

## GENERAL INFORMATION

### 1. SCOPE:

1.1 The Wayne-Finger Lakes BOCES and Component School Districts of the Wayne-Finger Lakes BOCES and/or Agencies require **FRESH FRUITS & VEGETABLES**. The BOCES and School Districts have agreed to form a Cooperative Bid Group as authorized by General Municipal Law Section 119-o. It is the intent of the Cooperative Bid Group (hereinafter referred to as "Participants") to contract with vendor(s) and to establish prices for these items for the stated contract term. Notwithstanding the details presented in the specifications; it being understood that a complete reliable supply of **FRESH FRUITS & VEGETABLES** satisfactory to each user, shall be required in all cases.

1.2 The Participants reserve the right to add to, or remove from, the contract at any time using Organizations, Departments, Agencies and School Districts.

### 2. AMENDMENTS TO BID:

Any verbal information obtained from, or statements made by representatives of Wayne-Finger Lakes BOCES at the time of examination of the documents or site shall not be construed as, in any way, amending contract documents. Only such corrections or addenda as are used by the BOCES in writing to all Contracts shall become a part of the Contract. Any addendum issued during the time of bidding shall be assumed to be included in bids and become a part of the Contract Agreement.

### 3. DESCRIPTION OF BOCES:

3.1 The Board of Cooperative Educational Services (BOCES) was created by New York State legislation in 1948. Today, there are thirty-eight organizations in the State. Each has its own governing board, elected by members of the Boards of Education of the component districts. The primary purpose of the BOCES is to provide services to two or more member districts more effectively and economically than one district could provide alone. Each year, the component districts request the services they want their BOCES to provide in the following year. The various requests for services and programs are assembled into an operating plan along with the associated budget. The State Department is required to approve all services before they can be provided to districts. Legal contracts are drawn up and approved by the district, the individual BOCES and the Commissioner of Education.

3.2 BOCES is an educational agency of the State, and must, therefore, adhere to all laws and regulations of the State of New York, which govern the public schools in the State, as well as regulations controlling the BOCES. BOCES receives most of its money from the member districts. In return, the member districts receive BOCES aid based on their relative wealth and need for the service. The various BOCES operate many programs. Generally, the largest programs are associated with Career & Technical and Special Education.

3.3 Wayne-Finger Lakes BOCES covers a four-county region and supports 25 component school districts. Students served by BOCES are provided instructional programs including Career and Technical education, programs for children with handicapping conditions, and Adult Education.

### 4. OBLIGATION OF BIDDERS:

At the time of the opening of the bids, each bidder will be presumed to have read and be thoroughly familiar with the contract documents. The failure or omission of any bidder to receive or examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect to the submitted bid or to conforming to all specifications including all addenda issued.

### 5. RESPONSIBILITIES:

**Contractor Responsibility** - The successful vendor(s) shall be responsible for supplying and providing inside delivery of all fresh fruits and vegetables purchased as a result of the award of this bid.

**BOCES' Responsibility** - Although this bid was issued, evaluated, and awarded by the Wayne-Finger Lakes BOCES at the request of itself and participants, BOCES' liability under contract is limited to coordination and BOCES issued purchase orders only.

**Participants' Responsibility** - Purchase Orders will be issued to the designated vendor(s) by the participating school districts and/or Agencies listed, authorized in accordance with established Municipal Accounting

Practices. Those participants are solely responsible in contract for obligations entered into with the vendors. Participants are required to generate their own purchase orders (to the successful vendors) in accordance with the bid provisions and the schedule of awards.

**6. CONTRACT TERM:**

The contract resulting from this bid invitation shall remain in effect from Award through August 31, 2024. The contract may be extended for two (2) twelve-month terms or less upon mutual agreement of the contracting parties.

**7. SHORT TERM EXTENSION:**

In the event the replacement contract has not been issued, any contract let and awarded hereunder by the BOCES, may be extended unilaterally by the BOCES for an additional period of up to one month upon notice to the contractor with the same terms and conditions as the original contract including, but not limited to, quantities (prorated for such one-month extension), price, and delivery requirements. With the concurrence of the contractor, the extension may be for a period of up to three months in lieu of one month. However, this extension terminates should the replacement contract be issued in the interim.

**8. QUANTITIES:**

The historical dollar value of all contracts issued under previous awards was approximately \$500,000 annually. However, each contract shall be for the quantities or dollar value actually ordered during the contract. The individual value of each contract is indeterminate and will depend upon the number of contracts issued and the pricing offered.

The historical dollar value is an estimate ONLY and should not be construed to represent either maximum or minimum amount to be purchased during the contract term.

**9. OTHER CONTRACTS:**

The Participant(s) reserves the right to purchase goods and services from any avenue legally available by NYS law throughout the duration of any contract resulting from this bid.

**10. UNANTICIPATED REQUIREMENTS:**

9.1 Every effort has been made to include all items that may be required during the contract term. If, however, items are required which are not listed on the Proposal, the BOCES reserves the right to negotiate with the vendor a mutually agreeable cost for the items not specified to the extent permitted by General Municipal Law Section 103 and other applicable law. Any such items must be approved in writing by the BOCES prior to the contractor providing the items. Upon approval, these items will be added to the contract under the same terms and conditions. The BOCES further reserves the right to obtain these items from other sources if the cost cannot be mutually agreed upon, or if purchase of the items is subject to competitive bidding requirements.

9.2 The BOCES further reserves the right to purchase through the competitive bidding process, unanticipated large volume requirements, whether or not listed on the Proposal, if the BOCES concludes that prices or other considerations will result in terms which will be more favorable to the participants.

**11. BIDDER QUALIFICATIONS:**

10.1 In order to be considered responsive, a bidder must demonstrate that, immediately upon award of contract, the bidder is capable of meeting the terms and conditions of this contract. By submitting a bid, a bidder acknowledges and accepts the right of the Participants, at their sole discretion, to apply whatever criteria they deem to be reasonable in determining whether or not a bidder has demonstrated its capability of meeting the terms and conditions of this contract.

10.2 In addition to the requirements of the General Conditions, each successful bidder must be able to provide the Participants, upon request, sufficient evidence that the bidder can be reasonably expected to meet the requirements of this contract. Specifically, any bidder must provide evidence of a multi-year track record of having met the needs of customers of the size and complexity of the Participants.

10.3 Each successful bidder must be able to demonstrate the experience, financial stability, personnel, stock, plan capacity and systems requirements to perform this contract. Major criteria to be considered in evaluating these factors are:

1. Demonstration of stocking, warehousing, and ordering capability. Sufficient stock on hand to handle routine quantities of orders.

2. Demonstration of order taking and tracking capability. The bidder must have a system in place to handle multiple large orders efficiently and correctly from separate accounts.
3. Demonstration of delivery capability, i.e., and ability to provide separate delivery to each separate account within the time frames specified.
4. Demonstration of billing systems to insure smooth, correct, and efficient billing to as many separate accounts as are established.
5. Demonstrate sufficient sales staff to receive orders and handle problems as on-site sales calls to schools as required.

10.4 A bidder must supply, within three (3) days of request, any information requested by the Participants as part of its review of qualifications.

## **12. IRAN DIVESTMENT ACT:**

24.1 By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2013" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

24.2 During the term of the Contract, should BOCES receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, BOCES will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then BOCES shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

24.3 BOCES reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the USDA Debarment and Suspension list after contract award.

## **13. BUY AMERICAN PROVISION:**

**13.1 Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, Section 12(n) to the NSLA (42 USC 1760(n)), requiring school food authorities (SFA's) to purchase, to the maximum extent practicable, domestic commodity of products. Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. "Substantial" means that over 51% of the final product consists of agricultural commodities that were grown domestically. Products from Guam, America Samoa, Virgin Islands, Puerto Rico, and Northern Mariana Islands are allowed under this provision as territories of the United States. The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards SFA's must comply with when purchasing commercial food products served in the school meal programs.**

### **13.2 LIMITED EXCEPTIONS TO THE BUY AMERICA PROVISION:**

There are limited exceptions to the Buy American provision which allow for the purchase of foods not meeting the "domestic" standard as described above (i.e., "non-domestic") in circumstances when use of domestic foods is truly not practicable. These exceptions, as determined by the SFA, are:

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

- **Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.**

**13.3 Should the vendor request an exception to the buy America provision, it is the vendors responsibility to provide sufficient evidence that the product in question does not exist in any form that would comply with the provision. Should the BOCES determine that the evidence supplied by the vendor does not meet the requirements for an exception, the vendor will be required to supply the appropriate produce or be deemed nonresponsive to the bid or contract.**

**14. MWBE: §200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

(a) The Non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

**15. BID FORMAT:**

The bidder shall insert the unit price, the extended price, and any brand, quantity and/or size variance from the specified product on the bid forms enclosed for each item he/she proposes to furnish. In the event of a discrepancy between the unit price and any extension or bid total, the unit price will govern. If not bidding an item or items, mark N/A in appropriate place(s), do not leave any blanks.

**16. REGULATIONS:**

All products must meet all applicable Local, State and Federal regulations.

**17. SPECIFICATION REFERENCES/PRODUCT SUPPLIED:**

12.1 For the items specified, the words "or equal" are understood after each item. All bidders are to identify the brand, specifications, weight, and number of items per package, label standards and any variance on all items bid. If no description or alternate item information accompanies the bid, it will be assumed the bidder will furnish the item exactly as listed on the bid proposal form specifications. Items must be clearly labeled as to item and weight and packaged to assure adequate protection from dirt, moisture, or other contaminants.

12.2 The Participants have determined that if manufacturers are listed (model names or numbers used) in the specifications, those listed are preferred. This manufacturer's reference is not intended to be restrictive but

descriptive of the type and quality that the Participants' desire to purchase. Bids for similar manufactured items of like quality will be considered if the bid is fully noted with the manufacturer's brand name and model.

12.3 The Bid Committee reserves the right to determine products of equal value. The decision of the Bid Committee will be final as to acceptable alternates. Vendors will not be allowed to make unauthorized substitutions after award is made.

12.4 If the item or items called for in these specifications are delivered and fail to meet specifications in any respect, the bidder will be notified, and he will arrange for their removal from the Participant's property at no expense to the Participant. If successful bidder fails to remove the items, which, in the opinion of the Bid Committee, do not meet specifications, the Participant will arrange to have such items removed and any expense connected therewith will be the responsibility of the successful bidder.

12.5 In addition, during the term of the contract, the Participants reserve the right to delete item(s) or add comparable item(s) to the list, at prices to be negotiated with the contractor.

**18. TAX EXEMPT STATUS:**

No charge will be allowed for federal, state, or municipal sales and excise taxes for which the Participants are exempt. The price shall be the net delivered price, including all discounts, and shall not include any charges taxes or fees.

**19. CANCELLATION CLAUSE:**

22.1 The Participants reserve the right to cancel the contract at any time during the contract term upon thirty (30) days written notice of cancellation mailed to the address of the vendor(s).

22.2 CANCELLATION FOR NONAPPROPRIATIONS: Should the Board of any of the participants fail to approve or remove funding for any contract resulting from award of this bid, the existing contract will become null at that time. Should this occur, the vendor shall be notified in writing by the participating entity. At that time the vendor shall complete any outstanding purchase orders and the participating entity shall fulfil any outstanding financial responsibilities to the vendor. This shall in no way cancel or in any way involve any of the remaining participants.

**20. TERMINATION CLAUSE:**

Wayne-Finger Lakes BOCES reserves the right to terminate any contract resulting from this bid with or without cause upon (10) ten-calendar days written notice to the vendor. Upon such written notice, said contract shall be terminated and the vendor agrees to remove said equipment from Participant's property within seven (7) calendar days and refund the Participant(s) in full for the equipment within that same timeframe.

**21. NON-ASSIGNMENT:**

It is understood and agreed that the bidder(s) shall not assign, transfer, convey, subcontract, or otherwise dispose of the contract of his/her right, title, or interest therein, or his/her power to execute such contract, to any other person, company, or corporation, without the prior written consent of the BOCES.

**22. GOVERNING LAW:**

Any dispute arising under this Contract shall be governed by the laws of the State of New York, County of Wayne, Town of Arcadia. Any litigation under this Contract if commenced by Contractor shall be brought in a Court of competent jurisdiction in the State of New York, County of Wayne. Pending the resolution of any dispute, the Contractor shall proceed as directed by BOCES in writing.

**23. JUDGMENTS/LEGAL FINDINGS:**

By submitting this bid for consideration, the vendor affirms that they currently have no judgments or other legal findings nor have any pending judgments or other legal findings against the company or any of its executives, with any federal, state, or local government entities that in any way could impact or have potential to impact their ability to complete any contract awarded them as a result of this bid. Failure to disclose any such judgments and/or findings will result in the termination, or any contracts and other penalties as deemed legal and appropriate by the BOCES or Participant(s).

**24. NEW YORK STATE SEXUAL HARASSMENT LAWS:**

By submission of this Bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the NYS labor law. A model policy and training has been created by the NYS Department of Labor and can be found here: <https://www.ny.gov/programs/combatting-sexual-harassment-workplace>.

**25. FORCE MAJEURE:**

The Contractor shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, or acts of God, or for any other acts not within the control of the Contractor and which by the exercise of reasonable diligence he is unable to prevent. This section shall not be construed to relieve Contractor from liability caused by the negligence or willful misconduct of Contractor, its officers, employees, or agents.

**26. EXCEPTIONS:**

Where a deviation or exception to this bid by the bidder to any part of this proposal, bidder must fully provide by a detailed explanation of exception on the Questionnaire Form. In the absence of a written exception or deviation, vendor agrees to fully comply with all conditions and specifications of the proposal.

**27. PURCHASE ORDERS:**

Participating Districts will place Purchase Orders directly with the responsible bidder. Purchase orders shall be effective and binding upon the contractor when placed in the mail addressed to the contractor at the address shown on his/her bid form. **(NO SUBSTITUTES AFTER BID AWARD(S) CAN BE MADE.)**

**28. IDENTIFICATION OF DELIVERIES:**

Purchase order numbers must appear on the outside of all shipments.

**29. SALE ITEMS:**

When a bid item appears on a company sales flyer at a price, lower than the bid price, the sales price will apply to all Participants. Vendors are required to distribute any rebates for products bid to the Participants.

**30. PAYMENTS:**

Payments of any claim or invoice shall not preclude BOCES or Participants from making claims for adjustments on any item found not to have been in accordance with the contract specifications.

**31. USAGE REPORTS:**

Each contractor must provide, upon request of the Participant(s), a complete listing of all items delivered to the Participant(s) during the contract term. Included in the listing must be sufficient description of the item, the item cost and the date of delivery. Contractor must be able to sort reports by manufacturer. Like items shall have a summary total given for the referenced time period.

**32. INDEMNIFICATION:**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Participants from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out or resulting from performance of contracted services, provided that such claim, damage, loss, or expense is attributed in whole or in part by negligent acts or omissions of the Contractor, his subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

**33. EXECUTORY CLAUSE:**

The Contractor specifically agrees that this contract shall be deemed executory only to the extent of monies available and no liability shall be incurred by BOCES or the Participants beyond the monies available for this contract.

**34. COMPLAINTS:**

Both Participants and Vendor(s) shall submit all complaints in writing to:

Wayne-Finger Lakes BOCES Business Office  
Attn.: Linda McClean, Purchasing Director  
131 Drumlin Court  
Newark, NY 14513-1863

Within four (4) days of occurrence. The Coordinator will maintain a file of all complaints that are submitted from both the Participants and the Vendor(s).

The BOCES reserves the right to reject any or all bids or to accept any proposal, which in the opinion of the BOCES is in the best interest of the Participants.

**35. ORDER OF PRECEDENCE:**

Should a contradiction appear within this bid document, the following order of precedence shall prevail:

1. Bid Terms and Conditions
2. Bid Specifications
3. General Conditions
4. Purchase Order Conditions

**36. DISCREPANCY:**

In the event of any discrepancy, disagreement or ambiguity among the documents which comprise this Bid and the Vendor's Bid, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement or ambiguity; 1) the Bid Document; 2) the Vendor's proposal or bid.

**37. NO ARBITRATION:**

Disputes involving this contract including breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be heard in a court of competent jurisdiction of the State of New York, County of Wayne.

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| <b>SPECIFICATIONS FOR FRESH FRUITS &amp; VEGETABLES</b> |
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The BOCES is currently accepting sealed bids for the purchase of fresh fruits and vegetables for use by the BOCES, School Districts and Counties as needed throughout the year.

Chapter 56 of the Laws of 2018 provides school food authorities (SFAs) with increased State reimbursement for the purchase of New York State (NYS) food products for school lunch programs. It is the intent of this to help provide the availability of qualified products for the purchase by SFAs to meet the requirements for additional reimbursement.

SFAs that receive additional reimbursement are required to maintain documentation to demonstrate the procurement and use of NYS food products. As such, ***the awarded vendor(s) will be required to document on their invoice the source of product purchased*** including but not limited to:

- Name of Produce/Fruit Farm (where commodity was purchased)
- Town/County and State of Farm

It is the intent of the BOCES to contract with one or more vendors for the majority of these foods. Such contracts, if awarded would be for a term as described in the General Information section of this document.

**2. MINIMUM BID REQUIREMENTS:**

- **Minimum Percentage of Items Bid – 80%**

Bidders are directed to bid all items that they are able to supply as indicated on the bid proposal form. To be considered, **a bidder must bid at least 80% of the items requested in any one or more regions** of the map as defined in **Appendix A - Participant by Bid Region**:

- 1)**Orange Districts**: Clyde-Savannah, Gananda, Lyons, Marion, Newark, North Rose-Wolcott, Palmyra-Macedon, Red Creek, Wayne, Williamson.
- 2)**Green Districts**: Canandaigua, Manchester-Shortsville, Phelps-Clifton Springs.
- 3)**Turquoise Districts**: Geneva, Gorham-Middlesex, Penn Yan, Seneca Falls, Waterloo.

**Note:** You may select and bid on more than one Bid Region.

It is important for vendors to understand that the bid for the Participants has been split into Bid Regions for the purpose of attracting more competition. In doing so, vendors should understand that they **must indicate which Bid Region(s) they are bidding on** (See Appendix A – Participants by Bid Region) in order to be considered for an award. **In selecting a Bid Region, the vendor agrees to service the districts listed in the Region(s) to the full extent of the terms and conditions listed within this bid.**

- If not bidding an item or items mark N/A in appropriate place(s).
- The Participants reserve the right to award the bid on the basis of less than this percentage if deemed in the best interest of the Participants. The Participants decision as to the minimum percentage required to be considered is final.
- Where a deviation or exception must be taken by the vendor to any part of the proposal, vendor must fully provide a detailed explanation of exception on the Questionnaire Form. In the absence of a written exception or deviation, vendor agrees to fully comply with all conditions and specifications of the proposal.
- Vendors **MUST** provide a copy of bidder's New York State Department of Agricultural & Markets certificate as a Farm Products Dealer License and New York State Department of Agricultural certificate as a GAP (Good Agricultural Practices & Good Handling Practices).
- The percent bid above (+) cost will apply to all bid items and any additional fresh produce items the participants may need during the contract period.
- All prices offered are net delivered. The Participants will not pay additional or separate delivery costs including fuel surcharges of any kind.
- **All purchase prices quoted in the Bidding Documents by a Bidder must be "per unit" as specified, i.e., do not quote "each" when "per case" is requested. In Wayne-Finger Lakes BOCES sole discretion, a Bid may be rejected for failure to comply with the immediately preceding sentence.**

### 3. MINIMUM ACCEPTABLE STANDARDS:

#### a. **Bidder:**

- All vendors submitting bids for consideration by the BOCES must be a participant of the USDA Pilot Program registered with the state of New York to do business in the state. **Bidder must be listed on the web site eligible vendor list or be able to submit documentation from the USDA to confirm status.** The web site where this information can be found is: [www.ams.usda.gov/selling-food/pilot-project](http://www.ams.usda.gov/selling-food/pilot-project). If the link doesn't take you there copy and paste the URL in your web browser. Vendor requirements for the Pilot Program have been provided in a separate attachment.

#### b. **Products:**

##### ➤ **DEFINITIONS OF NEW YORK STATE FOOD PRODUCTS:**

For the additional reimbursement under the 2018 law, any NYS Food Product purchased and used in the meal for school lunch program is defined as follows:

- ❖ A food item that is grown, harvested, or produced in NYS; or



- ❖ A food item processed inside or outside NYS comprising over 51% agricultural raw materials grown, harvested, or produced in NYS, by weight or volume.

“Produced” means the producing of food grown upon and/or harvested from the farm or waters through agricultural, horticultural, aquacultural, or dairying processes.

“Processed” means any alteration of food product from its raw or original state to enhance its value or render it suitable for consumption. (Ex: cooking, pasteurizing, and or packaging food products)

➤ **REQUIREMENTS TO PROVIDE NYS PRODUCTS – Geographic Preference:**

We are striving to meet the provision of New York State products required for maximum state reimbursement. In order to do this, we have included in this bid a geographic preference for fresh fruits and vegetables produced within New York State. For the purposes of evaluating the lowest bid, respondents who can supply the requested items produced from within New York State during the contract term will receive a price reduction for the evaluation process only in accordance with the requirements set forth in the Evaluation and Award – “Geographic Preference Credit” section of the Bid.

The Successful Bidder shall consent and agree to audits of any and all purchasing and financial records regarding compliance with its geographic preference designation during the contract period. If it is discovered that the Successful Bidder failed to comply with its geographic preference designation during the contract period, the BOCES reserves the right to rescind the entire award and the Vendor’s responsibility may be questioned for future bids.

**Geographic Preference shall apply to the items on the Vendor Bid Listing where NYS Products is noted within the description.**

➤ **PLACEMENT OF ORDERS:**

Orders are to be placed a minimum of two days in advance of the scheduled delivery day. In the event of a change in order, the vendor will be notified no later than 4:00 PM preceding the day of delivery.

When a non-scheduled Participant’s closing occurs and the Participant(s) cannot notify the vendor before the delivery begins, or in the event the vendor is informed the morning of delivery, the Participant shall accept and store the order, contingent of available personnel and sufficient refrigerator space. If this is not possible, the Participant(s) will advise the contractor as soon as possible.

Note: A contractor request that orders be placed more than four (4) days in advance of delivery date may result in rejection of bid.

➤ **DELIVERY REQUIREMENTS:**

**Prices are to be FOB each school/agency building location in each district/agency participating in the bid. Deliveries are to be made to each school/agency building location up to twice each week as required by each participant. The successful bidder(s), upon notice, shall coordinate delivery schedules to specific sites of all participating school districts and agencies. Bidders are expected to bid based on these stated delivery requirements.**

**Changes can be made only with the written consent of an authorized representative of the Participants. It is understood that deliveries shall not be left outside of building unless previously approved by the school/agency’s Food Service Director.**

The vendor may use a disposable or non-disposable type of delivery container. Such containers shall be of stack type for convenience of storage. Vendor is required to remove all empty containers on next delivery date. Container must be properly designed and constructed to prevent spillage of contents.

A delivery receipt must accompany daily deliveries. All such receipts must be signed and dated by an authorized representative of the Participant. Deliveries made to sites not designated on the delivery schedule, or without a signed delivery ticket, shall be considered as non-delivery. The vendor is responsible for providing a monthly statement to the Participant and is to include the total units of each

item, unit costs and dollar extensions. This statement must be rendered to the Participants as soon as possible following the final delivery of the month.

For items under the USDA Pilot Program that the vendor provides, the vendor is responsible for submitting invoices and any credits directly to the USDA.

➤ **GUARANTEE:**

The vendor guarantees that all items delivered to the participants shall be of U.S. Grade #1 or better, fresh and ready to use upon delivery. All produce shall be fresh, not overly ripe, and shall be free from decay, spots, bruises, discolorations, wilting, sunburn, freezer burn and insects. Containers and bags shall be sanitary and packed according to good commercial practice. Shipping containers shall be plainly marked showing the name of the commodity, grade, and weight and/or numerical count. Further, that all state and local regulations have been met in the production, storage, preparation, and shipping of all items supplied to the participants. Should any participant deem any item(s) unusable or unsatisfactory, the vendor agrees to immediately replace said items with fresh product, or at the participants' discretion, credit for all costs associated with the rejected item(s). Deliveries shall be made in closed trucks maintained in sanitary manner. All applicable fruit and vegetables shall be delivered in refrigerated trucks capable of holding air temperatures of 34-40 degrees.

Local and regional farms should be used to procure fresh fruits and vegetables whenever possible. It is expected that the awarded vendor has or will develop relationships with local/regional farms to meet this requirement. The food products offered by Vendors for this bid must meet the Buy American Standards.

**The procuring of fresh fruits and vegetables from an auction shall not be permitted for this solicitation.**

The contractor guarantees that all items delivered to the Participants shall be fresh and ready to use upon delivery. Further, that all state and local regulations have been met in the production, storage, preparation and shipping of all items supplied to the Participants. Should the Participant(s) deem any items unusable or unsatisfactory, the vendor agrees to immediately replace said items with fresh product or, at the Participant(s)'s sole discretion, credit the Participant for all costs associated with the rejected items.

All items shall be the highest quality available as defined by the applicable grade standards. All items shall be fresh with minimal processing having been done.

The Participants will have 24 hours to review delivered product(s) and to notify the vendor of any shortages or quality issues.

The vendor will be responsible for immediately replacing any damaged, outdated or spoiled products. Such products deemed unacceptable by the Participant shall be replaced within 24 hours of notification by the Participant.

Market Condition Reports - Vendor must provide Market Condition Notification Report(s) concerning any issue(s) with the supply of the products in this bid during the contract term.

The awarded bidder must comply with all standards and regulations established by Federal or New York State laws, including the Federal Food, Drug and Cosmetic Act, subsequent decisions of the U.S. Department of Agriculture and the Board of Health.

c. Pricing:

➤ **INITIAL BID PRICING:**

Pricing shall remain firm as that bid for the initial sixty (60) calendar day period of the contract. After the initial sixty (60) days **all items shall be priced in accordance with the percentage listed on the Bid Proposal Form.** Should the price for any particular item change the vendor shall include with the submittal of their updated price list and a copy of the invoice showing the new wholesale price paid by the vendor. This allows the Participant(s) to verify the accuracy of the price offered is as bid.

All wholesale pricing sheets must be copies of the actual invoice to the vendor on the wholesalers form and shall not be on the contracted vendor's letterhead.

Prices may fluctuate weekly, based on vendors cost. **All weekly price sheets submitted to the participants must include the name of Produce/Fruit Farm and Town/County as well as the State of the Farm (where commodity was purchased).**

➤ **PRICE ADJUSTMENTS/INVOICES/CREDITS:**

The vendor MUST indicate a percentage above their cost for future purchases from the successful vendor. This percentage must be constant for the duration of the contract for all purchases made. The prices offered for all items listed on this bid AND all future items supplied as a result of this contract MUST be based on the percentage indicated in on the Bid Proposal Form.

Credits must be issued in written format within 7 days of notification. Acceptable forms of documentation are an issuance of a credit memo or an email notification acknowledging the credit due.

➤ **INVOICING:**

Invoicing must be specific to the participant that issued the order and must be accurate. **Vendor must provide a sample of their invoice as required on page 20, item A.** Failure to provide sample may result in rejection of bid.

➤ **“Provisions for Non-Federal Entity Contracts Under Federal Awards” – Appendix B**

A majority of our Participants apply for federal reimbursement for their School Lunch Program and these provisions must appear in the bid specification in order for them to be compliant.

*Please note:* When reviewing this document, the first paragraph stipulates **“as applicable”**.

**4. BID PARTICIPANTS:**

➤ **Participating school districts and agencies include the following organizations:**

|  |                |
|--|----------------|
| Canandaigua C.S.D., 143 North Pearl St., Canandaigua, NY 14424                 | (585) 396-3700 |
| Clyde-Savannah C.S.D., 215 Glasgow St., Clyde, NY 14433                        | (315) 902-3000 |
| Gananda C.S.D., 1500 Dayspring Ridge, Walworth NY 14568                        | (315) 986-3521 |
| Geneva C.S.D., 335 Gамbee Rd., Geneva, NY 14456                                | (315) 781-0400 |
| Gorham-Middlesex C.S.D., 4100 Baldwin Road, Rushville, NY 14544                | (585) 554-4848 |
| Lyons C.S.D., 10 Clyde Rd., Lyons, NY 14489                                    | (315) 946-2200 |
| Manchester-Shortsville C.S.D., 1506 Rte. 21, Shortsville, NY 14548             | (585) 289-3964 |
| Marion C.S.D., 4034 Warner Rd., Marion, NY 14505                               | (315) 926-2300 |
| Newark C.S.D., 100 E. Miller St., Newark, NY 14513                             | (315) 332-3200 |
| North Rose-Wolcott C.S.D., Salter Rd., Wolcott, NY 14590                       | (315) 594-3141 |
| Palmyra-Macedon C.S.D., 151 Hyde Pkwy., Palmyra, NY 14522                      | (315) 597-3401 |
| Penn Yan C.S.D., One School Dr., Penn Yan, NY 14527                            | (315) 536-3371 |
| Phelps-Clifton Springs CSD., 1490 NY-488, Clifton Springs, NY 14432            | (315) 548-6420 |
| Red Creek C.S.D., South Street, Red Creek, NY 13143                            | (315) 754-6277 |
| Seneca Falls C.S.D., P.O. Box 268, Seneca Falls, NY 13148                      | (315) 568-5500 |
| Waterloo C.S.D., 109 Washington Street, Waterloo, NY 13165                     | (315) 539-1556 |
| Wayne C.S.D., 6200 Ontario Center Road, Ontario Center, NY 14520               | (315) 524-0322 |
| Williamson C.S.D., Miller Street Extension, PO Box 900, Williamson, NY 14589   | (315) 589-9661 |
|  |                |
| Finger Lakes Technical & Career Center, 3501 Cty. Rd. 20, Stanley, NY 14561    | (585) 526-4617 |
| Wayne Technical & Career Center, 4440 East Ridge Rd., Williamson, NY 14589     | (315) 589-2600 |
| Wayne-Finger Lakes BOCES Conference Center,<br>437 Vienna St., Newark NY 14513 | (315) 332-7726 |

**Note: Specific sites at each Participant may be found on the enclosed Delivery Site List.**

**5. PARTICIPATION - EXTENSION OF USE:**

**Participation by other BOCES, School District, and/or Other Political Subdivision within New York State:**

Wayne-Finger Lakes BOCES reserves the right to allow all political subdivisions, municipalities, county, school districts, other BOCES, and not-for-profit organizations all authorized under the General Municipal Laws of the State of New York, to purchase any goods and/or services awarded as a result of this bid in accordance with the latest amendments to NYS GML 100 through 104. However, it is understood that the extension of such contracts are at the discretion of the vendor and Wayne-Finger Lakes BOCES. Participation requires the filing of the appropriate Board Resolution with Wayne-Finger Lakes BOCES. The Participant list will be amended from time to time as additional resolutions are filed with the Purchasing Department at Wayne-Finger Lakes BOCES. Initial contact must be done thru Wayne-Finger Lakes BOCES by contacting Linda McClean at (315) 332-7458 or Lisa Parkison at (315) 332-7415 in the Purchasing Department.

**EVALUATION & AWARD DETERMINATION**

1. Any awards will be based on the list of items provided within the Vendor Bid Listing, as these are among the most frequently purchased types of fruits and vegetables.
2. *Geographic Preference Credit* – Bidders will be required to indicate on their bid proposal the percentage of NYS products that they will be able to provide to **each participating school district** in the region(s) for which they are bidding, for each item where “NYS Product” is noted within the description, during the contract term, as described early in this document under Minimum Acceptable Standards, item 2 b. Bidders would be given geographic preference points based on the percentage indicated on the bid proposal page. One point would equal one percent of the price bid with the maximum being 10%. This percentage would be given as a credit on their bid pricing for the calculation of award for Geographic Preference. A ratio calculation will be used to create anything less than 10 to determine their credit. **Reminder:** the credit is for evaluation purposes only.

We will utilize the following to determine the credit for each bidder:

- Bidders bidding 60% or more for Geographic preference will receive 10 full points or a 10% reduction during evaluation of their bid price.
- Bidders bidding less than 60% will be determined by taking the percent bid as a ratio of the 60% sought. Example: a bidder bidding 45% would be determined as 45/60 or 75% of the total possible points of 10 or 7.5 points. Since the points are equal to one percent, the bidder would be allotted a credit for 7.5% on his pricing as indicated in Bidder A below.

| Bidder                                     | A       | B       | C       |
|--|---------|---------|---------|
| % Geographic Bid                           | 45%     | 60%     | 80%     |
| Percent allotted for Geographic Preference | 7.5%    | 10.0%   | 10.0%   |
| Bid Price                                  | \$10.00 | \$10.50 | \$10.25 |
| Credit - Geographic Preference             | \$0.75  | \$1.05  | \$1.03  |
| Price with Preference                      | \$9.25  | \$9.45  | \$9.22  |

***In the table above, Bidder “C” would be the low bidder when the geographic preference is applied.***

3. The bid will be awarded by the Cooperative Bid Committee to the lowest responsive and responsible bidder(s), in part or in whole, when geographic preference is applied, as will best promote public interest, taking into consideration the reliability of the bidder, the quality of the produce to be furnished, their conformity with the specifications, the purposes for which required and their terms of delivery, **for each Region, see Appendix A**. The lowest bidder(s) will be determined by a direct comparison of the lowest costs received when geographic preference is applied for common items (items bid by all bidders), in a single bid Region.
4. Bids will be awarded after review and recommendation by the Bid Committee. Decisions of the committee will be final. The Bid Committee further reserves the right to reject any or all bids if deemed to be in the best interest of the Participants.
5. Award of Bid: The award will be made within forty-five (45) days after the opening of bids.
6. Awards will be made using the items listed on the Vendor Bid Listing as a standard. The Participants will purchase additional items, as needed allowing the successful vendor the initial opportunity to supply all items except as defined within this bid document. The Participants reserve the right to solicit additional pricing if in

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their sole opinion, they feel that the prices offered by the successful vendor are in excess of the current market value. Should such a case occur, the Participant may purchase off contract. However, in such a case the Participant will return to the successful vendor for future purchases as needs arise and when they meet the bid guidelines.