

RFP 22-06 CATERING SERVICES FOR NSLP & SBP

Request for Proposals

AAMA-George I. Sanchez Charter School

6001 Gulf Freeway, Building E, Houston, TX 77023



For more than 50 years, AAMA has helped Latinos achieve their potential.

We've motivated youth to finish school and encouraged many to go on to college. We've taught immigrant adults to communicate in English and have guided scores of them to gain the knowledge they need to become contributing United States citizens. We've prepared them to enter workforce development courses and secure livable wage jobs. We've helped both youth and adults break the cycle of addiction and make positive choices that improve the quality of their lives.

AAMA has empowered men, women, and children to pursue their dreams and inspired leaders within the community. In short, AAMA has helped tens of thousands of Latinos to achieve this.

Our Mission

AAMA's mission is to inspire and empower Latinos to pursue their potential and achieve success. Our efforts are focused in the areas of education, workforce readiness and leadership development.



For more than **50 years**, AAMA has been one of the most effective organizations in the country to help Latino families to become productive contributors. With the **vision, leadership and support of our founders**, our volunteers, and our financial contributors, AAMA has created a long history of **amazing achievements**. And we are building on that legacy.

At AAMA, we're helping Latinos to be amazing, each and every day.

TABLE OF CONTENTS

1. RFP Timeline
2. Agency RFP Contact Information
3. Scope of Services
4. Solicitation Instructions and Proposal Outline
5. Proposal Evaluation Procedures
6. Exhibit A – Contract Terms
7. Required Documents Form
 - I Proposal Cover Statement and Notice of Intent to Submit Form
 - II Execution of Offer
 - III Vendor Packet, completed by Vendor

1. RFP TIMELINE

Activity	Due Date
Request for Proposal (RFP) Available to Public Posted on Website	June 22, 2023
Vendor Questions to RFP Due	July 7, 2023 by 10:00 AM (CT)
Agency Answers to Questions Posted on Website	July 24, 2023
Vendor Proposals Due	July 31, 2023 by 10:00 AM (CT)
Opening of Proposals	July 31, 2023 at 10:05 AM (CT)
Evaluations*	August 14 – August 18, 2023
Anticipated Contract Award Date	August 21, 2023

Vendors may be invited to the Agency to interview and present their goods and/or services. Agency will establish the format, time, date, and location for presentations.

2. AGENCY RFP CONTACT INFORMATION

All communications regarding this RFP from this time and date until the contract has been awarded, must be coordinate through:

Yesenia Aguirre
AAMA-George I. Sanchez Charter Schools
6001 Gulf Freeway, Building E
Houston, TX 77023
Phone: (713) 929-2315
yaguirre@aama.org

THE OPPORTUNITY

AAMA (Agency) is seeking proposals from highly qualified catering service Vendors to provide breakfast and lunch meals for the students enrolled at our George I. Sanchez Charter School – NORTH campus, located at 170 Rittenhouse Street, Houston, Texas 77023. Agency's North campus will serves pre-k through 5th and 6th through 12th grades and estimates approximately 400 students for the 2023-24 school year.

3. SCOPE OF SERVICES

The National School Lunch Program (NSLP) is a federally assisted meal program that provides lunches to more than 3 million Texas children in school and residential childcare institutions. It

serves nutritious, low-cost, or free lunches to students in public and non-profit private schools in Texas. Lunches must meet federal nutritional guidelines and are reimbursable to schools based on the number of meals served. The School Breakfast Program (SBP) operates in the same manner as the National School Lunch Program.

Contract Award will be made only to a qualified, responsible vendor.

1. Vendor must have demonstrated knowledge and experience with the NSLP & SBP for at least five (5) years.

2. Vendor must have the resources and ability to provide the following estimated number of meals per school year:

Breakfast: 68,800 Lunches: 73,100

I. Meal Requirements and Meal Services:

A. Vendor will provide daily delivered breakfast and lunch meals to the Agency's North Campus in accordance with United States Department of Agriculture, Child Nutrition Program.

B. Vendor shall deliver meals to the Agency as specified herein.

C. All meals provided by the Vendor shall comply with the meal pattern requirements of the National School Lunch Program/School Breakfast Program (NSLP/SBP) meal planning system, in accordance with the Administrator's Reference Manual (ARM), including sections 7, 8 and 9.

<https://squaremeals.org/Programs/NationalSchoolLunchProgram/PolicyARM.aspx>

D. Decisions about the specific foods to serve and their preparation are made locally between Vendor and Agency through joint meal planning, biannual student food preference meal surveys, and taste tests. Vendor must submit daily production reports and monthly menus as well as child nutrition labels, recipes, carb reports and product formulation statements. All food production records and counting and claiming logs must be reconciled by the end of the day that the breakfast and lunch meals are served.

1. Vendor will provide meals that are prepared and prepackaged individually or prepared in bulk for each student with eating utensils, napkins, condiments, and milk included for the following location:

➤ George I. Sanchez Charter School – North Campus

2. The plates used for meals for the pre-K and kindergarten students must be sturdy (not Styrofoam) divided plates and not paper plates.

3. Vendor will provide food that has been prepared in such a way that Pre-K students can manage (i.e., diced food, soft foods etc.). Vendor will not provide food that could result in a choking hazard to students. The following foods should be avoided for pre-k students: Foods that are round, hard, small, thick, and sticky, smooth, or slippery. Examples of the foods not

allowed include, but are not limited to, hot dogs, popcorn, whole grapes, hard candy, sausage rounds, whole grapes, hard raw vegetables and fruits, uncooked dried fruits including raisins, hard candy and chewing gum, whole nuts, whole beans, seeds, whole grain kernels, pretzels, chips, peanuts, marshmallows, popcorn, and chunks of meat.

4. Vendor will ensure all Regular Diet menus are pork, nut, fish, and shellfish free.

5. Vendor will prepare meals that accommodate the special dietary needs of children as identified. These meals will be negotiated on an as-needed basis. Agency will order special diet meals for these identified children. Vendor will ensure special diet meals are delivered with the regularly scheduled meal delivery. All meals for Special Diets will follow a 21-day menu cycle and will be free of the following: nuts, fish, shellfish, pork, dairy, wheat, soy, citrus, corn and prepared with olive oil, salt, pepper, garlic and onion powder, and salt-free and fat-free spices and/or seasonings.

6. Vendor will provide sack lunches for field trips/testing days which meet the National School Lunch Program meal requirements.

https://squaremeals.org/Portals/8/files/ARM/ARM_Section8_LunchMeal_200812.pdf

7. Vendor will provide a 21-day breakfast and lunch cycle menu that meet the cultural needs of the school. Each twenty-one (21) day menu must include meals that are the same price as quoted on the Bid Sheet. Prices shall be firm, fixed prices. No cost-plus-percentage-of-cost contracts are allowed, per TDA regulations.

8. All meals will be transported by the Vendor in accordance with state and local sanitation and temperature requirements and delivered to the Agency.

9. A detailed plan for on-time delivery and HACCP transportation procedures is required.

10. Vendor agrees to provide one (1) to four (4) experienced uniformed servers for the service of breakfast and lunch to the following locations: **AAMA-George I. Sanchez Charter School North**. Cashiers will be provided by the Agency. Vendor is responsible for cleaning kitchen equipment, serving areas, and kitchen floors. Agency anticipates that a reach-in cooler, reach-in freezer and hot steam table will be available at the Site; a heating cabinet may also be available but is not guaranteed. Vendor is also responsible for washing food trays on-site, provided Agency has 3 compartment sinks or at the vendor's food production kitchen, if a 3-compartment sink is not available. Agency is responsible for cleaning the cafeteria dining room area after meal service and maintaining cleanliness of dining room floors, walls, and ceiling.

11. Vendor may not alter the twenty-one (21) day menu cycle unless Vendor provides a minimum of three (3) days advance notice of menu change.

12. Vendor will implement and document a Hazardous Analysis Critical Control Point (HACCP) Food Safety Plan and provide to Agency in accordance with the Administrative Reference Manual (ARM) Section 18 <http://squaremeals.org/Portals/8/files/ARM/Section%2018->

[Sanitation.pdf](#). All HACCP logs not within proper range must be corrected prior to serving the meal.

13. The number of meals prepared by the Vendor will be determined by the quantity ordered by the Agency.

14. Vendor must use USDA Foods/Commodities made available by the Agency and operate in accordance with the ARM Section 21

http://squaremeals.org/Portals/8/files/ARM/Section21_USDAFoods_160721.pdf.

Instructions to Vendors:

Any processed food product that does not have a yield listed in the Food Buying Guide for Child Nutrition Programs needs either an up-to-date Child Nutrition (CN) label or a signed and dated certified product analysis sheet or product formulation statement. This includes commercially prepared items that may provide part of a meal component. The CN label, certified product analysis or product formulation statement must clearly identify the contribution of a product toward meeting the meal pattern requirements. The vendor must keep a copy and an on-site original HACCP binder, Food Production Records, and daily HACCP logs, and maintain a digital copy of these items.

II. Health and Sanitation

A. Agency and Vendor agrees that State and local health and sanitation requirements will always be met.

B. Vendor will ensure all food will be properly stored, prepared, packaged, and transported at appropriate temperatures and free of contamination, in accordance with State and local health and sanitation requirements.

C. Vendor's servers will be responsible for the daily preparation of the food service area, ensuring food is properly stored and equipment is prepared and ready for the daily service of meals. At the end of the lunch period, Vendor will be responsible for the proper stowing of small ware equipment used in the daily serving of food. Vendor will employ a lead server who is responsible for maintaining the organization, labeling, and overall cleanliness of the kitchen.

D. Food handlers must be certified according to State and/or local health and sanitation requirements with a Food Managers Certification.

E. All staff who work in the kitchens at a school site must be vaccinated according to the requirements of applicable law and the Agency and background checked according to applicable law and the Agency.

F. Food items identified as perishable according to State and/or local health and sanitation requirements and which are left over from the Agency meal service must be destroyed by

Vendor after recording leftovers on food production record and confirmed with Agency staff on site.

G. Vendor shall permit inspection by Agency representatives of Vendor's facilities at any time during the contract period.

H. Vendor shall provide hair-net and gloves for Vendor servers at all sites. Agency will provide hair nets and gloves at sites that do not utilize Vendor servers.

III. Operations

A. Agency will provide a Program Assistant and/or NSLP Specialist to monitor the management of the food service operation. The Vendor will monitor weekly the vendor's servers at each site.

B. The Vendor will provide the required Professional Development Training for their servers for each school site.

C. The Vendor and Agency will be on-site during any state or federal audit and will conduct a mock survey in preparation for any state or federal audit.

D. Vendor will provide all the equipment necessary to transport the meals to the Agency's sites. The vendor will provide all personnel necessary to accept delivery and serve the meals. For sites using Vendor's servers, Agency will provide personnel necessary to supervise the consumption of meals. Agency is responsible for all point-of-service meal counts and completion of all documents required by the National School Lunch and School Breakfast Programs, including making claims for reimbursements.

E. Agency shall maintain the premises, equipment, and facilities where meals are served, and shall adhere to the applicable standards of cleanliness and sanitary practices to ensure compliance with state and local health and sanitation requirements related to the food service program.

F. Vendor shall maintain the premises, equipment, and facilities where meals are prepared, and shall adhere to the highest standards of cleanliness and sanitary practices to ensure continual sanitation in all functions and matters related to the food service program.

G. Agency will be responsible for the maintenance and expense of insect and pest control in all food service serving areas.

H. Agency will be responsible for removal of trash and garbage resulting from the food service program in compliance with current scheduled waste disposal services provided by the Agency. The vendor will be responsible for removal of all trash and garbage from the kitchen at the end of the meal service.

I. Vendor will be responsible for the condition and care of meals and is responsible for maintaining the proper temperature of the meal components until they are consumed.

J. Equipment and facilities maintenance and sanitation functions will be the responsibility of the Agency. If the equipment and facilities in question belong to the Agency, the Agency will be held responsible. If the equipment and facilities in question belong to the Vendor, the Vendor will be responsible.

K. Agency shall provide copies of City Health Department reports at least twice per school year. The Vendor will adhere to all health department guidelines regarding sanitary food preparation and storage.

IV. Utilities

A. Any charges from the Vendor for water, gas, and electric or any other charges for utilities must be included in the per meal fee charged to the Agency.

V. General Provisions

A. Vendor may make recommendations to Agency regarding the quality, extent, and general nature of the food service operation. Agency will retain control over the food service operation and shall have the right to make the final decisions.

B. The contract will be kept on file by the Agency in accordance with the State of Texas record retention requirements for review by the Texas Department of Agriculture and other appropriate state and federal agencies.

C. Vendor will have total responsibility to ensure compliance with the regulations set forth by the Food and Nutrition Service of the United States Department of Agriculture and the Texas Department of Agriculture. In addition, performance under the contract must meet all state and local regulations.

D. Vendor shall attend trainings provided by Texas Department of Agriculture and Region IV Education Service Center as it relates to National School Lunch Program/School Breakfast Program food requirements (i.e., HACCP, Food Production Records, School Meal Initiative, Coordinated Review Effort, etc.).

E. Vendor's meals are not intended or labeled for retail sale.

F. No payment shall be made for meals that are spoiled or unwholesome at time of delivery. Meals must be prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations. The Vendor is responsible for the quality and wholesomeness of meals up to and including delivery to Agency, or do not otherwise meet the requirements of the agreement, if any, entered into pursuant to this Contract; provided, however, that no deduction shall be made unless Agency shall give the Vendor written notification of the meal service for which the deduction is to be made, specifying the number of meals for which Agency intends to deduct payment and setting forth the reasons for the deduction. Agency shall provide such notice not later than three (3) days after the date the meal was served. The Vendor shall prepare and store at proper temperatures a sample meal for

each meal served at the school sites for the number of days chosen and for the written notification period to serve as documentation.

G. The National School Lunch Program/School Breakfast Program are federally funded programs and subject to periodic reviews to ensure compliance with applicable rules and regulations. Vendor may be asked to provide Agency with documentation or other information in connection with these reviews. The vendor understands that the results of these reviews may require that the Agency revise the scope and/or terms of this contract.

H. The term of the contract will coincide with the school calendar year, including summer school. Agency's 2023-24 school year calendar can be found at <https://www.aama.org/wp-content/uploads/2022/04/2022-2023-Official-Academic-Calendar-16942.pdf>.

VI. Recordkeeping

A. Agency and the Vendor agree to maintain all records applicable to their responsibilities in this agreement for a period of five years from the end of this agreement period or longer as needed until all audit findings, claims, or litigation issues have been resolved. These records include but are not limited to meal counts, menus, food purchases, meal production records, recipes, nutrient information, and use of USDA Donated Foods, if applicable.

B. Agency prepares and submits the monthly claim for reimbursement. Agency prepares and maintains participant applications and eligibility records; attendance reports and meal counts in accordance with program requirements. Agency will complete and maintain the program meal records based upon the documentation provided daily on the written delivery ticket/site production record accompanying the meals provided by the Vendor.

C. Vendor, under Agency's supervision and approval, maintains menus and production records for meals prepared, nutrient information, documentation on processed products (Child Nutrition labels or product formulary), inventory of all USDA Donated Foods, and recipes in accordance with the Administrator's Reference Manual. The Vendor must provide these records to the Agency upon request for audit by the appropriate federal, state, and local government agency.

D. Vendor must provide a written description on each delivery ticket/site production record regarding the meals prepared; including the amount prepared, the contribution toward each component, recommended serving portion and the number of meals prepared.

E. Agency and Vendor agree that the books and records pertaining to the Agency food service program under the NSLP/SBP will be made available upon request to Representatives of the Texas Department of Human Services, Texas Department of Agriculture, Food and Nutrition Service – USDA, and the United States Government Accountability Office or other governmental agencies at any reasonable time and place.

VII. Additional Requirements

Fraud Statements Fraud Statement for the National School Lunch Program and School Breakfast Program "Whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program, whether received directly or indirectly, shall, if such funds, assets or property are of a value of \$100 or more, be fined no more than \$25,000 or imprisoned not more than 5 years or both; or if such funds, assets or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than 1 year or both. Whoever receives conceals or retains for personal use or gain, funds, assets or property provided under the National School Lunch Program and/or School Breakfast Program, whether received directly or indirectly, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen or obtained by fraud, shall be subject to the same penalties."

AAMA-George I. Sanchez Charter School will provide the following services:

- A. Agency will retain responsibility for the oversight and management of the NSLP/SBP and the school food service operation, including processing the Agency's free and reduced-price meal applications and submitting claims for reimbursement to the Texas Department of Agriculture. Agency is responsible for any reimbursement over-claims resulting from improperly categorized applications and/or meal counting errors.
- B. Agency will be responsible for distribution and collection of applications, determining student eligibility, counting meals served in accordance with eligibility, consolidation of counts of meals served to students, and claiming of meals for reimbursement.
- C. Agency staff person will be responsible for serving meals at locations not utilizing Vendor servers.
- D. Agency, at the sites not utilizing vendor servers shall clean and make available for next day pickup all property owned by Vendor.
- E. Agency will be responsible for the maintenance and expense of insect and pest control in all food service serving areas.
- F. Agency will be responsible for removal of trash and garbage from the school site resulting from the food service program in compliance with Agency's current scheduled waste disposal.
- G. Agency shall provide water, gas, and electric service in Agency' facilities for the food service program.
- H. The Agency shall compile all information required to complete and process reimbursement claims for meals served.
- I. Agency shall maintain the records required to substantiate free and reduced-price meals.
- J. Agency will conduct an evaluation of the Vendor on a regular basis, no less than once per quarter, to ensure compliance with the Vendor Agreement.

K. Agency's Child Nutrition Department and Child Nutrition Manager will have oversight of this Vendor Agreement.

4. SOLICITATION INSTRUCTIONS AND PROPOSAL OUTLINE

A. SOLICITATION INSTRUCTIONS

1. Written questions will be accepted through the date listed in the timeline above. Questions should be submitted via email to the RFP Agency contact. Submission of written questions will be the **ONLY** opportunity for vendors to ask questions about this RFP. An addendum will be prepared from the written questions and answers. This addendum will be posted on the Agency's website for public review. Questions concerning this procurement will not be accepted outside of this written question process.
2. We recommend that you do not wait until the due date and time in case there are technical difficulties during your submission.
3. Proposals must be submitted in a complete proposal package containing all required documents, supporting information and attachments.
4. Each Vendor must submit their proposal as follows:

Proposers shall submit the following in a sealed envelope/package to **AAMA George I. Sanchez Charter School, Attn: Yesenia Aguirre, 6001 Gulf Freeway, Building E, Houston, TX 77023.**

- a. **One (1) hard copy and one (1) electronic copy of Attachment A - Vendor Proposal Responses and Qualifications submitted on a flashdrive to the Agency RFP contact.**
- b. **One (1) electronic copy of Attachment B - Excel Bid Sheet submitted on a flashdrive to the Agency RFP contact.**
- c. **One (1) PDF of the required documents with original authorized official signature submitted on a flashdrive to the Agency RFP contact.**

5. Proposals must be received by the **Agency no later than the time stated in the timeline above.** Proposals received after the deadline will not be accepted. Faxed submissions and postmarks are not acceptable.

B. PROPOSAL OUTLINE

Proposals shall be complete and organized and submitted in the following order outlined below:

1. Attachment A, Vendor Proposal Responses and Qualifications
2. Attachment B, Excel Bid Sheet

Vendor Bid Sheet

Bulk Meals, 1 Server (# hours/day)					
	Cost Per Meal	Estimated Daily Participation	# School Days	Cost	Annual Total
Breakfast		300	180	\$ -	\$ -
Lunch		300	180	\$ -	
Prepackaged/Unitized Meals, 1 Server (#hours/day)					
	Cost Per Meal	Estimated Daily Participation	# School Days	Cost	Annual Total
Breakfast		300	180	\$ -	\$ -
Lunch		300	180	\$ -	

3. Required Documents – Proposals must include the following required documents signed by the company's authorized representative.

- a. Proposal Cover Statement and Notice of Intent to Submit (Form I)
- b. Execution of Offer (Form II)
- c. Vendor Packet, completed by Vendor
- d. Company Brochure, if available
- e. Other attachments, if any

C. OTHER PROPOSAL INFORMATION

1. USE OF SUBCONTRACTORS

It is the Agency's preference to award this contract to a contractor capable of performing all the work listed under this solicitation in-house. While the use of subcontractors may be necessary for some goods or services, the Agency must be notified and approve of subcontractors in writing. The use of subcontractors shall be a factor considered when evaluating the bids for possible delays in the timeliness of service delivery and protection of Agency brand secrets.

Any bidder who intends or may need to utilize a subcontractor to provide these services needs to note that on the bid documents.

2. COST OF RFP PREPARATION All costs incurred in the preparation of the proposal are the responsibility of the vendor and will not be reimbursed by the Agency.

3. VENDOR CONDUCT

No gratuities of any kind will be accepted including meals, gifts, or tips during this RFP process. Violation of these conditions will subject the Vendor to immediate disqualification from the Proposal process.

4. PUBLIC DISCLOSURES

No public disclosures or news releases pertaining to this RFP shall be made without prior written approval of the Agency.

5. USE AND DISCLOSURE OF INFORMATION

If a Proposal includes proprietary data, trade secrets, or information the Vendor wishes to exclude from public disclosure, then the Vendor must specifically label such data, secrets, or information as follows: **"PRIVILEGED AND CONFIDENTIAL - PROPRIETARY INFORMATION."**

To the extent permitted by law information labeled by the Vendor as proprietary will be used by Agency only for purposes related to or arising out of the following:

1. Evaluation of Proposals
2. Selection of a Vendor pursuant to the RFP process
3. Negotiation and execution of a Contract, if any, with the selected Vendor

AAMA-George I. Sanchez Charter Schools is a governmental body for purposes of the Texas Public Information Act and as such, complies with this law.

6. OWNERSHIP OF PROPOSALS

All Proposals become the physical property of Agency upon receipt.

7. BRAND NAME

Any catalog, brand name or manufacturer's reference used in the RFP is for descriptive purposes only (not restrictive) and is used to indicate type and quality desired. Proposals on brands of a like nature and quality will be considered. Agency reserves the right to accept or reject any or all proposals as may be deemed in the best interest of Agency. Agency will evaluate all proposals according to a set of criteria that is scored and then weighed as to importance in the overall evaluation process. Proposals will be evaluated only on information submitted in the proposals.

8. STATEMENT OF NON-COMMITMENT

This RFP is not an offer to enter into an agreement with any Vendor; it is a request to receive Proposals from Vendors interested in providing goods or services to Agency. Agency reserves the right to reject all Proposals, in whole or in part. Agency will not have any obligation to a Vendor until it has entered into a contract with the Vendor on terms and conditions satisfactory to Agency. Agency entering negotiations with a Vendor, with respect to any Proposal or otherwise shall not be deemed to be an acceptance of such Proposal or contract with the Vendor.

9. MINORITY AND WOMEN BUSINESS ENTERPRISE (M/WBE), SERVICE-DISABLED VETERAN OWNED SMALL BUSINESS (SDVSB) AND/OR HISTORICALLY UNDERUTILIZED BUSINESS (HUB)

Agency supports and encourages M/WBEs, SDVSBs and HUBs to solicit Proposals for current, existing, and future procurements. As a social service Agency, the Agency is committed to the opportunity of equal access by all segments of our community.

Because federal funds will be expended by Agency, Vendor is required to take all affirmative steps set forth in 2 CFR 200.321 to solicit and reach out to small, minority and women owned firms for any subcontracting opportunities, including:

- a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

- c) 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;
- d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e) 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.

10. SILENCE OF SPECIFICATIONS

The apparent silence of specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice will be acceptable. All interpretations of specifications shall be made based on this statement.

11. GOVERNING INTERPRETATION

In the event of any conflict of interpretation of any part of this overall document, the Agency's interpretation shall govern.

12. COMPLIANCE WITH RFP REQUIREMENTS

By submission of a Proposal, the Vendor agrees to be bound by the requirements set forth in this RFP. Agency, at its sole discretion, may disqualify a Proposal from consideration if Agency determines a Proposal is non-responsive and/or non-compliant, in whole or in part with the requirements set forth in this RFP.

13. BINDING EFFECT OF PROPOSAL

Each Vendor agrees to and shall be bound by the information and documentation provided with the Proposal unless otherwise agreed in writing and signed by Agency's Chief Executive Officer or designee.

14. AGENCY RESERVATIONS

Agency reserves the right to:

- a) Modify, rescind, or cancel this solicitation in whole or in part, at the sole discretion of Agency.
- b) Accept, reject, or negotiate modifications in any terms of the Vendor's proposal or any parts thereof.
- c) Conduct oral interviews/discussions or presentations necessary to select the best value Vendor and/or to obtain competitive pricing.
- d) Reject and/or disqualify any or all proposals received, to award contracts for individual products or services as may appear advantageous, and to negotiate separately in any manner necessary to serve the best interest of Agency.

- e) Waive any formalities, technicalities, or other defects if deemed in the best interest of Agency;
- f) Request clarification and/or correction of Vendor(s) for the purpose of eliminating minor errors, clerical errors, and/or non-substantive irregularities.
- g) Be the sole judge of quality and equality.
- h) Award one or more contracts, in part or in whole, to a single or to multiple Vendors, in Agency's sole discretion.
- i) Make all decisions regarding this RFP, including, without limitation, the right to decide whether a proposal substantially complies with the requirements of this RFP.

15. DEBARMENT AND SUSPENSION

Pursuant to OMB Circular No. A-110 the Vendor shall comply with the non-procurement debarment and suspension common rule, "Debarment and Suspension." This common rule restricts sub-awards and Contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

16. GOVERNING LAW

Vendors shall comply with all applicable federal, state and local laws and regulations. Vendor is further advised these requirements shall be fully governed by the laws of the State of Texas.

17. OVERCHARGES

The Vendor hereby assigns to Agency any and all claims for overcharges associated with any Contract resulting from this RFP which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973) and which arise under the antitrust laws of Agency of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).

18. SUPPLEMENTAL MATERIALS

Vendors are responsible for including all pertinent product information in the Proposal. Literature, brochures, data sheets, specification information, and completed forms requested as part of the Proposal and any other facts, which may affect the evaluation and subsequent contract award, should be included. Materials such as legal documents and contractual agreements, which the Vendor wishes to include as a condition of the Proposal, must also be in the Proposal.

19. PRICING

Where unit pricing and extended pricing differ, the price that best benefits Agency, as determined by Agency, will prevail.

20. QUANTITIES

Unless stated otherwise, the quantities given in the proposal are best estimates and are given as a basis for the comparison of proposals. Quantities ordered may be increased or decreased by Agency as deemed necessary during the Contract period.

21. INSPECTIONS

Agency reserves the right to inspect any item(s) or service location(s) for compliance with specifications and requirements and needs of the using department. If a Vendor fails to satisfactorily show an ability to perform, the Agency can reject the Proposal as inadequate.

5. PROPOSAL EVALUATION PROCEDURES

Agency shall base a recommendation for contract award on the following factors:

Evaluation Criteria	Point Value
Price	40 points
Vendor's Experience and Reputation (including references)	25 points
Quality of products/services and extent to which the products/services meet Agency's needs	25 points
Impact on ability to comply with laws and rules relating to HUB/MWBE/SBE	0 points
Financial Capability (whether Vendor's financial capability is appropriate to the size and scope of the project and total long-term cost to Agency to acquire products/services	10 points
For a contract for goods and services, other than goods/services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether Vendor or the Vendor's ultimate parent company or majority owner: (A) has its principal place of business in Texas; or (B) employs at least 500 persons in Texas	0 points ¹
Vendor's past relationship with Agency	<u>0 points</u>

¹ As a general rule, Agency may not apply geographic preferences for procurements involving federal funds. See 2 C.F.R. § 200.319. However, Agency may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products for use in a Child Nutrition Program. See 7 C.F.R. §§ 210 (National School Lunch Program), 215 (Special Milk Program for Children), 220 (School Breakfast Program), 225 (Summer Food Service Program), 226 (Child and Adult Care Food Program).

BASIS OF AWARD

The Vendor selected for award will be the Vendor whose Proposal, as presented in response to this RFP and as determined by Agency in accordance with the evaluation criteria set forth in this RFP, to be the most advantageous to Agency. Agency is not bound to accept the lowest priced Proposal.

NEGOTIATION WITH VENDORS

Vendors submitting proposals may be afforded an opportunity by Agency for discussion and revision of Proposals. Revisions may be permitted after submissions of Proposals and prior to award for the purpose of obtaining best and final offers. Agency may conduct negotiations with responsible Contractors who submit Proposals found to be reasonably likely to be selected for award pursuant to the selection criteria set forth in this RFP. In conducting negotiations, Agency will not disclose information derived from Proposals submitted by competing Vendors, except as and if law requires disclosure.

MODIFICATION OF PROPOSALS

All Vendors will be afforded the opportunity to submit best and final Proposals if negotiations with any other Vendor result in a material alteration to the RFP and such material alteration has a cost consequence that could alter the Vendor's quotations regarding rates for goods or services.

EVALUATION OF PROPOSALS

Submission of a Proposal indicates the Vendor's acceptance of the evaluation process set forth in this RFP and the Vendor's acknowledgment that subjective judgments may be made by Agency regarding the evaluation process.

LOCATIONS

Agency reserves the right to add or delete locations and/or services during the contract term.

CONTRACT PERIOD

The Contract term shall be valid for a maximum of five (5) years. The initial term of the Contract shall be for one (1) year with up to four (4) one (1) year renewal terms under the same terms and conditions.

CONTRACT TRANSITION

In the event services end by either contract expiration or termination, it shall be incumbent upon the vendor to continue services, if requested by AAMA-George I. Sanchez Charter Schools until new services can be completely operational. The vendor acknowledges its responsibility to cooperate fully with the incoming vendor and the Agency to ensure a smooth and timely transition. Such transitional period shall not extend more than ninety (90) days beyond the expiration/termination date of the contract, or any extension thereof. The vendor shall be reimbursed for services during the transitional period at the rate in effect when the transitional period clause is invoked by the Agency. During any transition period, all other terms and conditions of the agreement shall remain in full force and effect as originally written.

APPEALS PROCESS

An appeal may occur when a Vendor believes they were treated unfairly in the contract award process. All appeals must be handled in accordance with the following procedural guidelines:

Appeals must be submitted in writing within ten (10) Agency business days from the date of Contract award to:

**Chief Financial Officer
AAMA-George I. Sanchez Charter Schools
6001 Gulf Freeway, Building E.
Houston, TX 77023**

The Vendor must base the appeal upon why they, rather than the Vendor selected for the award, deserve the contract.

The Vendor shall submit relevant information and any additional documentation requested by the Agency's Chief Financial Officer to substantiate the basis for the Vendor's appeal.

Upon receipt of all requested documentation supporting the appeal, the Agency's Chief Financial Officer will assess the appeal.

Notification of the action taken by the Agency's Chief Financial Officer will be mailed to the Vendor.

Exhibit A – Contract Terms

These Contract Terms and Conditions are part of the final contract in each product and/or service contract awarded as a result of this RFP and are part of the terms and conditions of each Purchase Order or proposal forms issued in connection with this RFP. Vendors are responsible for identifying any exceptions to these terms and conditions. **ANY EXCEPTIONS MUST BE NOTED DIRECTLY BELOW EACH OF THE RESPECTIVE TERMS AND CONDITIONS, REDLINED IN "RED" AND SUBMITTED WITH VENDOR'S SUBMISSION.** Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by Agency and eliminated from further consideration.

CONTRACT BETWEEN AAMA-George I. Sanchez Charter School and Vendor

This Contract is entered into between AGENCY and Vendor, having submitted a proposal in response to this RFP issued by AGENCY and whose proposal has been accepted and awarded by AGENCY. In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, AGENCY and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Contract, agree as follows:

1 Use of Contract by Other Governmental Entities

Vendor agrees and understands that this RFP and Contract may be used to accomplish work for Agency. Vendor further agrees and understands that this RFP and Contract may also be utilized by other governmental entities, including charter schools, pursuant to the piggyback method, as contemplated in the U.S. Department of Agriculture Memorandum SP 35-2012, *Procuring Services of Purchasing Cooperatives, Group Purchasing Organizations, Group Buying Organizations, etc.* ("SP 35-2012). Vendor agrees and understands that Agency and other governmental entities include "school food authorities," as that term is used in SP 35-2012.

2 Contract Terms; Amendment

The terms and conditions of this Contract shall govern all procurements conducted hereunder. No pre-published terms on Vendor's Purchase Order, acknowledgments, invoices, or other forms shall have any force or effect unless expressly agreed to by AGENCY and Vendor. No amendment of this Contract shall be permitted unless and until first approved in writing by AGENCY, and no such amendment shall have any effect unless and until a written amendment to this Contract is executed by the Agency CEO or his designee after any necessary approvals have been obtained from the Agency Board of Directors.

3 Term of Contract; Renewal of Contract

The initial term of this Contract is for a period of one (1) year, with AGENCY having the option to renew the Contract for four (4) additional one-year terms, at Agency's sole discretion. Consequently, the total term of the Contract may be for a period of **five (5)** years. The phrase "Term" in this Contract shall mean the then-current Term of the Contract, whether an initial term or a renewal term.

4 Termination of Contract; Survival

This Contract shall remain in effect until (1) the Contract expires by its terms or (2) the Contract is terminated by mutual consent of AGENCY and Vendor. All purchase orders, and/or orders for

limitation, the U.S. Department of Agriculture and/or Texas Department of Agriculture. Vendor understands that Vendor is ineligible to receive a contract award with AGENCY if Vendor or its principal(s) is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689). For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. All permits will be acquired by Vendor and invoiced to AGENCY at cost as part of the Purchase Order, unless the permits are provided by AGENCY. For the entire duration of this Contract, Vendor and all subcontractors shall also comply with all requirements pertaining to local, state, or federal health and safety certifications, licensing, or regulations. Vendor must comply with all state and local building code requirements unless otherwise specifically provided in AGENCY's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site. When required or requested by AGENCY, Vendor shall furnish AGENCY with satisfactory proof of Vendor's compliance with this provision.

6 Confidentiality

Vendor and AGENCY agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor and AGENCY understand that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable. Vendor also acknowledges that AGENCY is subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability AGENCY, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor or AGENCY and determined by AGENCY, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

7 Title and Risk of Loss

Whenever AGENCY is purchasing (and not leasing) a product under this Contract, title and risk of loss shall pass upon the later of AGENCY's acceptance of the product or payment of the applicable invoice.

8 Warranty Conditions

All product(s) and/or service(s) provided by the Vendor under this Contract must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of AGENCY's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all products and/or services furnished under this Contract shall conform in all respects to the terms of this Contract, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the RFP and Purchase Order. In addition, Vendor warrants that products and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the Vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Contract, the RFP, or Purchase Order.

goods or services issued by AGENCY and accepted by Vendor shall survive the expiration or termination of this Contract.

In the event of a breach or default of the Contract and/or the RFP by Vendor, AGENCY reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of AGENCY. AGENCY further reserves the right to terminate the Contract immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the RFP, this Contract, and/or a Purchase Order; (2) make any payments owed; or (3) otherwise perform in accordance with this Contract and/or the RFP. AGENCY also reserves the right to terminate the Contract immediately, with written notice to Vendor, if AGENCY believes, in its sole discretion that it is in the best interest of AGENCY to do so.

In the event that a material change to the terms of the Contract occurs, then the Contract shall be allowed to expire and shall not be renewed upon the conclusion of the Contract's term. The phrase "material change" in this paragraph shall mean a modification that substantially exceeds the terms of the original contract between AGENCY and Vendor. Upon the expiration of the Contract's term, AGENCY may issue a new RFP for the goods or services procured under the previous contract.

Vendor agrees that AGENCY shall not be liable for damages in the event that AGENCY declares Vendor to be in default or breach of this Contract and/or the RFP. Vendor further agrees that upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor.

5 Compliance with Laws

Vendor shall comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws; minimum and maximum salary and wage statutes and regulations; prompt payment and licensing laws and regulations; anti-discrimination statutes and regulations (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 C.F.R. Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement—Nutrition Programs and Activities); the Davis-Bacon Act (40 U.S.C. § 276a / 29 CFR Part 5); the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 / 29 CFR Part 5); the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 / 41 CFR Chapter 60); the McNamara-O'Hara Service Contract Act (41 U.S.C. 351); Section 306 of the Clean Air Act (42 U.S.C. § 1857h); Section 508 of the Clean Water Act (33 U.S.C. § 1368); Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15); the Contract Work Hours and Safety Act (40 U.S.C. § 3701-3708; 29 C.F.R. Part 5; the Solid Waste Disposal Act (Section 6002 as amended by the Resource Conservation and Recovery Act for procuring solid waste management services in a manner that maximizes energy and resource recovery when contract amount is in excess of \$10,000); the Education Department General Administrative Regulations ("EDGAR")/Uniform Guidance (2 C.F.R. Part 200); mandatory standards and policies contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871); and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights, and those mandated by federal agencies making awards of federal funds to AGENCY, including, without

Criminal History Review

Prior to commencing any work under the Contract, if Vendor contracts with AGENCY to provide services, Vendor must comply with all requirements relating to criminal history information required by TEX. EDUC. CODE Chapter 22. Vendor must also ensure subcontractors' compliance with TEX. EDUC. CODE, Chapter 22 requirements. Covered employees with disqualifying criminal history are prohibited from serving at AGENCY's locations; Vendor and any subcontracting entity may not permit a "covered employee" to provide services at a school if the employee has a "disqualifying criminal history" (as those terms are defined below). If Vendor receives information that a covered employee has a reported disqualifying criminal history, then Vendor will immediately remove the covered employee from the project/contract and notify AGENCY in writing within three (3) business days. If AGENCY, in its sole discretion, objects to the assignment of a covered employee for any reason, including, but not limited to, on the basis of the covered employee's criminal history record information and/or insufficient qualifications, lack of experience, and the like, based on information gathered by AGENCY through the procurement and/or contracting processes, Vendor (and each subcontractor) agrees to discontinue using that covered employee to provide services on AGENCY's project/contract. "Covered employees" means employees, agents or subcontractors of Vendor or a subcontractor who has or will have continuing duties related to the services to be performed on AGENCY's project/contract and has or will have direct contact with AGENCY's students. "Disqualifying criminal history" means: (1) For employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work: (1) a conviction or other criminal history information designated by AGENCY; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.08341(d), that is: conviction during the preceding 30 years (if at the time of the offense, the victim was under 18 or was enrolled in a public school) of: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an offense under federal law or the laws of another state that is equivalent to (a) or (b); (2) For employees of all other contracting or subcontracting entities: (1) a conviction or other criminal history information designated by Owner; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a), that is: (a) conviction of a felony offense under Title 5, Texas Penal Code if at the time of the offense, the victim was under 18; (b) conviction of or placement on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) conviction of an offense under federal law or the laws of another state that is equivalent to (a) or (b). AGENCY shall be solely responsible for making the final determination of what constitutes direct contact with AGENCY's students and what constitutes a disqualifying criminal history. The criminal history record information review obligation applies only if Vendor contracts with AGENCY to provide services; it does not apply to a contract for the purchase of goods, products or real estate.

Customer Support

Vendor shall provide timely and accurate technical advice and sales support to AGENCY staff. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to AGENCY staff regarding products and/or services supplied by Vendor, at no additional charge, if requested by AGENCY.

11 **AGENCY Property**

In the event of loss, damage, or destruction of any property owned by or loaned by AGENCY that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify AGENCY and pay to AGENCY the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of AGENCY's determination of the amount due. If Vendor fails to make timely payment, AGENCY may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by AGENCY.

12 **Tax Exempt Status**

AGENCY is exempt from payment of Texas State Sales Taxes under TEXAS TAX CODE § 151.310 for the purchase of tangible personal property. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. AGENCY shall not be liable for any taxes resulting from this Contract, except where otherwise required by law.

13 **State of Texas Franchise Tax**

By submitting a proposal in response to the RFP, Vendor certifies that Vendor is not currently delinquent in Vendor's payment of any franchise taxes or other taxes owed to the State of Texas.

14 **Tax Responsibilities of Vendor and Indemnification for Taxes**

Vendor is responsible for complying with the tax laws of states and the federal government. Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to Vendor's operation, any persons employed by Vendor, and all subcontractors of Vendor. Vendor shall require all subcontractors to hold AGENCY harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs, including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

15 **IRS W-9**

To receive payment under this Contract, Vendor shall have a current I.R.S. W-9 Form on file with AGENCY.

16 **Assignment of Contract**

Vendor may not assign this Contract or any of its rights, duties or obligations hereunder without the prior written approval of AGENCY. Any attempted assignment of this Contract by Vendor shall be null and void. Any Purchase Order made as a result of this Contract may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of AGENCY.

17 **Notification of Material Change**

Vendor is required to notify AGENCY when any material change in operations occurs, including changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

18 **Performance**

Vendor agrees to use commercially reasonable best efforts to provide the product(s) and/or service(s) subject to this Contract. Vendor shall furnish all supervision, labor, tools, equipment, permits, licenses, transportation, insurance, material, and supplies necessary to complete any scope of work, Purchase Order under this Contract. Vendor shall use skilled, trained personnel, who shall be supervised by Vendor.

19 Subcontractors

If Vendor uses subcontractors in the performance of any part of this Contract, Vendor shall be fully responsible to AGENCY for all acts and omissions of the subcontractors. Nothing in this Contract shall create for the benefit of any such subcontractor any contractual relationship between AGENCY and any such subcontractor, nor shall it create any obligation on the part of AGENCY to pay or to see to the payment of any monies due any such subcontractor except as may otherwise be required by law. Vendor represents and warrants that it is willing, able, and capable of obtaining, supervising, and being responsible for any subcontractors who perform and/or provide products and services related to this Contract.

20 Non-Appropriation

Renewal of this Contract, if any, will be in accordance with TEX. LOCAL GOV'T. CODE § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Contract or obligation imposed on AGENCY by this Contract, AGENCY shall have the right to terminate this Contract or Purchase Order without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of AGENCY if it is determined by AGENCY, at its sole discretion, that there are insufficient funds to extend this Contract or any Purchase Order. The parties agree that this Contract and/or any Purchase Order are commitments of the current revenue of AGENCY only.

21 Ordering Procedures

Purchase Orders are issued by AGENCY to the Vendor according to this Contract.

22 Invoices; Payments

Vendor shall submit invoices, in duplicate, directly to AGENCY at the appropriate location(s) specified by AGENCY. Each invoice shall include AGENCY's Purchase Order number and AGENCY Contract Number. All invoices shall be itemized to include the type of product(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during AGENCY's fiscal year in which the product(s) and/or service(s) are purchased. The shipment tracking number or pertinent information for verification of AGENCY's receipt shall be made available upon request by AGENCY.

TEX. GOV'T. CODE § 2251.021 shall govern when payments are due to the Vendor. Payments are due to Vendor by AGENCY **within forty-five (45) days** after the later of the following: (1) the date AGENCY receives the products and services under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date AGENCY receives an invoice for the products or service. Vendor agrees to pay any subcontractors the appropriate share of the payment received from AGENCY not later than the **tenth (10th) day** after the date the Vendor receives the payment from AGENCY.

The exceptions to payments made by AGENCY listed in TEX. GOV'T. CODE § 2251.002 shall apply to this Contract.

In addition to all other rights and remedies that AGENCY may have, AGENCY shall have the right to setoff, against any and all amounts due to Vendor by AGENCY, whether due under this Contract or any other agreement between AGENCY and Vendor, any sums for which AGENCY is entitled to under this Contract, as determined by AGENCY in its sole discretion, including, without limitation, sums due by Vendor to AGENCY as a result of indemnification obligations, warranty claims, etc.

23 Pricing Changes

All prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. In the event Proposer's prices will be adjusted or escalated upon a renewal (if any) of the fixed-price contract awarded pursuant to this RFP, Proposer must indicate such in its proposal. Indicate any list price adjustment Vendor intends on providing during the Term of this Contract and on what it is based. For example: CPI, MSRP, Price List, Website Pricing. Vendor agrees to promptly lower the proportionate price of any product purchased through this Contract following a reduction in the price the Vendor is paying suppliers. All pricing submitted to AGENCY in Vendor's proposal shall include the administrative fee to be remitted to AGENCY by Vendor. It is Vendor's responsibility to keep all pricing up-to-date and on file with AGENCY. For all pricing changes, including at renewal and during the Term, all price changes shall be presented to AGENCY for acceptance or rejection by AGENCY, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for products and/or services provided under this Contract must be approved, in writing, by AGENCY prior to taking effect.

The following documentation shall be provided to support a request for a price change:

- a. justification for change/increase
- b. terms and conditions
- c. market conditions
- d. manufacturers'/distributors' impact, if any

All price decreases shall be allowed for all products and/or services.

24 Records Retention

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all product(s) and/or service(s) provided by the Vendor to AGENCY under this Contract. These records and accounts shall be retained by Vendor and made available for review and copying by AGENCY for a period of **not less than three (3) years** from the date of completion of the service(s), receipt of product(s), the date of the receipt by AGENCY of Vendor's final invoice or claim for payment in connection with this Contract, or the date AGENCY makes final payments and closes pending matters in connection with a federal grant, whichever is later. If an audit or a compliance review has been announced, the Vendor shall retain its records and accounts until such audit or compliance review has been completed.

Because federal funds will be expended by AGENCY pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

25 Right to Review, Audit and Inspect

AGENCY and any federal agency that has awarded federal funds/grant(s) to AGENCY, and the Comptroller General of the United States, and/or any of their authorized representatives, shall, upon written notice, have the right to audit and examine all of Vendor's records and accounts relating to this Contract and inspect any project performed by the Vendor relating to this Contract. Records subject to audit/review shall include, but are not limited to, all Purchase Orders resulting from this Contract and records which may have a bearing on matters in connection with the Vendor's work for AGENCY, and shall be open to inspection and subject to audit/review and/or reproduction by AGENCY and/or its authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

- a. Vendor's compliance with this Contract and the requirements of the RFP.
- b. Compliance with procurement laws, policies, and procedures, including, without limitation, reviewing/comparing pricing on invoices for AGENCY.
- c. Compliance with provisions for computing billings to AGENCY.
- d. Any other matter related to this Contract.

26 Indemnification

VENDOR SHALL INDEMNIFY AND HOLD HARMLESS AGENCY, INCLUDING AGENCY'S OFFICERS, DIRECTORS, ADMINISTRATORS, EMPLOYEES, AND AGENTS, FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS CONTRACT, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY ITEM VENDOR IS REQUIRED TO DELIVER. VENDOR'S OBLIGATIONS UNDER THIS CLAUSE SHALL SURVIVE ACCEPTANCE AND PAYMENT BY AGENCY.

27 Governing Law and Exclusive Venue

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Contract. Any dispute under this Contract involving AGENCY must be brought exclusively in the state and federal courts located in Houston, Harris County, Texas.

28 Multiple Contract Awards; Non-Exclusivity

AGENCY reserves the right to award multiple contracts under the RFP, including multiple contracts for each product/service category. Product/Service categories are established at the sole discretion of AGENCY. AGENCY will base a recommendation for contract award, including whether to award a single or multiple contracts, based on the evaluation factors listed in this RFP. Nothing in this Contract may be construed to imply that Vendor has the exclusive right to provide products and/or services to AGENCY. During the Term of this Contract, AGENCY reserves the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor.

29 New Products

New products that meet the specifications detailed in the RFP may be added to this Contract, with prior written approval from AGENCY. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add

products to the contract if: the replacing products are equal to or superior to the original products offered or discounted in a similar degree or to a greater degree and the products meet the requirements of the RFP. No products may be added to avoid competitive procurement procedures. AGENCY may reject any proposed additions, without cause, in its sole discretion.

30 No Substitution; Product Recall

Any Purchase Order issued pursuant to this Contract shall conform to the specifications and descriptions identified in this Contract and the RFP. Vendor shall not deliver substitutes without prior written authorization from AGENCY.

If a product recall is instituted on any good that has been furnished and delivered to AGENCY, Vendor must immediately (i.e., within 24 hours but preferably sooner) notify the purchasing agent of AGENCY by e-mail or in writing and must include all pertinent information relating to the recall. If Vendor is unable to contact the purchasing agent, Vendor must contact the Director of Purchasing of AGENCY. Vendor will be responsible for all costs associated with replacing the recalled product, including replacement cost, shipping charges, etc. This requirement shall survive payment and acceptance of the goods.

31 Penalties

If the Vendor is unable to provide the product(s) or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Contract, the RFP, or Purchase Order, AGENCY may take the following action(s), in the sole discretion of AGENCY, and Vendor agrees to comply with the chosen action(s):

- a. Insist that the Vendor honor the quoted price(s) specified in Vendor's proposal or the Supplemental Contract, as applicable;
- b. Have the Vendor pay the difference between the Vendor's price and the price of the next acceptable proposal, as determined by AGENCY;
- c. Have the Vendor pay the difference between Vendor's price and the actual purchase price of the product or service on the open market; and/or
- d. Recommend to AGENCY's Board of Directors that the Vendor no longer be given the opportunity to submit a proposal to AGENCY and/or that this Contract be terminated.

32 Safety

Vendor, its subcontractor(s), and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Contract, including, without limitation, those promulgated by AGENCY and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by AGENCY. Vendor shall indemnify and hold AGENCY harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

33 Workforce

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Contract. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on AGENCY

property, nor may such workers be intoxicated or under the influence of alcohol or drugs on AGENCY property.

34 **Insurance**

Vendor is required to provide AGENCY with copies of certificates of insurance, naming AGENCY as an additional insured for General Liability Insurance, **within 14 business days of contract award and prior to the commencement of any work under this Contract.** Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to AGENCY prior to commencement of any work under this Contract. The insurance company insuring Vendor shall be licensed in the State of Texas and shall be acceptable to AGENCY. Vendor shall give AGENCY a **minimum of ten (10) days'** notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Vendor shall, at all times during the Term of this Contract, maintain insurance coverage with not less than the type and requirements shown below. Such insurance is to be provided at the sole cost of the Vendor. These requirements do not establish limits of Vendor's liability.

All policies of insurance shall waive all rights of subrogation against AGENCY and AGENCY's officers, employees and agents. Upon request, certified copies of original insurance policies shall be furnished to AGENCY. AGENCY, as requested, shall be named as an "additional insured" on insurance policies. AGENCY reserves the right to require additional insurance should AGENCY deem additional insurance necessary, in its sole discretion.

- Workers Compensation (with waiver of subrogation to AGENCY) Employer's Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements.
- Statutory, and Bodily Injury by Accident: \$100,000 each employee. Bodily Injury by Disease: \$500,000, policy limit \$100,000 each employee.
- Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse, and explosions, blowout, cratering and underground damage. \$300,000 each occurrence Limit Bodily Injury and Property Damage combined. \$300,000 Products-Completed Operations Aggregate Limit \$500,000 per Job Aggregate. \$300,000 Personal and Advertising Injury Limit.
- Automobile Liability Coverage: \$300,000 Combined Liability Limits Bodily Injury and Property Damage Combined.

35 **No Agency or Endorsements**

It is the intention of the parties to this Contract that Vendor is independent of AGENCY, is an independent contractor, and is not an employee, agent, joint venturer, or partner of AGENCY. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between AGENCY and Vendor, AGENCY and any of Vendor's agents. Vendor has no power or authority to assume or create any obligation or responsibility on behalf of AGENCY, and AGENCY has no power or authority to assume or create any obligation or responsibility on behalf of Vendor. This Contract

shall not be construed to create or imply any partnership, agency, or joint venture, nor shall it be construed or deemed an endorsement of a specific company or product. Vendor agrees that AGENCY has no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

36 **Equal Opportunity**

It is the policy of AGENCY not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

37 **Force Majeure**

Neither AGENCY nor Vendor shall be deemed to have breached any provision of this Contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond AGENCY's or Vendor's control.

AGENCY and Vendor are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other parties in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. AGENCY and Vendor shall not have any claim for damages against any other party resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Contract, in the event the Vendor's performance of its obligations under this Contract is delayed or stopped by a force majeure event, AGENCY shall have the option to terminate this Contract. This section shall not be interpreted as to limit or otherwise modify any of H AGENCY's contractual, legal, or equitable rights.

38 **Severability**

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

39 **Waiver**

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such

party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

40 Entire Agreement

The Contract, the RFP, Vendor's proposal submitted in response to the RFP, the attached and incorporated attachments, addendum, and/or exhibits, if any, and the Supplemental Contract, if any, contain the entire agreement of the parties relative to the purpose(s) of the Contract and supersede any other representations, agreements, arrangements, negotiations, or understandings, oral or written, between the parties to this Contract. In the event of a conflict between this Contract and the RFP or Vendor's proposal submitted in response to the RFP, this Contract shall control. In the event of a conflict between the RFP and Vendor's proposal submitted in response to the RFP, the RFP shall control. This Contract supersedes any conflicting terms and conditions on any Purchase Order, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Contract.

41 Interpretation

Vendor agrees that the normal rules of construction that requires that any ambiguities in this Contract are to be construed against the drafter shall not be employed in the interpretation of this Contract.

42 Notice

Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested.

43 Captions

The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

44 USDA/TDA Special Terms and Conditions

The following terms and conditions apply to all procurements and purchases involving federal School Nutrition Program funds. In the event of a conflict or inconsistency between the following terms and conditions and any provision of the Agreement, the procurement solicitation issued by AGENCY, or the portion of Vendor's proposal submitted in response to AGENCY's procurement solicitation that is satisfactory to AGENCY, the following terms and conditions shall control.

a. Market Basket Analysis

AGENCY reserves the right, in its sole discretion, to use a "Market Basket Analysis" method, as that term is defined by applicable USDA/TDA regulations and guidance. The Market Basket Analysis sample is established to represent 75% of the total estimated value of the Contract. The most recent velocity/sales report(s) from AGENCY's current supplier(s) was used to project the balance of the year and adjusted for any estimated change in menu and participation for the

following year. As a result, this list of [100] goods to be purchased under this procurement solicitation and any resulting Contract includes the top [60] goods purchased by dollar volume representing the 75% threshold. Prices for the remaining [40] goods listed in this procurement solicitation should also be included, though they will not be a part of the Market Basket Analysis. The Market Basket Analysis shall not be used for service or equipment contracts/procurement solicitations or for Fee-For-Service Processing contracts.

b. Material Change

If a material change (as the term is defined by TDA rules and regulations) to a contract entered into between AGENCY and Vendor occurs, then the contract will not be renewed upon the conclusion of its term. Upon the expiration of the term, AGENCY may issue a new RFP for the goods or services procured under the previously-existing contract. Material change for purposes of this Section means a modification that substantially exceeds the terms of the original contract between AGENCY and Vendor.

c. Supplemental Contracts

Supplemental Contracts are entered into pursuant to the piggyback method delineated in the U.S. Department of Agriculture directive SP 35-2012. Should the "piggybacking" result in a material change to the Contract, AGENCY will proceed under Section 5.56.2 of this RFP.

d. New Products

During the Term of a Contract awarded under this RFP, additional purchases not included in the original RFP list and resulting awarded contract may become necessary and benefit AGENCY. Vendor and AGENCY agree that the aggregate value of added purchases during each year of the Contract (if renewed) shall not exceed 10% of the estimated total value of the Contract. The total value of the Contract must be agreed upon, and the dollar value listed in the Contract and each renewal term of the Contract (if any). For purposes of this section, the total value of the Contract includes all contracts awarded as a result of the procurement solicitation to all vendors. For the initial Term of a Contract awarded under this RFP, Vendor and AGENCY agree that the total value of the Contract shall be **\$430,105.00**. Additions of new products may be included in the awarded Contract list during the renewal of the Contract through an amendment to the Contract, and the total Contract value adjusted accordingly. For each renewal term of the Contract, the total actual value of the Contract in the preceding year and the additional new product(s) made during that Term will be the basis for determining the maximum dollar amount (not to exceed 10%) of the additional new product(s) that will be allowed during the next Contract renewal term.

e. Bonds

Vendor shall provide all bonds, including bid guarantee, performance bond, and payment bond, as applicable under U.S. Department of Agriculture and/or Texas Department of Agriculture rules.

f. Use by Other Governmental Entities

In the event that AGENCY allows other governmental entities to "piggyback" onto any existing contract between AGENCY and Vendor entered into pursuant to this procurement solicitation, Vendor agrees and understands that such other governmental entities may include "school food authorities," as that term is used in SP 35-2012. Should the "piggybacking" result in a material change to the Agreement for purposes of USDA/TDA purchases, AGENCY will proceed under the foregoing section entitled "Material Changes."

g. No Guarantee of Quantities

Quantities for purchases paid for with School Nutrition Program funds are subject to change for various reasons, which include, but are not limited to the following: USDA commodity allocation(s), variations in student population, production item substitution(s), changes in consumer taste or expectations, pricing, and nutrition regulatory changes.

h. Buy American Act

The Buy American Act, set forth in 7 C.F.R. Part 210.21(d), requires that participants in the National School Lunch Program and School Breakfast Program use the federal nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for Program meals. 7 CFR Part 210.21(d) defines a “domestic commodity or product” as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. “Substantially” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Because AGENCY participates in the National School Lunch Program and School Breakfast Program, AGENCY requires Vendor to certify whether its products are “domestic commodities or products”, as defined by 7 C.F.R. Part 210.21(d). Accordingly, Vendor agrees to provide certification and any necessary documentation requested by AGENCY that the food product was processed in the U.S. and the percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to AGENCY. A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 C.F.R. 210.21(d). “Substantially” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. When USDA Foods items are manufactured into processed end products, 51% of resulting food products must be of United States origin.

Vendor certifies that Vendor shall provide food products that meet the Buy American provision. Vendor further certifies that, in compliance with the Buy American provision, its products are “domestic commodities or products” as defined by 7 C.F.R. § 210.21(d). Vendor further certifies that the food products it supplies are processed in the U.S. and Vendor shall certify the percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to the AGENCY.

If Vendor is repetitively unable to provide domestic food products, AGENCY may require Vendor to provide evidence that Vendor is capable of fulfilling the terms and conditions of the Contract and specifically, the Buy American provision. If AGENCY determines that Vendor is not capable of fulfilling the terms and conditions of the Contract and/or specifically, the Buy American provision, AGENCY may terminate its Contract with Vendor. Vendor shall provide documentation that demonstrates that food products meet the Buy American provision.

Vendor must notify AGENCY if a delivery contains non-domestic products, so the District may approve delivery as an exception to the Buy American provision. Vendor certifies that it will adhere to the notification requirements for the Buy American provision.

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved by AGENCY, upon request, by occurrence (i.e., delivery). Blanket exception approvals are not allowed. AGENCY must determine that the use of a non-domestic

food product is appropriate, using the USDA-prescribed questions in making the decision. *See* "Requirements for an Exception," ARM Section 17b Buy American, at p. 19. Vendor agrees to provide information to AGENCY that will assist the District in this determination. The decision to purchase or accept delivery of a non-US product must be made by AGENCY. Vendor agrees to comply with all requirements imposed by applicable law, USDA/TDA guidance, and AGENCY concerning Buy American provision exceptions.

Vendor further agrees to provide AGENCY with documentation verifying that a domestic product is not available and the cost range is reasonable within a reasonable time upon request by AGENCY.

In the event Vendor or Vendor's supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, AGENCY may decide not to purchase from Vendor and/or AGENCY may terminate the Contract if Vendor is incapable of fulfilling the terms and conditions of the Contract, including the Buy American requirements.

Additionally, AGENCY may require country of origin on all products and invoices submitted for payment by Vendor, and Vendor agrees to comply with any such requirement.

i. Records Retention

When school nutrition program funds are expended by AGENCY pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements promulgated by USDA/TDA. Vendor further certifies that Vendor will retain all records as required by USDA/TDA for a period of five (5) years after the end of the fiscal year to which the documentation/records pertain. Vendor further certifies that these records must be accessible to appropriate AGENCY and federal or state reviewers. *See* TDA ARMS Manual, 17.107.

j. Financial Terms.

All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, catering à la carte, vending, concessions, contract meals, grants and loans shall be credited to the Non-profit School Food Service Fund on a daily basis. Any profit or guaranteed return shall remain in the AGENCY'S Non-Profit Food Service Account.

PROPOSAL COVER STATEMENT AND NOTICE OF INTENT (FORM I)

COMPANY NAME _____

COMPANY STREET ADDRESS _____

CITY, STATE, ZIP _____

PHONE NUMBER _____ FAX NUMBER _____

CONTACT NAME _____ TITLE _____

EMAIL ADDRESS: _____ ALT. PHONE: _____

COMPANY STATUS:(check one) Corporation__ Partnership__ Individual / Sole Proprietor__ LLC__

_____ We **do** plan to respond. _____ We **do not** plan to respond.

Reason if "do not": _____

Mark **one** of the following:

_____ We wish to remain in the database _____ We wish to be deleted from the database.

Is your business a member of any cooperative organization(s)? Yes ____ No ____

If yes, provide name(s) of co-op(s): _____

Please mark "Yes" or "No" responses below with an X. **"Copies of Certification (s) Required."**

Business Certifications:

WBE Y ☐ N ☐ **DBE** Y ☐ N ☐ **SBE** Y ☐ N ☐ **PDBE** Y ☐ N ☐ **MBE** Y ☐ N ☐ **HUB** Y ☐ N ☐

SDVSB Y ☐ N ☐ **Other:** _____

It is agreed by the undersigned vendor that the signed delivery of this Proposal represents the Vendor's acceptance of the terms and conditions of this Request for Proposal including all specifications and special provisions. Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal Contract with Agency.

By the signature below, the signatory for the Vendor certifies that neither he/she, the firm, corporation, partnership, nor institution represented by the signatory or anyone acting for such firm, corporation, partnership or institution has violated the antitrust laws of this State, codified at Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the Proposal made to any competitor or any other person engaged in the same line of business, nor has the signatory or anyone acting for the firm, corporation, partnership or institution submitting a Proposal committed any other act of collusion related to the development and submission of the Proposal.

How did you hear about this RFP?

Agency ☐ Houston Chronicle ☐ Houston Business Journal ☐ The Greensheet ☐ Other _____

Authorized Representative Signature

Authorized Representative Title

Date

EXECUTION OF OFFER (FORM II)

The undersigned Proposer has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP and the Agreement and certifies:

1. It is a responsible company regularly engaged in providing goods and/or services necessary to meet the requirements, specifications, terms and conditions of the RFP and the Agreement. See 2 CFR § 200.318(h).
2. It has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the requirements, specifications, terms and conditions of the RFP and the Agreement. Further, if awarded, the Proposer agrees to perform the requirements, specifications, terms and conditions of the RFP and the Agreement.
3. All statements, information, and representations prepared and submitted in response to this RFP are current, complete, true, and accurate. Proposer acknowledges that AGENCY will rely on such statements, information, and representations in selecting the successful responsible Proposer(s).
4. It is not currently barred or suspended from doing business with the Federal government, any of the members represented, or any of their respective agencies.
5. It shall be bound by all statements, representations, warranties, and guarantees made in its proposal.
6. Submission of a proposal indicates the Proposer's acceptance of the evaluation technique and the Proposer's recognition that some subjective judgments may be made by AGENCY and its membership as part of the evaluation.
7. That all of the requirements of this RFP and the Agreement have been read and understood. In addition, compliance with all requirements, terms and conditions will be assumed by AGENCY if not otherwise noted in the proposal.
8. The individual signing below has authority to enter into this on behalf of Proposer.
9. Proposer acknowledges that the Agreement may be canceled if any conflict of interest or appearance of a conflict of interest is discovered by AGENCY.
10. This Agreement is subject to purchase orders duly authorized and executed by AGENCY.

CORPORATE NAME:			
AUTHORIZED SIGNATURE:			
PRINT NAME:			
TITLE:			
DATE:			
ADDRESS:			
CITY, STATE, ZIP CODE:			
PHONE:		FAX:	
EMAIL ADDRESS:			
WEBSITE URL			



AAMA-George I. Sanchez Charter School Vendor Packet

All vendors doing business with AAMA George I. Sanchez Charter School ("AAMA") must complete and submit a Vendor Packet that consists of the following documents:

1. Vendor Information Form
2. Conflict of Interest
3. W-9 Form
4. Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form
5. Felony Conviction Notification
6. Certificate of Residency
7. Ch. 22 Contractor/Subcontractor Certification Form
8. EDGAR Certifications

The completed vendor packet must be e-mailed to Yesenia Aguirre at yaguirre@aama.org. If an AAMA representative requested that you submit this vendor packet, please include the name of the individual on your fax or email. Upon receipt, you and/or your company will be set up as a vendor with AAMA.

AAMA-George I. Sanchez Charter School Vendor Information Form

Trade Name (dba): _____

Legal Name (if different): _____

Website: _____

Primary Address: _____

City: _____ State: _____ Zip Code: _____

Country: _____

Phone: (_____) _____ - _____ Fax: (_____) _____ - _____

Remittance Address: _____

City: _____ State: _____ Zip Code: _____

Country: _____

Phone: (_____) _____ - _____ Fax: (_____) _____ - _____

Contact Name: _____

Title: _____

Email: _____

Phone: (_____) _____ - _____ Fax: (_____) _____ - _____

Years in Business: _____ Number of Employees: _____

Company Name that will be shown on your email for payment:

Email address where purchase orders are to be sent:

Goods or services provided by your company:

Business Type (Check One):

- ☐ Retailer
- ☐ Wholesaler
- ☐ Manufacturer

- ☐ Distributer
- ☐ Contractor
- ☐ Consultant

- ☐ Service Provider
- ☐ Manufacturer Agent
- ☐ Broker

CONFLICT OF INTEREST

AAMA is required to comply with Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers. Any vendor who does business with AAMA or who seeks to do business with AAMA must complete the new Conflict of Interest Questionnaire (CIQ) whether or not a conflict of interest exists. A conflict of interest exists in the following situations:

- 1) If the vendor has an employment or other business relationship with a local government officer of AAMA or a family member of the officer, as described by section 176.003(a)(2)(A) of the Texas Local Government Code; or
- 2) If the vendor has given a local government officer of AAMA, or a family member of the officer, one or more gifts with the aggregate value of \$100, excluding any gift accepted by the officer or a family member of the officer if the gift is: (a) a political contribution as defined by Title 15 of the Election Code; or (b) a gift of food accepted as a guest; or
- 3) If the vendor has a family relationship with a local government officer of AAMA.

"Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity, including a charter school. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Texas Local Government Code 176.001(7).*

"Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on: (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity; (B) a transaction conducted at a price and subject to terms available to the public; or (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency. *Texas Local Government Code 176.001(3).*

"Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code. *Texas Local Government Code 176.001(2-a).*

"Local government officer" means: (A) a member of the governing body of a local governmental entity; (B) a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or (C) an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Texas Local Government Code 176.001(4).*

- **AAMA Board of Directors include:**

Telisa Shead	Charles Ezell
Alexandria H. Hernandez	Ricardo M. Mago
Juan Alonso	Misha McClure
Adeeb Barqawi	Veronica Neal
Christian Diaz	Crystal E. Ramon-Riranda

- **Current local government officers include, but are not limited to:**

Daisy Morales	Helen Cavazos
Adolfo Melara	Edward Rodriguez
James Dunn	Yesenia Aguirre
Patrick Rocha	

If no conflict of interest exists, you must fill out Box 1 and type N/A on Box 3 of the CIQ form, sign and date it. In the event of changed circumstances, an updated CIQ must be filed within seven (7) business days after the vendor becomes aware that a conflict of interest exists.

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number										
				-				-		
or										
Employer identification number										
				-						

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual	Individual/sole proprietor or single-member LLC
• Sole proprietorship, or	
• Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	
• LLC treated as a partnership for U.S. federal tax purposes,	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or	
• LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number to Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/identitytheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form

NAME		Doing business as (DBA)	
ADDRESS	Applicable Procurement or Solicitation #, if any:		Federal Employer Tax Identification #:

This certification is submitted as part of a request to contract.

Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transactions

I. READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal 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 proposed for debarment under the applicable CFR, 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 proposal 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 covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. 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 form.

Bidder or Contractor Signature: _____ Date: _____

Print Name and Title: _____

Felony Conviction Notification

State of Texas Legislative Senate Bill No. 1, Section 44.034, codified as Texas Education Code § 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or owner or operator of the business entity has been convicted of a felony." The notice must include a general description of the conduct resulting in the conviction of a felony.

Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

This notice is not required of a publicly held corporation.

I, the undersigned for the firm named below, certify that the information concerning notification of felony convictions has been by me and the following information furnished is true to the best of my knowledge.

Company: _____
Company Official _____

A. My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

Signature of authorized agent: _____

B. My firm is not owned or operated by anyone who has been convicted of a felony.

Signature of authorized agent: _____

C. My firm is owned or operated by the following individuals who has/have been convicted of a felony.

Name of individual (s): _____

Details of conviction (s): _____

Signature of authorized agent: _____

Certificate of Residency

The State of Texas has passed a law concerning non-resident contractors. This law can be found in Texas Government Code under Chapter 2252, Subchapter A. This law makes it necessary for AAMA to determine the residency of its bidders/proposers for construction related services. In part, this law reads as follows:

"Section: 2252.001

- (3) 'Non-resident bidder' refers to a person who is not a resident.
- (4) 'Resident bidder' refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Section: 2252.002

"A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the following:

- (1) The amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located; or
- (2) The amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.

A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in:

- (1) the state in which the nonresident's principal place of business is located; or
- (2) A state in which the nonresident is a resident manufacturer."

I certify that _____
(Name of Company Bidding/Proposing)

is, under Section: 2252.001 (3) and (4), a

_____ Resident Bidder/Proposer
_____ Non-resident Bidder/Proposer

My or Our principal place of business under Section: 2252.001 (3) and (4), is in the city of _____
_____ in the state of _____.

Signature of Authorized Company Representative

Print Name

Title

Date

Ch. 22 Criminal History Records Contractor Certification: Contractor/Subcontractor Employees

Background: Texas Education Code Chapter 22 requires that criminal history records be obtained regarding covered employees of entities that contract with open-enrollment charter schools ("Contractors") and entities that contract with open-enrollment charter school contractors ("Subcontractors"). Covered employees with disqualifying criminal histories are prohibited from serving at an open-enrollment charter school. Contractors shall (1) complete this form certifying compliance with the requirements of Texas Education Code Chapter 22 to AAMA; and (2) provide a copy of this form to each subcontractor for completion certifying compliance with the requirements of Texas Education Code Chapter 22 to AAMA and Contractor.

Criminal history records will be obtained by either the Contractor/Subcontractor or AAMA, as follows:

- (1) **Contractor/Subcontractor:** Pursuant to guidance from the Texas Education Agency, the only contractors/subcontractors who will be granted access to fingerprint criminal history are those who qualify for access under the National Child Protection Act (NCPA), specifically, those contractors/subcontractors who provide "care or care placement services" and are based in Texas. All entities qualifying for access under the NCPA are required to obtain their covered employees' criminal histories, certify compliance to AAMA (and, in the case of a Subcontractor, certify compliance to Contractor and AAMA), and obtain similar certifications from their subcontractors. For more information or to set up an account, a contractor/subcontractor should contact the Texas Department of Public Safety's Crime Records Service at 512.424.2474.
- (2) **AAMA:** All entities who do not qualify for access to fingerprint criminal history under the NCPA (in other words, all contractors/subcontractors who do not provide "care or care placement services" or are not based in Texas) are required to follow the instructions listed below, so that AAMA may obtain their covered employees' criminal histories, as applicable. **Contractor/Subcontractor is responsible for the payment of all fingerprinting costs. Should AAMA pay any costs of fingerprinting Contractor/Subcontractor employees, Contractor agrees to reimburse AAMA for such costs; in the event Contractor fails to reimburse AAMA for the costs of fingerprinting Contractor/Subcontractor employees, Contractor agrees that AAMA may deduct such costs from any payment due and owing by AAMA to Contractor.**

Definitions:

Covered employees: Employees of a contractor/subcontractor who have or will have continuing duties related to the service to be performed at an open-enrollment charter school and have or will have direct contact with students. AAMA will be the final arbiter of what constitutes *continuing duties* and *direct contact* with students.

Continuing duties related to contracted services: Work duties that are performed pursuant to a contract to provide services to a school entity on a regular, repeated basis rather than infrequently or one-time only. See 19 TEX. ADMIN. CODE §153.1101(2).

Direct contact with students: The contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional district employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students. See 19 TEX. ADMIN. CODE §153.1101(7).

Public Works Exception to Covered Employees: Covered employees do not include employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work if: (1) the public work does not involve the construction, alteration, or repair of an instructional facility as defined by Texas Education Code Section 46.001; (2) the employee's duties will be completed more than seven (7) days before a new instructional facility will be used for instruction; or (3) for an existing instructional facility, the work area contains sanitary facilities separated from all areas used by students by a fence at least six (6) feet high, and the Contractor adopts, informs employees of, and enforces a policy prohibiting employees and any subcontractor's employees from interacting with students or entering areas used by students.

Disqualifying criminal history:

- **For employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work:** (1) a conviction or other criminal history information designated by AAMA; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.08341(d), that is: conviction during the preceding 30 years (if at the time of the offense, the victim was under 18 or was enrolled in a public school) of: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense on conviction of which a defendant is required to register as a sex offender under Chapter

62, Texas Code of Criminal Procedure; or (c) an offense under federal law or the laws of another state that is equivalent to (a) or (b).

- For employees of all other contracting or subcontracting entities: (1) a conviction or other criminal history information designated by AAMA; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a), that is: (a) conviction of a felony offense under Title 5, Texas Penal Code if at the time of the offense, the victim was under 18; (b) conviction of or placement on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) conviction of an offense under federal law or the laws of another state that is equivalent to (a) or (b).

Types of Criminal History Record Information:

- For employees hired by Contractor/Subcontractor before January 1, 2008—Any law enforcement or criminal justice agency.
- For employees hired by Contractor/Subcontractor on or after January 1, 2008—National criminal history information from the Texas Department of Public Safety criminal history clearinghouse.

On behalf of _____ ("Contractor/Subcontractor"), I, the undersigned authorized signatory for Contractor/Subcontractor, certify to AAMA ("AAMA") (and, in the case of a Subcontractor, certify to Contractor and AAMA) that [check one]:

- ☐ None of the employees of Contractor/Subcontractor are *covered employees*, as defined above. If this box is checked, I further certify that Contractor/Subcontractor has taken precautions or imposed conditions to ensure that its employees will not become *covered employees*. Contractor/Subcontractor will maintain these precautions or conditions throughout the time the contracted services are provided. If AAMA, in its sole discretion, determines that employees of Contractor/Subcontractor are *covered employees*, as defined above, Contractor/Subcontractor will provide AAMA with the name, date of birth, and any other requested information of such covered employees so that AAMA may obtain criminal history record information on the covered employees, upon request of AAMA.

Or

- ☐ Some or all of the employees of Contractor/Subcontractor are *covered employees*, and Contractor/ Subcontractor qualifies for access to fingerprint criminal history under the National Child Protection Act. If this box is checked, I further certify that:
- (1) Contractor/Subcontractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.
 - (2) If Contractor/Subcontractor receives information that a covered employee subsequently has a reported criminal history, Contractor/Subcontractor will immediately remove the covered employee from contract duties and notify AAMA in writing within 3 business days.
 - (3) Upon request, Contractor/Subcontractor will provide AAMA with the name, date of birth, and any other requested information of covered employees so that AAMA may obtain criminal history record information on the covered employees.

Or

- ☐ Some or all of the employees of Contractor/Subcontractor are *covered employees*, and Contractor/Subcontractor does not qualify for access to fingerprint criminal history under the National Child Protection Act. If this box is checked, I further certify that:
- (1) For all covered employees hired by Contractor/Subcontractor before January 1, 2008, Contractor/Subcontractor has obtained all required criminal history record information. None of the covered employees has a disqualifying criminal history. If Contractor/Subcontractor receives information that a covered employee subsequently has a reported criminal history, Contractor/Subcontractor will immediately remove the covered employee from contract duties and notify AAMA in writing within 3 business days. Upon request, Contractor/Subcontractor will provide AAMA with the name, date of birth, and any other requested information of covered employees so that AAMA may obtain criminal history record information on the covered employees.
 - (2) For each covered employee hired by Contractor/Subcontractor on or after January 1, 2008, Contractor/Subcontractor has attached a separate page(s) listing the following information regarding each covered employee, so that AAMA may obtain the covered employees' criminal history record information: (a) Full name (first, middle, and last); and (b) Date of birth.
 - (3) Contractor/Subcontractor shall provide AAMA's "Texas Fingerprint Service Code Form" document to all covered employees and ensure that they schedule fingerprinting appointments in a timely manner. Any covered employee whose criminal history record information is not received by AAMA at least ten (10) AAMA business days prior to the start of the services to be performed by Contractor/Subcontractor at AAMA is subject to exclusion from service, in AAMA's sole discretion, until his or her criminal history record information can be obtained and reviewed by AAMA. **Contractor/Subcontractor is responsible for the payment of all fingerprinting costs.** In accordance with the Texas Education Agency guidance, because Contractor/Subcontractor does not qualify for access to fingerprint criminal history under the NCPA, it will not be permitted to view the criminal history record information from DPS.
 - (4) Contractor/Subcontractor agrees that AAMA will review each covered employee's criminal history record information, together with

the employee's qualifications, background, and experience, based on information gathered by AAMA through the procurement and/or contracting processes, to determine, in AAMA's sole discretion, whether any covered employee(s) should be prohibited from serving at AAMA. AAMA will notify Contractor/Subcontractor of its determination.

- (5) If AAMA at any time receives information that a covered employee subsequently has a reported disqualifying criminal history or should be prohibited from serving at AAMA, in AAMA's sole discretion, for any other reason, including, but not limited to, the employee's qualifications, background, and experience, based on information gathered by AAMA through the procurement and/or contracting processes, AAMA will notify Contractor/Subcontractor of its determination. Contractor/Subcontractor will immediately remove the covered employee from contract duties.

If AAMA, in its sole discretion, objects to the assignment of a covered employee for any reason, including, but not limited to, on the basis of the covered employee's criminal history record information and/or insufficient qualifications, lack of experience, and the like, based on information gathered by AAMA through the procurement and/or contracting processes, Contractor/Subcontractor agrees to discontinue using that covered employee to provide services at AAMA.

I also certify to AAMA (and, in the case of a Subcontractor, certify to Contractor and AAMA) on behalf of Contractor/Subcontractor that Contractor/Subcontractor has required its subcontractors to comply with Texas Education Code, Chapter 22 and obtained certifications from its subcontractors of such compliance. Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

Signature

Title

Date

***** Upon contract award and/or initiation of PO/contract from AAMA, the winning proposer/Contractor will be provided AAMA's service code form to have its and its subcontractors' covered employees fingerprinted, or if Contractor's and/or its subcontractors' covered employees have already been fingerprinted by a Texas school district or charter schools, Contractor shall provide covered employees' full names, dates of birth, and other information requested by AAMA to access covered employees' criminal history information.**

EDGAR CERTIFICATIONS

The following certifications and provisions are required and apply when AAMA expends federal funds for any contract resulting from this procurement process. In the event of a conflict or inconsistency between the following terms and conditions and any provision of any contract, agreement, or Purchase Order (PO), the following terms and conditions shall control. **Accordingly, the parties agree that the following terms and conditions apply to the Contract/PO between AAMA and Vendor in all situations where Vendor has been paid or will be paid with federal funds:**

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when AAMA expends federal funds, AAMA reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor _____

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when AAMA expends federal funds, AAMA reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor in the event (1) Vendor fails to meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) Vendor fails to make any payments owed; (3) Vendor fails to otherwise perform in accordance with the contract and/or the procurement solicitation; or (4) to the greatest extent authorized by law, if an award no longer effectuates the program goals or priorities of the Federal awarding agency or AAMA AAMA also reserves the right to terminate the contract immediately, with written notice to Vendor, for convenience, if AAMA believes, in its sole discretion that it is in the best interest of AAMA to do so. Vendor will be compensated for work performed and accepted and goods accepted by AAMA as of the termination date if the contract is terminated for convenience of AAMA Any award under this procurement process is not exclusive and AAMA reserves the right to purchase goods and services from other vendors when it is in AAMA's best interest.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor _____

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when AAMA expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does Vendor agree to abide by the above? YES _____ Initials of Authorized Representative of Vendor _____

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The

contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when AAMA expends federal funds during the term of an award for all contracts and subgrants for construction or repair, Vendor will be in compliance with all applicable Davis-Bacon Act provisions.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when AAMA expends federal funds, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by AAMA resulting from this procurement process.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by AAMA, Vendor certifies that during the term of an award for all contracts by AAMA resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$250,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (G) above, when federal funds are expended by AAMA, Vendor certifies that during the term of an award for all contracts by AAMA resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

(H) 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 exclusions 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." SAM Exclusions 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.

Pursuant to Federal Rule (H) above, when federal funds are expended by AAMA, Vendor certifies that during the term of an award for all contracts by AAMA resulting from this procurement process, Vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas. Vendor shall immediately provide written notice to AAMA if at any time Vendor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. AAMA may rely upon a certification of Vendor that the Vendor is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless AAMA knows the certification is erroneous.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 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.

Pursuant to Federal Rule (I) above, when federal funds are expended by AAMA, Vendor certifies that during the term and after the awarded term of an award for all contracts by AAMA resulting from this procurement process, the Vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- I. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- II. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- III. The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certificate is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor

(J) Procurement of Recovered Materials – When federal funds are expended by AAMA, AAMA 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: (1) 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; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Rule (J) above, when federal funds are expended by AAMA TEXAS, INC, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), Vendor certifies, by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

(K) Required Affirmative Steps for Small, Minority, And Women-Owned Firms for Contracts Paid for with Federal Funds – 2 CFR § 200.321 – When federal funds are expended by AAMA TEXAS, INC, Vendor is required to take all affirmative steps set forth in 2 CFR 200.321 to solicit and reach out to small, minority and women owned firms for any subcontracting opportunities on the project, including: 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; and 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.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

CERTIFICATION OF COMPLIANCE WITH NEVER CONTRACT WITH THE ENEMY—2 C.F.R. § 200.215

When federal funds are expended by AAMA for grant and cooperative agreements, or any contract resulting from this procurement process, that are expected to exceed \$50,000 within the period of performance, and are performed outside of the United States, including U.S. territories, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, AAMA will terminate any grant or cooperative agreement or contract resulting from this procurement process as a violation of Never Contract with the Enemy detailed in 2 CFR Part 183. The Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any grant or cooperative agreement terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply. AAMA has a responsibility to ensure no Federal award funds are provided directly or indirectly to the enemy, to terminate subawards in violation of Never Contract with the Enemy, and to allow the Federal Government access to records to ensure that no Federal award funds are provided to the enemy.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

CERTIFICATION OF COMPLIANCE WITH PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT—2 C.F.R. § 200.216

AAMA TEXAS, INC, as a non-federal entity, is prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and physical security surveillance of critical infrastructure and other national security purposes, and video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 C.F.R. § 200.216. The Vendor certifies that vendor will not purchase equipment, services, or systems that use covered telecommunications, as defined herein, as a substantial or essential component of any system, or as critical technology as part of any system.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 C.F.R. § 200.334

When federal funds are expended by AAMA for any contract resulting from this procurement process, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor further certifies that it will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does Vendor agree? YES Initials of Authorized Representative of Vendor

CERTIFICATION OF COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS IN EXCESS OF \$100,000 OF FEDERAL FUNDS

When federal funds are expended by AAMA for any contract resulting from this procurement process in excess of \$100,000, the Vendor certifies that the Vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 C.F.R. Part 15.

Does Vendor agree? **YES** _____ Initials of Authorized Representative of Vendor

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When AAMA expends federal funds for any contract resulting from this procurement process, Vendor certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Does Vendor agree? **YES** _____ Initials of Authorized Representative of Vendor

CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT

It is the policy of AAMA not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

Does Vendor agree? **YES** _____ Initials of Authorized Representative of Vendor

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

The Buy American Act, including the regulations promulgated by USDA and TDA, requires public school districts, including AAMA, participating in the National School Lunch Program and School Breakfast Program to use the nonprofit food service funds to purchase domestic commodities or products, to the maximum extent practicable. The food product must consist of agricultural commodities that were grown domestically, unless an authorized exception exists and has been approved by AAMA. Vendor agrees to comply with all requirements imposed by applicable law, USDA/TDA guidance, and AAMA concerning the Buy American Act.

Does Vendor agree? **YES** _____ Initials of Authorized Representative of Vendor

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.337

Vendor agrees that AAMA, the Inspector General, Department of Homeland Security, FEMA, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of Vendor and its successors, transferees, assignees, and subcontractors that are directly pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

Does Vendor agree? **YES** _____ Initials of Authorized Representative of Vendor

CERTIFICATION OF DOMESTIC PREFERENCES FOR PROCUREMENTS AND COMPLIANCE WITH BUY AMERICA PROVISIONS – 2 C.F.R. § 200.322

As appropriate and to the extent consistent with law, AAMA has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) when spending federal funds. Vendor agrees that the requirements of this section will be included in all subawards including all contracts

and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. (Purchases that are made with non-federal funds or grants are excluded from the Buy America Act.) Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor _____

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Vendor agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor _____

CERTIFICATION OF NON-COLLUSION STATEMENT

Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Does Vendor agree? YES _____ Initials of Authorized Representative of Vendor _____

VENDOR AGREES TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES. IT IS FURTHER ACKNOWLEDGED THAT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS, REGULATIONS, ETC. AS SPECIFICALLY NOTED ABOVE.

Vendor's Name: _____

Address, City, State, and Zip Code: _____

Phone Number: _____ Fax Number: _____

Printed Name and Title of Authorized Representative: _____

Email Address: _____

Signature of Authorized Representative: _____

Date: _____

For Use with Food-Related Requests for Proposals

COMPLIANCE WITH BUY AMERICAN PROVISION

The Buy American provision, set out in 7 C.F.R. Part 210.21(d), requires participants in the National School Lunch Program and School Breakfast Program to use the nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for Program meals. A "domestic commodity or product" is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 C.F.R. 210.21(d). "Substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. When USDA Foods items are manufactured into processed end products, 51% of resulting food products must be of United States origin.

Vendor certifies that Vendor shall provide food products that meet the Buy American provision. Vendor further certifies that, in compliance with the Buy American provision, its products are "domestic commodities or products" as defined by 7 C.F.R. § 210.21(d). Vendor further certifies that the food products it supplies are processed in the U.S. and Vendor shall certify the percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to AAMA.

_____ **Initials of Authorized Representative of Vendor**

The following certification may be used for specific food products: Vendor further certifies that its product(s): _____ **, were processed in the U.S. and contain at least _____ % (insert % of weight or volume) of its agricultural food component(s) from the U.S.**

If Vendor is repetitively unable to provide domestic food products, AAMA may require Vendor to provide evidence that Vendor is capable of fulfilling the terms and conditions of the Contract and specifically, the Buy American provision. If AAMA determines that Vendor is not capable of fulfilling the terms and conditions of the Contract and/or specifically, the Buy American provision, AAMA may terminate its Contract or Purchase Order with Vendor.

Vendor shall provide documentation that demonstrates that food products meet the Buy American provision. By signing below, Vendor certifies that it will adhere to the documentation requirements for the Buy American provision.

Vendor must notify AAMA if a delivery contains non-domestic products, so AAMA may approve delivery as an exception to the Buy American provision. Vendor certifies that it will adhere to the notification requirements for the Buy American provision.

_____ **Initials of Authorized Representative of Vendor**

REQUEST FOR EXCEPTION FROM THE BUY AMERICAN PROVISION

Exceptions to the Buy American provision should be utilized as a last resort; however, an exception may be approved by AAMA upon request, by occurrence (i.e., delivery). Blanket exception approvals are not allowed. AAMA must determine that the use of a non-domestic food product is appropriate, using the USDA-prescribed questions in making the decision. See "Requirements for an Exception," ARM Section 17b Buy American, at p. 19 (August 12, 2020). Vendor agrees to provide information to AAMA that will assist AAMA in this determination. The decision to purchase or accept delivery of a non-US product must be made by AAMA.

Vendor agrees to comply with all requirements imposed by applicable law, USDA/TDA guidance, and AAMA concerning Buy American provision exceptions.

_____ **Initials of Authorized Representative of Vendor**



REQUIRED VENDOR BANK INFORMATION

ALL SECTIONS MUST BE COMPLETED

I. Vendor Information

Vendor Name

Vendor Address

Vendor Address Continued

Contact Person

Contact Phone Number

Contact Fax Number

Contact E-mail address

Vendor Tax ID Number

II. Vendor Bank Information

Banking Institution Name

Banking Institution City

Bank ABA/Routing #

Bank Account #

Type of Account

☐

Checking

☐

Savings

Payment Type – ACH

Automated Clearing House (ACH) – initiated by AAMA

Payment Frequency

III. Vendor Authorization

Authorized Name

Title

Authorized Signature

Date

Please scan and email the completed form to Accounts Payable at AP@aama.org.