

OBION COUNTY
BOARD OF EDUCATION

316 South Third Street
Union City, Tennessee 38261
(731)885-9743 FAX (731)885-4902

David W. Huss, Director of Schools

Members of the Board of Education:
ROGER WILLIAMS, Chairman
BRIAN RAINEY, Vice-Chairman
DAVID LAMB, Chair Pro Tem

FRITZ FUSSELL
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April 30, 2010

The Food Service Department of the Obion County Board of Education invites your company to ice cream and frozen dairy products for the 2010-2011 school year. If you are interested please submit bids for the items on the attached list.

All bids must be received in this office no later than close of business (4:00 P.M.) on Thursday, June 3, 2010. Bids will be opened at 9:30 A.M. on Friday, June 4, 2010 in the Union City Municipal Building conference room. The company receiving the bid must provide service to all seven schools in the Obion County School District. The bid will be awarded on a bottom-line basis. The Obion County Board of Education reserves the right to accept or reject any/all bids.

If additional information or clarification is needed please contact me at 731-885-9743.

Sincerely,



Judy Denman
Food Service Supervisor

Enclosures

OBION COUNTY BOARD OF EDUCATION
SCHOOL NUTRITION PROGRAM
316 SOUTH THIRD STREET
UNION CITY, TN 38261

ICE CREAM AND FROZEN DESSERT BID

GENERAL

Attached are instructions and conditions for submitting a Ice Cream and Frozen Dessert Bid for the Child Nutrition Program of the Obion County Board of Education.

The objective of this bid is to select suppliers in such a manner as to provide for open and free competition and comparability.

All food must be processed and packaged in accordance with local, State of Tennessee, and FDA regulations contained in the Sanitary Food Transportation Act of 1990.

All products must comply with Tennessee K-8 Competitive Food Legislation.

BID PERIOD

The bid period begins July 1, 2010 and ends June 30, 2011.

Sealed written bids will be received at the time and place specified on the Invitation to Bid. Postmark on the Bid by this date will not suffice. Bid must be received on/or before the date and time stated. Faxed bid documents will not be accepted.

VENDOR QUALIFICATION

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 goods
- Inadequate sanitation
- Documented unacceptable product

BID AWARD

Bids are to be opened on Friday, June 4 @ 9:30 AM at the Union City Municipal Building, conference room, at 408 South Depot Street, Union City, TN 38261. Only the bottom line total figure will be read at the bid opening. Bids will also be examined for compliance with specification and conditions outlined In the Bid document.

Consideration will be given to all bids properly submitted. Bids will receive appropriate confidentiality before awarding. Upon award, bid documents and tabulations will be available for review. Errors discovered after public opening cannot be corrected, and the bidder will be bound to honor bid as submitted.

The contract will be awarded in writing to the responsive and responsible Bidder whose bid is the lowest cost for the system. It is the intent of the Obion County Board of Education to involve and utilize the best product/services at the best prices and provide small and minority firms, women's business enterprises and labor surplus area firms with increased opportunity to do business with the School Nutrition Program. Regardless of the procurement method used, price is the final determining factor for awarding the contract.

The Obion County Board of Education reserves the right to accept or reject any or all bids. The Local Education Agency will be responsible for the contract awarded. The bid will be awarded after approval by the School Nutrition Supervisor, and the Board of Education. All bidders will be notified in writing of the bid award within ten days of bid opening or the day following approval by the School Board at their next scheduled meeting after bid opening.

If a prospective vendor does not agree with the bid award, they have the right to protest. Disputes arising from the award of this bid must be submitted in writing to David Huss, Director of Schools, no later than ten days after the published award. The hearing official will disclose the dispute to the Tennessee State Department of Education, School Nutrition office. The steps for dispute resolution are as follows:

1. A meeting with the School Nutrition Director participating in the bid, the hearing official and representatives from the disputing party to discuss and resolve the complaint.
2. A written decision letter stating the reasons for the decision will be prepared by the hearing official and submitted in writing to the protestor and all parties involved. This decision letter will be mailed to the protestor and will advise the protestor that he has a right to an additional review.
3. All employees will be notified that they cannot purchase under this procurement until a final decision is rendered.
4. In the event that purchases must be made for school meals before a final decision is rendered, the emergency purchase procedures established by the school system will be used.

BID RENEWAL

The Obion County Board of Education reserves the right to renew all aspects of the bid one year at a time for an additional four (4) years based on a firm fixed price. The Obion County Board of Education reserves the right to add/or delete products during the contract period. Pricing for added products will be based on a comparison of pricing offered by vendor to the pricing of the same item offered on the open market prior to adding an item to the contract listing. The Obion County Board of Education, Child Nutrition Program Supervisor will notify the contractor of their intention to renew this contract no later than April 1, 2011. A written response will be due from the contractor no later than April 25, 2011.

BID PREPARATION

Bidders must submit one price for each item on the bid. Each bidder should bid on all items listed in the bid document. The total bottom line cost will be determined by multiplying each item bid price times the estimated usage figure and adding the extended dollar figures. In the event a vendor fails to quote a price on an item, the highest price for that item from all bids received will be inserted to calculate the bottom line price. The Obion County Board of Education's Child Nutrition Program Supervisor will recalculate usage and line extensions to make necessary conversions for differences in pack size. The bottom line total will be adjusted if mathematical conversions and extensions indicate the need for correction.

All bids shall be in accordance with the instructions to bidders and specifications as attached. Specifications are intended to be open and non-restrictive. A copy of the Nutrition Facts label and ingredient statement must be included with the bid.

Estimated usages are given for each item. The estimated usages do not indicate the actual quantity which will be ordered, since such volume will depend upon requirements which develop during the contract period. Estimated usages are based on last year's purchases and are estimated for the bid period. For new/never used item's estimated usage, the amount is a projected amount based on anticipated acceptance by students. Inclusion of items on bid does not guarantee purchase.

All columns of the bid document must be completed in ink or typewritten. The bottom line total (sum of extended prices) must also be printed in ink or typewritten on the proposal form. No erasures shall be permitted. Errors may be crossed out and corrections printed in ink or typewritten and must be initialed in ink by the person signing the bid.

Mathematical calculations involving decimals must be carried to two (2) places.

Should a bidder find discrepancies or omissions from the bidding document or be in doubt as to their meaning, he/she shall at once request clarification from Judy Denman, Foodservice Supervisor at 731-885-9743, 316 South Third Street, Union City, TN 38261.

It shall be the sole responsibility of the bidder to make certain that all bids in proper form are submitted by close of business (4:00 PM) on Thursday, June 3, 2010 to Judy Denman, Foodservice Supervisor, at 316 South Third Street, Union City, TN 38261. Item cost must include delivery to schools.

The bid document, contract agreement, debarment/suspension certification statement, and Buy American waiver form must be filled out and signed. A Certificate of Insurance must also be provided. All originals must be signed in ink by a person with authority to bind the bid. The Bid must be sealed in an envelope that is clearly marked **"Food Service Bid—Frozen Dessert Products"**.

The sealed bid must then be mailed or delivered to the following address:

Obion County Board of Education

Attn: Judy Denman

316 South Third Street

Union City, TN 38261

ORDERS

All orders will be placed with a company representative by the School Nutrition Supervisor as often as appropriate for the item(s) involved. An appointment time will be set which is mutually agreeable and convenient for each one.

Pre-numbered purchase orders with firm fixed prices will be used after formal bidding.

DELIVERY

- Attached is a list of schools.
- Deliveries shall be available to the schools Monday thru Friday between the hours of 6:30 a.m. and 2:00 p.m. Exceptions to this time frame must be approved on a case by case basis by the School Nutrition Program Supervisor. Each location shall have a constant delivery schedule. Deliveries shall **NOT** be made after 2:00 p.m. Managers will not be expected to extend working hours to receive late deliveries!
- Ice Cream and Frozen Dessert Products must be delivered inside the cafeteria/food preparation area. The manager or designee will check the items delivered against the requisition/purchase order and invoice at the time of delivery with both the manager or designee and the driver signing the appropriate forms for shortages and errors, and/or obviously damaged goods.
- All foods are to be delivered with no evidence of damage. The successful bidder agrees to be responsible for damaged packaging and to pick up and replace any products that are damaged, or out of date, at no charge.
- If foreign objects are found in foods purchased from vendor and such objects result in injury or sickness to customers, vendor will be responsible for all claims resulting from this injury or sickness and the Board of Education and their employees will not be held responsible.
- Each School Nutrition Program shall retain the right to reject any or all of a delivery that does not meet product specifications. Rejected items are to be picked up at the supplier's expense and credit memo issued.
- Delivery schedules will be altered to meet holiday and inclement weather schedules. Holiday shall be defined as any week that has less than five (5) school days. If the holiday falls on a scheduled delivery day, the delivery shall be made on a day to be mutually agreed upon by the school district and the successful contractor.
- Deliveries will be made FOB destination to each school. Products are to be delivered in refrigerated trucks and placed in freezers. The calendar for the school year is included in the bid packet.
- In the event of inclement weather, national or local emergencies, the system will notify the vendor as soon as possible about necessary delivery delays.
- The School Nutrition Program reserves the right to reject the use of any equipment by a carrier if it is not in a clean, sanitary condition, and suitable for hauling of all items.
- The successful bidder shall provide the name and telephone contact number of a company contact person, along with a delivery schedule that includes the delivery person's name and contact number.

VENDOR PERFORMANCE

If the Vendor fails in full or part to perform or comply with any provision of this Contract or the terms or conditions of any documents referenced and made a part hereof, the Obion County Board of Education may terminate this Contract, in whole or in part, and may consider such failure or noncompliance a breach of Contract. Vendors with poor performance will be notified at the time of such

performance and be given opportunity to correct the problems. Documentation will be kept on file. Any vendor with continued poor performance will be removed from the potential vendor list for one year.

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. On all such purchases, the Vendor agrees to promptly reimburse schools for excess costs incurred by such a purchase.

Reasons for product rejection may be any one of the following:

- Quality
- Price
- Serviceability of item (damage)
- Product does not meet bid specifications

BREACH

A party shall be deemed to have breached the contract if any of the following occurs:

1. Failure to provide products or services that conform to contract requirements or
2. Failure to maintain/submit any report required hereunder; or
3. Failure to perform in full or in part any of the other conditions of the contract
4. Violation of any warranty

SCHOOL SYSTEM ACTIONS IN EVENT OF A BREACH

Upon the occurrence of any event of breach, the School System may take any one, or more, or all, of the following actions:

1. Give the Vendor a written notice of the breach requiring it to be remedied within thirty (30) days from the date of the notice, unless another time line is specified; and if the event of breach is not remedied within the time limit, terminate this contract with notice provided to the Vendor;
2. Give the Vendor a written notice specifying the event of breach and suspending all payments to be made under this contract and ordering that the portion of the contract price, which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the School System determines that the Vendor has cured the breach, shall never be paid to the Vendor;
3. Set off against any other obligation the School System may owe to the Vendor any damages the School System suffers by reason of any event of breach;
4. Treat the contract as materially breached and pursue any of its remedies at law or in equity, or both.

CONTRACT TERMINATION FOR CAUSE

If the Contractor fails to properly perform its obligations under this contract in a timely or proper manner, or if the Contractor violates any terms of this contract, the School District shall have the right to terminate the contract and withhold payments in excess of fair compensation for completed services.

In the event the contract is terminated for due cause by the System, the System shall have the option of awarding the contract to the next lowest bidder or bidding again.

CONTRACT TERMINATION FOR CONVENIENCE

The School District may, by written notice to the Vendor, terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the School System. The School System must give notice of termination to the Vendor at least 30 days prior to the effective date of termination. 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 which 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.

INVOICES AND STATEMENTS

All monthly statements are to be issued to include and end with the cut-off date which will be the LAST DAY OF THE MONTH.

Two (2) invoices must be furnished to each school at the time of delivery. Invoices must be signed by the cafeteria manager or designee; show purchase order number, quantity, and price of each item delivered and total amount of the order. **Unsigned invoices will not be paid.** If an item must be returned or is rejected, the invoice must be signed by the manager or designee and the person delivering.

At the end of each month, a separate statement showing invoice numbers and dates of delivery for each school must be mailed to the following address:

Obion County Board of Education
Attn: Judy Denman
316 South Third Street
Union City, TN 38261

PAYMENTS

Invoices will be balanced with the statement and processed for payment. Statement must include any credits issued during the month.

All schools serviced under this contract are tax exempt.

BUY AMERICAN REQUIREMENT

The "Buy American Requirement" requires that schools and institutions participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the contiguous United States purchase, to the maximum extent practicable, domestically grown and processed foods. Please note this rule applies to "Private Labels" as well as other labels. The legislation defines "domestic commodity or product" as one that is produced and processed in the United States substantially using agricultural commodities that are produced in the United

States. The report accompanying the legislation stipulated that “substantially” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. The Obion County Board of Education requests that vendors denote on their bid document products that do not meet this requirement by putting an asterisk to the left of the item number on the bid document and listing the item, country of origin and reason why Buy American is not possible on the Buy American Waiver.

REGULATION COMPLIANCE

- All contracts awarded in excess of \$10,000.00 by grantees and their contractors or sub-grantees shall comply with Executive Order 11246, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375, and supplemented by the Department of Labor regulations (41CFR, Part 60).
- All contracts over \$100,000.00 will require compliance with the Clean Air Act issued under Section 306, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency regulations.
- 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 94-163, 89 Stat. 871).
- A Certificate of Lobbying must be signed for all contracts over \$100,000.
- A Certificate of Debarment/Suspension must be signed for all contracts over \$25,000.
- Bidders must comply with the “Buy American” provision as outlined in Policy Memorandum 210. 21-14.
- All property or services furnished must comply with all applicable Federal, State, and Local laws, codes and regulations.

RECORDS

All contractors are required to retain all books, records and other documents relative to this agreement for three (3) years after final payment and all other pending matters are closed. Contractors must agree that the School Food Authority, the State Agency, the United States Department of Agriculture, or Comptroller General may have full access to any books, documents, papers, and records of the Contractor which are directly pertinent to all negotiated contracts. If an investigation or audit is in progress, records shall be maintained until stated matter is closed.

REPORTS

Contractors shall be required to submit product usage reports as requested by the School Nutrition Program Supervisor.

Based on the request from a School Nutrition Program Supervisor, these reports shall be submitted for total quantity delivered either by school site, or combined system total.

CODE OF CONDUCT

The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by School Food and Nutrition Program Funds.

- 1) No employee, officer or agent of named School Food Authorities shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would be involved.

Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:

- a. The employee, officer or agent
 - b. Any member of the immediate family
 - c. His or her partner
 - d. An organization which employs or is about to employ one of the above.
- 2) The School Nutrition Program employees, officers, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
- 3) Penalties for violation of the code of conduct of named School Nutrition Program should be:
- a. Reprimand by Board of Education;
 - b. Dismissal by Board of Education;
 - c. Any legal action necessary.

BIDDER MUST COMPLY WITH, SIGN AND SUBMIT:

- U.S. Department of Agriculture Certification Regarding Debarment
- Certification regarding "Buy American"
- Certificate of Insurance must be supplied

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington D.C. 20250-9410 or call (800) 795-3272 or 202-720-6382(TTY). USDA is an equal opportunity provider and employer.