



**SHAWNEE MISSION
SCHOOL DISTRICT**

Return sealed envelope/package to:

Shawnee Mission School District
Purchasing Department
8200 W. 71st Street
Shawnee Mission, Kansas 66204

ATTN: Reed Beebe

DATE: February 23, 2022 RFP NO. 22-012

BID TITLE: **Milk & Juice Products**

Proposals will be accepted until:

Date: **March 10, 2022**

Day: **Thursday**

Time: **11:00 a.m. CST**

Terms, conditions, and specifications under which proposals are requested are included. Please review thoroughly.

General Instructions:

The Shawnee Mission School District (“the District”) invites qualified vendors to submit proposals for **Milk and Juice Products** per the following terms, conditions, and specifications.

The District desires a multi-year contract for milk and juice products, structured as follows: an initial contract term to run from August 2022 through July 31, 2023, with the right of renewal for up to four (4) additional years, for a total potential contract term of five (5) years.

Unit bid price shall govern whenever a discrepancy occurs in the extended bid price on the Cost Charges Form.

Please note that prices quoted are to be free of all federal, state, and local taxes unless otherwise imposed by a governmental body and applicable to material on the bid. A copy of the District’s State of Kansas sales and use tax exemption certificate can be provided to the selected Proposer(s).

Official Contact:

Any questions regarding this Request for Proposal (“RFP”) should be directed to Reed Beebe via email at purchasing@smsd.org:

Reed Beebe
Shawnee Mission School District
8200 W. 71st Street
Shawnee Mission, KS 66204
913-993-6475
purchasing@smsd.org

All questions concerning this RFP must be received no later than **Wednesday, March 2, 2022 by 4:00 p.m. CST.**

Addenda/Cancellation:

The District may modify or cancel this RFP at any time prior to the RFP due date by issuance of an Addendum or Cancellation. Such Addenda and/or Cancellations will be posted on the District's website, currently: [smsd.org](https://www.smsd.org) (Go to **About; Department Teams; Purchasing & Bidding; Bids & Bid Summaries View Page.**

Clarification of Proposals:

The District reserves the right to obtain clarification of any point in a proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in rejection of a proposal.

Information in RFP Only an Estimate:

The District and its representatives make no representations, warranty, or guarantee as to the accuracy of the information contained in the RFP or issued via addenda. Any quantities or data contained in this RFP or related addenda are good-faith estimates provided only as general background information. In this case, the estimates are based on usage data from the District's 2021-2022 fiscal year.

Method of Selection:

Award will be made to the most responsive and responsible Proposer offering the best value and most economical proposal as defined by the District. In general, the following criteria will be used: **Experience, Expertise and Capabilities; Ability to Offer All Products; Nutritional Value of Products; and Cost/Charges.**

Available points for these respective criteria will be assigned as follows, for a maximum total of 100 evaluation points:

- **Experience, Expertise, and Capabilities** – 35 points;
- **Nutritional Value of Products** – 10 points;
- **Ability to Offer All Products** – 5 points
- **Cost/Charges** – 50 points

After the District's initial evaluation of proposals, select proposals will undergo additional review and evaluation.

The District may negotiate with the selected Proposer(s) for mutually agreeable contract terms before making a contract award. Negotiations could include, but not be limited to, price and the terms and conditions listed in the RFP.

Confidentiality of Information:

Any proprietary information furnished by a Proposer to the District that is designated confidential shall be treated as confidential to the District as allowable by law.

Submission of Proposal

Please submit two (2) print copies of your proposal, following the process outlined below. **The proposal must be received by the District on or before 11:00 a.m. CST, March 10, 2022.** Send proposals to the following address:

Shawnee Mission School District
Reed Beebe, Purchasing Department
8200 W. 71st Street
Shawnee Mission, Kansas 66204

Please note that vendors may request a copy of this RFP in Word format by emailing purchasing@smsd.org.

Proposals will only be accepted in hardcopy format and shall be received by delivery in person or via service (US Mail, UPS, FedEx, etc.) in sealed envelope or box/package. Electronic delivery (i.e. email) will not be accepted.

Envelopes or boxes/packages containing proposals should be sealed **and marked on the lower left-hand corner** on the front of the sealed envelope with the **firm name and address of the bidder**, bid control number (“22-012”), the proposal due date (currently, **March 10, 2022**), and time (currently, **11:00 a.m. CST**).

- A. No attempt will be made to provide special internal mail service for such documents.
- B. Proposals not at the appointed place at time of proposal due date will be rejected.
- C. Faxed or emailed proposals will not be accepted.

If sending by U.S. Postal Service, please allow a minimum of 24 hours for your bid to be processed and delivered to the Purchasing Department by the Administrative Mail Center. It is the responsibility of the Proposer to ensure delivery of the proposal to the Purchasing Department. Proposers shall hold all proposed prices firm for acceptance for 90 calendar days after proposal due date.

Proposal Availability:

Proposals received by the District will not be open to public review, nor disclosed to unauthorized persons, prior to award of a contract. After award of a contract, all proposals shall be open to public inspection, with the exception of information designated as confidential, to the extent that such confidential information may be exempt from public inspection as allowable by law.

SPECIFICATIONS

Scope of Proposal:

The District would like to contract with a vendor(s) to furnish and deliver milk and juice products. The selected vendor(s) will be the exclusive milk and fresh juice vendor for the District's food service program, with the exception of occasional, incidental purchases that may arise. An outline of desired items, services, delivery locations, and requirements is provided in **Attachment A**.

Contract Term:

The term of any awarded contract will run from August 2022 through July 31, 2023, with the right of renewal for up to four (4) additional years, for a total potential contract term of five (5) years.

Intent to open negotiations for renewal will be by written communication no later than March 1st of a given annual contract period. Should the renewal option be exercised, the prices shall be those specified in the vendor's response to this RFP. The agreement will only be extended after written acceptance of the renewal terms by the District and the selected vendor(s).

Terms and Conditions:

The District's desired terms and conditions, including the District's standard contractual provisions, are listed in **Attachment F**.

Acceptance of RFP Terms:

A proposal submitted in response to this RFP shall constitute a binding offer. **The Proposer shall identify clearly and thoroughly any variation between its offer and the RFP.** Failure to do so shall be deemed a waiver of any right to subsequently modify the terms of performance. Proposer's authorized representative may withdraw submitted proposals only by written request received before the proposal due date.

PROPOSAL CONTENT AND FORMAT

To provide a degree of consistency in review of the submitted proposals, Proposers are required to prepare their proposals in the format described below:

Proposal Response Form:

An individual having full authority to submit a proposal and execute any resulting contract for products or services (“authorized representative”) must complete and submit the attached Proposal Response Form (**Attachment B**) or submit a signed letter of transmittal that contains the same information and statements as indicated in the bid response form.

Experience, Expertise, and Capabilities:

Proposer should provide a background of the firm’s experience and qualifications. This should include a brief history of the firm, date founded, ownership and any subsidiary relationships. Also, list the types/scope of services and products that the firm is able to provide. Please address the firm’s ability to provide the desired products and services listed in **Attachment A**. Give examples of experience for similar products or services to other entities. In particular, if the firm has experience providing the desired products and services to other school districts, please note this information.

Costs/Charges:

Submit a detailed breakdown of all costs and charges in providing the desired products and/or services (or equivalent) as listed in Attachment A, in the format of **Attachment C**. The District relies on the Proposer to assure that all charges to provide the desired products and/or services (or equivalent) are submitted in the proposal, and that there are no hidden costs or charges that will be incurred.

Personnel:

Proposer should list the names of key management personnel who would be directly involved in providing services and products to the District: describe their relationship in the firm, the role they would play in providing products/services, and their experience, qualifications, and years of service with the firm. Please note the respective personnel’s experience with providing products/services similar to those desired by the District. The District may consider this information in its evaluation of the Proposer’s experience, expertise, and capabilities.

Use of Subcontractors:

The selected Proposer(s) shall be solely responsible for all products and services as required by this RFP. Subcontractors, if any, will be the responsibility of the Proposer and the role of subcontractors must be clearly identified in the proposal. The District may consider this information in its evaluation of the Proposer’s service approach. The use of a subcontractor(s) does not relieve the selected Proposer(s) of liability under any awarded contract (see terms and conditions in **Attachment F**).

Debarment and Suspension Documentation:

Proposer's authorized representative must complete and submit the RFP's "**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions**" document (**Attachment D**) along with its proposal.

Nutrient Information Submission:

Proposer's authorized representative must provide photocopies of nutrition labels of the cartons of all products must be included in bid. This information will be considered by the District in evaluation of a Proposer's nutritional value of products.

Copy of Kansas Dairy Distributor License Inspection:

Proposer shall provide a copy of Kansas Dairy Distributor License

References:

Proposer should submit information regarding three (3) comparable projects that that the Proposer completed as prime contractor with the last five (5) years. The projects should indicate the start and completion dates, and the products and services provided. The provided references may be used by the District in its Evaluation of a Proposer's experience, expertise, and capabilities.

HACCP Compliance Plan:

Proposer must submit its HACCP (Hazard Analysis Critical Control Point) compliance plan.

Buy American:

Proposers must complete and sign the "Attestation Statement for Buy American" in **Attachment E** and complete **Attachment G** as needed for non-domestic products.

ATTACHMENT A

DESIRED PRODUCTS, SERVICES, AND REQUIREMENTS

The District proposes to contract with a vendor to furnish and deliver milk and juice products per the specifications below:

1. **Accuracy of Proposal:** Each proposal submitted in response to this RFP will be made part of the public record of the District. Therefore, it is necessary that any and all information presented is accurate. If there is a discrepancy between the unit price and extended total, the unit price will prevail.
2. **Contract Period:** The term of any awarded contract will run from August 2022 through July 31, 2023, with the right of renewal for up to four (4) additional years, for a total potential contract term of five (5) years. Intent to open negotiations for renewal will be by written communication no later than March 1st of a given annual contract period. Should the renewal option be exercised, the prices shall be those specified in the vendor's response to this RFP. The agreement will only be extended after written acceptance of the renewal terms by the District and the selected vendor(s).
3. **Contract Termination:** Any executed agreement/contract may be terminated at any time by the District upon thirty days written notice, should the District determine that it is not in its best interest to continue the contract and/or the supplier is not performing with the provisions and intent of the agreement.

Upon receipt of the termination notice due to non-compliance issues, the selected vendor(s) shall have fourteen days to correct non-compliance issues. If compliance is achieved, the termination notice will be canceled.

Any executed agreement/contract may be terminated by the selected vendor(s) with sixty days written notice for failure by the District to comply with contract terms.

4. **Contract Implementation:** Deliveries to the District shall begin the week of August 8, 2022. Schedules for subsequent annual service will be provided by the District to the selected vendor(s) prior to commencement of any annual renewal option.
5. **Product Specification:** Fluid milk shall be manufactured and packaged as defined in the state regulations governing the production and sale of milk and milk products as published by the State Department of Agriculture. Milk shall be pasteurized, homogenized, and vitamin fortified. All flavored milk is to be naturally sweetened with no chemical processing. Fluid milk shall be delivered at a temperature of 40°F or less. Any milk delivered above 40°F may be rejected. ½ pint containers, either paper or plastic, must fit in the District's student meal trays. The current approved container for ½ pint milk is 2 ¼" inches by 2 ¼ inches paper carton. All alternative containers must be declared by Proposer within response.

All fruit juice products shall meet Federal and State specifications and inspection. All juice must meet U.S. Grade A standards. Cartons must be stamped with expiration date. Juice must be 100% juice and not contain added sugars, color or flavor. Juice is to be delivered fresh – not frozen.

6. **Nutritional Information:** Photocopies of nutrition labels of the cartons of all products must be included in bid.
7. **Quality Assurance:** The successful bidder shall be expected to provide product specifications and samples as requested by the district. Product quality testing will be conducted by the district on an ongoing basis. The percentage (%) of milk fat contained in the milk and percentage (%) stated on the carton must be the same.
8. **Market Information:** The bidder shall provide the district with market information relating to product conditions, quality, availability, pricing trends and new products. Where appropriate, the contractor shall make recommendations for changing products to achieve financial savings or higher applicability.
9. **Name Branding:** The selected vendor(s) shall provide promotional material to the District to help in promoting the product in each school.
10. **Pricing:**

Milk – RFP Pricing

If submitting a proposal using an escalator/de-escalator clause for either milk and/or fuel pricing, proposal must include a copy of the Central Federal Milk Order #32 Class 1 Skim and Class 1 Butterfat in effect when the pricing on the proposal was calculated and the formula used to calculate the fluctuations in the prices of milk. Since the proposals open in March, District would expect the pricing to be based on the March Index. In addition, for any proposed fuel escalator/de-escalator clause, a US Energy Information Administration Independent Statistics and Analysis Weekly Retail Gasoline and Diesel Prices Index and the formula used to calculate the fluctuations in the prices of milk due to fuel must be included.

Milk – After Award

After award, prices for fluid milk can escalate de-escalate monthly in accordance with the Central Federal Milk Order #32 Class 1 Skim and Class 1 Butterfat Prices. For any proposed milk escalator/de-escalator clause, proposer must provide (scan and attach in the "response attachments" section of their bid response) a copy of the Central Federal Milk Order #32 Class 1 Skim and Class 1 Butterfat in effect when the bid price was submitted. Adjustments in prices will be based on the index provided. Proposer must provide (scan and attach in the "response attachments" section of their response) the formula used to calculate the fluctuations in the prices of milk.

For any proposed fuel escalator/de-escalator clause, the US Energy Information Administration Independent Statistics and Analysis Weekly Retail Gasoline and Diesel Prices Index, in effect when the bid price was submitted, must be provided (proposer must scan and attach in the "response attachments" section of their bid response.) Adjustments in prices will be based on the index provided. Proposer must provide (scan and attach in the "response attachments" section of their bid response) the formula used to calculate the fluctuations in the prices of milk.

Selected vendor(s) must announce monthly, any changes (up or down) in price, to District – specifically the Food Service Director and Food Expeditor. District reserves the right to ask for the documentation and formula used to calculate the new price.

Juice – RFP Pricing

If proposer is submitting an escalating price for juice, vendor must submit explanation on how price is determined as well as how often prices are escalated/de-escalated.

Juice – After Award

Selected vendor(s) must announce monthly, any changes (up or down) in price, to District – specifically the Food Service Director and Food Expeditor. District reserves the right to ask for the documentation and formula used to calculate the new price. Upon renewal, selected vendor may indicate adjusted pricing for the following year but increase can be no more than the increase in the Consumer Price Index (CPI) for food bought away from home.

11. **Loss of Revenue:** If the selected vendor(s) fails to deliver fluid milk at anytime resulting in milk not being available for meal service, loss of revenue to the district will be charged to vendor. Loss of revenue will be calculated using the following formula: Free reimbursement rate times the number of meals where milk was not available. Free reimbursement rate is based on meal type served and is updated yearly by USDA.
12. **Usage Estimates:** The estimated quantities provided in **Attachment C** are based upon the 2020-2021 school year. It is intended only as a guide and does not imply a guarantee on the part of the District to purchase stated quantity as a minimum or a maximum.
13. **Method of Ordering:** Par levels will be established for each school. The District's expectation is that the selected vendor(s) will have stock on hand available to fulfill the par each delivery. As necessary the district will update these par levels and communicate with the vendor. All products must be picked up the last day of school preceding a vacation or a credit given for product left but not used.

14. **Order Size:** There shall be no extra charge to the district for any delivery regardless of case count or dollar value of the order. There also shall not be an extra charge for any delivery made outside the specified schedule. The district will monitor any chronic deterioration in the order delivery schedule and act upon the problem.
15. **Delivery Methods:** Deliveries are to be made to each individual school when kitchen staff is present (unless other arrangements have been made). Addresses are enclosed.

The products shall be maintained at 40 degrees or below throughout the staging, loading, transport and delivery. The milk and juice must be delivered in cleanly washed cases. No products are to be placed where they are accessible to animals or any other unsanitary conditions. Soiled, frozen, damaged, or partially filled cartons will not be accepted. Leaking cartons will be returned to vendor without charge.

All of the selected vendor(s)'s facilities and delivery vehicles shall conform with local, state and federal rules and regulations regarding sanitation and are subject to inspection by District or other officials at the discretion of the District.

The bidder's driver shall deliver and off load all products to the specified area(s) placing the product inside a cooler or refrigerator inside of each school using a 2 wheel dolly. The vendor shall provide any equipment needed to complete this process.

Current inventory must be rotated to ensure first in first out (FIFO) before the new product is delivered. All items with past expiration dates must be picked up and a credit given on the delivery ticket.

At the time of delivery, a designated district employee will verify the items, quantities, and condition of the product in the delivery before signing the delivery ticket. The district employee will note any unsatisfactory product for credit.

16. **Delivery Schedule:** See Section 32("List of Schools to Receive Deliveries/Desired Delivery Days") for guidance regarding the District's desired delivery schedule. A school calendar will be provided to the selected vendor(s). This calendar indicates all non-school days. Deliveries will begin the week of August 8, 2022 and continue through the week ending May 25, 2023. Deliveries will also need to be made at summer food service programs which typically operate from the first week of June through the last week of July. Summer food service programs are determined by no later than May 1st of each year. Schedules for subsequent annual service will be provided by the District to the selected vendor(s) prior to commencement of any annual renewal option. Any changes to this delivery schedule must be communicated in advance to the Food Service Department. In the event the district cancels school due to an emergency or inclement weather, the district will

communicate with the vendor as potentially all deliveries will be postponed and/or cancelled.

17. **Damaged and/or Late Deliveries:** The District has no obligation to accept damaged shipments and reserves the right to return, at the vendor's expense, damaged merchandise, even though the damage was not apparent or discovered until after the receipt of the items. When the merchandise is returned a credit will be issued to the District. The selected vendor(s) is responsible to notify the District's Food Service Office of any late deliveries.
18. **Delivery Failure:** If the selected vendor(s) fails to deliver an order, the selected vendor(s) will take corrective action either by making a special delivery to the District or by arranging for delivery by another vendor. If the failure to deliver causes a loss of revenue due to the fact that meals are not reimbursable without fluid milk being offered, the selected vendor(s) will be expected to credit the District's account using the formula Free reimbursement rate times the number meals that were offered milk.
19. **Emergency Orders and Deliveries:** The selected vendor(s) shall be able to respond to emergency orders/needed deliveries as they arise due to circumstances beyond the District's control, with the understanding that the District shall keep such emergency orders to a minimum.
20. **Invoices:** All deliveries shall be accompanied by an itemized delivery ticket. The delivery ticket shall include the name of the business, school name and account number, product name, price and quantity of what was delivered and indicate any items that were returned for credit.

Any concealed damage or delivery of incorrect product shall be reported to the vendor's account representative who shall then issue credit memos. Delivery tickets not signed cannot be processed for payment. Monthly statements should be emailed to the district accounts payable department for reconciliation of the delivery tickets, currently: Accounts Payable Department, 8200 W. 71st Street, Overland Park, KS 66204.

21. **Payment:** Payment is processed using the delivery tickets provided to the District at the time of delivery. Statements of purchase must be provided monthly by the selected vendor(s) electronically to the accounts payable department, which will be used by the District to reconcile expenditures.
22. **Reports:** The selected vendor(s) shall provide the following unit and aggregate reports for the District upon request:

Usage figures for specific items for a specified time frame.

Annual report, listing quantity of each item purchased and the total dollar amounts expended for each item by each food service operation and a summary for each item for all the food service locations.

20. **Safety:** All practices, materials, supplies and equipment shall comply with the federal occupational safety and health act, as well as any pertinent federal state and or local safety or environmental codes. Safety Data Sheets shall be provided for each item as applicable. Proposer(s) must supply the District with a copy of the its HACCP compliance plan with submission of its proposal. Inspection of the distribution facility and/or HACCP compliance records may be conducted by the District.
21. **Hold Harmless:**
The selected vendor(s) agrees to protect, defend indemnify and hold the District's Board of Education, its officers, employees, and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of, or relating to, any and all claims liens, demands, obligations, actions, proceeding, or causes of action, of every kind, and character in connection with, or arising directly, or indirectly out of this agreement and/or the performance hereof.
22. **Equal Employment:**
The District and the selected vendor(s) shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41CFR Part 60) pursuant to 7CFR, Section 3016.36(i)(3).
23. **Debarment and Suspension (Executive Orders 12549 and 12689)**
A contract award (see 2 CFR [180.220](#)) must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part [1986](#) Comp., p. 189) and 12689 (3 CFR Part [1989](#) Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. **Please note that a debarment document must be signed and included in the proposal documents (see Attachment D).**
24. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**
Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other

award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part [247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

25. **The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act),**

Prohibits any person from, providing or attempting to provide or offering to provide any kickback; soliciting, accepting, or attempting to accept any kickback; or including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor. The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations in its own operations and direct business relationships.

When the Contractor has reasonable grounds to believe that a violation of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

The Contractor shall cooperate fully with any Federal agency investigating a possible violation described this clause.

26. **Buy American:**

All items bid must be American. This means the item is produced and processed in the United States substantially using agricultural commodities that are produced in the United States. In this context, “substantially” means that over 51 percent of the final processed product consists of domestically grown agricultural commodities.

Exceptions to Buy American should be used as a last resort; however an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be submitted in writing, a minimum of two days in advance of delivery. The request must include:

1. Alternative substitute(s) that are domestic and meet the required specifications;
 - a. Price of the domestic food alternative substitute(s); and
 - b. Availability of the domestic alternative substitute(s) in relation to the quantity ordered.
2. Reason for exception; limited/lack of availability or price
 - a. Price of the domestic food item; and
 - b. Price of the non-domestic food item that meets the required specification of the domestic product.

If the label has multiple countries listed on it, vendor must complete **Attachment G**.

27. **Geographic Preference:** Contractors purchasing on behalf of a Sponsor may use geographic preference when purchasing unprocessed locally grown and locally raised agricultural products.

28. **Food Recalls:**

It is the responsibility of the selected vendor(s) to notify the District's Director of Food Service (or other designated District staff) by phone call and email within 24 hours of the selected vendor(s) being notified by the manufacturer of a recall. DO NOT call the individual schools regarding the recall.

The selected vendor(s) must provide the Director of Food Service (or other designated District staff) with the specifics of the recall, which item is affected, which lot number is affected and the purchase history of the recalled product to identify the school(s) that received the product and any other pertinent information.

29. **Service:** The selected vendor(s) will have an account representative assigned to the District accounts. The District feels it will be helpful if the person has some prior food service experience so they will be able to understand the District's needs. The District would expect to see this account representative on site as needed, and provide the following services:
1. Timely communication with the District's Director of Food Service or other designee to discuss shortages and needed substitutions.
 2. Handle the District's complaints and concerns.
 3. Issue credit memos and arrange for return of any unacceptable products.
 4. Resolve any problems with the delivery schedule.
 5. Conduct research with the District's Director of Food Service or other designee for any product changes to better the District's needs.
 6. Maintain communication between the accounting department of the selected vendor(s) and the District to ensure all invoices are paid and credited properly. And if problems arise, address to the satisfaction of the District and the selected vendor(s).
 7. Oversee the operation to help maintain a smooth and efficient relationship between the District and the selected vendor(s).

30. **Toll Free Number:** The selected vendor(s) shall provide a toll- free telephone number for the district to use in contacting the successful bidder's personnel.
31. **Responsibilities of Selected Vendor(s):** The selected vendor(s) shall:
- Provide competent supervision of its employees.
 - Take precautions necessary to protect person or property against injury that may occur as a result of their fault or negligence.
 - Perform its work without unnecessarily interfering with the other work in progress or school activities.
 - Be responsible for any and all damage to existing facilities and equipment.
 - Be responsible for work performed and materials delivered.
 - All its drivers must follow the District's security procedures.
32. **List of Schools to Receive Deliveries/Desired Delivery Days:**

School	Address	Delivery comments	Delivery Days & Door Number
SM East	7500 Mission Rd; PV, 66208-4298	Elevator delivery	Friday Only – Door 20
Horizons	5900 Lamar; Mission, 66202-3231		Friday Only
SM North	7401 Johnson Dr; OP, 66202-2394		Mon & Wed – Door 47
SM Northwest	12701 W 67; SH, 66216-3599	Elevator delivery	Mon & Wed – Door 21
SM South	5800 W 107; OP, 66207-2599		Tues & Thursday – Door 20
SM West	8800 W 85; OP, 66212-3898		Mon & Wed – Door 28
Hocker Grove MS	10400 Johnson Dr; SH, 66203-2895		Mon & Wed – Door 17
Indian Hills MS	6400 Mission Rd; PV, 66208-1700	Avoid 8:15AM-9:15AM for delivery	Friday Only – Door 1
Indian Woods MS	9700 Woodson; OP, 66207-2800		Tues & Thursday – Door 5
Trailridge MS	7500 Quivira; LX, 66216-3597		Tues & Thursday – Door 18
Westridge MS	9300 Nieman Rd; OP, 66214-1833		Tues & Thursday – Door 17
Apache	8910 Goddard; OP, 66214-1998		Tues & Thursday – Door 8
Arrowhead	6601 Santa Fe Dr; OP, 66202-3925		Friday Only

Belinder	7230 Belinder; PV, 66208-3302		Mon & Wed – Door 20
Benninghoven	6720 Caenen; SH, 66216-2486		Tues & Thursday – Door 8
Bluejacket Flint	11615 W 49 Terr; SH, 66203-1099		Tues & Thursday – Door 13
Briarwood	5300 W 86; PV, 66207-1799		Mon & Wed – Door 5
Broken Arrow	5901 Alden; SH, 66216-3849		Friday Only – Door 3
Brookridge	9920 Lowell; OP, 66212-3487	Avoid 7:30 – 8:30AM for delivery	Tues & Thursday – Door 5
Brookwood	3411 W 103; LW, 66206-2597	No deliveries prior to 7:00AM per city code	Tues & Thursday – Door 12
Comanche	8200 Grant; OP, 66212-3299		Mon & Wed – Door 10
Corinth	8301 Mission Rd; PV, 66206-1388		Mon & Wed – Door 6
Crestview	6101 Craig; ME, 66202-3037		Friday Only – Door 11
Diemer – At Indian Creek – 4401 W 103 rd St, 66207	9600 Lamar; OP, 66207-2832		Tues & Thursday
East Antioch	7342 Lowell; OP, 66204-1832	Avoid 7:30 – 8:30AM for delivery	Tues & Thursday – Door 24
Highlands	6200 Roe; Mission, 66205-3052		Mon & Wed – Door 10
Lenexa Hills	8650 Haven St, LX, 66219		Tues & Thursday – Door 6
Marsh	5642 Rosehill Rd; SH, 66216-1699		Mon & Wed – Door 14
McAuliffe	15600 W 83; LX, 66219-1500		Tues & Thursday – Door 5
Merriam Park	6100 Mastin; ME, 66203-3283		Mon & Wed – Door 9
Mill Creek	13951 W 79; LX, 66215-5300		Tues & Thursday – Door 5
Nieman	10917 W 67; SH, 66203-3898		Mon & Wed – Door 7
Oak Park Carpenter	10000 Nieman Rd; OP, 66214-2500		Tues & Thursday – Door 11
Overland Park	8150 Santa Fe Dr; OP, 66204-3691		Mon & Wed – Door 3
Pawnee	9501 W 91; OP, 66212-4738		Mon & Wed – Door 3
Prairie	6642 Mission Rd; PV, 66208-1796		Friday Only – Door 14
Rising Star	8600 Candlelight Ln; LX, 66215-6030		Tues & Thursday – Door 9
Roesland	4900 Parish Dr; RP, 66205-1370		Mon & Wed – Door 11

Rosehill	9801 Rosehill Rd; LX, 66215-1499		Tues & Thursday – Door 12
Rushton	6001 W 51; MI, 66202-1699		Mon & Wed – Door 16
Santa Fe Trail	7100 Lamar; OP, 66204-2199		Mon & Wed – Door 9
Shawano	11230 W 75; SH, 66214-1203		Mon & Wed – Door 7
Sunflower	8955 Loiret Blvd; LX, 66219-1427		Tues & Thursday – Door 12
Tomahawk	6301 W 78; OP, 66204-3199		Friday Only – Door 5
Trailwood	5101 W 95; OP, 66207-3399		Friday Only – Door 12
Westwood View	2511 W 50; WW, 66205-2031		Mon & Wed – Door 4
Shawnee Mission Early Childhood (old Broadmoor building)	6701 W. 83 rd , OP, 66204-3900		Friday Only

Proposers Check List:

All items listed below must be included when submitting your proposal:

- _____ Completed and Signed Proposal Response Form (Attachment B)
- _____ Completed Cost/Charges Form (Attachment C)
- _____ Completed/Signed Debarment/Suspension Certification (Attachment D)
- _____ Attestation statement for Buy American (Attachment E & Attachment G)
- _____ Copy of Nutrition Facts Labels from Cartons of all products
- _____ A copy of Kansas Dairy Distributor License
- _____ Copy of HACCP Plan

ATTACHMENT B
PROPOSAL RESPONSE FORM

***Please note that vendors may request a copy of this RFP in Word format by emailing purchasing@smsd.org.**

DATE: _____

Proposal of: _____, (herein after called Proposer), a Corporation/Partnership/Individual doing business as _____.

TO: The Shawnee Mission School District

The Proposer, in compliance with your **Request for Proposal – Milk and Juice Products**, and having reviewed the RFP and Specifications and being familiar with the conditions and terms surrounding the desired products and/or services, hereby agrees to perform the work and/or provide products required, within the price stated in this RFP response. These prices are to cover all expenses incurred in providing the desired products and/or services.

Proposer acknowledges receipt of the following addenda, in the event subsequently issued:



Submitted by authorized representative:

Firm: _____

FEI/SSN _____

Signature: _____

Printed Name/Title: _____

Address: _____

Telephone: _____

Email: _____

Attachment B – Continued

Brief History of Company	
Date Founded	
Ownership	
List of Services	
Address ability to provide products and service	
Reference #1	
Reference #2	
Reference #3	
Scope of Services	
List Key Management Personnel who will be involved in providing services – include their relationship to the firm, years of experience, qualifications and years of service with firm	

ATTACHMENT C

COST CHARGES FORM

Please complete the following table; see Attachment A regarding milk and juice product specifications and list of schools. The District relies on the Proposer to ensure that **all applicable costs are clearly identified in the RFP response.**

The cost per unit is to include all packaging, handling, delivery charges, and other applicable charges.

The quantities listed below represent a good faith estimate of the District’s current needs, and do not commit the District to the purchase of a specific quantity.

NOTE: Should a vendor anticipate that pricing will change for any subsequent annual renewals (years 2, 3, 4, and 5), the respective cost changes (relative to year 1 pricing) should be noted clearly in the response to this RFP.

<u>No.</u>	<u>Item</u>	<u>Estimated Quantity</u>	<u>Firm Price/Each and total</u>	<u>Escalator Price/Each and total (if applicable)</u>
1.	<u>Milk – White 1%</u> ½ pint carton, Grade A, pasteurized & homogenized with vitamins A & D added.	328,000 each	\$ _____ each \$ _____ total	\$ _____ each \$ _____ total
2.	<u>Milk – Chocolate Skim</u> ½ pint carton Grade A, pasteurized & homogenized with vitamins A & D added.	1,409,000 each	\$ _____ each \$ _____ total	\$ _____ each \$ _____ total
3.	<u>Milk – Strawberry Skim</u> ½ pint carton Grade A, pasteurized & homogenized with vitamins A & D added.	309,000 each	\$ _____ each \$ _____ total	\$ _____ each \$ _____ total
5.	<u>Juice – Apple 100%</u> 4 oz carton	863,000 each	\$ _____ each	\$ _____ each

			\$ _____ total	\$ _____ total
6.	Juice – Orange 100% 4 oz carton	401,000 each	\$ _____ each \$ _____ total	\$ _____ each \$ _____ total
7.	Juice – Apple Cherry 100% 4 oz carton	788,000 each	\$ _____ each \$ _____ total	\$ _____ each \$ _____ total
	<u>GRAND TOTAL</u>		\$ _____	\$ _____

Please note that vendors may request a copy of this RFP in Word format by emailing purchasing@smsd.org.

ATTACHMENT D
Certification– Lower Tier Covered Transactions

U. S. DEPARTMENT OF
AGRICULTURE

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participant's 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)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is being 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.

Contractor

Name and Title of Authorized Representative

Contractor Signature

Date

**Certification Regarding Debarment, Suspension, Ineligibility and
Voluntary Exclusion, continued**

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the form in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the 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 whom 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," "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 the rules implementing Executive Order 12549. You may contact the person to whom 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 Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that 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 determined the eligibility of its principals. Each participant may, but is not required to, check the Non-purchase List.
8. Nothing contained in the foregoing shall be construed to require the establishment of a system of records 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 five 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.

ATTACHMENT E
ATTESTATION STATEMENT FOR BUY AMERICAN

We hereby certify that the products listed below were processed in the United States of America and contains over 51% of its agricultural food component, by weight or volume, from the United State of America.

List of Products:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Vendor

Name and Title of Authorized Representative

Vendor Signature Date

If Non-Domestic product is bid, Attachment G must be completed for each non-domestic product.

ATTACHMENT F

STANDARD TERMS AND CONDITIONS/CONTRACTUAL PROVISIONS

Terms and conditions are requirements that are binding upon the selected vendor(s) and communicate Shawnee Mission School District's expectations of performance.

1. Shawnee Mission School District ("the District") reserves the right to accept or reject any and all proposals, to make a partial award, or to make a multiple vendor award, to accept or reject all or any part of any proposal, to waive any irregularities and to award items to best serve the interest of the District. This solicitation implies no obligation on the part of the District, nor does the District's silence imply an acceptance or rejection of any offer.
2. Each proposal must be completed on the District's proposal forms, or equivalent documentation provided by the vendor that provides the same required information.
3. **ANY APPLICABLE FREIGHT/SHIPPING/DELIVERY COSTS MUST BE NOTED IN THE PROPOSAL RESPONSE (see Attachment C).**
4. Alternate proposals will be considered only if the alternate properly meets specifications outlined in the proposal. (If the RFP specifies no substitutes, alternates will not be considered.)
5. Cash discounts and delivery timeframes may be considered in awarding a contract.
6. Deliveries shall be F.O.B. SMSD, stated location, freight prepaid. Title does not transfer to the District until received at same.
7. Prices quoted shall remain firm for 90 days or until vendor's offer is accepted, whichever is first, by District. Any deviation must be conspicuously notated within this document. Acceptance shall be in the form of a District purchase order or other formal written contract. Prices beyond acceptance of vendor's offer shall be conditional on any additional terms, conditions and/or specifications as set forth herein.
8. Prices quoted are to be free of all federal, state and local taxes unless otherwise imposed by a governmental body and applicable to the material on the RFP.
9. The vendor represents that the price or prices specified do not exceed the vendor's current selling prices for the same or substantially similar items to any other purchaser, taking into account the quantity and/or service under consideration.
10. Any catalog, brand name or manufacturer's reference used herein is intended to be descriptive and not restrictive. Offers on any reputable manufacturers regularly produced product which is similar and substantially equivalent will be considered. The District reserves the right to make final decisions as to comparable items. Vendor should be very certain that items upon which it bids, and delivers are EQUAL to items listed. Materials, which are not equal, shall be returned to the supplier at supplier's request and expense.

11. When submitting a substitute article as equal, the full name and illustrated description must be given. The District's Board of Education and/or the District administration reserves the right to decide upon its suitability for the intended use and if it is of equal quality. Upon request, samples of substitute articles must be submitted. All substitutions after award of a contract must be approved by the District prior to shipping.
12. The District reserves the right to make minor increases or decreases in quantities to be purchased, at the time of acceptance and subsequent thereto.
13. Date of receipt will be considered the effective date all goods and invoices are received.
14. Deliveries under the terms of this RFP will be in accordance with the dates indicated, therein, except where no date is indicated, the selected vendor(s) will enter the earliest assured date. It is understood and agreed that the delivery date and/or date of installation AFTER receipt of a purchase order is the selected vendor's best offer. In its acceptance of any offer, the District is relying on the promised delivery date and/or installation of material and unless otherwise indicated. In the event of the selected vendor(s)'s failure to deliver as and when promised, the District reserves the right to cancel its accepting order, or any part thereof, and the selected vendor(s) agrees that the District may return all or part of any shipment so made, and may charge seller with any loss or expense sustained as a result of such a failure to deliver as promised. All goods are subject to inspection and return at the vendor's request and expense if found to be inferior to those specified or promised.
15. The District shall not be responsible for any goods delivered or services performed without its purchase order signed by an authorized representative of the Purchasing Department.
16. All items will be new and unused, unless otherwise specified by the District, and in first class condition.
17. In the event that this purchase requires performance of services by the selected vendor(s)'s employees, or persons under contract to the selected vendor(s), to be done on District's property, the selected vendor(s) agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the District.
18. All shipments and/or correspondence (i.e. cartons, packages, invoices, etc.) must bear the appropriate District-issued purchase order number on the outside.
19. The selected vendor(s) shall not limit or exclude any implied warranties and any attempt to do so shall render the resulting contract void at the option of the District. The selected vendor(s) warrants that the goods or services furnished will conform to the specifications, drawings and descriptions as presented in the RFP.
20. The selected vendor(s) shall provide the standard patent infringement indemnity clause which shall hold and save the District's Board of Education and its officers, agents, servants, and employees, harmless from liability of any patented, or unpatented invention, process, article, or appliance manufactured, or use, in the performance of the contract, including its use by the District's Board of Education.

21. All items furnished must be of their respective kinds, and will be free from defects in material and workmanship. Items will be subject to our inspection and approval at any time within thirty days after delivery. Items furnished must be manufactured in compliance with all existing legal or governmental directives.
22. All items must be properly packed or crated to insure delivery in good condition and in accordance with instructions listed on the face of the request for bid or purchase order, if any.
23. Rejected items will be held at the selected vendor(s)'s risk and expense. No replacement of defective items shall be made by the selected vendor(s) unless agreed to by a District representative in writing.
24. Payment of the vendor(s)'s invoices is subject to adjustment for any shortage, or for rejection of any item or items. Individual invoices must be issued for each shipment applying against a purchase order.
25. Contracts entered into on the basis of submitted proposals are revocable if contrary to law.
26. When a bid bond is required, bid bonds shall be written by a surety or bonding company licensed to operate in the State of Kansas and approved by the District. All bid bonds must be made payable to Shawnee Mission Public Schools - NOT THE STATE OF KANSAS. Cashier checks and certified checks should be made payable to "Shawnee Mission U.S.D. #512."
27. Each contractor shall be responsible for providing his/her own worker's compensation and liability insurance coverage and for assuring that any sub-contractor performing services as part of this contract, under their auspices, shall be covered under their own worker's compensation and liability insurance coverage, or that of the contractor.
28. If proposal is accepted, the District must be supplied with the vendor's employer identification number or social security number, per IRS regulations.
29. Samples, when requested, shall be furnished within 7 calendar days of the request at no expense to the District. If not destroyed during examination, samples will be returned at vendor's request and expense.
30. The laws of the State of Kansas shall govern any contract resulting from this RFP.
31. Unless otherwise specified herein, payment shall be made within 30 days after District's receipt of goods or services and receipt of an accurate invoice indicating the actual amount owed by the district.
34. Contractor and Vendor Code of Conduct:

Shawnee Mission School District requests that all contractor and vendor employees conduct themselves in an acceptable manner while performing work on school district property. The following items are prohibited on school district properties:

- A. Physical or verbal contact with students or non-designated staff.

- B. All school district properties are tobacco free. All tobacco, including smokeless tobacco, is prohibited. There are no designated areas for tobacco use. Contractors are required to post no tobacco signs. Smoking will not be permitted inside private vehicles which are on school district property. Workers may be required to sign a consent form acknowledging no tobacco use on the property. Violators may be required to leave the work site.
- C. Drugs and/or alcohol consumed or present on district properties.
- D. Firearms and hunting items.
- E. Foul or abrasive language.

Additionally, all workers shall wear appropriate clothing on all parts of the body. All workers shall utilize areas for vehicle access and parking, material storage, etc. All workers shall wear nametags identifying their name and the name of the company they are representing.

State of Kansas
 Department of Administration
 DA-146a (Rev. 06-12)

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutory required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.

ATTACHMENT G

Non-Domestic Product Statement

Product Name _____ includes _____% U.S. Content.

The product is grown in _____.

Check next to the option below for why non-domestic product is being bid.

_____ The product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality.

OR

_____ The cost of the U.S. product is significantly higher than the non-domestic product. List prices and unit pack size below for item to be considered:

\$ _____ / _____ Price of Domestic or U.S. Grown Product Per Unit

\$ _____ / _____ Price of Domestic or U.S. Grown Product Per Unit

Vendor

Name and Title of Authorized Representative

Vendor Signature Date