

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, 2017 – June 30, 2018.

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 cost plus fixed fee contract. Please see the following for important dates in regards to this bid.

Bid Period (July 1, 2017 through June 30, 2018)

March 6, 2017	Invitation mailed to vendors about pre-bid conference
March 14 – 16, 2017	Advertise Bids
March 17, 2017	Pre-bid conference at Union City BOE Municipal Bldg Conf Room
April 14, 2017	Addendums to bid conditions and/or bid specs
April 28, 2017	Bids picked up by vendors at the Dyersburg City Board of Education
May 31, 2017	Bid Opening at 9 AM at Union City Board of Education Municipal Bldg Conference Room
June 30, 2017	Order guides (forms) due to all Supervisors
July 1, 2017	Bid Period I effective date
June 30, 2018	Bid Period I expiration date (unless extended upon mutual agreement for another year before April 1, 2018)

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., May 31, 2017. The sealed bid will be publicly opened at that time. Postmark on the bid by this date will suffice. Bid must be received on/or before the date and time stated. Faxed bid documents will not be accepted. Please call Ms. Lora Linder, Union City Schools, 731-885-3922 or Ann Cook, Dyersburg City Schools, 731-286-3600, if you have any questions.

SUPERVISORS:

Ann Cook	731-286-3600	acook@dyersburgcityschools.org
Judy Denman	731-885-9743	jdenman@ocboe.com
Amy Hester	731-285-6712	ahester@dyercs.net
Lora Linder	731-885-3922	linderl@ucboe.net
Glenda Whitson	731-253-6601	glenda@lcfalcons.net

School Food Service Procurement GENERAL BID CONDITIONS

INTRODUCTORY STATEMENT

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.

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 \$10,000.00 will be placed in the local newspapers and will run for three consecutive issues.

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 CFR, 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 (42 U.S.C. 6201). All property or services furnished must comply with all applicable Federal, State, and local laws, codes, and regulations. All contracts in excess of \$150,000.00 additionally will require compliance with the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). Violations must be reported to the the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

To the extent possible, efforts will be made to include small, minority, women's and labor surplus area firms 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 bidder must be able to demonstrate they can fulfill the contract for the entire bid period.

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

Bid Submission – If you wish to participate in this bid process, you must submit the following:

- A notebook with Completed Product Specification Forms and other documentation for every food item and placed in bid sequence.
- Completed and Signed Bid Proposal 1
- Completed and Signed Bid Proposal 2
- Completed and Signed Contract Agreement with grand total of bid.
- Signed Certificate Regarding Lobbying
- Signed Debarment/Suspension Certificate
- Certification of “Buy American” Form filled out and signed by vendor
- Certificate of Independent Price Determination

Sealed, written proposals marked “Food Service Bid” should be submitted no later than 9 am on Wednesday, May 31, 2017 to the following address:

Reelfoot Area Consortium, c/o Lora Linder, Union City Board of Education, P. O. Box 749, Union City, TN 38281 Or may be hand delivered to Lora Linder at the Union City Board of Education, 408 South Depot Street, Union City, TN 38261

1. Identical specifications and identical requests for bids will be furnished to all potential vendors.
2. A preapproval period will be allowed for a short time following the pre-bid conference. If you have items to be preapproved please respnd to Amy Hester at ahester@dyercs.net by Friday, March 31, 2017. Items which you wish to have tested for approval must be submitted by Wednesday, April 5, 2017. Because we have completed prior taste testings and with the limited number of school days remaining we request that this preapproval option only be used in necessary circumstances. Items will be tested and an addendum listing the additional items that were preapproved will be sent to all potential vendors by April 14, 2017. **Please send a CN label, certification letter/product formulation sheet, and/or nutitional analysis in order to evaluate the product(s) you are submitting for approval.**

3. 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. **All columns of the bid document must be completed on all items.**
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 quotations must be the vendor's current cost, no third party bidding will be accepted. The items listed on the bid document must show the vendor's current invoice cost(after subtracting any rebates or promotional discounts given to the vendor by the manufacturer), the fixed fee, the total cost of each item as well as the total extension cost. 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 "Addendums to Bid Conditions and/or Bid Specifications".
9. Each supplier should bid all items. The bid will be awarded on an all-or-nothing basis based on total bottom line price of both proposals. This will be determined by extending each item's bid price times an estimated usage figure and adding the extended dollar figures. In the event a vendor fails to quote a price on a specified item, the highest price from an alternate bidder will be inserted to calculate the bottom line price. All items in the bid proposals are needed but vendors will be permitted to no bid 2% of the total items in Proposal I and II, **excluding the Frozen Meat Category. If the bidder exceeds this percentage, the bid shall be disqualified.**
10. All items must be stated in case cost, unit cost and extension cost for the bid to be considered.
11. 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 the bid.
12. Bid prices must be recorded in the spaces provided for this purpose and the specifications and conditions for each category shall remain intact.
13. 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.

14. 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.
15. 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 or grading sheets which 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. If your company bids a private label you must specify who produced the item and provide documentation from that company who produced it. For example, if you bid a Tyson chicken nugget under your company label.
16. Any deviation as to specifications, i.e., weight of package or box, or quality must be 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.
17. For non-domestic products, see the section on the Buy American Provision, and the enclosed form. If a vendor requests an exception based on price, two prices must be submitted on the Buy American Form, one for the specified item and one for the alternative item. RAC will determine which product to buy (domestic or non-domestic) and will include the appropriate pricing in the bid tabulation. If the vendor requests an exception because an item is not available domestically, only one price is required. For all non-domestic products, insert "Buy American" instead of price on the bid tabulation sheet.
18. Where it may serve the Reelfoot Area Consortium's best interest, the consortium reserves the right to buy off- contract and/or spot purchase products from other sources, including but not limited to local farmers.
19. If a bidder quotes a price on a brand other than those listed as approved, without prior approval by the Reelfoot Area Consortium, the total bid may be disqualified. When bidding manufacturer's brands, only pre-approved manufacturer's label and code number as listed in the bid document will be accepted for the duration of the contract.
No substitutions and no changing of products originally bid will be allowed unless written documentation can be provided by the vendor that the product has been phased out by the manufacturer, such as Kellogg's, and is no longer produced.

20. Items marked with an asterisk * on the bid document/proposals must have one of the following submitted at the time of bid opening. They are:
1. Child Nutrition (CN) label
 2. If CN label is unavailable then we must have a product formulation statement from the manufacturer stating the following: product name, code/item number, portion size and/or weight; and the crediting statement as to what the item contributes to the meal pattern; and be on letterhead and signed by manufacturer. **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 must be submitted at bid opening for all items not marked with an asterisk. NO EXCEPTIONS: Each food item must have either a CN Label; Certification Letter; or a nutritional Analysis for each item on the bid and these should be placed in a notebook that follows the bid sequence in Proposal 1 and Proposal II. Failure to complete this request will be considered a non-responsive bid.**
21. Should a bidder need clarification on the Bid Conditions or Bid Specifications, they shall contact any Reelfoot Area Consortium member.
22. 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.
23. 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.
24. The initial bids and price changes specified are to reflect vendor's invoice cost plus a fixed fee. The fixed fee will remain firm for the 2017-2018 school year (or for the duration of the contract, if renewed). On December 21, 2017, each school nutrition program director will need a new order guide with price changes that will begin on January 1, 2018. This is for a **price update only** product changes will not be allowed. Prices must remain firm until January 1, 2018. At this time in addition to the new order guide each supervisor will need a spreadsheet which lists all items, the previous price for each item, the new price for each item and the difference of change. The bid is an annual bid and will be awarded based the bottom-line award method. This contract may be renewed for up to two (2) additional terms of ONE YEAR at a time, upon mutual agreement of both parties. In no event shall the term of this contract, including renewals exceed three (3) years. The Reelfoot Area Consortium will notify the contractor of their intention to renew no later than **April 1, 2018**. A written response will be due from the contractor no later than **April 25, 2018**. Any contract or award arising from this bid will be contingent upon continued funding during the contract bid period. Should the governing authorities for the corresponding governing bodies fail to approve funding appropriations for this work in any future period, said contract or award will become null and void. **Only one vendor will receive the bid award for the period covered above.** Vendors must serve all schools within the Reelfoot Area Consortium.

The Reelfoot Area Consortium reserves the right:

- A. To accept or reject any and or all bids submitted for any reason;
- B. To add or delete items; or
- C. To add or delete members.

25. 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. Regardless of the procurement method used, price is the final determining factor for awarding the contract.
3. A tie bid exist where two or more vendors offer products that meet all specifications, terms, and conditions at identical prices. In such case, a tie bid will be broken by the following methods, in the order listed: quality of products, prior experience with products, record of vendor's past performance, vendor integrity, best delivery or by coin toss. The judgment of the Boards of

Education on such matters shall be final.

4. 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 if of a conflict of interest, real or apparent, would be involved.
5. 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.
6. 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.
7. 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.
8. All bidders will be notified in writing of the bid award within 15 days of bid opening. The contract will be awarded in writing to the responsive and responsible bidder whose bid is the lowest bottom line cost. Vendors will receive notification as to bid acceptance or rejection. Upon award, bid documents and tabulations will be available for review at the Union City Board of Education, Municipal Building, Union City, TN.
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. **No products/items in Proposal I will be approved for "delayed delivery". A list of "delayed delivery" items in Proposal II must be submitted for approval by the consortium on or before April 14, 2017.**
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- \$10 - - - - -	\$1.00
\$10.01 to \$20 - - - -	\$1.50
\$20.01 to \$30 - - - -	\$1.60
\$30.01 to \$40 - - - -	\$2.40
\$40 and above - - - -	\$2.75 and shall not exceed \$2.75 per case on anyone item.

11. Material Safety Data Sheets must be provided for all applicable products at the time of delivery.
12. 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 five years after final payment and all other pending matters are closed for contracts over \$10,000.00.
13. The bid prices shall remain effective through orders taken on the expiration date.
14. 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.
15. All vendors must comply with Executive Orders 12549 and 12689(lobbying) and (suspension/debarment) for more information see 2 CFR 180.220.
16. **The successful bidder shall furnish a Certificate of Insurance issued by an insurance company** showing that the Reelfoot Area Consortium Board of Educations will be protected from loss or damage to property of third persons or to the carrier's own property, loss or damage to the Reelfoot Area Consortium Board of Educations commodities, and injury or death to third persons or the carrier's employees. Carrier will assume full common liability of all shipments.

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 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.

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 constitute 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.

The schools that make up the Reelfoot Area Consortium follow the principles of HACCP (Hazard Analysis Critical Control Points) in accepting all deliveries. Therefore, upon delivery Temperature of products will be taken and recorded and overall product condition will be Inspected in accordance with the District Food Safety Plan.

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 which 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. According to the NSLP and SBP requires school food authorities to use nonprofit food service funds to the maximum extent practical, to buy domestic commodities or products for program meals. 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 according to 7 CFR part 210.21(d).

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be completed using the “Buy American Certification Form” and submitted with the bid. If a request for an exception occurs after time of bid and during the contract period, it must be submitted in writing to: Reelfoot Area Consortium, P.O. Box 749, Union City, TN 38281, a minimum of 7 days in advance of delivery.

All vendors must place on the Buy American form the item number, the country of origin and reason why a domestic product was not bid on the Buy American Waiver.

Two situations may warrant a waiver to permit purchases of non-domestic food products:

- A. The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality.
- B. Competitive bids reveal the cost of a U.S. product is significantly higher than the non-domestic product.

Failure to complete and sign the Buy American Certification form and include it with the bid response will be considered a non-responsive bid. If the bidder ships items that have not been approved by the consortium during the contract period, the non-compliance will be addressed as a breach of contract.

8. **The Healthy, Hunger-Free Act of 2010, requires schools to:**

- Serve food with zero grams of trans fat per portion. Only naturally occurring trans fat found in products such as beef, lamb, and dairy products made with whole milk is excluded from this ban. Vendors must supply a nutrition label or manufacturer specifications for all items bid that are affected by this federal regulation. Vendors will be held liable if a product is found to contain trans fats.
- Serve foods with reduced or low sodium in order to meet the second sodium target in the 2017-18 school year for breakfast, lunch, and smart snacks. Therefore, we as a consortium ask you as a vendor to bid food items that have been modified to meet these targets which are aimed to gradually reduce the sodium content of school meals. **Please make a notation on the bid proposals that you have bid a low sodium item.**
- Serve in both the NSLP and the SBP beginning July 1, 2014 that all grains offered during the week must be whole grain-rich (contain at least 50% or more whole grain ingredients by weight). For every item counting as one or more grains the following must be submitted with the bid. They are: Child Nutrition (CN) label Or a certification letter from the manufacturer stating that it is whole grain-rich and how many grains the item provides.

E. 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, Reelfoot Area Consortium 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 problem(s). Documentation will be kept on file. Any vendor with continued poor performance will be removed from the potential vendor list for one year.

The Vendor will be expected to maintain a **97% “fill rate for each system”** 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, HACCP violations, serviceability of item (damage), and product doesn't meet bid specifications. On all such purchases, the Contractor/vendor agrees to promptly reimburse schools for excess costs incurred 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. An order guide shall be furnished by contract supplier for recording orders. This order guide must 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. **The order guide must be provided to all supervisors by June 30, 2017.** The vendor shall provide training for online ordering. Orders will be placed weekly. When orders can't be placed online due to problems, vendors must accept a emailed, 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 delivery man 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 a reason to declare a breach in contract. 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 categorized and totaled separately from food items.**
14. All charges are to be made to each system separately with the school drop designated.

Each invoice must be signed by the cafeteria manager or designee.

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

Food Service Department
307 College Street
Dyersburg, TN 38024

Lake County Schools

Food Service Department
819 McBride Street
Tiptonville, TN 38080

Obion County Board of Education

Food Service Department
1700 North Fifth Street
Union City, TN 38261

Union City Schools

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

17. Payment is made by signed invoices only.
18. 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). 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, 365 N. Shawtown Rd., Hornbeak 38232
2. Hillcrest Elementary, 605 South Main, Troy 38260
3. Lake Road Elementary, 1130 E. Hwy. 22, Union City 38261
4. Obion County Central High, 528 N. Hwy 51, Troy 38260
5. Ridgemont Elementary, 1285 N. Hwy 45W, Union City 38261
6. South Fulton Elementary, 209 John C. Jones Pkwy, South Fulton 38257
7. South Fulton High, 1302 John C. Jones Pkwy, 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. GUARANTEE

Each bidder, by presenting a bid under these conditions, binds himself to make positive that all goods and services are fully up to standards set forth and have the legal capacity to fulfill bid specifications. Each successful bidder is bound by this contract to ensure that members of the Reelfoot Area Consortium is protected from loss or damage to property of third persons or to the carrier's own property, loss of damage to the Board of Education commodities and injury

or death to third persons or the carrier's employees. The successful vendor/carrier will assume full common liability of all shipments and the Reelfoot Area Consortium may request a copy of proof of insurance coverage at any time during the life of said contract.

J. 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.

K. 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.

L. 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 the Reelfoot Area Consortium or School Nutrition Program 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 Reelfoot Area Consortium or 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.

M. Non-Collusion Statement

Potential vendors/contractors shall not participate in any actions or agreements with other entities that would result in any fraudulent or illegal activities. Independent Price Determination certification must be completed.

N. 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 purchase similar 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.

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

- 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.
 - 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 consortium determines that the vendor has cured the breach, shall never be paid to the vendor.
 - Set off against any other obligation the consortium may owe to the vendor any damages the consortium suffers by reason of any event of breach;
 - Treat the contract as materially breached and pursue any of its remedies at law or in equity or both.
- 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 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 For Cause
If the vendor fails to properly perform its obligations under this contract in a timely or proper manner, or if the vendor violates any terms of this contract, the consortium 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 consortium, the consortium shall have the option of awarding the contract to the next lowest bidder or bid again.
- g. Contract Termination for Convenience
Reelfoot Area Consortium 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 consortium. Reelfoot Area Consortium must give notice of termination to the vendor at least thirty (30) calendar days prior to the effective date of termination. The vendor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the consortium be liable to the vendor for compensation for any service which has not been rendered. Upon such termination, the vendor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

O. 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 which 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.

P. HOLD HARMLESS CLAUSE

The bidder/manufacturer shall hold harmless and indemnify the Reelfoot Area Consortium, from every claim, demand, suit and award which may be made by reason of:

- a. Any injury to person or property sustained by the supplier or by any person, manufacturer or corporation employed directly or indirectly by him/her upon, or in connection with, his/her performance under the contract, however caused;
- b. Any injury to person or property sustained by any person, manufacturer, or corporation caused by any act, neglect, default, or omission of the supplier or any person, manufacturer or corporation directly or indirectly employed by him/her upon, or in connection with, his/her performance under the contract;
- c. Any liability that may arise from the furnishing or use of any copyrighted or non-copyrighted composition, secret process, or patented or unpatented invention in the performance of the services called for under the contract; and
- d. The bidder/manufacturer, at his/her own expense and risk, shall defend any legal proceeding that may be brought against the Reelfoot Area Consortium on any such claim or demand, and satisfy any judgment that may be rendered against any of them.

Q. PROTEST PROCEDURES

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 Marsha Neal, Business Office Manager, Dyer County Board of Education, 159 Everett Avenue, Dyersburg, Tennessee 38024, no later than ten (10) calendar days from the date of the bid award. The written complaint with the itemized grievances stated must be submitted to the hearing official. The hearing official will disclose the dispute to the Tennessee State Department of Education, School Nutrition office. The steps for dispute resolution include:

- a. A meeting with the School Nutrition Program Supervisors participating in the bid, the hearing official and representatives from the disputing party to discuss and resolve the complaint.
- b. 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.
- c. All employees will be notified that they cannot purchase under this procurement until a final decision is rendered.
- d. 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.
- e. The Reelfoot Area Consortium will disclose all protests to the Tennessee State Dept. of Education, School Nutrition office.

R. AUDIT PROCEDURES

By submission of a bid, each bidder agrees to furnish to each Board of Education, upon demand, such of its records, books, and accounts as will substantiate to the satisfaction of the Board or its agents that the cost quoted to the Board is in fact the net cost paid by the bidder for the quoted item.

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. The contractor shall provide such evidence as manufacturer's invoices, freight bills, as well as cash discounts, "billbacks", promotion allowances, label allowances, or other "rebates" that shall accrue to the benefit of the system.

Audits may be made for a contractor's cost records as follows:

- Prior to award of contract, an upfront audit of cost on those items where cost quoted is supported by 3rd party invoice or bid confirmation.
- At least annually, and more often if necessary.
If a bid is renewed by mutual consent or any other means, each renewal constitutes a contract year.
- At any time price reviews indicate a problem might 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. Any documentation received during the auditing procedures will be identified as confidential and used only for price confirmation.

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, audiotope, 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, S.W., Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

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