all the stipulations and requirements of the contract.

2. DISCLAIMER:

The District will not be responsible for any omissions, errors, etc., which may result from the Vendor's responsibility to review and ascertain all of the materials called for by the bid documents.

3. ADDENDA AND BULLETINS:

Any addenda or bulletin issued during the time of the bid, or forming a part of the bid, shall be covered in the proposal and shall be made part of the contract. Delivery of any addenda or bulletin in person to the individual, to a member of the firm, to an officer of the corporation for whom it is intended, via online bid platform via pre-registered vendor profile will be considered to be proper service of said documents.

4. INCLUSION OF TAXES:

All vendors submitting proposals should not include taxes of any nature. Appropriate sales taxes will be computed at time of invoicing.

5. PROPOSAL FORMS:

The District shall furnish a standardized proposal form to each prospective bidder, and bidders must submit their bid on that form. Bids not presented on the forms so furnished shall be disregarded. Public Contract Code S 20111.5.

6. SUBSTITUTIONS:

Certain specifications are set forth herein for the purpose of establishing standards, and are not intended to preclude any vendor from bidding who can substantially meet these specifications. Vendors may propose material equal to those specified herein, but each deviation from the specification must be clearly identified as such. At a minimum, descriptive technical literature fully describing the claimed "or equal" product must be attached to the bid. Suitability and valuation of "equals" rests in the sole discretion of the Board of Trustees or their designees. If a bidder does not indicate that he is proposing an item other than that which is specified, it is understood that he is furnishing the item as specified. Shipment of unauthorized substitutions will be returned at the Vendor's expense. Whenever in these specifications, any material is indicated or specified by the proprietary name or patent or by the name of a manufacturer, such specifications shall be deemed to be used for the purposes of facilitating description of the items desired, and shall be deemed to be followed by the words "or equal".

7. NUTRITION INFORMATION:

All products require various nutrient information sheets in the form of formulation statements, CN labels, nutrition labels, specification sheets as specified by Porterville Unified School District – The District requires that these nutrient information sheets are available at all times upon request. All foods must meet U.S. Code of Federal Regulations at 7CFR Parts 210 and 220. Whole Grain products must contain at least 50-percent whole grains and the remaining grain, if any, must be enriched.

8. DELIVERY OF PROPOSAL FORMS:

The proposal shall be enclosed and uploaded onto the online bid platform, Vendor Registry, at vendorregistry.com. Vendor shall upload all bids into corresponding bid solicitation as listed on platform. Proposals shall be submitted via “submit bid” option online on or prior to the day and hour set for opening bids. It is the sole responsibility of the Vendor to see that his proposal is received in proper time. Any proposal submitted after the stated bid closing time shall be rejected by the online platform and considered non-responsive. Faxed bids, copies of bids, or mailed paper bids will not be accepted for formal advertised bids.

9. WITHDRAWAL OF BID:

Any Vendor may withdraw his or her proposal, either personally or by telegraphic or written request received by the District - at any time prior to the scheduled time for the opening of bids. Neither the District nor its representative shall be held liable for failure to receive such notice of withdrawal.

10. REJECTION OF PROPOSALS:

Proposals may be rejected if they show alterations of form, additions, or conditions not called for, or incomplete bids, erasures, irregularities, omission of signatures, or if the proposal form is not accompanied with all documents requested.

11. RIGHTS ASSIGNMENT:

In accordance with Section 4552 of Government Code, the bidder shall conform to the following requirements. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in, and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2) (commencing with Section 16700 or Part of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Bidder.

12. MINORITIES, WOMEN, AND DISABLED VETERAN-OWNED BUSINESS ENTERPRISES:

To the extent required by law, the Vendor shall meet all requirements of law relating to the participation of minority, women, and disabled veteran business enterprise contracting goals, and shall comply with Public Contract Code 10115 et. seq. and all applicable regulations. Vendor further agrees that, when required, Vendor will ensure compliance by all subcontractors and will complete all forms required by the Office of Local Assistance, the State Allocation Board or other agencies exercising jurisdiction over the project.

13. VARIATIONS:

The District reserves the right to alter quantities plus or minus 20% according to need and availability of funding.

14. TERMINATION OF CONTRACT:

District shall have the right to terminate the contract without cause by giving the Supplier thirty (30) days prior written notice of its intention to terminate pursuant to this provision, specifying the date of termination.

15. AMERICAN MADE PRODUCTS:

In compliance with Sections 4300 to 4305 of the California Government Code and the William F Gooding Child Nutrition Reauthorization Act of 1998, Section 204(d); 7 CFR Sections 210.21(d) and 220.16(d), only materials produced or manufactured in the United States will be procured by the District, except for those which fall within the purview of Sections 4301, 4302 and 4303.5. In compliance with Code Sections 4330 to 4334 inclusive California products shall receive preference over materials made elsewhere. If a bidder is proposing an article of foreign make, the fact must be stated in his bid. Foods that are unprocessed, agricultural commodities must be domestic, and for foods that are processed, they must be processed domestically using domestic agricultural food components that are over 51% domestically grown items, by weight or volume as determined by the SFA.

16. DEFAULT BY CONTRACTOR:

The District shall hold the bidder(s) responsible for any damage which may be sustained because of failure or neglect to comply with any terms or conditions listed herein. It is specifically provided and agreed that time shall be of the essence in meeting the contract delivery requirements. If the successful bidder(s) fails or neglects to furnish or deliver any of the materials, supplies or services listed herein at the prices named and at the time and place herein stated or otherwise fails or neglects to comply with the terms of the bid, the District may, upon written notice to the bidder, cancel the contract/purchase order in its entirety or cancel or rescind any or all items affected by such default, and may, whether or not the contract is canceled in whole or in part, purchase the materials, supplies or services elsewhere without further notice to the bidder. The prices paid by the District at the time such purchases are made shall be considered the prevailing market price. Any extra cost incurred by such default may be collected by the District from the bidder, or deducted from any funds due the bidder.

17. INSURANCE:

The successful bidder(s) shall maintain insurance adequate to protect him from claims under Workers' Compensation Laws and from claims for damages for personal injury, including death and damage to property, which may arise from bidder's operations under the contract. Also, the bidder may be required to file proof of such insurance, naming Porterville Unified School District as an additional insured by separate endorsement as follows: The bidder is required to provide proof of insurance to the Governing Board of a comprehensive general liability insurance policy providing occurrence-based coverage to be in effect during the term of the contract. Bodily Injury shall be \$1,000,000, combined single limit or \$1,000,000 per person, \$1,000,000 per accident. Property Damage shall be \$500,000 per loss. Failure to furnish such evidence and insurance, if required, may be considered default by the bidder(s).

18. QUANTITY AND QUALITY OF MATERIALS OR SERVICES:

The successful bidder(s) shall furnish and deliver the quantities designated in the bid or purchase order. All materials, supplies or services furnished under the contract shall be in accordance with the bid specifications and the District's sample or the sample furnished by the bidder(s) and accepted by the District. Materials or supplies which, in the opinion of the Manager of Purchasing Services, are not in accordance and conformity with said specifications and samples shall be rejected and removed from the District premises at the bidder's expense. When a sample is taken from a shipment and sent to a laboratory for testing and the test shows that the sample does not comply with the bid specifications, the cost of such test shall be paid by the bidder(s). In bidding, the bidder(s) certifies that all materials conform to all applicable requirements of CAL OSHA and all other requirements of law. All items of equipment and individual components, where applicable standards have been established, shall be listed by the Underwriter Laboratories, Inc., and bear the UL label.

19. MATERIAL SAFETY DATA SHEETS:

For all products requiring a Material Safety Data Sheet – The District requires that a Material Safety Data Sheet accompany all orders at the time of delivery.

20. DELIVERY METHOD

Time and manner of delivery are essential factors in proper performance under the contract. Unless otherwise specified, the successful bidder(s) shall be responsible for delivery and shall pay all costs, including drayage, freight and packing for delivery to locations in the District as may be specified in the bid form. Each item shall be securely and properly packed and clearly marked as to contents. All items purchased for delivery by truck or freight line shall be palletized. The preferred pallet size should be 48" long by 40" wide. All shipments shall be accompanied by a packing slip and the District purchase order number shall appear on all cases and packages.

21. MISCELLANEOUS PROVISIONS:

A. Assignment of Contracts – The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the surety on the performance bond (if one is required) and of the District.

B. Binding Effect – This Agreement shall inure to the benefit of and shall be binding upon the Contractor and District and their respective successors and assigns.

C. Severability – If any provisions of this agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

- D. Amendments** – The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.
- E. Entire Agreement** – This Bid and all attachments thereto constitutes the entire agreement between the parties. There are no understandings, agreements, representations or warranties, express or implied, not specified in the Agreement. Bidder, by the execution of his/her signature on the Bid Form acknowledges that he/she has and read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- F. Force Majeure Clause** – The parties to the contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering or performing by act of God, fire, strike, loss or shortage of transportation facilities, lockout, or commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party, provided that it is satisfactorily established that the nonperformance is not due to the fault or neglect of the party not performing.
- G. Hold Harmless Clause** – The successful bidder agrees to indemnify, defend and save harmless Porterville Unified School District, its governing board, related divisions and entities, officers, agents, and employees from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which the District, its officers, agents, and employees may sustain or injure or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the bidder or bidder's agents, employees or subcontractor's performance under the terms of this contract, expecting only liability arising out of the sole negligence of the District.
- H. Prevailing Law** – In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under the bid proposal shall conform to all applicable requirements of local, state and federal law.
- I. Governing Law and Venue** – In the event of litigation, the bid documents, specifications and related matters shall be governed by and construed only in accordance with the laws of the State of California. Venue shall only be with the appropriate state or federal court located in Tulare County.
- J. Permits and Licenses** – The successful bidder(s) and all of his employees or agents shall secure and maintain in force such licenses and permits as are required by law, in connection with the furnishing of materials, articles or services herein listed. All operations and materials shall be in accordance with law.
- K. Toll Charges** – If it is necessary that the District place toll or long distance telephone calls in connection with this contract (for complaints, adjustments, shortages, failure to deliver, etc.), the successful bidder shall accept charges for such calls on a reverse charge basis.
- L. Contract Documents** – The complete contract includes the following documents: The advertisement for bids, the bid instructions and conditions, specifications and drawings, if any, the bid and its acceptance by the District, the purchase order, and all amendments thereto. All of these documents shall be interpreted to include all provisions of the other documents as though fully set out therein.
- M. Independent Contractor** – While engaged in carrying out and complying with terms and conditions of the contract, the bidder agrees by his/her signature on the Bid Form that he/she is an independent contractor and not an officer, employee or agent of the District.
- N. Anti-discrimination** – It is the policy of the Porterville Unified School District Board of Education, that in connection with all work performed under Purchasing Contracts there shall be no discrimination against any prospective or active employee engaged in the work because of sexual orientation, physical and mental disability, medical conditions, marital status, age, pregnancy, veteran status, gender, race, color, ancestry, national origin, sex, or religious creed. Therefore, the bidder agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act. In addition, the successful bidder(s) agrees to require like compliance by all subcontractors employed on the work by him.

O. Termination Without Cause – This Agreement may be terminated by the District upon giving thirty days’ advance written notice of an intention to terminate.

P. Product Shortages – If the successful bidder is unable to supply any product listed herein, the District may purchase such product at a fair market value from another source. The difference in cost and all delivery charges shall be the responsibility of the supplier listed on the original contract agreement.

22. PIGGYBACK CLAUSE

For the term of the Contract and any mutually agreed extensions pursuant to this request for bids, at the option of the vendor, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within the State of California, may purchase, lease-purchase, or rent the identical item(s) at the same price and upon the same terms and conditions pursuant to sections 20118 (K-12) and 20652 (Community Colleges) of the Public Contract Code. Porterville Unified School District waives its right to require such other districts and offices to draw their warrants in the favor of the District as provided in said Code sections.

Acceptance or rejection of this clause will not affect the outcome of this bid.

Piggyback option granted _____ (Please initial)

Piggyback option not granted _____

Exclusions:

23. DOMESTIC ORIGIN

Items of foreign origin must be so indicated, in accordance with the provisions of Chapter 226 of the 1933 Statutes of the State of California and California Public Contract Code Section 3410. Your signature to this document will be taken as your certification that all manufactured articles, processed foods, produce, materials and supplies not so indicated have been made, grown or produced in the United States or its’ insular possessions from articles, materials or supplies mined, grown, produced or manufactured as the case may be, in those areas.

24. PAST PERFORMANCE

A Bidder may be ruled “Non-Responsive”/” Non-Responsible” based upon Bidder’s unacceptable past performance which may include but not limited to: Late deliveries, partial deliveries, delivery of wrong materials, products not meeting specifications, providing incorrect prices, invoicing problems, default, etc.

25. DELIVERY SCHEDULE

Time is hereby declared to be of the essence in this contract. Time and manner of delivery are essential factors in proper performance under the contract.

Cold, Dry, Frozen-Products are to be delivered a minimum of two days and maximum of three days per week from 5:30am-10am. The amount of days per week are to be determined by the Porterville Unified School District nutrition department. All High School locations are to receive deliveries one day per week from 6am-7:15am, and 8:30am-10:30am.

Janitorial and Paper Supplies-are to be delivered one to two days per week from 5:30am-10am. The amount of days per week are to be determined by the Porterville Unified School District nutrition department.

Milk, Bread, Produce delivery schedules are stated on own respective bids.

NON-COLLUSION AFFIDAVIT

(To be executed by the bidder and submitted with the bid proposal)

State of California)
) SS
County of Tulare)

_____, being first duly sworn, deposes and says that he or
(PRINT OR TYPE NAME)
she is:

_____, of _____,
(PRINT OR TYPE TITLE) (PRINT OR TYPE CO. NAME)

the party making the bid, that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation: that the bid is genuine and not collusive or sham: that the bidder has not directly or indirectly induced or solicited any other bidder to put in false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder of anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract: that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, of the contents thereof, or divulged any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: _____ SIGNATURE: _____

Tulare County Counsel
06/08/89

Public Contract Code S 7106

The Board of Trustees of Porterville Unified School District reserves the right to reject any and all bids and/or waive any irregularity in any bid received and to be the sole judge of the suitability of the items and services offered.

DATE: _____

NAME OF FIRM: _____ TERMS: _____

ADDRESS: _____ BY: _____

PHONE: _____

SIGNATURE OF BIDDER