

Alabama State Department of Education



**Request for Proposal
RFP ALSDE 2022-05**

STATEWIDE PROCUREMENT - MANUFACTURER DIRECT BID ITEMS

Alabama State Department of Education

Child Nutrition Programs

Note: FAXED OR E-MAILED PROPOSALS WILL NOT BE ACCEPTED.

Inquiries and response submissions related to this RFP are to be addressed to:

Cindy Gillespie
Office of Operations
Alabama State Department of Education
50 N. Ripley Street, Room P305
Gordon Persons Building
Montgomery, AL 36104
Email: cgillespie@alsde.edu

ADDENDUM # 1: FLASH DRIVE NOT REQUIRED – NO CHANGE IN OPENING DATE

Active Bid Date: April 13th, 2022

Deadline: April 27th, 2022

Proposals must be received no later than 4:00 p.m. on April 27th, 2022.

It is required that each vendor clearly mark the envelope RFP ALSDE 2022-05 in the lower left corner of the envelope (Response packages that are not marked will be rejected).

The proposal package must contain the following:

1. Original proposal plus four copies with original signatures (The proposal must be signed by an official authorized to legally bind the vendor to the information provided). **(Change noted: No Flash drive needed)**
2. Must be currently registered with The Alabama Department of Finance, Division of Purchasing as a State Vendor and provide vendor number. <http://www.purchasing.alabama.gov>
3. The vendor must complete the affidavit for business entity/employer/vendor. Verification of enrollment in E-verify should be presented on the form found in Appendix A.

Proposal Opening

April 28th, 2022

9:00 am

Gordon Persons Building, Martin Conference Room

50 North Ripley Street

Montgomery, AL 36104

(No Visitors Due to COVID-19)

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Section 1.00 Administrative Overview

1.1 Purpose and Background

Purpose:

The purpose of this RFP is to establish a contract(s), between ALSDE and the vendor(s), for food and supplies used in Child Nutrition Food Service Programs throughout the state. This contract will establish a maximum price that an awarded distributor(s) will pay for any item covered by the contract during the term of that contract. ALSDE will establish a contract(s) for the distribution of these items to the awarded distributor(s) and other qualified recipients under another contract(s).

Background:

This is a competitive bid. Several manufacturers have been approved to submit bids on each item of this RFP. The items listed on the attached Product Identification/Bid Sheets are the ones you've been approved to bid on and you are the only manufacturer shown. **Please be aware that other manufacturers will submit bids on the items shown on your bid sheet.**

1.2 Anticipated Time Table

Bids must be received by 4:00 p.m. CST on April 27th, 2022. Bids received after 4:00 p.m. CST on April 27th, 2022, will not be considered. Bids will be publicly opened at 9:00 a.m. CST on April 28th, 2022.

ALSDE anticipates that the bid evaluation will be complete by May 10th, 2022. Successful Vendors will then be notified by award letter that will include further instructions and may also require additional documents. Upon award, the current nutritional information will be required to be returned to ALSDE with the signed award letter.

April 27th, 2022 Proposal Submission Deadline

April 28th, 2022 Bid Opening

1.3 Proposal Evaluation

An Evaluation Team will review the proposals and make a recommendation. The criteria listed below will be used to evaluate the proposals for the purpose of ranking them in relative position based on how fully each proposal meets the requirements of this RFP.

Evaluation Criteria:

Lowest line item or bottom-line bid pricing with qualified specifications.

Best and Final Offers:

The ALSDE may either accept a vendor's initial proposal by award of a contract or enter into discussions with vendors whose proposals are deemed to be reasonably acceptable consideration for award. After discussions are concluded, a vendor may be allowed to submit a "Best and Final Offer" for consideration in a

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manner and method prescribed. By submitting a proposal each vendor accepts and agrees to all conditions and requirements herein.

The ALSDE will make all decisions regarding evaluation of the proposal. The ALSDE reserves the right to judge and determine whether a request is compliant with and has satisfactorily met the requirements of the RFP. The ALSDE reserves the right to waive technical and other defects if, in its judgment, the interest of the ALSDE so requires. Any further information disclosed about the RFP during this process will be provided to all vendors in a manner and method prescribed by the ALSDE.

Rejection of Proposal:

ALSDE reserves the right to reject any or all proposals which are deemed to be non-responsive, late in submission, or unsatisfactory in any way. ALSDE shall have no obligation to award a contract for work, goods, and/or services as a result of this RFP.

Confidentiality:

All information contained in the RFP is considered to be the exclusive property of the ALSDE. Recipients of this RFP are not to disclose any information contained within the RFP unless such information is publicly available. This RFP is provided for the sole purpose of allowing Vendors to respond to these specifications.

Selection Process:

The number of grants awarded depends on the number of proposals submitted and the quality of the proposed projects, funding availability, and the best interests of the Agency.

The ALSDE will select the vendor that provides the most technically sound and cost-effective proposal that best fits the needs of the ALSDE. Final selection of the successful vendor will not be based solely on cost. The vendor product will be evaluated primarily on the scope of the activities linked to associated costs as detailed in the RFP. RFPs will be reviewed to ascertain that minimum requirements have been met. The ALSDE reserves the right to conduct discussions with potential vendors in order to clarify information contained in their proposals, but the ALSDE has no obligation to do so. The vendor will provide notice to the ALSDE any partnership with another firm to provide parts of the solution; however, the vendor must provide management of the partner and is responsible for all project performance. Any subcontractor or partner will be subject to the same vetting process as the vendor, and the vendor is responsible for ensuring that each subcontractor acknowledges and is contractually bound by the staffing plan and other commitments listed in this RFP.

Unless provided by law, nothing in this RFP shall be construed to create any legal obligation on the part of ALSDE or any respondents. ALSDE reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue the RFP in whole or in part, at any stage. In no event shall ALSDE be liable to respondents for any cost or damages incurred in connection with the RFP process, including, but not limited to, any and all costs of preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from ALSDE for any costs, expenses, or fees related to the RFP. All supporting documentation submitted in response to the RFP will become the property of the ALSDE. Respondents may also withdraw their interest in the RFP, in writing, at any point in time, as more information becomes known. If, within the confines of this RFP, the vendor provides intellectual property be it understood that all RFP contents are subject to Open Records Act laws and thus are subsequently in the public domain.

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Only the final results of the ALSDE Evaluation Committee may be considered public. Any work papers, individual evaluator or consultant comments, notes, or score will not be considered public. The final results of the ALSDE Evaluation Committee will not be publicly available until a final contract has received all necessary approvals.

Open Records act requests can be made at the following website:

[https://alsde.mycusthelp.com/WEBAPP/_rs/\(S\(f5sv2dmcmpb2aknppsajshwn\)\)/supporthome.aspx](https://alsde.mycusthelp.com/WEBAPP/_rs/(S(f5sv2dmcmpb2aknppsajshwn))/supporthome.aspx)

Disclaimer Notice:

The ALSDE shall not be liable for any costs associated with the preparation of proposals or negotiations of a contract incurred by any party.

Availability of Funds:

It is expressly understood and agreed that the obligations of the ALSDE to proceed is conditioned upon the continued availability of funds that may be expended for these purposes.

1.4 Conditions and Terms

Contract Terms:

The contract resulting from this RFP may be renewable for four (4) additional years pending written agreement of the vendor & ALSDE, dependent upon required state approvals, availability of funds, performance evaluations of the project, at the full discretion of the ALSDE. The contract will commence pending Legislative Review Committee approval and Governor's signature.

The vendor shall be fully prepared to commence work after full execution of the contract by parties and the receipt of required governmental approvals.

Proposals should reference each element in the RFP by number on the cover of each copy and be arranged in the same sequence. All fees and costs are to be stated in United States currency. Vendors must reply to each element of the RFP.

Section 2.00 Scope

2.1 Scope of Vendor's Work and Responsibilities

The purpose of this RFP is to establish a contract or contracts, between ALSDE and the vendor(s), for food and supplies used in Child Nutrition Food Service Programs throughout the state. This contract will establish a maximum price that an awarded distributor(s) will pay for any item covered by the contract during the term of that contract. ALSDE will establish a contract(s) for the distribution of these items to the awarded distributor(s) and other qualified recipients under another contract(s).

The Distribution Contract(s) will be effective on June 1, 2022. Vendors that are awarded contracts under this RFP will be expected to deliver product to these successful distributor(s) effective June 1, 2022.

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The successful bidding distributor(s) will become the vendor responsible for purchasing, warehousing and distributing the food. Vendors are obligated to furnish the items covered by the contract at prices that do not exceed the contract price in the quantity requested by the awarded distributor(s).

Section 3.00 General Requirements

3.1 Requirements of Proposal

The vendor must provide the following mandatory information. **Failure to provide this information may be cause for the proposal to be rejected.** Qualifications, experience, and cost will be evaluated for contract award. The proposal may be submitted under the same cover with Vendor Requirements and Cost Proposal in two distinct sections. E-verify information is required to be submitted for all employees to include contractors of the vendors if necessary and applicable.

Part I

Signed Cover Letter:

The cover letter shall serve as the first page of the vendor's proposal. The vendor shall complete the cover letter and attach it to the proposal in response to the RFP. The cover letter must be signed by an official authorized to legally bind the vendor. It will state that the vendor is a legal entity that will meet the specifications. The cover letter must accompany the submitted proposal. The letter accompanying the proposal must have original signatures and must include contact numbers and e-mail addresses for the authorized official signing the letters.

Part II

Vendor Qualification and Experience:

Vendor shall provide satisfactory evidence of the vendor's capability to coordinate the types of activities and to provide the services described in the RFP in a timely manner. Special attention should be given to the discussion of qualifications. The discussion shall include a description of the vendor's background and relevant experience as related to the required activities in the RFP.

Part III

Vendor shall provide a detailed plan describing how the services will be performed to meet the requirements of the RFP. The description shall encompass the requirements of this RFP. The response must be prepared and organized in a clear and concise manner that is easily understandable.

Vendor Organization:

Describe your organizational structure and explain how your organization qualifies to be responsive to the requirements of this RFP.

References:

The vendor shall provide a minimum of three (3) references that can support and validate training and/or projects and outcomes, including names or persons who may be contacted, position of person, addresses, and phone numbers where similar training and/or projects to that described in this RFP have been conducted.

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Executive Summary:

An executive summary is required. This summary will condense and highlight the contents of the vendor's proposal.

Part IV

Cost Proposal:

Vendor shall include the fee structure and pricing for the training sessions/program. The vendor shall submit a cost proposal in addition to other required information.

Flat rates for half and/or whole day training sessions should be inclusive of travel and/or supplies and materials costs and identify if the training is in person or virtual, and the proposed number of participants. Flat rates for consulting, coaching, and/or professional services should stipulate the cost per hour and the proposed number of hours. Project costs must include all proposed necessary charges to be made by the grantee in accomplishing the objectives of the grant during the specified grant period (initial grants are generally for a one-year period unless otherwise noted).

Subcontractor Disclosure:

If the execution of work to be performed requires the hiring of Subcontractors, **you must clearly state this in the bid proposal and provide qualification for such individuals.** Sub-Contractors must be identified and the services they will provide or work they will perform must be clearly defined. The ALSDE will not refuse a proposal based upon the use of a Sub-Contractor; however, the ALSDE reserves the right to refuse the Sub-contractor you have selected. Contractor and associated personnel shall remain solely responsible for the performance of all work, including work that may be sub-contracted.

Describe your rationale for utilizing Subcontractors including relevant past experience partnering with stated Subcontractor(s). Documents for E-verification of subcontractors are the sole responsibility of the contractor and must be available upon request to ensure compliance.

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Section 4.00 General Terms and Conditions

4.1 Governance

This RFP and its terms shall be governed and construed according to the laws of the State of Alabama. Any dispute arising out of this RFP shall be brought in the State of Alabama, with venue in Montgomery County, Alabama. Vendors agree to comply with all applicable federal and state laws and regulations.

4.2 Immigration

The proposal must contain a statement that the firm is aware of and in compliance with the requirements of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act; a statement that the vendor is enrolled in the E-Verify as required by Section 31-13-9 (b), Code of Alabama 1975, as amended. Please see Appendix A.

BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT

COMPLIANCE

The Beason-Hammon Alabama Taxpayer and Citizen Protection Act (31-13-1 et seq, Code of Alabama, 1975 as amended by Act 2012-491) regulates illegal immigration in the State of Alabama. All contracts with the State or political subdivision thereof must fully comply with each provision as provided by law.

A proposal must include a statement that the vendor has knowledge of this law and is in compliance. Before a contract is signed, the vendor awarded the contract must submit a Certificate of Compliance using the form at Appendix A. E-Verify enrollment can be accomplished at the website of the United States Department of Homeland Security at <http://www.uscis.gov>.

See Section 10 for additional language required by Section 10(k) of the Act to be included in the contract.

Rev.5-24-13

4.3 Conflict of Interest

The vendor attests that no employee, officer, or agent of the vendor shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest may be involved. A conflict would arise when the employee, officer, agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in the organization selected for an award. The officers, employees, and agents of the vendor, if selected as the career planning system vendor, shall neither award nor offer gratuities, favors, nor anything of monetary value from vendors or subcontractors.

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4.4 Discrimination

Alabama Non-Discrimination Statement:

No person shall be denied employment, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity on the basis of disability, gender, race, religion, national origin, color, age, genetic information, or any other category protected under the law. Ref: Sec. 1983, Civil Rights Act, 42 U.S.C.; Title VI and VII, Civil Rights Act of 1964; Rehabilitation Act of 1973, Sec. 504; Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008; Equal Pay Act of 1963; Title IX of the Education Amendment of 1972; Title II of the Genetic Information Nondiscrimination Act of 2008. Title IX Coordinator, P.O. Box 302101, Montgomery, Alabama 36130-2101 or call (334) 694-4717.

USDA Non-Discrimination Statement:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: How to File a Complaint, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

This institution is an equal opportunity provider

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4.5 General Conditions

4.5.1 General Conditions

The bid shall be offered, and the contract shall be entered into in accordance with the general conditions. However, should a conflict exist between the general conditions and the special conditions, the special condition shall take precedence. Further, it is to be understood that the Alabama State Department of Education (ALSDE) reserves the right to waive any general or special condition if it is in the best interest of the State of Alabama, so long as the waiver is not given so as to deliberately favor any single Vendor and the waiver would have the same effect on all vendors.

4.5.2 Vendor Responsibility:

It shall be incumbent upon each vendor to understand the provisions of this bid document and, when necessary, obtain clarifications prior to the time and date set for the bid opening. Failure to obtain a clarification will be no excuse or justification for non-compliance with the provisions set forth herein.

4.5.3 Clarification:

If clarification is required, the request shall be made to ALSDE no later than five working days prior to the bid submission deadline. Responses from ALSDE regarding any inquiries to this RFP will be posted on the department's website at <https://www.alabamaachieves.org/> and it is the vendor's responsibility to review the website for updated information. ALSDE will provide a written addendum if it is determined that all prospective vendors should have benefit of the clarification. An addendum may serve to delay that opening for a time sufficient for all vendors to respond to the addendum.

Vendors shall acknowledge receipt of any addendum to the solicitation by returning the addendum with the bid, by identifying the addendum number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment must be received by the ALSDE.

A non-compliant bid offered as a result of a verbal response to a telephone request will be rejected. Any protest based on such a rejection will not be heard!

4.5.4 Product Identification:

This is a qualified product specification. Vendors must bid on the specific products requested. Deviations from this requirement will not be considered. Any bid submission of "alternates" will be rejected. Any bid submission of non-preapproved items will be rejected.

4.5.5 Liability:

Subsequent to the awarding of a contract, the vendor will be liable for any expense, including legal fees, incurred by ALSDE or any school district as a result of violations of the contract terms by any vendor.

4.5.6 Error in Bid:

In case of an error in the price extensions, the base bid/bid unit will govern. No altered or amended bid will be accepted after the specified time and date set for the bid submission.

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4.5.7 Award:

- a. Contracts will be established between the most qualified, responsive, and responsible vendor with the best price and ALSDE, except as may otherwise be specified in the RFP. Awards will be based on the line-item pricing or bottom-line groupings as specifically noted. No award will be made either stated or implied at the bid opening. It is in the best interest of the state to award for rebates and bottom-line bids.
- b. ALSDE reserves the right to ascertain, subsequent to the bid opening, whether or not a vendor meets the requirements to be considered a responsible vendor. If it is determined that the bidder is not a responsible vendor and the determination is substantiated and justified to the satisfaction and approval of ALSDE, bids submitted by that vendor will be rejected. ALSDE reserves the right to award to a vendor other than the low bidder if there is sufficient justification that doing so is in the best interest of the state.
- c. There will be a thorough review process after the bid opening. A bid evaluation team will check all aspects of each proposal. If the apparent low bidder's proposal is found to be error free and does, in fact, represent the lowest responsible offering, that bid will then be recommended for approval and the successful vendor will be notified by award letter. If, however, an error is discovered and the error is a mistake in the extension, the correct extension will be applied. Should a corrected extension cause the bid price to be escalated to such an extent that the bid was no longer "low," then the same evaluation would be applied to the next vendor's offering until a true low bid is awarded.

4.5.8 Taxes:

Purchases made under provisions of any contract established as a result of this invitation are exempt from Federal, state and local taxes and vendors should quote prices which do not include such taxes.

4.5.9 Gifts, Rebates, Gratuities:

Acceptance of gifts from vendors and the offering of gifts by vendors is prohibited. No employee of ALSDE or any school district within Alabama or any other entity purchasing or receiving food under provision of the RFP shall accept or receive, either directly or indirectly, from any person, firm or corporation to whom any contract for the purchase of commodities, equipment or services has been issued, any gift, rebate or gratuity. Violations of this provision and conflicts of interest are punishable under the laws of the State of Alabama and Federal Regulations.

4.5.10 Application:

It is understood and agreed to by the distributor that this contract is entered into solely for the convenience and for any economic advantage afforded to the SFA's of the State of Alabama participating in our programs. These SFA's are made up of public schools, private schools, and child and adult care facilities. All purchases made by or for the SFA's of products included under provisions of this contract shall be purchased from the distributor receiving the award and shall be the product as specified by the contract. Distributors cannot substitute items unless approved by ALSDE.

4.5.11 Disclaimer:

Employees of the ALSDE and school districts have acted exclusively as agents of the state for the award, consummation and administration of this contract and are not liable for any performance or non-

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performance on the part of any school district, or other qualified participant or any third-party participant.

4.5.12 Bid Openings:

Bid openings will be conducted open to the public. The openings will serve only to open and read the bottom-line prices for the appropriate food categories of each bid. The bid price for each line item may also be read. No discussion will be entered into with any vendor as to the quality or provisions of the specifications and no award will be made either stated or implied at the bid opening. Any vendor making provisions to service a contract on the basis of information obtained at the bid opening does so at their own risk. ALSDE has no obligation to any contract except as would be authenticated by a written award letter from ALSDE.

4.5.13 Assignment:

The vendor shall not assign, sell or subcontract in whole or in part, its rights or obligations under this agreement without prior written ALSDE consent. Any attempted assignment or sale of the contract without said consent shall be void and of no effect.

4.5.14 Bid Submission:

You must submit an original and five (5) exact copies of all required documents in your bid package. Your bid must be signed by an authorized officer of the company. Broker's signatures are not allowed.

4.5.15 Alternate Award:

ALSDE reserves the right to make an alternate award when it would be to the best interest of the state. The issuing of an alternate award would be done to ensure a constant source of supply for the distributors. Purchases by a distributor from other than the awarded vendor without prior approval of the ALSDE will not be tolerated.

4.5.16 Standard Contract Conditions:

- a. This contract shall be governed in all aspects as to jurisdiction, validity, construction, capacity, performance, and otherwise by the laws of the State of Alabama and the United States. Vendor shall comply with applicable Federal, state and local laws and regulations. The state of Alabama has legal jurisdiction.
- b. State Sales and Use Tax Certificate of Exemption form will be issued upon request.
- c. The vendor agrees to retain all records and other documents relative to this agreement for three (3) years after the end of each contract year. The school, recipient agency, its authorized agents and/or state/Federal representatives shall have full access to, and the right to examine any of said materials during said period. If an investigation or audit is in progress, records shall be maintained until stated matter is closed.

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- d. Any product offered which is not labeled in such a manner as to permit interstate transport will be rejected. Packers and/or producers located within the State of Alabama must understand that Alabama Department of Agriculture inspection labels will not qualify under provisions of this RFP.
- e. By signing this document, the vendor certifies that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. The vendor certifies that collusive bidding is a violation of Federal law and can result in fines, prison sentences and civil damage awards.
- f. Vendors must comply with the Buy American provision (7 CFR part 210.21). The term ‘domestic commodity or product’ means an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. The term “substantially” is defined by USDA as meaning that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. The Federal Nutrition Service encourages specifications using Federal funds to require 100% domestically grown and processed products. The exceptions to the Buy American requirements that ALSDE may consider are:
 - 2) The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality.
 - 3) Competitive research and bids reveal the costs of a U.S. product are significantly higher than the non-domestic product. ALSDE will consider approving non-domestic items resulting in savings of a minimum of 10%.
- a. ALSDE further requires that all non-food items being bid comply with the Buy American provision as domestic products. Due to the nature and high volume of school orders, it is necessary to ensure a constant supply of items from readily available sources.

4.5.17 Federal Contract Conditions:

All funds being administered through ALSDE under the Child Nutrition Program are Federal and are governed by Federal regulations. All vendors must comply with and report violations of the following Federal contract requirements as applicable. Please see Appendix B for the Federal Requirements sheet to ensure all requirements are met by the vendor.

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4.6 Special Conditions

4.6.1 Contract Duration

The duration of these contracts shall be twelve (12) months from the effective date of June 1, 2022, through May 31, 2023. ALSDE reserves the right to extend this contract for four (4) additional twelve (12) month periods. Any contract extension is contingent upon written approval of both ALSDE and the awarded vendor(s). If during the term of the contract or at the end of the term of the contract it becomes necessary for ALSDE to obtain sourcing from a different supplier ALSDE reserves the right to extend the terms of the contract with the current supplier for up to ninety (90) days to continue a source or sources of supply until new or replacement contracts are completed.

4.6.2 Substitutions:

It is understood that if an item is listed on the contract, distributor(s) will not accept delivery of any other than the specific product label listed on the contract unless the awarded vendor is unable to supply the item. In such case, Section 1.15 Alternate Award will prevail. ALSDE will only authorize substitutions under emergency conditions and at no time authorize the substitution of any product that has not been reviewed and approved as meeting the specifications of the awarded item.

ALSDE will consider substitutions in the best interest of the programs. It is ALSDE's intent to allow the awarded vendor the first option of providing a substitute, then the next low bidder and so forth.

4.6.3 Volume:

The quantities indicated on the bid form are based on previous year's purchases and are accurate to the best of our ability to gather data. However, distributors must understand the fact that a quantity is stated on an item does not constitute a guarantee to purchase an amount in excess of actual requirements. Usage may increase or decrease on an item. ALSDE and participating RA's are not liable for excess inventory.

4.6.4 Restriction:

No purchase shall be made under the provisions of the contract of items not specifically listed and authorized by the contract except as set forth in the specifications in this RFP or by special permission from ALSDE.

4.6.5 Co-Packs

No approval of any product packed for a distributor's private label will be accepted. Delivery of such products in lieu of the exact approved product will result in the disqualification of the vendor for the duration of the current contract and the next contract period.

4.6.6 Bid Unit Price:

Each item is to be priced separately by offering the bid unit price as per designation in the specification. In the event that the unit designation required by the specification is different than the standard package offered by a vendor, that vendor shall convert the quantities to conform with the bid unit set forth in the specifications, i.e., convert 6/#10 to 4/1 gallon. Failure to make the conversions may be cause for rejection.

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4.6.7 Firm Bid Price:

Each item will be bid separately (line item) or by groups (bottom line) as indicated on the Product Identification/Bid Sheet(s). Price shall be applicable to bid unit. Payment term discounts will not be considered.

ALSDE is requesting firm pricing for the term of the contract. It is understood that, with some categories of food, firm pricing for this bid period may not be realistic. Therefore, vendors will be permitted to apply for price changes not more than twice during the term of the contract. The first request will not be considered within the one hundred eighty (180) day period immediately following the effective date of the contract (June 1, 2022). A second request for a price change shall not be considered until after an additional 180-day time frame. Any request for a price increase must be substantiated by product cost figures applicable to the pricing for the original bid and to the increase being requested. These figures must be verifiable by legitimate market bulletins, Consumer Price Index, Agricultural Marketing Service reports, etc. Requests made on the basis of profit margin increases will not be accepted. Invoices are not satisfactory documentation. If the vendor's price increase is not justifiable, ALSDE reserves the right to seek an alternate supplier, provided however, that the alternative agreement will be made with an alternate supplier whose price is in the best interest of ALSDE and must be commensurate with the change in the market price.

The 180-day price change requirement will be waived in approved situations where the market is affected by natural causes, "Acts of God," Force Majeure, or any other emergency beyond the parties' control.

In the event there is a drop in the market price of any item or items covered by the contract, ALSDE will request a reduction in pricing by the vendor. Should the vendor refuse, ALSDE reserves the right to seek an alternate supplier, provided however, that no agreement will be made with an alternate supplier that does not provide a price lower than the price provided by the contract with the awarded vendor, and the reduction must be commensurate with the reduction in the market price.

4.6.8 Usage Estimates:

ALSDE provides the most accurate usage estimates based on the most current data available from previous years. It will be the duty of the vendor to have enough inventory available for each specified product at the beginning of the contract period. It will also be the vendor's responsibility to maintain monthly usage figures to forecast the future inventory needed to meet the demands of the schools. Due to the nature of these fluctuating needs and demands, the usage estimates provided for the purposes of the RFP do not obligate the purchase of those estimated quantities and do not prevent schools from exceeding and purchasing more than estimated.

It is in the best interest of the schools that the vendor assumes the responsibility of ensuring that their ordering lead times do not cause product shortages. Likewise, the schools will not be obligated to purchase the vendor's product due to over production, advanced over-ordering of product, and product that cannot meet certain usage figures due to lack of acceptability after the award.

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4.6.9 Cash Discounts:

Because the contract is to provide pricing for use by distributor(s), cash discounts are not required and will not be used in the award. Cash terms may be made available to distributors at the discretion of the vendor.

4.6.10 Rebates, Promotional Allowances and Volume Incentives:

The vendor is required to identify any and all rebates, promotional allowances, and incentives to ALSDE. Federal law regarding the Federal Funds used in the awarding of this bid requires all rebates, promotional allowances and incentives to be returned to ALSDE and does not allow distributors to qualify for any promotional allowances and incentives offered in this bid.

Each vendor must list all rebates, promotional allowances, and volume incentives by product line and designate the amount of the promotional allowance or volume incentive on the Product Identification Bid Sheet(s) for each item. ALSDE will file promotional allowance requests to vendors on a monthly basis. Remittance shall be made to ALSDE.

Vendor understands that product(s) are purchased by distributors and then sold to recipients. Monthly promotional allowance requests filed by ALSDE on behalf of recipients are based on the month the product is sold to the recipients. In the event of cancellation by the vendor of the entire contract or specific product(s) during the contract period or at the time of annual renewal, the vendor is responsible for payment of promotional allowances for product(s) delivered to recipients for 90 days after the cancellation or until all distributor's inventory of that product(s) is depleted whichever comes first.

Rebates must be quoted on the Product Identification Bid Sheet(s) and will be included in the determination of the award.

ALSDE encourages and highly recommends that all bidders competing for Manufacturer Direct Bid Items offer rebates as justification for direct contracts.

4.6.11 Freight:

All bids shall be offered F.O.B. Distributor Point with freight charges being the responsibility of the vendor. For purposes of determining freight, most of the potential distributors are located in or close proximity to the following cities:

Birmingham, Alabama	Gadsden/Anniston, Alabama	Montgomery, Alabama
Huntsville, Alabama	Dothan, Alabama	Mobile, Alabama

Bids for the distribution of product(s) for the Statewide Purchasing Program shall be divided into six (6) geographic regions in Alabama. Those items awarded the winning bid will be the specific item delivered.

4.6.12 Packaging:

All packaging shall conform to current standards acceptable to the trade and required by ICC Regulations.

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4.6.13 Termination:

- a. This contract shall be in effect for twelve (12) months with the option of renewal for four (4) additional 12-month periods unless cancelled for justifiable cause by ALSDE or the vendor. Notwithstanding any other provision of this agreement, both parties shall be deemed to have retained any and all administrative, contractual and legal rights and remedies to which they may be entitled upon termination. The Contract may be canceled by either party for cause or convenience with sixty (60) days written notice. ALSDE is the responsible authority for the settlement and satisfaction of all contractual and administrative issues.
- b. If either party shall fail or be unable to perform or observe any of the terms or conditions of this agreement for any reason, the party claiming such failure shall give the other party a written notice of such breach. If, within thirty (30) days from such notice the failure has not been corrected, the injured party may cancel the agreement by giving sixty (60) days written notice, or, in the case of ALSDE, effect such other arrangements as ALSDE deems desirable during the continuation of the vendor's inability or failure to perform.
- c. In case of default on the part of a vendor, ALSDE will authorize distributors to acquire substitute items not available due to the default from either an alternate vendor or other necessary sources. ALSDE shall hold the defaulting vendor responsible for excess cost caused by the default, however, the substitute items shall be equal in quality and quantity, as determined by ALSDE, and approved by the state Product Advisory Committee (PAC). The ALSDE will allow vendors the opportunity to rectify significant problems before canceling their contract. However, ALSDE reserves the right to restrict and/or disqualify a vendor from future RFPs originating from this office.

The vendor is expected to deliver to the awarded distributor(s) the full amount ordered by the distributor. Failure to deliver the necessary quantities without notification to the distributor and ALSDE shall allow ALSDE to obtain product from an alternate supplier. Any and all costs of the replacement product shall be paid by the vendor failing to deliver the required amount of product.

- d. All items specified in this bid have been preapproved by the PAC. Therefore, the quality is expected to be equal to that which was originally approved. However, in the event that written notification of an unsatisfactory product(s) is received from Child Nutrition Program directors of the districts participating in the statewide procurement program, the vendor will be notified the product(s) in question are proving to be unsatisfactory. Unsatisfactory includes, but is not limited to:
 - 1) Portion/serving size is consistently less than the size required for that item in the specifications
 - 2) Description/packaging differences from the approved product affects school staff preparation
 - 3) Failure to provide an adequate supply of product
 - 4) Taste and/or texture of the product is unacceptable to the students
 - 5) Formulation changes that results in the product no longer meeting the approved criteria

ALSDE will notify the awarded vendor in writing as to the nature and extent of the problem(s). In the event that the vendor is unable to correct the problem(s) in a timely manner the vendor will be

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provided written notification a product(s) is unsatisfactory. At that time the product(s) may be cancelled and no additional orders will be placed for the unsatisfactory product(s). Inventories of the cancelled product(s) will be the responsibility of the vendor and removal must be coordinated with the participating distributor(s) within thirty (30) days. The vendor will be held responsible for resolving any payment/refund issues between them and the distributor for the inventory on hand at each participating distributor(s) at the time of cancellation.

In the event of a cancellation initiated by the vendor, the vendor will be required to honor the contract, all orders and rebates/promotional allowances for up to ninety (90) days to continue as a source or sources of supply until a new or replacement contract(s) is completed. Cancellation by ALSDE does not relieve the vendor of any liability arising out of a default or non-performance.

- e. In the event of a cancellation initiated by the vendor, the vendor will be required to honor the contract, all orders and rebates/promotional allowances for up to ninety (90) days to continue as a source or sources of supply until a new or replacement contract(s) is completed. Cancellation by ALSDE does not relieve the vendor of any liability arising out of a default or non-performance.
- f. Any of the following such occurrence(s) shall be referred to as a Force Majeure: war, riot, acts of public enemies, or other disorders, strike or labor of other work stoppage, fire, flood, natural disasters, epidemics, pandemics, Acts of God, or any other act not within the control of the party whose performance is interfered with or material shortage is a result of, and which, by reasonable diligence, such party is unable to prevent.

In the event of a Force Majeure the vendor will take all reasonable steps to continue to provide service upon the terms and conditions satisfactory to the vendor and ALSDE. Neither the vendor nor ALSDE shall be responsible for any losses resulting from failure to perform any terms or provisions of the contract, except for payments of monies owed, if the party's failure to perform is attributable to circumstances beyond the reasonable control.

4.6.14 Contract Application:

The terms and conditions set forth in this RFP shall become part of the contract binding on the successful vendor. Any documents submitted to satisfy a requirement of this request and any assurances made by the successful vendor in satisfaction of the RFP shall become a part of the agreement between the ALSDE and the successful vendor. ALSDE shall have the right to rely upon the documents and assurances submitted by the successful vendor.

4.6.15 Product Changes:

The products identified in this RFP have been selected based on the best information available. Should changes in the product formulation and/or acquisition of domestic products occur after the bid is awarded, the vendor must notify the ALSDE thirty (30) days in advance of any proposed change and provide a copy of the new product name, product code number, ingredient statement, and nutritional analysis. Failure to notify ALSDE of any change in product formulation may result in permanent disqualification of the product.

If changes in the formulations from the original specifications render the product unacceptable or if the nutritional value of the new product is unacceptable, the ALSDE reserves the right to remove the product

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from the qualified products list, to discontinue purchase of the product and to seek an alternate supplier of an acceptable product.

4.6.16 Change in Ownership:

If the vendor changes ownership during the contract period and proceeds to change the name, product specifications, product code number, or ingredient statement, the ALSDE reserves the right to seek an alternate supplier of an acceptable product. It is the responsibility of the vendor to notify ALSDE within 30 days of changes in ownership. Changes in ownership shall not relieve the vendor of the obligations of the contract.

4.6.17 Product Protection Guarantees:

School districts have product protection recourse against suppliers for product safety. The supplier whose name and address appear on the package is the responsible party. Vendors are expected to take immediate action to correct any situation in which product integrity is violated.

4.6.18 Future Modifications:

Approved products may be listed by vendor and only those products if specifically listed are eligible to be bid. During the term(s) of a contract awarded under this solicitation, additional purchases not included in this solicitation list and resulting awarded contract may become necessary and benefit the program. Both parties agree that the aggregate value of added purchases during each year of the contract, if renewable, shall not exceed 10 % of the estimated total value of the contract. The total value of the contract must be agreed upon and the dollar value listed in every contract and contract renewal. Such additions may be included in the awarded contract list during the contract renewal through a contract amendment, and the total contract value adjusted accordingly. For each contract renewal, the total actual value of the contract in the preceding year and the additions made during the contract term, will be the basis for determining the maximum dollar amount (not to exceed 10%) of additional goods that will be allowed during the next contract renewal year.

4.6.19 Units of Purchase:

Whenever wholesale units of purchase are standardized, i.e., 6/#10, the bid unit is specified as case, box, etc. If case, bag or box is the bid unit, then the identification will specify the exact pack. When a vendor wishes to quote a pack size which is different from the unit specified in the product identification, a different size may be quoted. The vendor shall always mark out the pack specified and insert the pack being bid. Vendors are not required to “repackage” to conform to bid requirements.

When units of pack vary from one packer to another, it is necessary to specify the bid unit to other terms, i.e., pounds, each, 100s, 1000s, etc.

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Section 5.00 Bid Instructions

5.1 BID INSTRUCTIONS

5.1.1 Product Identification/Bid Sheet(s) Form:

You must complete and return the RFP Product Identification Bid Sheets. Only enter bids for the items you are approved for and wish to be awarded. You may leave blank or enter “No bid” for items you are approved for but do not wish to bid on. Bid pricing must be presented on the form supplied herein or a copy of that form only. The RFP Product Identification Bid Sheets are considered to be working papers to be used by ALSDE for extension verification and determination of the low bidding vendor.

5.1.2 Required Documents:

- (1) You must complete, sign and return the Vendor Information Form. Last page of this document.
- (2) You must complete, sign and return Appendix A.
- (3) You must complete, sign and return Appendix C.
- (4) Vendors are required to submit a copy of the product specification sheet and CN Labels or product formulation statements as specified for all food products being bid.
- (5) Summary End Product Data Schedules information for vendors bidding for further USDA Foods Processing Rebates.

5.1.3 Instructions to Bidding Vendors:

- (1) This is a competitive bid. Several manufacturers have been approved to submit bids on each item of this RFP. The items listed on the attached Product Identification/Bid Sheets are the ones you’ve been approved to bid on and you are the only manufacturer shown. **Please be aware that several other manufacturers will submit bids on the items shown on your bid sheet.**
- (2) You must submit one original plus four (4) copies with original signatures of all required documents in your bid package. Your bid must be signed by an authorized officer of the company. Broker’s signatures are not allowed.
- (3) Vendors must prepare bids on Product Identification/Bid Sheet(s) or an exact copy thereof. No altered bid sheets will be accepted.
- (4) In the space provided, list the price for the unit specified such as case, lb, and/or serving cost.
- (5) If your bid sheet includes USDA Foods Processing Rebates, please provide that cost.
- (6) The usage figures are accurate to the extent of our capability to capture that information. However, the fact that the figures are presented does not obligate ALSDE or to purchase in that volume.
- (7) Bids must be offered per bid unit identified. Bids for units other than those identified may be rejected.
- (8) If a vendor is offering a rebate, promotional allowance, or volume discount, the price quoted on the Bid Form (Extended Net Pricing) shall be the base bid less any rebate multiplied by usage volume resulting in the net extended price which shall be the price used for making the award.

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5.1.4 Important Points to Remember:

- (1) Identify your Bid Package with the Request for Proposal (RFP) number in the lower left corner of the envelope as follows:

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- (2) Quote the delivery unit price, regardless of weight or volume.
- (3) The proposal must be signed by an official authorized to legally bind the bidding vendor.
- (4) The following checklist is for required materials that must be submitted with your acceptable bid.

___ You must submit one original proposal plus four (4) copies with original signatures of all required documents in your bid package. Your bid must be signed by an authorized officer of the company. Broker's signatures are not allowed.

___ You must complete and return the RFP Product Identification Bid Sheets. Only enter bids for the items you are approved for and wish to be awarded. You may leave blank or enter "No bid" for items you are approved for but do not wish to bid on.

___ You must complete, sign and return the Vendor Information Form.

___ Vendors are required to submit a copy of the product specification sheet and CN Labels or product formulation statements as specified for all food products being bid.

___ Vendors must be currently registered with The Alabama Department of Finance, Division of Purchasing as a State Vendor and provide vendor number. <http://www.purchasing.alabama.gov>

___ Vendors must complete the affidavit for business entity/employer/vendor. Verification of enrollment in E-verify should be presented on the form found in Appendix A.

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VENDOR INFORMATION FORM

**Alabama State Department of Education
Supporting Programs, Child Nutrition/Food Distribution**



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**STATEWIDE PROCUREMENT
MANUFACTURER DIRECT BID ITEMS**

Inquiries and response submissions related to this RFP are to be addressed to:

Cindy Gillespie
Office of Operations
Alabama State Department of Education
50 N. Ripley Street, Room P305
Gordon Persons Building
Montgomery, AL 36104
Email: cgillespie@alsde.edu

ADDENDUM # 1: FLASH DRIVE NOT REQUIRED – NO CHANGE IN OPENING DATE

VENDOR INFORMATION FORM

NAME OF VENDOR: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

DATE SUBMITTED: _____

AUTHORIZED SIGNATURE: _____

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APPENDIX "A"

State of _____)
County of _____)

CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535, as amended by ACT 2012-491)

DATE: _____

RE Contract/Grant/Incentive (describe by number or subject):

_____ by and between
_____ (Contractor/Grantee) and
_____ (State Agency, Department or Public Entity)

The undersigned hereby certifies to the State of Alabama as follows:

1. The undersigned holds the position of _____ with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT 2011-535 of the Alabama Legislature, as amended by ACT 2012-491) which is described herein as "the Act."

2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.

BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit.

a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, and foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.

b. Any business entity that possesses a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

____ (a) The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

____ (b) The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

3. As of the date of this Certificate, the Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;

4. The Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this _____ day of _____ 20_____.

Name of Contractor/Grantee/Recipient
By: _____
Its _____

The above Certification was signed in my presence by the person whose name appears above, on this _____ day of _____ 20_____.

WITNESS: _____

Printed Name of Witness