



# Evergreen School District

*From strong roots grow bright futures*

**REQUEST FOR PROPOSAL  
RFP- No. 1920- CNS01  
Distribution of Commercial Food  
Products  
CHILD NUTRITION SERVICES**

Date	Event
May 20 and May 28, 2019	Release and advertisement of RFP #1920-CNS01
June 7, 2019	Deadline for submission of written questions to the District concerning RFP #1920-CNS01
June 28; 2:00 p.m.	Deadline for all submissions of RFP #1920-CNS01. There will be no formal bid opening.
July 1, 2019	Evaluation of Proposals
July 11, 2019	Estimated date of approval by the Board of Trustees
July 12, 2019	Estimated date of RFP Award Notification is sent out

**Deliver to:** Evergreen Elementary School District  
Attn: Child Nutrition Services Department  
3188 Quimby Road  
San Jose, CA 95148

**Contact:** Child Nutrition Services  
Lida Ellison-Gaines, CNS Supervisor  
Office: 408.223.4500, Fax: 408.223.4507  
[lgaines@eesd.org](mailto:lgaines@eesd.org)

## **NOTICE TO BIDDERS REQUEST FOR PROPOSAL # 1920-CNS01**

NOTICE IS HEREBY GIVEN that Evergreen Elementary School District of Santa Clara County, CA, acting through its Governing Board, will receive sealed Request for Proposal (RFP) from providers of commercial food products and service for the District's Child Nutrition Program.

RFP'S must be received prior to **2:00 p.m on June 28, 2019.** RFP'S must be submitted in a sealed envelope, marked with the RFP number and title, and returned to the Evergreen Elementary School District, Child Nutrition Services Department – Attention Lida Gaines, 3188 Quimby Road, San Jose, CA 95148. **There will not be a formal public opening for this bid.**

After the recommendation for the contract award is submitted to the Board of Trustees for approval, all proposals will be available for public review. Any non-conforming or incomplete proposals may be rejected. Respondents must comply with the instructions contained in the proposal package. It shall be the full responsibility of all respondents to ensure that proposals are delivered to the above office by the time and date stated. Facsimile (Fax) or Email copies of the proposal will not be accepted. The District will not be responsible for late deliveries by U.S. mail or any other means.

Copies of the RFP documents may be obtained from the Evergreen Elementary School District, Child Nutrition Services Department by calling (408) 223-4500. All questions regarding the proposal or the terms and conditions shall be submitted to Lida Gaines at [lgaines@eesd.org](mailto:lgaines@eesd.org) or Melanie Warren at [mwarren@eesd.org](mailto:mwarren@eesd.org) no later than June 7, 2019.

The District reserves the right to accept or reject any and all proposals and to waive any irregularities or informalities in the proposal process. No proposal, or any portion thereof, may be withdrawn for a period of ninety (90) days after proposal opening.



# Evergreen School District

**Evergreen Elementary School District  
Child Nutrition Services  
2828 Corda Drive  
San Jose, CA 95122  
Telephone (408) 223-4500  
FAX (408) 223-4507**

**REQUEST FOR PROPOSAL (RFP)- COVER SHEET**

**COMMERCIAL FOOD PRODUCTS AND SERVICES**

**REQUEST FOR PROPOSAL #1920-CNS01**

This is a request for proposal (RFP) for COMMERCIAL FOOD PRODUCTS AND SERVICES (#1920-CNS01) for the Evergreen Elementary School District for the 2019-2020 School- Year. An RFP packet may be obtained from the Child Nutrition Services Department or by calling 408-223-4500. Please submit pricing on items to be furnished by the vendor on the attached sheets in accordance with all conditions and specifications.

**MAIL OR DELIVER RFP TO:**

The RFP shall be delivered or mailed to the attention of:

Evergreen Elementary School District  
Attn: Lida Gaines, Child Nutrition Services Department  
3188 Quimby Road  
San Jose, CA 95148  
Commercial Food Products (#1920-CNS01)

### General Terms and Conditions

General - This information to Bidders is in addition to any instructions or conditions stated elsewhere in the Contract Document. Companies interested in proposing should request appropriate documents from Lida Gaines at the address listed below, email [lgaines@eesd.org](mailto:lgaines@eesd.org) or for document assistance call Lida Gaines at (408) 223-4500.

RFP's - To receive consideration, RFP's shall be made in accordance with the following instructions. Evergreen Elementary School District is not responsible for proposals sent via U.S. Mail, common carrier, or any other delivery service. All bidders will be responsible for obtaining any addendums or revisions to the RFP. Questions or comments regarding this RFP must be put in writing and received by the Evergreen Elementary School District – Attention – Lida Gaines no later than Noon on June 7, 2019. Questions are to be e-mailed to [lgaines@eesd.org](mailto:lgaines@eesd.org). The Evergreen School District shall not be obligated to answer any questions received after the above specified deadline or any questions submitted in a manner other than instructed above.

Deadline for Receipt of RFP's - RFP's must be received prior to 2:00 p.m. on June 28, 2019. There will be no formal bid opening. RFP's are to be verified before submission, as they cannot be corrected or withdrawn after proposals are opened. Envelopes containing an RFP must be sealed, prominently marked with the RFP number, RFP title, RFP opening time/date and name of bidder and submitted to:

Evergreen Elementary School District  
ATTN: Child Nutrition Services  
3188 Quimby Road  
San Jose, CA 95148

- It is the responsibility of the vendor to ensure that the RFP is submitted on time and to the authorized agent. Any RFP received after the scheduled closing time for receipt will not be accepted and will be returned un-opened.
- The Evergreen Elementary School District reserves the right to reject any or all proposals and to waive any formality or irregularities in the RFP.
- Questions regarding the RFP and/or RFP documents will only be accepted if submitted in writing. Questions can be submitted to Lida Gaines by email: [lgaines@eesd.org](mailto:lgaines@eesd.org) or fax: (408) 223-4507.

RFP's/Proposals: To receive consideration, RFP's/Proposals shall be made in accordance with the following terms:

1. **The RFP** - All items on the form should be stated in figures and signatures of all individuals must be in longhand. The completed form should be without interlineations, alterations, or erasures. Original signatures are required on the RFP. The company representative authorized to sign the RFP contract and bind the company to all contractual obligations must sign the RFP in **blue ink**. An authorized officer shall sign the RFP under the correct firm name.
2. **"FAX" RFP's** - Facsimile copies of RFP's will not be accepted.
3. **DEFINITIONS** - Responsible; a bidding party possessing the skill, judgment, integrity and financial ability necessary to timely perform and complete the contract being bid. Responsive; a RFP which meets all of the specifications set forth in the RFP.

4. **WITHDRAWAL OF RFP** - RFP's may be withdrawn by the bidders prior to the time fixed for the opening of RFP's, but may not be withdrawn for a period of sixty (60) days after the opening of RFP. (Public Contract Code sections 5100 et seq.). Written confirmation prior to the time established for RFP opening must be submitted.
5. **ASSIGNMENT OF CONTRACT OR PURCHASE ORDER** - The bidder(s) shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District.
6. **RFP NEGOTIATIONS** - An RFP response to any specific item of this RFP with terms such as "negotiable," "will negotiate" or of similar intent, will be considered as non-responsive to the specific item.
7. **PRICES** - Prices should be typed and shown as instructed on the RFP form for each item, in the amount of the quantity specified in the RFP form. Taxes shall not be included. Errors may be crossed off and corrections made prior to RFP opening only, and must be initialed in **blue ink** by the person signing the RFP or bidder's authorized representative. If during the contract period there should be a decrease in prices of the items bid, a corresponding decrease in prices on the balance of the deliveries shall be made to the District for as long as the lower prices are in effect, but at no time shall the prices charged the District exceed the prices bid. The District shall be given the benefit of any lower prices which may, for comparable quality and delivery be given by the contractor to any other school district or any other state, county, municipal or local governmental agency in Santa Clara County for products listed herein. Equivalent products offered will be evaluated and approved based on a comparison of the proposed equivalent product's nutritional information and/ or child nutrition label information, ingredients list, appearance and taste to that of the specified product. The determination of equivalency shall be based solely on the opinion of the District.
8. **TAXES** - Taxes, whether Local, State or Federal, shall not be included in the proposal price term.
9. **PERFORMANCE GUARANTEE** - The successful bidder(s) may be required to provide a performance guarantee. Such requirement shall be at the discretion of the District's Chief Business Officer. A continuous performance bond in the amount of 100% of the total amount of the award executed by an admitted surety in the State of California and satisfactory to the District and filed with the Chief Business Officer is the preferred form of performance guarantee. Said bond, if required, shall be furnished within (10) calendar days from the date of Notice of Award. Failure to promptly submit a performance guarantee when requested may result in the rejection of an otherwise acceptable RFP.
10. **BRAND NAME AND NUMBER** - The bidder(s) shall state the brand name and number in the column provided. If none is indicated, it shall be understood that the bidder is quoting on the exact brand name and number specified in the RFP form. Should any item for which bids are requested be patented, or otherwise protected or designated by a particular name of the maker and the bidder desires to bid on an item of equal character and quality, he may offer such substitute item by clearly indicating that such substitution is intended and specify the brand. The District shall have the right to request specifications of the proposed item. Such substitution shall be accepted only if deemed by the Supervisor of Child Nutrition Services to be equal in all respects to that specified. If samples are requested by the Supervisor

of Child Nutrition Services for this determination, they shall be submitted in accordance with Paragraph 11, except that they may be submitted after the RFP opening.

11. **SAMPLES** - Samples shall be furnished free of cost to the District after the RFP opening. If requested, they are to be sent within seven (7) days to: Child Nutrition Services Department, 2828 Corda Drive, San Jose, CA 95122, unless otherwise specified. The District reserves the right to reject the RFP of any bidder failing to submit samples as requested. Samples must be plainly marked with name of bidder, RFP number and date of the RFP opening. Samples of the successful bidder(s) may be retained for comparison with deliveries. Bidder(s) may pick up samples (if not destroyed by test) on notice from the Supervisor of Child Nutrition Services. If not picked up within fifteen (15) calendar days after date of such notice, samples may be disposed of by the District. Bidder(s) (or their agent) hereby assume all risks or damage to samples whatever the cause.
12. **QUANTITY AND QUALITY OF MATERIALS OR SERVICES** - The successful bidder(s) shall furnish and deliver the quantities designated in the RFP or purchase order. All materials, supplies or services furnished under the contract shall be in accordance with the RFP specifications and the District's sample or the sample furnished by the bidder(s) and accepted by the District. Materials or supplies which, in the opinion of the Supervisor of Child Nutrition Services, are not in accordance and conformity with said specifications and samples shall be rejected and removed from the District premises at the bidder's expense. When a sample is taken from a shipment and sent to a laboratory for testing and the test shows that the sample does not comply with the RFP specifications, the cost of the test shall be paid by the bidder(s). In bidding, the bidder(s) certifies that all materials conform to all applicable requirements of CAL OSHA and all other requirements of the law. All items of equipment and individual components, where applicable standards have been established, shall be listed by the Underwriter Laboratories, Inc., and bear the UL label.
13. **DISTRICT REQUIREMENTS**- The quantity shown is the estimate of consumption for the contract period. The estimated usage was based on velocity/sales reports from current suppliers and projected menus for the 2019-20 school year. *Please note, due to the Central Kitchen renovation that happened during the 2018-19 school year, usage was also based on data from 2017-2018 school year which provides more normalized order volumes.* The actual needs of the District may be substantially more or less than such referenced quantities. The articles, supplies or services listed in the RFP are required during the contract period shall be ordered and purchased from the successful bidder(s) during such period. The District shall have the right to issue purchase orders up to and including the last day of the contract period even though the time provided for delivery may extend beyond such period. The District reserves the right to acquire from other sources during the life of the contract such items as may be required for testing, evaluation or experimental purposes, or for special programs of an emergency nature, and purchases made by individual schools.
14. **ACCEPTANCE OR REJECTION OF RFP'S** - The District may purchase an individual item or combination of items, whichever is in the best interest of the District, provided also that bidder(s) may specify that the District's acceptance of one item shall be contingent upon the District's acceptance of one or more additional items submitted in the same RFP. RFP's shall remain open and valid and subject to acceptance for sixty (60) calendar days after the RFP opening.

15. **ALL RFP EXCEPTIONS** - All exceptions which are taken in response to this RFP must be stated clearly. The taking of RFP exceptions or providing false, incomplete or unresponsive statements may result in the disqualification of the RFP. Allowance of exceptions will be determined by the governing board whose decisions shall be final. Any RFP exceptions or additional conditions requested after the RFP closure, which are not detailed within the RFP response, may result in disqualification of the RFP. No oral or telegraphic modification of any RFP submitted will be considered.
16. **AWARDS** - The District reserves the right of determination that items bid meet or do not meet RFP specifications. Further, the Board of Trustees reserves the right to accept or reject any or all RFPs and to waive any informality or irregularities in the bidding.
17. **EXECUTION OF CONTRACT**- Issuance of a Purchase Order shall be evidence of the contractual agreement between the bidder(s) and the District and the bidder(s) acceptance of these RFP General Terms Instructions and Conditions.
18. **DELIVERY** - Time and manner of delivery are essential factors in proper performance under the contract. Unless otherwise specified, the successful bidder(s) shall be responsible for delivery and shall pay all costs, including drayage, freight and packing for delivery to locations in the District as may be specified in the RFP form. Each item shall be securely and properly packed and clearly marked as to contents. All shipments shall be accompanied by a packing slip/ invoice.
19. **SAFETY DATA SHEETS** - For all products requiring a Safety Data Sheet - The District requires that a Safety Data Sheet accompany orders at the time of delivery.
20. **DEFAULT BY CONTRACTOR** - The District shall hold the bidder(s) responsible for any damage which may be sustained because of failure or neglect to comply with the terms or conditions listed herein. It is specifically provided and agreed that time shall be of the essence in meeting the contract delivery requirements. If the successful bidder(s) fails or neglects to comply with the terms of the RFP, the District may, upon written notice to the bidder, cancel the contract/purchase order in its entirety or cancel or rescind any or all items affected by such default, and may, whether or not the contract is cancelled in whole or in part, purchase the materials, supplies or services elsewhere without further notice to the bidder. The prices paid by the District at the time such purchases are made shall be considered the prevailing market price. Any extra cost incurred by such default may be collected by the District from the bidder, or deducted from any funds due the bidder.
21. **INSURANCE** - The successful bidder(s) shall maintain insurance adequate to protect him from claims under Worker' Compensation Laws and from claims for damages for personal injury, including death and damage to property, which may arise from bidder's operations under the contract. **The bidder must have the Worker's Compensation Certificate, attached hereto, with their RFP.** Also, the bidder may be required to file proof of such insurance, naming Evergreen Elementary School District as an additional insured and requiring the bidder's insurance to be primary by separate endorsements as follows: The bidder is required to provide proof of insurance to the Governing Board of a comprehensive general liability insurance policy providing occurrence based coverage to be in effect during the term of the contract. Bodily injury shall be \$1,000,000, combined single limit or \$1,000,000 per person, \$1,000,000 per accident; \$2,000,000 aggregate. Property Damages shall be \$1,000,000 per loss. The bidder shall also maintain automobile liability insurance covering bodily injury and property damage in an amount of no

less than \$1,000,000 combined single limit for each occurrence. Such insurance shall include coverage for owned, hired and non-owned vehicles. Failure to furnish such evidence and insurance, if required, may be considered default by the bidder(s). The contractor will not begin any services applied to this contract until all required insurance has been provided and certificates indicating coverage have been proven. The certificate of insurance for the above shall provide 30 days advance written notice to Evergreen Elementary School District regarding cancellation nonrenewal or reduction of coverage of any of the above insurance. The District has the right to request a copy of the current certificate of insurance at any time.

22. **INVOICES AND PAYMENTS** - Unless otherwise specified, the successful bidder(s) shall render invoices in duplicate for materials delivered or services performed under the contract, to the Evergreen Elementary School District, Child Nutrition Services Department, 2828 Corda Drive, San Jose, CA 95122. Invoices shall be submitted under the same firm name as shown on the RFP. The successful bidder(s) shall list separately any taxes PAYABLE BY THE DISTRICT and shall certify on the invoices that Federal Excise Tax is not included in the prices listed thereon. The District shall make payment for materials, supplies, or services furnished under the contract within a reasonable and proper time after acceptance thereof and approval of the invoices by the authorized District Representative.
23. **STATEMENT** - The successful bidder(s) shall render bills or statements to the Evergreen Elementary School District, Child Nutrition Services Department, 2828 Corda Drive, San Jose, CA, 95122, following delivery of materials. An itemized, numbered invoice showing the vendor's name, date, quantity, type, prices and extended charges of items purchased, must be furnished in duplicate to the individual site at time of delivery, and signed by the CNS Warehouse staff or assigned designee. The vendor's delivery driver shall provide each location with a credit at the time of delivery for all merchandise short on delivery, damaged or spoiled product necessitating a return, redelivery, or reorder. A copy of this credit, priced and extended, shall be mailed with corresponding invoice to the District's Child Nutrition Services Department. The successful bidder(s) shall submit monthly electronic statements to the following name and address:

Evergreen Elementary School District  
Child Nutrition Services  
2828 Corda Drive  
San Jose, CA 95122  
Attention: Lida Gaines  
[lgaines@eesd.org](mailto:lgaines@eesd.org)

Please state discounts terms for weekly payment. Statement may be submitted weekly for term discount or monthly for no term discount. The monthly statement shall be broken down by site, by date and include invoice numbers for all charges. This statement showing the month's purchases shall be received by Child Nutrition Services Department by the 10th of the following month. Payment by the District will be made within 45 days for service satisfactorily performed by the successful; bidder(s) after receipt of properly documented invoices/statements. The District will take all reasonable action to ensure payments to the supplier are not delayed. However in the event payment is delayed beyond the 45 day period, Evergreen School District will not authorize and will not accept late charges that are added to accounts.



24. **VELOCITY REPORT** - The District reserves the right to request velocity reports throughout the course of contract for any and all items ordered. Velocity reports will be delivered via email to better assist for inventory tracking purposes.
25. **APPLICABLE 'BUY AMERICAN' PROVISIONS** - The Buy American provisions are found in the regulations of the National School Lunch Program (NSLP) at 7 CFR 210.21(d) and the School Breakfast Program (SBP) at 7 CFR 220.16 (d).Section 104(d) of the William F. Goodling Child Nutrition Reauthorization 1998 (Public Law 05-336) added a new provision, Section (12) of the NSLA (42USC760(n), requiring School Food Authorities to purchase domestically grown and processed foods, to the maximum extent practicable, The Buy American provisions of Public Law (PL 100-237) requires participants to purchase, to the maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP to include the CACFP Program. Two situations which may warrant a waiver to permit purchases of foreign food products are:1) The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality 2) Competitive bids reveal the costs of a U.S. product are significantly higher than the foreign product. A domestic commodity or product is one that is produced and processed in the United States substantially using agricultural commodities that are produced in the United States. "Substantially using" means over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. This includes foods that are sold to students as a la carte food items. Actions that districts/sponsors can take to comply with the Buy American requirements are:
- Including a Buy American clause in all procurement documents (product specifications, bid solicitations, requests for proposal, purchase orders, etc.)
  - Monitoring contractor performance
  - Requiring suppliers to certify the origin of the product
  - Examining the product packaging for identification of the country of origin
  - Asking the supplier for specific information about the percentage of U.S. content in the food product
  - It is therefore required that bidders responding to this Request for Proposal indicate whether products offered on this proposal meet the definition of "domestic commodity or product" as stated above. Indication shall be made on the proposal price sheet as part of the response to this proposal.
  - The successful bidder shall provide documented proof of compliance with this provision at the request of District.
  - The "Buy American" provision of Public Law (P.L.) 105-336 allows for an exception when the recipient agency, Evergreen Elementary School District, determines that the following instances apply to non-domestic produced products.
  - Recipients have unusual or ethnic food preferences which can only be met through purchases of products not produced in the U.S;
  - The product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of satisfactory quality;
  - The cost of U.S. produced food products is significantly higher than foreign products.
- The District reserves the right to purchase non-domestic grown or manufactured food products if the cost of the U.S. produced item, that contains 51% or more domestically grown commodities, is ten-percent (10%) or more in price than the non-domestic product.

26. **PROPOSITION 65** - Supplier agrees to adhere to all provision of Proposition 65 including notifying Evergreen Elementary School District of any products which are considered by Proposition 65 to cause cancer or reproductive toxicity.
27. **LOCALLY GROWN AND PRODUCED PRODUCTS** - The District prefers locally-grown products whenever possible and has a goal of procuring, at minimum 40% locally grown and produced. The District's definition of local includes two tiers: 1) Grown and produced within a 250 miles radius from San Jose, Ca. 2) Grown and produced within the state of California. If California or U.S. grown product is not available in sufficient quantities to provide affordability, then only products inspected and approved by the USDA is acceptable, and be approved by the Supervisor of Child Nutrition Services.
28. **UNACCEPTABLE PRODUCTS** - Out-of-date/expired, or nearly expired products—with less than 120 days minimum shelf life remaining (or 50% of product shelf-life if the product has less than 120 days shelf life as manufactured), damaged product, dented cans/containers, products that have been relabeled and/or re-cased or show evidence of improper handling, "seconds", boxes with leaks, products of inferior quality, and products that are over mature, have blemishes, or have been classified as slightly imperfect, etc., shall not be bid herein. District shall refuse upon delivery and/or vendor shall issue credit to the District for all products returned that are damaged, defective, expired or about to expire, or do not meet specifications. Any special circumstances or vendor concerns regarding product shelf life shall be presented accompanied by full manufacturer documentation to District; final acceptability or exceptions shall be as determined by the District, Child Nutrition Supervisor or designee.
29. **FUEL CHARGES** - Absolutely no fuel surcharges will be accepted under this contract and the addition of such charges shall not be permitted during the period of the term of this contract.
30. **MULTI-YEAR EXTENSIONS:** Subject to the provision of pricing-terms of contract, and pursuant to Education Code Section 17596 and 81644, this proposal may be extended (by mutual consent expressed in writing) for two (2) additional fiscal years. The renewal is contingent upon competitive pricing and upon all terms and conditions of the original contract. The extension may be granted on a year by year basis provided that the following conditions are being met:
- The District has deemed the products and services of the vendor satisfactory.
  - The Vendor shall submit a list of the price increases for the next fiscal year (July 1- June 30) by the last business day in April. Price increase must not exceed the San Francisco Area Consumer Price List for the current year with a maximum of 5% per contract term.
  - Such renewal will be made by notifying the vendor, in writing, thirty (30) days prior to the expiration of the contract.
31. **LIMITATIONS** - The District shall not be obligated to accept the lowest priced RFP, but will be evaluating proposals with the intent of awarding to responsible and responsive bidder(s). The District reserves the right in its absolute discretion to accept proposals, or any part of proposals, as deemed necessary for the best interest of the District. The District may take into account the performance of the proposer with respect to any recent contract(s) with other school districts. The District, however, reserves the right to reject any one or all proposals, to waive any informality or irregularities in the proposals, to judge the merit and qualification of the materials, equipment, and services offered, and to accept whatever proposal is deemed to be the best proposal meeting all the criteria specified in the proposal and is in the best interest of the District.

32. **AWARD** - The District reserves the right to reject any and all proposals without explanation or recourse and to negotiate with companies submitting a proposal. The District further reserves the right to contract the work with whomever and in whatever manner the District decides, to abandon the work entirely, and to waive any informality or non-substantive irregularity as the interest of the District may require. A proposal submitted in response to this RFP will be administered in the following manner:

1. The award of this RFP will be made to a single or multiple responsive and responsible bidder who are able to meet the terms and conditions of the RFP.
2. Items are combined into categories will be awarded by category to the extent possible: Frozen, Dry Grocery, Chill/Dairy, Shelf Stable Beverages, Milk, Produce and Paper/Chemicals.
3. After the opening of the proposals, an RFP review committee representing the District will score the proposals based on the evaluation criteria as stated in the RFP document.
4. The committee may investigate the qualifications of the bidder/vendor under consideration, and/or require confirmation of information furnished by the bidder/vendor, and require additional information and/or evidence of qualification to perform the services described in the RFP. The RFP committee shall have the right to inspect the distribution facility or facilities and equipment to be utilized by the vendor.
5. The committee will make a recommendation to the Supervisor of Child Nutrition Services.
6. The Supervisor of Child Nutrition Services as a whole will be the sole judge of merit and not necessarily accept the lowest price offered. On behalf of the District, the Child Nutrition Services Department will issue intent to Award Letter to the successful bidder. The award will be formally made by the Evergreen Elementary School District Board of Trustees.

### 33. **BASIS OF AWARD**

It is the intent of the Board of Trustees of the Evergreen Elementary School District to award the RFP on the basis of service, quality, price and general adaptability for school food service use and in accordance with the specifications herein. Parties will be assigned a score based on these criteria. Seventy (70) percent based on price, ten (10) percent based on Service Satisfaction and Previous Performance, ten (10) percent based on Delivery and ten (10) percent based on Safety Record and Controls. Commercial Food Products vendor shall be awarded the bid for service between **August 1, 2019 and July 31, 2020.**

1. The Evergreen Elementary School District reserves the right to reject any and all quotations and to waive any formality in the bidding.
2. Awarded vendor will be required to enter into a contract with Evergreen Elementary School District.
3. District reserves the right to accept or not accept proposals with a minimum delivery amount.

### 34. **PROPOSAL PROTEST PROCEDURES**

- A. **Protest Procedures:** Any proposer may file a Protest. Only those proposers who have actually submitted a proposal on the project shall have the right to file a Protest. The protest shall be received in writing by the District's Child Nutrition Services Supervisor no later than 3:00 p.m. at the conclusion of the fifth (5<sup>th</sup>) business day following the date of the proposal opening. Untimely Protests will not be reviewed by the District and will be returned to the proposer. An e-mail address shall be provided and by filing the protest, protesting proposer consents to receipt of e-mail notices for purposes of the Protest and Protest related questions and Protest Appeal, if applicable.

- B. **Content of Protest:** The Protest must contain a complete statement of all grounds (both factual and legal) for the Protest. The Protest must contain all facts, refer to the specific portion(s) of any document relied upon, and shall include copies of all documents referred to in the protest. Any grounds not set specifically forth in the Protest are waived. The party filing the Protest must concurrently transmit a copy of the Protest to the proposer whose proposal is being challenged pursuant to these procedures.
- C. **Resolution of Controversy:** Once the Protest is received, the affected proposer will be notified of the protest and the evidence presented. If appropriate, the affected proposer will be given an opportunity to rebut the evidence and present evidence that the proposer should be allowed to perform the Work. District will issue a written decision with thirty (30) business days of receipt of the Protest, unless factors beyond the District's reasonable control prevent such resolution. The District shall not be required to hold an administrative hearing to consider the Protest, but may do so at the option of the District, or if otherwise legally required. The Decision on the Protest will state the reasons for the actions taken by the District and will be copied to all parties involved in the Protest.
- D. **Appeal:** If the protesting proposer or the affected proposer is not satisfied with the Decision, the matter may be appealed to the Director of Operations, or their designee, within five (5) business days after receipt of the District's written Decision on the Protest. The appeal must be in writing, set forth all factual and legal grounds for the Appeal, and be sent via overnight registered mail with all accompanying information relied upon for the appeal and an e-mail from which questions and responses may be provided to:

**Evergreen Elementary School District**  
**Superintendent's Office**  
**3188 Quimby Road**  
**San Jose, CA 95148**

- E. **Appeal Review and Finality:** The Director or Operations, or their designee, shall review the Decision on the Protest from the Child Nutrition Supervisor and issue a written response to the Appeal, or if appropriate, appoint A Hearing Officer to conduct a hearing and issue a written decision. The written decision of the Director of Operations or the Hearing Officer shall be rendered with fifteen (15) business days and shall state the basis for the decision. The decision concerning the Appeal will be final and not subject to any further Appeals.
- F. **Reservation of Rights to Proceed with Contract Pending Appeal:** The District reserves the right to proceed to award the contract and commence services pending the Decision on the Protest and any Appeal. If there is State Funding or a critical completion deadline, the District may choose to shorten the time limits set if written notice is provided to the protesting party. E-mailed notice with a written confirmation sent by First Class Mail shall be sufficient to constitute written notice. If there is no written response to a written notice shortening time, the District may proceed with the award.
- G. **Waiver:** The procedures and time limits set forth in this Protest procedure are mandatory and are the proposers' sole and exclusive remedy in the event of a Protest. The proposer's failure to comply with this or any Protest Procedure shall constitute a waiver of any right to pursue a Protest or in any way challenge the award, including but not limited to, any challenge pursuant

to the California Public Contract Code, filing a claim pursuant to the California Government Code, or filing of any other legal proceedings.

**35. PROVISIONS:**

- A. **Assignment of Contracts** - The vendor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the District
- B. **Binding Effect** - This Agreement shall insure to the benefit of and shall be binding upon the vendor and District and their respective successors and assigns.
- C. **Severability** - If any provisions of this agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.
- D. **Amendments** - The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever except by written agreement signed by the parties.
- E. **Entire Agreement** - This RFP and all attachments thereto constitutes the entire agreement between the parties. There are no understanding, agreements, representations or warranties, express or implied, not specified in the Agreement. Bidder(s), by the execution of his/her signature on the RFP Form acknowledges that he/she has read this Agreement, understands it, and agrees to be bound by its terms and conditions.
- F. **Force Majeure Clause** - The parties to the contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering or performing by act of God, fire, strike, loss or shortage of transportation facilities, lockout, or commandeering of materials, products, plants, facilities by the government, when satisfactory evidence thereof is presented to the other party, provided that it is satisfactorily established that the nonperformance is not due to the fault or neglect of the party not performing.
- G. **Hold Harmless Clause** - The successful bidder(s) agrees to indemnify, defend and save harmless Evergreen Elementary School District, its governing board, related divisions and entities, officers, agents, and employees from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which the District's, its officers, agents, and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the bidder or bidders agents, employees or subcontractor's performance under the terms of this contract, expecting only liability arising out of the sole negligence of the District.
- H. **Prevailing Law** - In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services performed under the RFP proposal shall conform to all applicable requirements of local, state and federal law.
- I. **Governing Law and Venue** - In the event of litigation, the RFP documents, specifications and related matters shall be governed by and construed only in accordance with the laws of the State of California. Venue shall only be with the appropriate state or federal court located in Santa Clara County.
- J. **Permits and Licenses** - The successful bidder(s) and all of his employees or agents shall secure and maintain in force such licenses and permits as are required by law, in connection with the furnishings of materials, articles or services herein listed. All operations and materials, goods and services shall be in accordance with law.

- K. **Toll Charges** - If it is necessary that the District place toll or long distance telephone calls in connection with this contract (for complaints, adjustments, shortages, failure to deliver, etc.) the successful bidder(s) shall accept charges for such calls on a reverse charge basis.
- L. **Contract Documents** - The complete contract includes the following documents: The advertisement for RFP's , the RFP Instructions and terms of conditions, specifications and drawings, if any, the RFP and its acceptance by the District, the purchase order, and all amendments thereto. All of these documents shall be interpreted to include all provisions of the other documents as though fully set out therein.
- M. **Independent Contractor** - While engaged in carrying out and complying with terms and conditions of the contract, the bidder(s) agrees by his/her signature on the RFP Form that he/she is an independent contractor and not an officer, or employee or agent of the District.
- N. **Anti-discrimination** - The District hereby notifies all respondents that they will affirmatively insure that, in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit its response to this RFP and no respondent will be discriminated against on the grounds of race, color, sex, age, ancestry, religion, marital or parental status, national origin, medical condition or physical disability, or sexual orientation on consideration for the award. Therefore, the bidder agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act. In addition, the successful bidder(s) agrees to require like compliance by all subcontractors employed on the work by him.
- O. **Termination of Agreement Without Cause** - This Agreement may be terminated by the District upon giving thirty (30) days advance written notice of an intention to terminate. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for goods or services satisfactorily rendered prior to the effective date of said termination. Vendor shall be entitled to no further compensation or payment of any type from the District.
- P. **Cancellation Notice by Supplier/Contractors Default** - The District requires a sixty (60) day notice of cancellation of this contractual agreement by the supplier. Failure or refusal of the supplier to perform or do any act herein required shall constitute default.
- Q. **Cancellation For Insufficient Or Non-Appropriated Food Funds** - The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items in the RFP is public money appropriated by the United States Department of Agriculture and State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel this RFP at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds.
- R. **Interpretation of Proposal Documents** - If any bidder(s) find discrepancies in, or omissions from the RFP documents, they may submit to the Child Nutrition Services Supervisor of the Evergreen Elementary School District a written e-mail request for clarification and the response thereto will be e-mailed to all bidder(s). Corrections will be made by addenda issued to each company that has been sent or picked up a proposal packet. The District will not be responsible for oral interpretations. All addenda issued shall be incorporated into the proposal.
- S. **Product Shortages** - If the successful bidder(s) is unable to supply any product listed herein, the District may purchase such product at a fair market value from another source. The difference in cost and all delivery charges shall be the responsibility of the supplier listed on the original contract agreement.

- T. **Failure to Fulfill Contract** – When vendor shall fail to deliver any articles or service or shall deliver any article or service which does not conform to the specifications, the District may at its sole discretion, annual and set aside the contract entered into with said vendor or contractor, either in whole or in part, and make and enter into a new contract for the same items in such manner as seems to the Board of Trustees to be to the best advantage to the District. Any failure for furnishing such articles or services by reason of the failure of the vendor or contractor, as above stated, shall be the liability against such vendor and his sureties. The District reserves the right to cancel any articles or services which the successful bidder may be unable to furnish because of economic conditions, governmental regulations or similar causes beyond the control of the bidder provided satisfactory proof is furnished to the Board of Trustees, if requested. Failure to fulfill contract may result in bidder disqualification in subsequent year(s) due to non-responsible practices.
- U. **Fingerprinting** - Successful Distributor agrees to comply with the provisions of Education Code Section 45125.1 - Distributor will conduct a criminal background check of all employees, agents, and representatives assigned to the District that will enter the sites and other District facilities for purposes of providing services covered by this proposal during normal District hours, and will certify in writing that no such employees, agents and representatives who been convicted of serious or violent felonies as specified will have contact with pupils. Distributor will provide the District with a list of employees providing services pursuant to this RFP. In the alternative, Distributor shall agree that all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities during normal district hours shall be accompanied at all times by and individual who has satisfied the fingerprinting requirements of Section 452125.1.
- V. **Attorneys' Fees** – In the event of any dispute between the District and the Vendor pertaining to this contract or the services or products provided hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties thereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this section shall survive the expiration or earlier termination of this Contract.

### 36. Certifications

- A. The VENDOR shall comply with Title VI of the Civil Rights Act of 1964, as amended; USDA regulations implementing Title IX of the Education Amendments; Section 504 of the Rehabilitation Act of 1973; and any additions or amendments to any of these regulations.
- B. The VENDOR shall comply with all applicable standards, orders, or regulations issued, including:
- Section 306 of Clean Air Act (42 U.S.C. 1847(h));  
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap85-subchapIII-sec7602.pdf>.
  - Section 508 of the Clean Water Act (33 U.S.C. 1368);  
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title33/pdf/USCODE-2013-title33-chap26.pdf>.

- Executive Order 11738; <http://www.epa.gov/isdc/co11738.htm>.
- Environmental Protection Agency (EPA) regulations at Title 40, Code of Federal Regulations, Part 15, et seq. ([http://www.ecfr.gov/cgi-bin/text-idx?SID=9ed90ed6fc9c89c5c8465c743584c79a&tpl=/ecfrbrowse/Title40/40tab\\_0s.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=9ed90ed6fc9c89c5c8465c743584c79a&tpl=/ecfrbrowse/Title40/40tab_0s.tpl)). Environment violations shall be reported to the USDA and the U.S. EPA Assistant Administrator for Enforcement, and the VENDOR agrees not to use a facility listed on the EPS's List of Violating Facilities.

**C. Suspension and Debarment Certifications**

The USDA Certification Regarding Debarment must accompany this proposal and each subsequent additional one-year renewals (7 CFR Section 3017.510). Contract renewals that do not include this certification will not be accepted for consideration.

**D. Lobbying**

The Certification Regarding Lobbying and a Disclosure of Lobbying Activities form (Appendix A: 7CFR Part 3018) must accompany this proposal and each additional one-year renewals (&CFR Section 3017.510). Contract renewals that do not include this certification will not be accepted for consideration

**E. Energy Policy and Conservation Act:**

The Vendor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state conservation plan issued in compliance with the Energy Policy and Conservation Act. <http://legcounsel.house.gov/Comps/EPCA.pdf>.

**F. Sanitary Transportation of Food Act:**

The Vendor shall receive and deliver products to schools in accordance with the Sanitary Food Transportation Act of Human and Animal Food.  
<https://www.federalregister.gov/documents/2016/04/06/2016-07330/sanitary-transportation-of-human-and-animal-food>

**G. Contract Work Hours and Safety Standards Act Compliance**

<https://www.dol.gov/whd/govcontracts/cwhssa.htm>. In performance of this Contract, the VENDOR shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.

**H. The Certification Regarding the Iran Contracting Act**

**I. The Contractors Certification** - Regarding Drug Free Workplace

**J. The Contractors Certification** - Alcoholic Beverages and Tobacco Free Workplace

**K. The Contractors Certification** - Worker Compensation

**L. Clean Air and Water Certification**

**M. Equal Opportunity**



IN WITNESS WHEREOF, this Contract has been duly executed by the above named parties, on the day and year first above written.

DISTRICT

Evergreen Elementary School District

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address:

2828 Corda Drive

San Jose, CA 95122

Phone No: (408) 223-4500

Fax No: (408) 223-4507

PROVISIONER

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

Phone No: \_\_\_\_\_

Fax No. \_\_\_\_\_

**Service Level Agreement**  
**Commercial Food Products and Services**  
**Frozen, Dry Grocery, Chill/Dairy, Shelf Stable Beverages, Milk, Produce and Paper/Chemicals**

Below are the details of the service expectations from the successful bidder upon receiving the award for this RFP. Successful bidder must understand and agree to the following levels of service if they are to enter into an agreement with Evergreen Elementary School District. It is very important that the bidder understands that the District's Commercial Food Products and Services RFP not only includes purchase of products, but includes service/delivery expectations that must be agreed to prior to entering into this agreement. Vendors shall fully inform themselves as to all existing conditions and limitations. No allowance will be made because of lack of such examination, inquiry, or knowledge.

**General Instructions:** RFP's are requested for furnishing products and services for the period of (1) year and the possibility of two (2), one (1) year extensions. This RFP will be from August 1, 2019 - July 31, 2020.

1. Failure to meet these specifications shall entitle the District to cancel the contract with a 30 days' notice.
2. All commercial food products specified will be purchased from the successful bidder selected. The District reserves the right to add or remove product as necessary due to school demand.
3. HACCP PLAN or FOOD SECURITY AND SAFETY PROGRAM – The Distributor shall follow appropriate handling and storage practices; this will include providing proof of established sanitation procedures and an active pest control program to assure proper information. **A copy of the vendor's Hazard Analysis Critical Control Point (HACCP) system or Food Safety and Security Program must be submitted with this proposal.**

Distributor shall provide products from manufacturers with a Hazard Analysis Critical Control Point (HACCP) system in place. Additionally, Distributor shall ensure that all products received under this contract shall be prepared, handled and stored in accordance with the health and sanitation standards for the County of Santa Clara or local/city/county agency in which product was produced, State of California, and/or Federal Government, whichever is higher.

In the event of a product contamination issue, Distributor shall provide trace back capabilities for all products to the point of origin. Evidence of such procedures should be submitted with proposal (HACCP Plan or Food Security and Safety Program including Pest Control Policy and Recall Procedures).

**ANY PRODUCT THAT FAILS TO BE DELIVERED WITHIN THESE PRODUCT QUALITY PARAMETERS WILL BE REJECTED**

4. In the event deliveries are not made, which results in loss of reimbursement funds for the District's meal programs; upon satisfactory agreement between the awarded bidder and the District, the District will deduct the total lost reimbursement from the supplier's current invoices. The distributor must guarantee a 90% fill rate for all District orders.
5. Advanced approval by Child Nutrition Services Supervisor, Assistant Supervisor, or designee must be obtained prior to substitutions being made. Items substituted must be priced as the same as the item the District would normally receive.
6. Quarterly the successful bidder shall submit a complete listing with usages of all product purchased by the District.
7. All invoices and statements shall be sent to: Evergreen Elementary School District, 2828 Corda Drive, San Jose, CA 95122 - Attention: Lida Gaines; Child Nutrition Services.

8. The District reserves the right to add or delete product; increase or decrease amounts; add or delete site locations.
9. District reserves the right to accept or not accept proposals with minimum delivery amount.
10. Any product recalls must be provided within 24 hour of recall to the Child Nutrition Service Department.

**Delivery – Three (3) Middle Schools and District Warehouse- Monday and Thursday**

1. Depending on volume and needs, one or two weekly deliveries of food items are to be made to at least 1 drop site, with the potential for 3 more middle school sites, with the Evergreen Central Kitchen placed first on the route. All deliveries to be made within the District, as ordered by the Assistant Supervisor or designee.
2. Deliveries shall be Monday and Thursday (or mutually agreed upon days) between the hours of 5:30 a.m. and 11:00 a.m, with the Central Kitchen receiving between 5:30-7:00 a.m. The Child Nutrition Services Assistant Supervisor shall order no later than Wednesday of the previous week.
3. Upon award of bid, Provisioner shall keep sufficient stocks of product and service material to ensure prompt delivery and service schedules. **Minimum quantities and/or lead time required must be clearly indicated on the proposal forms.**
4. Should the vendor be unable to make a delivery due to holiday or emergency, arrangements for an alternate delivery day shall be confirmed with the Child Nutrition Services Department.
5. When a food order is delivered to a school site on a pallet, the pallet must be broken down, items off-loaded to a designated receiving area and pallets picked-up. The District will not be responsible for pallets left at the school sites. Only food deliveries to the Evergreen Central Kitchen can be delivered and dropped off on pallets.
6. All frozen goods shall be delivered in freezer trucks maintaining goods at 0 degrees Fahrenheit or less. All refrigerated goods shall be delivered in refrigerated trucks maintaining goods at 41 degrees Fahrenheit or less. Products are not acceptable if thawed and refrozen.
7. No additional charge for delivery, drayage, freight, packing, insurance, license fees, permits, taxes or any other purposes will be allowed over and above the prices of these RFP.
8. When a delivery is made to a site, one copy of the delivery tag/invoice is itemized and left with a designated representative. All delivery tickets/invoice must be verified by the designated representative. The invoice must be signed by the designee receiving the food and/or supplies. The invoice shall contain the following: purchase order number, item number, item description, quantity, unit price and extended totals. (Please note: Any additional commodity processed products purchased through distributor must show appropriate draw down for net off invoice products or fee for service per case).
9. Any information regarding shorted items/orders must be forwarded directly to Child Nutrition Services Department **prior to delivery** at the following phone number: (408) 223-4503. Any issues/changes on deliveries or other emergency communications shall be reported directly to Child Nutrition Services Department by the vendor's authorized representative at the aforementioned phone number.
10. Any products shorted on the regular delivery days shall be redelivered or replaced with an acceptable substitute within 24-hours.
11. Products not meeting the District quality standards shall be replaced within 24 hours by the vendor at no additional cost.
12. Substitutions shall be rejected unless specific authorization by Evergreen Elementary Child Nutrition Services is secured in advance.

13. Substitutions- in the event of product shortage, an equivalent substitution may be made only if it is equivalent in nutritional value and meal contribution to the ordered item. A nutritional specification sheet of the substitutable item must accompany the vendor's request to substitute an item. **ALL substitutions must be approved by Child Nutrition Services prior to delivery to ensure the item is equivalent.**

#### Ordering Procedures

1. The authorized representative will place orders for the school district to the representative of the company awarded the RFP on an as needed basis.
2. Orders will be placed through electronic ordering system, electronic mail or by telephone.
3. The Vendor is required to maintain a log/report of all quantities delivered for all products to the school sites. These reports are required to be submitted on a quarterly basis to the Child Nutrition Services Department.
4. The authorized representative will place orders, as products are needed. The authorized representative shall be notified via telephone or electronic mail if an item requested is out of stock at the vendor's facility.
5. Attached to this RFP is a listing of commercial food products ordered by Evergreen Elementary School District

#### Points of Delivery

There are no delivery docks at school sites. Trucks must be equipped with a lift gate for delivery. Delivery driver is to unload and drop pallets in designated area. There is a delivery bay (ground level) at the Central Kitchen warehouse. There is no dock but a forklift is on site. Pallets will need to be brought to the back of the truck for offloading with the forklift or unloaded by lift gate and dropped in designated area.

Evergreen Central Kitchen	2828 Corda Drive, San Jose, CA 95122
Chaboya Middle School	3276 Cortona Drive, San Jose, CA 95135
Leyva Middle School	1865 Monrovia Drive, San Jose, CA 95122
Quimby Middle School	3190 Quimby Road, San Jose, CA 95148

By signing below, you agree to provide the above level of service to Evergreen Elementary School District.

\_\_\_\_\_  
Company Name (Print or Type)

\_\_\_\_\_  
Authorized Company Representative Signature

\_\_\_\_\_  
Date

Print Name: \_\_\_\_\_

**Special Conditions and Instructions**

**Bidder Name:** \_\_\_\_\_

Evergreen Elementary School District is requesting RFP's for Commercial Food Products and Services. The District is comprised of 18 schools with an average enrollment of 11,000 students. **This is a one (1) year RFP with a possibility of two (2), one (1) year extensions.**

**The award of this RFP will be made to a single or multiple responsive and responsible bidder who meets the terms and conditions of the RFP.**

Quantities are for twelve (12) months, August 1, 2019 through July 31, 2020. This quantity is for information only and is not guaranteed.

1. Bid on-site-to-site deliveries. See Market Basket - Attachment A to be submitted with RFP.
2. Bid pricing is to be extended to no more than four (4) decimal points.
3. No delivery during school holidays and vacations and no delivery on Saturday and Sunday. (Upon award, the Child Nutrition Services Department will provide vendor with school vacation and holiday schedules)
4. All deliveries are to be placed, dropped/stored in the designated storage area at each school location (list attached) during staff working hours. No dark drops. See list of school locations.
5. Credits for sub-standard products. (Exception – no credit to department for damaged or out-of-code products due to fault of customer, i.e. customer's refrigeration failure)
6. Delivery schedule to be pre-scheduled to coincide with school needs and existing route flow for bidder's best reduction of expenses, mileage and time.
7. Below is list of school sites: **Central Kitchen delivery time 5:30 - 7:00 a.m.**

Evergreen Central Kitchen	2828 Corda Drive, San Jose, CA 95122
Chaboya Middle School	3276 Cortona Drive, San Jose, CA 95135
Leyva Middle School	1865 Monrovia Drive, San Jose, CA 95122
Quimby Middle School	3190 Quimby Road, San Jose, CA 95148

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**Company Name (Print or Type)      Authorized Company Representative Signature**

**VENDOR QUESTIONNAIRE**

***Please complete this qualifying criteria questionnaire, use a separate sheet if necessary, and submit with your proposal.***

1. Will you be able to meet the specified delivery hour timeframe?  Yes  No  
If No, attach proposed delivery schedule.
2. Will you be able to provide delivery days to all specified locations?  Yes  No  
If No, attach proposed delivery days.
3. Please describe how you will communicate ongoing product market updates and information regarding product availability to identify best priced products.
4. What is the lead time you require for orders?
5. How late can add-ons be added to next day delivery? Is there a limit on the number of cases that can be added on?
6. What is your procedure for notifying customers of shortages and/or substitutes?
7. Will you be able to provide point/s of contact with whom the District can communicate through e-mail and by phone? Knowing that point/s of contact can change, please indicate who at this time that contact will be.
8. Can all aspects of the Service Level Agreement as described in this RFP be met?
9. What percentage of products sourced within 250 miles of Santa Clara County, are you able to provide? Please mark one:  40%  20-39%  19-1%  0%
10. Can you produce reports to show the percent of local (within 250 miles of Santa Clara County, CA) products provided?  Yes  No If so, please describe current reporting/tracking mechanisms below.  
If not are you willing to develop reporting/tracking mechanisms?  Yes  No
11. How many years has your company been in the grocery food items/distribution business?

12. Which school districts with student populations greater than 7,000 does your company currently serve in Santa Clara, San Mateo and Alameda Counties?

13. Has your firm resigned or been replaced at the will of a district (s) during the school year within the last 24 months? If so, explain.

14. What is your lead time you require for orders that ensures a 90% fill rate? Do you have a delivery minimum?

15. Describe your policy regarding your delivery driver/staff assisting sites in moving received products to storage.

16. Do you offer a percentage discount for early payment?  Yes  No If Yes, please state the terms of the discount.

17. Do you distribute commodity products and if so what is your Fee for Service? Can you ensure invoices will show the appropriate discount for Net-Off Invoice commodities? Describe current reporting/tracking mechanisms below.

18. How many years has your company been in the K-12 food service business? How would you describe your company's financial stability?

19. What is your procedure for notifying customers of product recall?

20. Will combination refrigerated/freezer trucks be used to deliver frozen and refrigerated items at the same time?

Yes  No

Name of DISTRIBUTOR (Person)

Firm or Corporation \_\_\_\_\_

Signature of DISTRIBUTOR'S Authorized Representative

\_\_\_\_\_ Date of Signing \_\_\_\_\_

Print Name and Title of Authorized Representative

\_\_\_\_\_

Phone# \_\_\_\_\_ Email: \_\_\_\_\_

**EVALUATION CRITERIA**

Proposals will be evaluated against the evaluation criteria shown below. “What Proposers Should Submit” indicates what the District is asking proposers to provide with respect to each evaluation criterion. “What We’re Looking For” explains the basis for judging the proposal submittal for the particular evaluation criterion and the points awarded for meeting the criteria. Evaluators may allocate up to the maximum number of points indicated for each criterion for an aggregate maximum total of up to 100 points for firms proposing.

<b>Evaluation Criteria</b>	<b>What We’re Looking For &amp; Points Awarded for meeting criteria</b>	<b>What Proposers Should Submit</b>	<b>Max. Points</b>
<b>Service &amp; Satisfaction / Previous Performance</b>	<p><b>10 Points:</b> Proven ability to provide excellent service as demonstrated by references &amp; vendor questionnaire that show:</p> <ul style="list-style-type: none"> <li>• Prompt responses and satisfactory resolution to requests for information and complaints &amp; issues</li> <li>• Courtesy and responsiveness to all district personnel at all times</li> <li>• Ready access to decision-making executives and assigned point of contact.</li> <li>• Ongoing market updates and communication regarding product availability to identify best priced products.</li> </ul> <p><b>0 Points:</b> References and/or vendor questionnaire that demonstrate poor performance or inability to meet criteria described above.</p>	<ul style="list-style-type: none"> <li>• Reference forms</li> <li>• Responses to Vendor Questionnaire –</li> </ul>	10
<b>Pricing</b>	<p><b>70 Points:</b> Lowest priced bid.</p> <p><b>60 Points:</b> Second lowest priced bid.</p> <p><b>50 Points:</b> Third lowest priced bid.</p>	<ul style="list-style-type: none"> <li>• Initial Products &amp; Price List</li> </ul>	70
<b>Delivery</b>	<p><b>10 Points:</b> Ability to deliver within the District’s designated time/days &amp; positive references of timely &amp; accurate delivery.</p> <p><b>0 Points:</b> Unable to meet District’s designated delivery time &amp; days and/or negative references of frequent untimely and/or inaccurate deliveries even if delivery time &amp; days can be met.</p>	<ul style="list-style-type: none"> <li>• Responses to Vendor Questionnaire –</li> <li>• Reference inquiries</li> </ul>	10
<b>Safety Record &amp; Controls</b>	<p><b>10 Points:</b> Proposing firm can provide evidence, in the form of a written Food Safety &amp; Security Program <b>OR</b> HACCP Plan, that it has a minimum of appropriate safety controls in place and follows the best food-safety practices in that:</p> <ul style="list-style-type: none"> <li>• Proposer’s staff are properly and regularly trained in current safety procedures,</li> <li>• The proposer’s facilities are regularly inspected by accredited agencies and proposer’s facilities are favorably assessed in those inspections. The proposer promptly and appropriately addresses safety issues raised by food-safety inspections or otherwise.</li> <li>• If needed, the proposer’s record-keeping program is such that the proposer would be able to promptly trace any product to its original supplier and source of origin.</li> <li>• Proposing firm can provide evidence that it has a Product Recall Procedures and Pest Control Policy in place.</li> </ul> <p><b>0 Points:</b> Unable to meet or provide above specified criteria.</p>	<ul style="list-style-type: none"> <li>• HACCP Plan or Food Security and Safety Program</li> <li>• Reference inquiries</li> <li>• Responses to Vendor Questionnaire –</li> </ul>	10
		TOTAL POINTS:	100



**DISTRIBUTOR'S STATEMENT REGARDING INSURANCE COVERAGE**

**To Be Submitted With Proposal**

DISTRIBUTOR HEREBY CERTIFIES that the DISTRIBUTOR has reviewed and understands the insurance coverage requirements specified in the Request for Proposal No. 1920- CNS01 for Distribution of Commercial Food Products. Should the DISTRIBUTOR be awarded the contract for the work, DISTRIBUTOR further certifies that the DISTRIBUTOR can meet the specified requirements for insurance, including insurance coverage of the subcontractors, and agrees to name the Evergreen Elementary School District as Additional Insured for the work specified.

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**Name of DISTRIBUTOR (Person, Firm, or Corporation)**

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**Signature of DISTRIBUTOR's Authorized Representative**

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**Print Name & Title of Authorized Representative**

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**Date of Signing**

**NON-COLLUSION DECLARATION**  
**To Be Submitted With Proposal**

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

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

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**Name of DISTRIBUTOR (Person, Firm, or Corporation)**

---

**Signature of DISTRIBUTOR's Authorized Representative**

---

**Print Name & Title of Authorized Representative**

---

**Date of Signing**

**WORKERS' COMPENSATION CERTIFICATE**  
**To Be Submitted With Proposal**

Labor Code §3700 in relevant part provides:

“Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance to the State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.”

I am aware of the provisions of §3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract and will require all Subcontractors to do the same.

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**Name of DISTRIBUTOR (Person, Firm, or Corporation)**

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**Signature of DISTRIBUTOR's Authorized Representative**

---

**Print Name & Title of Authorized Representative**

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**Date of Signing**

*In accordance with Article 5 (commencing at §1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.*

**SCHOOL DISTRICT REFERENCES:**  
**To Be Submitted With Proposal**

List a minimum of **three (3)** references from Bay Area School Districts (Alameda, San Mateo and Santa Clara counties) for contracts you have completed in the last three years that are of similar scope and complexity.

**#1**

**District Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Contact Name:** \_\_\_\_\_

**Contact Title:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**#2**

**District Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Contact Name:** \_\_\_\_\_

**Contact Title:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**#3**

**District Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Contact Name:** \_\_\_\_\_

**Contact Title:** \_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**REQUEST FOR PROPOSAL SIGNATURE PAGE**  
**To Be Submitted With Proposal**

In compliance with the request for proposals, the undersigned, acting for the firm named, hereby proposes and agrees, if this proposal or part of this proposal is accepted, to furnish and deliver the goods or services as quoted in accordance with the terms, conditions, specifications, and prices herein quoted.

I certify that I have read the attached RFP #1920-CNS01 for Distribution of Commercial Food Products and accompanying instructions and that I am authorized to commit the firm to the proposal submitted.

The undersigned declares under penalty of perjury under the laws of the State of California that the presentations made in this proposal are true and correct. The undersigned hereby proposes and agrees to furnish and deliver the goods or services as quoted in accordance with the terms, conditions, specifications, and prices herein quoted.

---

Signature of Authorized Company Representative Date

---

Type or Print Name & Title of Authorized Company Representative

---

Name of Company

---

Address City and State

---

Area Code Telephone Number Fax Number

---

E-mail Address

---

Company Website

---

Federal Tax ID Number

**SUSPENSION AND DEBARMENT CERTIFICATION U.S. DEPARTMENT OF AGRICULTURE**  
**To Be Submitted With Proposal**

**INSTRUCTIONS:** SFA to obtain from any potential vendor or existing contractor for all contracts in excess of \$100,000. This form is required each time a bid for goods/services over \$100,000 is solicited or when renewing/extending an existing contract exceeding \$100,000 per year (Includes Food Service Management and Food Service Consulting Contracts).

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

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, *Federal Register* (pages 4722 – 4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

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

Name and Title of Authorized Representative

---

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant (one whose contract for goods or services exceeds the Federal procurement small purchase threshold fixed at \$100,000) is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING LOBBYING**

**To Be Submitted With Proposal**

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**Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts  
Exceeding \$100,000 in Federal Funds**

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The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Statement for Loan Guarantees and Loan Insurance**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION	
_____	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: _____	* First Name: _____ Middle Name: _____
* Last Name: _____	Suffix: _____
* Title: _____	
* SIGNATURE: _____	* DATE: _____



**DISCLOSURE OF LOBBYING ACTIVITIES**

Approved by OMB  
 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
 (See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: <sup>4c</sup>	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

### **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether sub awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub award recipient. Identify the tier of the sub awardee, e.g., the first sub awardee of the prime is the 1st tier. Sub awards include but are not limited to subcontracts, sub grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

### **CERTIFICATION AND DISCLOSURE STATEMENTS**

Following is an explanation of submittal requirements of the ***Suspension and Debarment Certification Statement*** and the ***Certification Regarding Lobbying*** by School Food Authorities (SFA) and Food Service Management/Consulting Companies.

Beginning with the 1998/99 school year, instructions to comply with procurement requirements by completion of these certifications will be included in the annual renewal of School Nutrition Programs.

**The applicability of this information begins with the 1998/99 school year and is for SFAs that meet one of the following criteria:**

- The SFA's estimated annual federal child nutrition reimbursement will exceed \$100,000
- The SFA's annual contract with a vendor exceeds \$100,000.
- The SFA utilizes a Food Service Management or Consulting Company and the annual contract exceeds \$100,000.

#### ***Suspension and Debarment Certification***

This certification is required to be completed by the contractor each time an SFA renews or extends an existing contract that exceeds \$100,000. The certification is also required when an SFA puts out bids for goods and services that will exceed \$100,000. In these instances, the SFA must obtain a completed ***Suspension and Debarment Certification*** from either the potential vendor or existing contractor before any transactions can occur between the sponsor and the vendor or contractor (7 CFR 3017.110). This certification is required as part of the original bid, contract renewal, or contract extension to assure the SFA that the vendor or any of its key employees have not been proposed for debarment, debarred, or suspended by a Federal agency. While *this certification is required for all contracts in excess of \$100,000*, it is recommended that they be routinely requested under all procurements. The completed certification is to be attached to the signed contract and maintained on file by the SFA. **Do not submit the certification to the California Department of Education.**

#### ***Certification Regarding Lobbying***

SFAs that receive in excess of \$100,000 in annual federal meal reimbursement **must** annually complete and **submit** this certification statement to the California Department of Education (CDE), Child Nutrition and Food Distribution Division (CNFFD). The statement is part of the annual renewal of the SFA's agreement with the California Department of Education, Child Nutrition and Food Distribution Division.

**In addition**, when SFAs put out bids for goods and services or renew/extend existing contracts that exceed the \$100,000 threshold, they are required to obtain a completed ***Certification Regarding Lobbying*** from either the potential vendors and/or existing contractors before any transactions can occur between the SFA and the vendor contractor (7 CFR 3018.110). This certification is required as part of the original bid, contract renewal, or contract extension and is not submitted the CDE.

Also enclosed is the **Disclosure of Lobbying Activities** form. This is required to be completed if the potential or existing contractor, using other than federal funds, has paid or will pay for lobbying activities in connection with the school nutrition program agreement (Item 2 of the ***Certification Regarding Lobbying*** statement).

#### **Applicable to Both Certification Statements**

- Federal law prohibits SFAs from circumventing the \$100,000 threshold by entering into multiple

contracts; each of which do not equal or exceed \$100,000, but the aggregate amount of all the contracts will equal or exceed \$100,000.

- Vendors must submit completed certifications to the SFA as part of the original bid, contract renewal, or contract extension. If completed certifications are not included, the original bid is considered nonresponsive, and the contract renewal or extension is incomplete. In order for the SFA to consider the original bid or renew/extend the original contract, the vendors must have submitted current certifications to the SFA.

#### **SFAs with Food Service Management or Consulting Contracts**

SFAs utilizing food service management or consulting companies **must** include both certification statements in all Requests for Proposals (RFP). SFAs must retain the certifications with its documentation of new contracts and contract amendments/renewals submitted to the CDE, CNFDD, for approval. The food service management or consulting company must annually sign and submit to the SFA both the ***Suspension and Debarment Certification*** and the ***Certification Regarding Lobbying***. If receiving more than \$100,000 in federal reimbursement, the SFA is required to sign and submit the ***Certification Regarding Lobbying*** to the CDE, CNFDD.

#### **Summary**

- ***Suspension and Debarment Certification***

1. The SFA must include this certification in all RFPs that result in an annual contract in excess of \$100,000.
2. A contractor is required to sign this certification when a contract or renewal contract with an SFA exceeds \$100,000 annually in federal funds.
3. The SFA retains certification signed by contractor with executed contract and maintains it on file.

- ***Certification Regarding Lobbying***

1. SFAs receiving in excess of \$100,000 in annual federal reimbursement must sign and submit this certification during the annual renewal of the School Nutrition Programs participation.
2. SFAs must obtain this completed certification from any potential or existing contractor as part of any original contract or contract renewal/extension that exceeds the annual expenditure of \$100,000 in federal funds. **Retain** the certifications with bid documents.
3. The **Disclosure of Lobbying Activities** form may need to be completed if any payment has been made or will be made to any person or lobbying entity. (Item 2 of ***Certification Regarding Lobbying***.)

If you have any questions, please contact Rae Vant, School Nutrition Programs Specialist, by phone at 916-445-6775 or 800-952-5609 or by e-mail at [rvant@cde.ca.gov](mailto:rvant@cde.ca.gov) or Eric Burnette, School Nutrition Programs Specialist, by phone at 916-322-1641 or 800-952-5609 or by e-mail at [eburnette@cde.ca.gov](mailto:eburnette@cde.ca.gov).

**EQUAL OPPORTUNITY EMPLOYMENT**  
**To Be Submitted With Proposal**

Federal affirmative action regulations mandate that Federal contractors include an Equal Opportunity (EO) clause in all contracts, subcontracts and purchase orders. The intent is to make the nondiscrimination and affirmative action provisions of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act, and the Jobs for Veterans Act flow down to all tiers of contractors

**This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.**

CERTIFICATE

I/We hereby certify that the \_\_\_\_\_

\_\_\_\_\_ (Company)

is an equal opportunity employer as defined in the Equal Opportunity Act.

DATE: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_

**IRAN CONTRACTING ACT**  
**CERTIFICATION OF ELIGIBILITY TO PROPOSAL FOR CONTRACTS OF \$ 1 MILLION OR MORE**  
**(Public Contract Code sections 2202-2208)**  
**To Be Submitted With Proposal**

Prior to bidding on, submitting a proposal or executing a contract or renewal for a State of California contract for goods or services of \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Public Contract Code section 2205.)

**OPTION #1 - CERTIFICATION**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Vendor Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in</i>	

**OPTION #2 – EXEMPTION**

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		<i>Date Executed</i>

**CONTRACTOR'S CERTIFICATE**  
**REGARDING DRUG-FREE WORKPLACE**  
**To Be Submitted With Proposal**

This Drug-Free Workplace Certification form is required from all successful Vendors pursuant to the requirements mandated by Government Code sections 8350 et. seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- 1) Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition;
- 2) Establishing a drug-free awareness program to inform employees about all of the following:
  - a) The dangers of drug abuse in the workplace;
  - b) The person's or organization's policy of maintaining a drug-free workplace;
  - c) The availability of drug counseling, rehabilitation and employee-assistance programs; and
  - d) The penalties that may be imposed upon employees for drug abuse violations;
- 3) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contract be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.

I also understand that if the DISTRICT determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of sections 8350 et. seq.

I acknowledge that I am aware of the provisions of Government Code sections 8350 et. seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

DATE: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_  
Signature

**CONTRACTOR'S CERTIFICATE REGARDING**  
**ALCOHOLIC BEVERAGE AND TOBACCO-FREE CAMPUS POLICY**  
**To Be Submitted With Proposal**

The CONTRACTOR agrees that it will abide by and implement the DISTRICT's Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, at any time, on DISTRICT-owned or leased buildings, on DISTRICT property and in DISTRICT vehicles. The CONTRACTOR shall procure signs stating "ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED" and shall ensure that these signs are prominently displayed in all entrances to school property at all time

DATE: \_\_\_\_\_

\_\_\_\_\_  
CONTRACTOR

By: \_\_\_\_\_  
Signature



**Clean Air and Water Certification**  
**To Be Submitted With Proposal**

Applicable if the contract exceeds \$100,000 or the Contracting Officer has determined that the orders under an indefinite quantity contract in any one year will exceed \$100,000 or a facility to be used has been the subject of a conviction under the Clean Air Act (41 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act 33 1319(d) and is listed by EPA or the contract is not otherwise exempt.

---

Name of Vendor Company

**THE VENDOR AGREES AS FOLLOWS:**

- A. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 U.S.C. 1857, et seq., as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued there under before the award of this contract.
- B. That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.
- C. To use his/her best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.
- D. To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph.

**THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:**

- A. The term "Air Act" means the Clean Air Act, as amended (41 U.S.C. 1957 et seq., as amended by Public Law 91-604).
- B. The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).
- C. The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1957c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).
- D. The term "Clean Air Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342) or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).
- E. The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.
- F. The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by the Food Service Management Company.

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Authorized Representative

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Title

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Date

**FINGERPRINT CLEARANCE CERTIFICATION**  
**To Be Submitted With Proposal**

Bidder hereby certifies to the District's governing board, under perjury of law, that it has completed the background check requirements of California Education Code Section 45125.1 and that none of its employees that may come in contact with District students have been convicted of a violent felony listed in California Penal Code Section 667.5(c) or a serious felony listed in California Penal Code Section 1192.7(c).

Bidder \_\_\_\_\_  
(Type or Print Complete Legal Name of Company)

By \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date)

Name \_\_\_\_\_  
(Type or Print)

Title \_\_\_\_\_

**U.S. Department of Agriculture Nondiscrimination 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, 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](https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer) (AD-3027) found online at: <https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>, 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](mailto:program.intake@usda.gov)

This institution is an equal opportunity provider

**Bidder Information List**  
**To Be Submitted With Proposal**

Attention: Lida Gaines, Supervisor Child Nutrition Services Department  
Fax # (408) 223-4507 Phone No. (408) 223-4500  
RE: RFP #1920 – CNS01 – Distribution of Commercial Food Products

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Organization: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State/Zip Code: \_\_\_\_\_  
Work Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

If you have any questions, please email [lgaines@eesd.org](mailto:lgaines@eesd.org)

**Bidder's Checklist**

**To Be Submitted With Proposal**

Bidder Name: \_\_\_\_\_

Submit this Bidder's Checklist with your RFP document. Failure to submit this checklist at RFP opening may deem your bid as non-responsive.

- Bidder's Checklist (this form)
- Service Level Agreement
- Special Conditions and Instructions
- Vendor Questionnaire
- HACCP Plan or Food Safety and Security Program
- Market Baster Attachments (A)
- Distributor's Statement
- Non-Collusion Declaration
- Workers' Compensation Certificate
- School District References
- RFP Signature page
- California Department of Education Forms
  - Per California Department of Education, Nutrition Services and Food Distribution Division, School Nutrition Programs Unit, the attached forms (Suspension and Debarment Certification U.S. Department of Agriculture, Certification Regarding Lobbying, and Disclosure of Lobbying Activities) must be completed and submitted with this proposal. Proposals received without these forms/certifications will not be considered.
- Equal Opportunity Employment
- Iran Contracting Act
- Contracting Certificate Regarding Drug-Free Workplace
- Clean Air and Water Certification
- Fingerprint Clearance Certification
- Bidder Information Sheet

**END OF RFP**