

To: Vendors Serving Reelfoot Area Consortium

INVITATION TO BID ON FOOD SUPPLIES

The Reelfoot Area Consortium is requesting bids for food supplies for its Food Service operation for the period – July 1, 2010 – December 31, 2010.

This consortium is a consolidated bidding arrangement between the Boards of Education of the Dyer County, Dyersburg City, Lake County, Obion County and Union City School Systems. The districts' enrollments total approximately 12,000 students from 25 schools: i.e., Dyer County - 8, Dyersburg City - 4, Lake County - 3, Obion County - 7, and Union City - 3.

Bids are to be submitted on the basis of firm fixed-price contract for goods in proposal I and II.

If you wish to participate in the bidding with the Reelfoot Area Consortium, please complete the bid, sign the bid document and certification statements and return to the Union City Board of Education, 408 South Depot, Union City, TN 38261 by 9:00 a.m., June 3, 2010. Please call Ms. Lora Linder, Lake County Schools, 731-253-6601 or Ann Cook, Dyersburg City Schools, 731-286-3600, if you have any questions.

SUPERVISORS:

Ann Cook	731-286-3600
Judy Denman	731-885-9743
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Reelfoot Area Consortium
School Food Service Procurement

GENERAL BID CONDITIONS

INTRODUCTORY STATEMENT

Attached is a list of the Reelfoot Area Consortium's requirements to be delivered as designated. This proposal form, which records specifications and conditions, is sent to you so that you may submit your bid prices.

All purchases (food, supplies, equipment and services) of the Reelfoot Area Consortium will be made by the Food Service Supervisors with authority of the Superintendents of Schools and the Boards of Education or designated county officials.

An invitation to bid on all purchases over \$5000.00 will be placed in the local newspapers and will run for three consecutive issues.

STATEMENT OF PURPOSE

The objective of the consortium is a reduction in logistic and distribution cost through consolidation and to develop an equitable way of determining the successful supplier(s) on an advertised bid basis.

GENERAL CONDITIONS

All foods must be made and processed under the best possible sanitary conditions and in strict accordance with City, State, and National Pure Foods Laws and Health regulations. All foods shall conform in every respect to the provisions of the Federal Food and Drug Act of June 30, 1906 and amendments thereto and subsequent decisions of the U.S. Department of Agriculture. It must be emphasized and clearly understood by all bidders that the Reelfoot Area Consortium insists that food delivered must be wholesome AND OF THE QUALITY DESIGNATED.

All contracts awarded in excess of \$10,000.00 by grantees and their contractors or subgrantees shall be in compliance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and supplemented in Department of Labor regulations (41 CFF, Part 60).

Bidders must comply with mandatory standards and policies related to energy efficiency which are contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165, 89 Statute 871).

To the extent possible, efforts will be made to include small, minority, women's and labor-surplus-area affirms on the solicitation list. The procurement procedures used by the School Food Authority will not restrict or eliminate competition by placing unreasonable requirements on firms in order for them to qualify to do business, by promoting non-competitive practices between firms, by permitting organizational conflict of interest between a parent company and one of its subsidiaries, and/or by requiring unnecessary bonding and/or experience ratings of potential vendors.

SELECTION OF VENDOR

Potential bidders must meet the following criteria.

- ✓ Be able to provide a quality product as specified
- ✓ Offer reasonable pricing
- ✓ Provide dependable delivery of items ordered
- ✓ Meet specifications and bid conditions
- ✓ Demonstrate successful past performance

A potential bidder may be rejected for one or more of the following reasons:

- ✓ Inadequate or unacceptable product lines
- ✓ Inadequate facilities with respect to excess capacities, capable of accommodating surges in volume
- ✓ Inadequate truck fleets to handle predicted volume of refrigerated goods
- ✓ Inadequate sanitation
- ✓ Documented unacceptable product

SPECIAL BID CONDITIONS

A. COMPLETION AND SUBMISSION OF BIDS

1. Identical specifications and identical requests for bids will be furnished to all potential vendors.
2. All quotations must be legibly written in ink or typed. Quotations on a disc are acceptable only if it is accompanied by a hard copy of the bid.
3. All bids for each of the categories must be submitted in sealed envelopes marked "Food Service Bid" in the lower left hand corner and delivered to the designated location on or before the date and time stipulated in the invitation to bid.

4. No fax bids will be accepted. No bid will be accepted or considered after the stipulated date or time. Neither dating the quotation form nor placing in the mail on this date will meet legal requirements.
5. In order for the quotation to be valid and acceptable, it must be signed on the Bid Signature Form with the firm or attached corporate name and by an authorized officer or employer.
6. Bidders must not include any taxes since the Boards of Education are tax-exempt. Federal Excise Tax Exemption Certificates will be executed when required.
7. All prices are to be bid F.O.B. destination.
8. Vendors must bid preapproved items or request changes to the bid conditions and/or bid specifications prior to the date on the calendar entitled "Request for Changes to Bid Conditions and/or Bid Specifications".
9. If a bidder quotes a price on a brand other than the one listed as approved, without prior approval by the consortium, the number of items shall not exceed 2% of the total items in Proposal I, excluding the Frozen Meat Category, and shall not exceed 2% of the total items bid in Proposal II. If the bidder exceeds this percentage, the bid will be disqualified.
10. All quotations in Proposal I and II will be extended by the vendor on each item (bid price times the anticipated usage) and the sum of the extensions evaluated as the basis for awarding of the bottom line bid in each proposal.
11. Bid prices must be recorded in the spaces provided for this purpose and the specifications and conditions for each category shall remain intact.
12. The estimated usage quantities represent an approximate estimated purchase amount and will be used to determine the best bid submitted. Reelfoot Area Consortium will not be held liable for purchases below the estimated amounts and this contract will not obligate Reelfoot Area Consortium to receive any quantity in excess of actual requirements.
13. Any mathematical calculations that involve decimals shall be treated as follows:
 - a. Decimals listing prices for individual servings, units, ounces, etc. will be carried to four (4) places.
 - b. All other decimals shall be carried only two (2) places.
14. The following details must be completed on all items or the bid may be regarded to have insufficient information and the item(s) may be eliminated.
 - a. Brand or trade name, label. "House" labels must be specifically identified. Product explanations that describe grade standards of each brand must be included with the bid.
 - b. Pack (if different than specified)
 - c. Grade & dilution ratio (if applicable)

- d. House codes (bidder item number)
 - e. Case price, AND price per oz., lb., pkg., and unit
 - f. Extended Price (quotation x anticipated usage)
 - g. Sum of extended prices to quote bid total
 - h. Product nutrient analysis sheets must be provided within 10 days of the bid award.
15. Any deviation as to specifications, i.e., weight of package or box, or quality must specifically noted on the bid. For items with alternate packaging, bidders shall adjust usage to reflect deviation in pack size. Alternate bids on boxes or packages varying slightly as to weight will be considered, if sufficient information, such as price per oz. unit, pkg., etc. is supplied. Bidders are also invited to explain changes/deviations on the item.
16. Items marked with an asterisk * on the bid document/proposals must have one of the following submitted with the bid on June 3, 2010. They are:
- 1. Child Nutrition (CN) label
 - 2. If CN label is unavailable then we must have a signed letter from the manufacturer stating what the item contributes to the meal pattern.
- We will not accept nutritional analysis for these items.** In addition, your company must supply cut sheets to explain your house brands. A nutritional analysis is needed for all items not marked with an asterisk.
17. Should a bidder need clarification on the Bid Conditions or Bid Specifications, they shall contact any Reelfoot Area Consortium member.
18. Quotations cannot be withdrawn after public opening. In the event that there are inconsistencies in the bid information (such as case price and unit price not reconciling the bid will be awarded by the case price listed. The Reelfoot Area Consortium will not be responsible for errors or omissions on any bid. The Boards of Education will waive any information in bids and accept or reject any items thereof.
19. The Reelfoot Area Consortium members request a copy of your latest catalog. This catalog may or may not accompany your bid. This request is merely to aid us in analyzing the bids and allow us to stay abreast of the many products offered by each company.
20. After the expiration of this bid period, the Reelfoot Area Consortium reserves the right to renew the contract for an additional bid period. If renewed, all bid conditions will remain the same and the prices may be adjusted upward or downward in line with the Consumer Price Index for food and beverages. The calculation for change in consumer price index will be based on the month the bid originated and the last month that information is available. Price adjustments cannot exceed the change in CPI. Either party may notify the other in writing not less than sixty days prior to the expiration of the current bid period that they do not wish to extend the current bid period prices and conditions.

21. Act of God Clause: Due to conditions beyond the vendor's control, including but not limited to weather, there are times when a product that has been bid is no longer available at the cost originally guaranteed by the manufacturer. When that happens the vendor may enact this "Act of God Clause" that simply means they cannot honor the original bid price on those impacted items. The vendor will adjust their price up accordingly to reflect the current price they are being charged by the manufacturer. The vendor must understand and accept that the Reelfoot Area Consortium's option at that point will be to either first accept the new price on the item, accept a different product than the one originally bid, or utilize a new supplier to provide that item.

When and only when the vendor receives notification from a manufacturer that the Manufacturer is Enacting their "Act of God Clause" will the vendor be able to enact theirs. At that point the following will then be implemented:

- Each school system will be given a one week notice that the vendor is enacting their "Act of God Clause with a list of the items impacted.
- For our records the vendor will provide a copy of the notice from their manufacturer that they have been notified and documentation of the new price they are being charged by the manufacturer.
- Together the Reelfoot Area Consortium and vendor can determine the desired course of action.
- The vendor cannot arbitrarily change prices that don't fall under the conditions set forth above, nor can they change prices without notification to each school system first.
- Utilizing this method will allow vendors to continue to bid with confidence that they are protecting themselves and the Reelfoot Area Consortium from the unpredictability of unusual circumstances.

B. AWARDING OF BID(S)

1. The opening of bids will be at the time specified; bottom line numbers only will be read at the bid opening. At this time vendors will be excused while consortium members examine bids. Award of bids will be made after examination of the bid and checking for accuracy. Vendors will be notified of the bid award.
2. After the opening of bids, the Reelfoot Area Consortium members will review the low bidder's prices, extensions, calculations, brands, and other requirements to ascertain the correctness of the offer and to determine if it is made in accordance with the terms of the request for bid proposal. If mathematical errors are found they will be corrected. However, if errors are found which either disqualify the bidder or raises the bottom line offer to the point where the firm is no longer the low bidder, the consortium will review the next lowest bid. This will continue until a suitable bid is selected.

3. No employee, officer, or agent of the Reelfoot Area Consortium shall participate in selecting or awarding of a bid contract supported by school food service program funds of a conflict of interest, real or apparent, would be involved.
4. The Board of Education employees, officers or agents of each school district, shall neither solicit nor accept gratuities, favors, or anything of significant monetary value from contractors or parties to sub-agreements.
5. The Reelfoot Area Consortium reserves the right:
 - a. To reject any or all bids.
 - b. To have its individual members refuse the liability for payment of the delivery of damaged goods, goods lost or damaged due to early or late deliveries, or any damage caused by the supplier's employees.
6. All decisions that arise concerning the awarding of bid(s) or cancellation of contract shall be at the sole discretion of the consortium. In every case, final action rests with the Superintendents or designated officials.
7. Vendors will receive notification as to bid acceptance or rejection. All bid totals will be available for review after bid award at the Union City Board of Education, Municipal Building, Union City, TN.
8. **Only one vendor will receive the bid award for this bid period. Proposal I and II will be bottom-line firm price to one vendor.**
9. The successful bidder shall ensure that all bid items are available for shipment to the schools within three weeks after the bid award. **This means that no "Special Order" on any one item is allowed.** All bidders must have the products available to schools as per bid effective date on calendar because this creates an ordering/menu planning problem for schools. Items labeled as **"Delayed Delivery" item** shall have an item number, price, and expected delivery date (example: 3 days, one week, ten days, two weeks, etc., to the schools) written on the bid document. All "delayed delivery" items must be prior approved by the consortium before the bid is submitted.
10. Reelfoot Area Consortium authorizes a fixed fee charge for all non-firm low volume bid items. The product cost plus the fixed fee is based on the current landed cost at the distributors warehouse and is determined by the purchase price FOB from a packing plant and freight charges of an item at the time the item is ordered by the consortium. All items ordered and received by the consortium are subject to an audit. See Audit Procedures section for more information.

0 to \$10 -- \$1.00
 10.01 to \$20 ---\$1.50
 20.01 to \$30 ---\$1.60
 30.01 to \$40 ---\$1.70
 40.01 and up- - - \$1.75 and shall not exceed **\$1.75 per case**
on any one item.

11. Material Safety Data Sheets must be provided for all applicable products at the time of delivery.
12. The successful bidder shall comply with Public Chapter No. 587 and the amendment to that law which is Public Chapter 1080. This amendment states that if delivery or pick-up service providers who have scheduled visits under the supervision of school personnel are exempted.
13. The bidder shall comply with all laws, ordinances, rules, and regulations bearing on the successful conclusion of an order for supplies, services, or equipment. This shall include access by duly authorized representatives of the School Food Authority, State Agency, United States Department of Agriculture, or Comptroller General to any books, documents, papers, and records of the contractor which are directly pertinent to contracts over \$10,000.00; maintenance of all required records for three years after final payment and all other pending matters are closed for contracts over \$10,000.00; recognition of mandatory standards and policies relating to energy efficiency which are contained in the State Energy Policy and Conservation Act (pl 94-165); compliance with the Clear Air Act issued under Section 306, Executive Order 11738 for all contracts over \$100,000.00; and compliance with Executive Order 11246 entitled "Equal Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations which are required for all contracts over \$10,000.00.
14. The bid prices shall remain effective through orders taken on the expiration date.
15. If the successful bidder is unable to supply the brand accepted on the bid, only superior brands will be accepted as substitutes. Any substitutions of equal or higher quality must be made at quoted prices.
16. All vendors must comply with 7 CFR part 3017(lobbying) and CFR 3018(suspension/debarment).

C. TERMINATION FOR CONVENIENCE

The Reelfoot Area Consortium may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the School District. The School District shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the School District be liable to the Contractor for compensation for any service that has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D. MERCHANDISE

1. All merchandise furnished must be in conformity with the specifications and will be subject to inspection and approval by the Board of Education after delivery.
2. The vendor warrants that the supplies delivered shall be free from all defects in material and workmanship and shall fall within the normal shelf life of the product.
3. Shipments must be delivered in mechanically refrigerated trucks, if appropriate to the cargo.
4. The successful bidder agrees to deliver products in suitable condition as defined: Temperature of frozen products cannot exceed five (5) degrees Fahrenheit. Refreezing is not acceptable and evidence is checked by crystals and "pliable" packages. Temperature of refrigerated product will be monitored and watched to not exceed forty (40) degrees Fahrenheit. Tolerance for broken cases cannot exceed five (5) percent. Dented or swollen cans are not acceptable - Tolerance is zero. Evidence of damage from insects, pests, and chemicals constitutes unsuitable condition. Dirty and/or stained packing containers are unsuitable conditions. Vendor will be required to pick up the product and replace with an acceptable product or credit.
5. The successful bidder must accept the liability for goods lost during delivery, goods damaged due to unscheduled deliveries, or any other damage incurred by the supplier's employees.
6. The right is reserved to reject and return at the risk and expense of the vendor such portion of any shipment that may be defective or fail to comply with specifications without invalidating the remainder of the order. Any merchandise not accepted must be picked up from the school one (1) week after notification or will become the property of the affected Boards of Education and will be disposed of at the discretion of the Food Service Supervisor. Vendors will be required to replace the defective portion of an order according to specifications without additional cost to the school system. All credit memos for damaged goods will be mailed to the appropriate Food Service Supervisor.
7. Section 104(d) of the Child Nutrition reauthorization Act (Public Law 105-336) amended section 12 of the National School Lunch Act to require SFAs to purchase for those programs, to the maximum extent practicable, domestic commodities or products. For purposes of this provision, the term "domestic food commodity or product" means agricultural commodities produced in the U.S. and food products processed in the U.S. substantially using agricultural commodities that are produced in the U.S. The term "substantially" means that over 51 percent of the processed food comes from American produced products. Each SFA must comply with the "Buy American" requirement by purchasing food products produced in the U.S. for its food programs. Subject to the exemptions cited above, such purchases must at least be proportionate with the extent of Federal funding in the organization's food service

account. **Any product that does not meet the Buy American Provision must have the attached waiver form completed and submitted with the bid document.**

E. VENDOR PERFORMANCE

The Vendor will be expected to maintain a 97% "fill rate" average on all combined orders for any given monthly period. (Substitutions on items will not help to satisfy the above requirement.) **With prior approval by the Foodservice Supervisor, 24 hours ahead of time, an item that is temporarily out of stock may be substituted with an item of equal or superior product quality at an equal or lower price.**

Failure to deliver within the time specified or within a reasonable amount of time, or failure to make replacements of a rejected item immediately will constitute authority to purchase on the open market so as to replace the item(s) rejected and/or not received. Items may be rejected for poor quality, price discrepancies, or HACCP violations. On all such purchases, the Contractor agrees to promptly reimburse schools for excess costs caused by such a purchase.

F. ORDERS

1. No single minimum quantity will be allowed; quantities needed may vary. Quantities given on the bid quotation are estimates for the bid period. While it is the intention of the Boards of Education to purchase all items listed, the right is reserved to omit any item necessary to bring the total cost within budget provisions or to adjust for receipt of USDA commodities.
2. Pre-numbered purchase orders from firm fixed prices shall be issued to the vendor from the Board of Education Central Offices for every purchase. The purchase order number must appear on all invoices submitted for payment.
3. Pre-printed order forms shall be furnished by contract supplier for recording and transmitting orders. These forms will be listed in the same order as on Bid Product Identification and shall include a list of awarded items in the same order as on bid, pack size, code number, brand, price per unit, space for ordering units and for extended cost for each item ordered. Two copies per school per week will be required for the duration of the bid period. Order forms shall be delivered to the supervisors and should arrive at the Supervisor's offices according to the schedule set forth in this bid document. The vendor shall provide training for online ordering.
4. Written orders will be picked up weekly by the vendor or his representative in the Food Service Supervisors' Office or submitted on line. When orders can't be placed on line due to problems, vendors must accept a faxed or phone order. **NO COMPANY REPRESENTATIVE WILL CALL ON ANY OF THE FOOD SERVICE MANAGERS unless specifically requested to do so by the Food Service Supervisor.**

G. INVOICING, DELIVERIES, ACCEPTANCE, & PAYMENT PROCEDURE

1. Contract distributors must designate items by product codes on invoices (delivery tickets). Codes shall be designated either by color, i.e., Monarch Blue, or number i.e., Butoni 4414, as may be appropriate to facilitate checking orders at the time of delivery.
2. The cafeteria name, P.O. number, date, name of deliveryman or identification number shall appear on the invoice.
3. In case of non-supply or substitution of an item ordered, substitutions shall be clearly marked as such on the invoice.
4. Deliveries shall be made on a regularly scheduled basis to each school weekly, between 7 a.m. - 1 p.m. Monday through Friday, except school holidays and closing days (due to inclement weather).
5. It is understood that deliveries are not to be made when school is not in session. School calendars will be provided to the successful bidders to designate off school days. No deliveries shall be made when schools are closed for snow or other unforeseen emergencies. Vendor shall call Food Service Supervisor to arrange for alternate delivery date. Any deviation from the agreed upon delivery day must have prior approval from the Food Service Supervisor.
6. The manager or his/her designee will check the number of items delivered against the requisition/purchase order and invoice at the time of delivery with both the manager or his/her designee and the driver signing the appropriate forms for shortages and errors, and/or obviously damaged goods. The Boards of Education retain the right to reject any or all of a delivery that does not meet product specifications within. Rejected items are to be picked up at the supplier's expense and a credit memo issued.
7. The delivery person shall place stock adjacent to the approximate storage area as designated by the manager or his/her designee.
8. Any deviation from the approved established schedule must be reported timely to the Food Service Supervisor or the individual school cafeteria.
9. Delivery will be made FOB to the school.
10. The school food service supervisor and/or managers will check items for compliance, quality or certification requirements. Rejection of an item due to non-compliance will be made by the School Food Service Department within ten (10) full working days from the delivery date. Non-compliance will constitute reason to apply the penalty clauses. The supplier will be notified of non-compliance within this specified time frame.

11. Cafeteria managers will be responsible for documentation that actual product is received.
12. Duplicate copies of the invoice must be left with the manager. The manager, or his/her designee, and the delivery person must sign all three copies of the invoice at the time of delivery, if payment is to be expected.
13. Non-food supplies must be invoiced separately from food items.
14. All charges are to be made to each system separately with the school drop designated. The cafeteria manager or designee must sign each invoice.
15. The cut off date for statements will coincide with each calendar month. One statement for each school showing all invoices with purchase order numbers and dates, and credit memos for that school. The statement shall be sent to the following address:

Dyer County Schools
Food Service Department
159 Everett Avenue
Dyersburg, TN 38024

Dyersburg City Schools
School Nutrition Program
P.O. Box 1507
Dyersburg, TN 38025-1507

Lake County Schools
Lake County High School
Cafeteria Fund
300 Cochran Street
Tiptonville, TN 38079

Margaret Newton School
Cafeteria Fund
819 Church Street
Tiptonville, TN 38079

Lara Kendall School
Cafeteria Fund
200 College Street
Ridgely, TN 38080

Obion County Board of Education
Food Service Department
316 South 3rd
Union City, TN 38261-0747

Union City Schools
 Food Service Department
 Municipal Building, Box 749
 Union City, TN 38261-0749

16. Payment is made by invoices only.
17. The contractor shall agree to retain all books, records, and other documents relative to the contract agreement for five (5) years after final payment, or until audited by the School Food Authority (SFA), whichever is sooner. The SFA, its authorized agents, and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.

H. SCHOOLS TO BE SERVED

DYER COUNTY

1. Dyer County High, 1000 West Main St., Newbern 38059
2. Fifth Consolidated, 2377 Millsfield Hwy, Dyersburg 38024
3. Finley Elementary, Poplar Street, Finley 38030
4. Holice Powell, P.O. Box 98, Fowlkes 38033
5. Newbern Elementary, 320 Washington St., Newbern 38059
6. Three Oaks Middle, 3200 Upper Finley Rd., Dyersburg 38024
7. Trimble Elementary, 256 College St., Trimble 38259
8. Northview Middle School, 820 Williams St., Newbern 38059

DYERSBURG CITY SCHOOLS

1. Dyersburg Primary, 1425 Frank Maynard Blvd., Dyersburg 38024
2. Dyersburg Intermediate, 800 Phillips St., Dyersburg 38024
3. Dyersburg Middle, 400 Frank Maynard Blvd., Dyersburg 38024
4. Dyersburg High, 125 Hwy 51 Bypass, Dyersburg 38024

LAKE COUNTY

1. Lake County High, 300 Cochran, Tiptonville 38079
2. Lara Kendall School, 200 College, Ridgely 38080
3. Margaret Newton, 819 Church, Tiptonville 38079

OBION COUNTY

1. Black Oak Elementary, Shawtown Rd., Hornbeak 38232
2. Hillcrest Elementary, Hwy 51, Troy 38260
3. Lake Road Elementary, Old Lake Rd., Union City 38261
4. Obion County Central High, Hwy 51, Troy 38260
5. Ridgemont Elementary, 1285 N. Hwy 45W, Union City 38261
6. South Fulton Elementary, Hwy 45 Bypass, South Fulton 38257
7. South Fulton High, Hwy 45 bypass, South Fulton 38257

UNION CITY

1. Union City High School, High School Dr., Union City 38261
2. Union City Middle School, High School Dr., Union City 38261
3. Union City Elementary, Miles Ave., Union City 38261

I. PERFORMANCE FILE

The Reelfoot Area Consortium will maintain a performance file on each successful bidder. A credit memo change order will be used by the supervisor and managers to indicate discrepancies in deliveries (count, weight, obviously damaged goods) and performance. A copy of these forms will be provided to a company representative upon request.

J. RECAP

The vendor shall supply the Boards of Education with an accounting (re-cap) of items and amounts purchased by each system as well as by the total consortium as requested.

K. RENEWAL OF BID

This contract may be renewed for a period up to but not to exceed one year in total, upon the mutual agreement of both parties.

L. DEFAULT TERMINATION/BREACH

- a. Default
 1. In the event that during the bid period, a vendor's performance proves to be unsatisfactory to the Boards of Education and efforts to correct the problem have been unsuccessful, the vendor will be notified by mail of cancellation of the remainder of bid.
 2. In case of default of the successful bidder, the Food Service Supervisors reserve the right to terminate the purchase order or contract and to supplies on open market.
- b. Breach: A party shall be deemed to have breached the contract if any of the following occurs:
 - Failure to perform in accordance with any term or provision of the contract.

- Partial performance of any term or provision of the contract.
 - Any act prohibited or restricted by the contract.
- c. Contractor Breach: The consortium shall notify the Contractor in writing of a breach.
- In the event of a breach by Contractor, the consortium shall have available the remedy of actual damages and any other remedy available at law or equity.
 - In the event of a breach, the consortium may assess liquidated damages.
- d. School District Breach:
In the event of a breach of contract by the School District, the Contractor shall notify the School District in writing within 30 days of any breach of contract by the School District. Said notice shall contain a description of the breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the School District's breach. In no event shall any breach on the part of the School District excuse the contractor from full performance under this contract. In the event of a breach by the School District, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the School District written notice and opportunity to cure as described herein operates as a waiver of the School District's breach. Failure by the contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such a claim within one (1) year of the written notice of breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties that this provision establishes a contractual period of limitations for any claim brought by the Contractor.
- e. Partial Default: In the event of a breach, the consortium may declare a partial default.
- f. Contract Termination:
~~In the event of a breach, the School District may terminate the contract~~ immediately or in stages. The Contractor shall be notified of the termination in writing by the School District. Said notice may specify either that the termination is to be effective immediately, on the date certain in the future, or that the contractor shall cease operations under this contract in stages. In the event of a termination, the School District may withhold any amounts that may be due the Contractor without waiver of any other remedy or damages available to the School District at law or equity.

M. BUYER CONTRACTOR RELATIONSHIP

Under arrangements of this contract, it is the contractor's responsibility to:

1. Interface with packers on problems relating to product pack & quality
2. Maintain a constant search for items that offer better values for future bids.
3. Promote the introduction of new items, either by packer or distributor for future bids.
4. Organize & conduct clinics for food service supervisors and/or cafeteria managers, conducted by packer representatives on item usage and preparation.

N. PROTEST PROCEDURES

Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. The following steps shall be followed:

1. A written complaint with the itemized grievances stated must be submitted to any member of the Reelfoot Area Consortium within ten days of the bid award.
2. The Reelfoot Area Consortium members will review the stated grievances and respond in writing with 10 days of the receipt of the complaint.
3. If an agreement cannot be reached that is satisfactory for both parties, a hearing date will be scheduled with all parties in attendance.
4. All employees will be notified that they cannot purchase under this procurement until a final decision is rendered. The emergency purchase procedures established by the LEA's will be used.
5. The State Agency must be notified of all protests.

O. AUDIT PROCEDURES

Reelfoot Area Consortium reserves the right to audit the non-firm low volume bid items. The product cost plus the fixed fee is based on the current landed cost at the distributors warehouse and is determined by the purchase price FOB from a packing plant and freight charges of an item at the time the item is ordered. Price adjusted items may be audited to confirm price change in actual cost based on the current Consumer Price Index. An audit may be conducted once per contract year. If a bid is renewed by mutual consent or any other means, each renewal constitutes a contract year. Audits may also be made at the discretion of the consortium at any time monthly price reviews indicate that a problem may exist.

When auditing, Reelfoot Area Consortium will abide by the following procedures:

- a. Company will be given a four-week advance notice of the audit;
- b. An audit list will be submitted with the audit notice along with the time frame of audit to verify costing and vendor invoices;
- c. All audits will be conducted at the closest corporate office with the appropriate management present during said audit;
- d. Reelfoot Area Consortium will send no more than three (3) representatives to audit;
- e. Any documentation received during the auditing procedures will be identified as confidential and used only for price confirmation.

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