

**INVITATION TO BID  
THIS IS NOT AN ORDER**

Date: June 14, 2017

From: **KENAI PENINSULA BOROUGH SCHOOL DISTRICT**  
Purchasing Department  
139 East Park Avenue  
Soldotna, Alaska 99669  
(907)714-8876

**BID NUMBER: #128-17**

**BID DUE DATE: 12:00 P.M., Alaska Time, July 13, 2017**

**CLASSIFICATION: Milk & Dairy Products**

**DELIVERY DATE: Weekly, beginning August 21, 2017, ending May 14, 2018 or as noted at end of specification sheets**

**DELIVERY POINT: KPBSD Central Receiving Warehouse and Various School Locations**

Prices are to be quoted **F.O.B. DELIVERY POINT**

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If you are eligible for KPBSD Local Bidder Preference (see Section XI, Item H. of Instructions to Bidders) you must include the following information:

Kenai Peninsula Borough Sales Tax Account Number: \_\_\_\_\_

Kenai Peninsula Borough Personal Property Tax Account Number: \_\_\_\_\_

**YOU MUST BE CURRENT IN ALL PAYMENTS OF THE ABOVE.**

\*\*\*\*\*

FOR BUYER:   
BETTE GILLILAND, Buyer

FOR SELLER: Business Name: \_\_\_\_\_

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

Signature of Bid Manager: \_\_\_\_\_ Printed Name of Bid Manager: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date Returned: \_\_\_\_\_ Last Day Prices are Valid: \_\_\_\_\_

**\*\* THIS PAGE MUST BE COMPLETED AND RETURNED WITH BID SUBMISSION \*\***

KENAI PENINSULA BOROUGH SCHOOL DISTRICT  
PURCHASING DEPARTMENT  
139 East Park Avenue  
Soldotna, Alaska 99669-7553

I. INSTRUCTIONS TO BIDDERS

The Kenai Peninsula Borough School District (hereinafter also KPBSD or District), invites the submission of Bids to provide Milk & Dairy products to the District in accordance with the following Instructions to Bidders.

The District reserves the right to negotiate terms and conditions of any contract that may be entered into as a result of accepting any bid submitted by the successful Bidder(s).

Any interested party may obtain a copy of the Invitation to Bid from the Kenai Peninsula Borough School District website at [www.kpbsd.k12.ak.us](http://www.kpbsd.k12.ak.us) or from the Purchasing Department, 139 East Park Avenue, Soldotna, AK 99669, (907)714-8876.

To be considered for award, one (1) original of the bid must be received by the District Purchasing Department, 139 East Park Avenue, Soldotna, AK, 99669 no later than 12:00 p.m., Alaska Time, July 13, 2017. Each bid must be submitted in a single sealed envelope or package marked on the outside **“MILK & DAIRY PRODUCTS; Bid #128-17: Due: NLT 12:00 p.m., Alaska Time, July 13, 2017.”**

**Bids delivered by fax or electronic means are not acceptable and will not be considered.**

**GENERAL INSTRUCTIONS AND INFORMATION:**

A. NON-DISCRIMINATION

No contractor on any District contract may discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex, marital status, handicap, or change in marital status. All successful contractors shall take affirmative action to insure such non-discrimination. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All successful contractors must agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination section and this section shall be deemed to be part of every contract entered into by the District under these policies.

B. OCCUPATIONAL SAFETY AND HEALTH WARRANTY

Bidder, if awarded a contract, warrants that the products sold or service rendered to the buyer shall conform to the standards and/or regulations promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651, PL 91-596). In the event the product sold does not conform to the OSHA standards and/or regulations, the buyer may return the product for correction or replacement at seller's option and at seller's expense. Services performed by the seller which do not conform the OSHA standards and/or regulations must be corrected by seller at seller's expense or by buyer at seller's expense in the event seller fails to make the appropriate correction within a reasonable time.

C. COMPLIANCE

Bidder, if awarded a contract, shall comply with all State, Federal and Local laws, regulations or orders applicable to the purchase, manufacture, processing and delivery of the equipment and material used in providing the services. A successful bidder shall certify in the following or substantially equivalent words on the invoice or other appropriate document: “We hereby certify that the goods covered by this invoice were produced in compliance with all applicable requirements of the Fair Labor Standards Act as amended, including Section 6 and 12 thereof, and of the regulations and others of the U.S. Department of Labor under Section 14 thereof.”

D. INSURANCE REQUIREMENTS

1. The contractor shall obtain insurance required under this section and shall file copies of the insurance policies and/or Certificates of Insurance in the Purchasing Department prior to the start of this project.

2. STATUTORY LIMITS WORKER'S COMPENSATION AND \$1,000,000 EMPLOYER'S LIABILITY

3. COMMERCIAL GENERAL LIABILITY: \$1,000,000 COMBINED SINGLE LIMIT

4. COMPREHENSIVE AUTOMOBILE Bodily injury and Property Damage combined including owned, non-owned and hired vehicles \$1,000,000 PER ACCIDENT FOR ANY AUTO.

5. CERTIFICATES OF INSURANCE shall be in the name of KENAI PENINSULA BOROUGH SCHOOL DISTRICT.

a. All policies, where applicable, will note the District as an additional insured.

b. All policies, where permitted, will note the District as an additional insured.

6. The successful contractor agrees to pay for the insurance specified and agrees to provide the Kenai Peninsula Borough School District with a thirty (30) day written notice of cancellation or nonrenewal of such insurance, if such cancellation or nonrenewal occurs during the contract period.

7. The successful bidder/contractor shall defend and hold harmless the District, and any of its officers, employees, or agents for any claims, suits or judgments arising out of the contractor's performance of the contract. The successful bidder/contractor agrees to indemnify and defend the District for any and all claims arising out of the contract.

E. TERMINATION FOR CONVENIENCE

The District, by written notice to contractor, may terminate this contract, in whole or in part, when it is in the District's interest. If this contract is terminated, the District shall be liable only for payment for acceptable services and performance rendered before the effective date of termination, and the contract total price will be adjusted accordingly.

F. DEBARMENT AND SUSPENSION

Offerors must fully comply with the requirements regarding debarment and suspension in Subpart C of 2 CFR Part 180, as adopted by the Department of Education at 2 CFR §3485.12. Offerors are responsible for ensuring lower tier covered transactions include a term or condition requiring compliance with Subpart C of 2 CFR part 180 and 2 CFR Part 3485, entitled Responsibilities of Participants Regarding Transactions. Contractors, subcontractors, or suppliers that appear on the Excluded Parties List System are not eligible for award of contracts that are a covered transaction under Subpart B of 2 CFR Part 180 and 2 CFR Part 3485. Offerors may access the Excluded Parties List System at [www.sam.gov](http://www.sam.gov).

G. BIDS

1. It is the sole responsibility of the bidder to have its bid received by the District Purchasing Department prior to the time of the scheduled bid due date and time. Bid(s) will be marked with the date and time of receipt. Late Bids shall not be considered and shall be returned to the bidder, unopened and marked with the date and hour of receipt, per School Board Policy, AR 3311, Bids. No responsibility will attach to any officer or agent of the District for the premature opening of, or the failure to open, a bid not properly addressed and identified.

2. One or more addenda to the Invitation to Bid may be issued by the District after the ITB process is opened. A copy of any addendum issued by the District must be signed by the bidder and submitted along with its bid. While the District will make reasonable efforts to notify bidders of any addenda, it is the sole responsibility of the bidder to verify whether any addenda have been issued. Bidders should check the District website to ascertain if any addenda have been issued.

3. Bidders should read this Invitation to Bid carefully and review all instructions contained herein. Incomplete or incorrect Bids may be rejected as not conforming to the essential requirements of the ITB.

4. This request implies no obligation on the part of the District. Award of this Invitation to Bid is contingent upon the availability of funds. The District reserves the right to reject any and all bids and to act in the best interest of the Kenai Peninsula Borough School District.

5. No oral interpretation will be given on any part of the ITB documents. Any bidder in doubt as to the true meaning of any part of this ITB may submit a written request for an interpretation thereof. Two types of questions generally arise. One may be answered by directing the bidder to a specific section of the ITB. These questions may be answered by direct communication to the bidder submitting the question. Questions which, in the opinion of the Purchasing Supervisor, require a more detailed or complex reply, or require an answer that may affect responses to this ITB or may be prejudicial to other prospective bidders, will be answered by issuing an addendum. Questions must be received by the District Purchasing Department no later than 4:00 p.m. Alaska Time, June 30, 2017. Any addendum resulting from submitted questions will be posted to the District website at least seven (7) days prior to the deadline for ITB submissions. It is the bidder's responsibility to check the website frequently prior to submitting their bid. Questions can be delivered as follows:

Re: MILK & DIARY PRODUCTS, #128-17

Fax: 907-262-7165

E-mail: [bgilliland@kpbsd.k12.ak.us](mailto:bgilliland@kpbsd.k12.ak.us)

Mail: Kenai Peninsula Borough School District Purchasing Department  
139 E Park Avenue  
Soldotna, AK 99669

6. If a bidder fails to notify the District of a discrepancy, defect, ambiguity or other error in the ITB, their bid shall be submitted at the bidder's own risk and should the bidder's submission, in whole or part, be deemed the winning bid, the bidder shall not be entitled to additional compensation or other consideration by reason of the discrepancy, defect, ambiguity or other error, or its later correction or clarification. Protests based on any discrepancy, defect, ambiguity or other error in the solicitation will be disallowed if the fault has not been brought to the attention of the District, in writing, at least ten (10) days prior to the date set for submission of Bids. If such date falls on a weekend or holiday, the deadline shall be the last business day before the weekend or holiday.

7. All Bids and Addenda must be manually signed. A bid may be signed by: an officer or other agent of a corporate vendor, if authorized to sign contracts on its behalf; a member of a partnership; an owner of a privately-owned vendor; or agent if properly authorized by a power of attorney or equivalent document. The name and title of the individual(s) signing the bid must be clearly shown immediately below the signature.

8. Each bidder understands and agrees that it submits its bid at its own risk and expense and releases the District from any claim for damages or other liability arising out of the Invitation to Bid and award process, including but not limited to: bid preparation costs and costs associated with any challenge (administrative, judicial or otherwise (including attorney fees)) to the determination of the winning bid and/or rejection of Bids. No obligation of any sort is created nor may liability, financial or otherwise, be asserted against the District, its Board, Board members, employees, agents or insurers as a result of this Invitation to Bid. By submitting a bid, each bidder agrees to be bound in this respect.

9. Bids may be withdrawn on written request delivered to the District Purchasing Department (fax is acceptable) prior to the time specified for submittal. Bids not withdrawn prior to the specified time may not be withdrawn for a period of sixty (60) calendar days after the time for receipt of Bids.

10. All Bids must comply with these instructions.

11. All Bids must be submitted on the forms provided by the District, or if none are included, in accordance with the requirements of the ITB.

12. Bidders must comply with all of the terms of this ITB, and all applicable local, state, and federal laws, codes and regulations. The District may reject any bid that does not comply with all of the material and substantial terms, conditions, and performance requirements of the ITB and any bid which contains information or material which cannot be verified or otherwise confirmed for purposes of determining responsiveness to the solicitation.

13. Bidders may not qualify a bid nor restrict the rights of the District. If a bidder does so, the District may determine the bid to be non-responsive and the bid may be rejected. If the District fails to identify or detect supplemental terms or conditions in a bid that conflict with those contained in this ITB or that diminish the District's rights under any award resulting from this ITB, the term(s) or condition(s) will be considered null and void.

14. The District shall have the authority to waive irregularities on any and all Bids, except that timeliness and manual signature requirements shall not be waived, when deemed to be in the best interest of the District.

15. The District reserves the right to accept or reject any or all Bids, consider alternates, and further reserve the right to waive formalities in ITB procedures.

16. The District reserves the right to select final quantities and product based on total cost and cost itemization.

17. The apparent low bidder(s) may be required, if deemed to be in the best interest of the District, to submit written verification of their ability to fill any order(s) subsequent to this ITB in accordance with the specifications and delivery time line established in this bid document, prior to final award.

18. Once the bid has been awarded and subsequent purchase orders have been issued, if the low bidder cannot fill the purchase orders in accordance with the specifications of the ITB, the District may vacate that award, cancel any affected purchase orders, and issue new purchase orders to the next lowest responsible bidder.

#### H. INDEMNIFICATION

1. Any and all employees of the contractor and other persons, while engaged in the performance of any work or services required by the contractor under this agreement, shall not be considered employees of the Kenai Peninsula Borough School District.

2. Any and all claims that might arise under the Worker's Compensation Act on behalf of the Bidder or other persons while engaged in the performance of the duties or services contemplated and any and all claims that might be made by any third person as a result of any act or failure to act shall be the bidder's sole obligation and the bidder shall indemnify the District and hold it harmless from any liability for any act or failure to act on the part of the bidder.

#### I. FEDERAL EXCISE TAXES

The District is exempt from the Federal Excise taxes. Exemption Certificate will be furnished when required.

#### J. HOLD HARMLESS

Bidders shall define and hold the District, its officers, employees, agents, and insurers harmless from any and all claims arising from the use or consumption of product provided by bidder unless bidder can establish that such claims arise from the District's improper handling, storage, or use of the product.

#### K. AGGRIEVED BIDDERS

Appeal Process for Aggrieved Bidders/Bidders for Contract Awards at \$25,000 or greater, AR 3311, Bids.

*1. Any party submitting a bid for a contract or purchase order with the District for \$25,000 or greater may appeal to the Superintendent in writing, personally received at the District Purchasing office, within three (3) business days of the date of notice of intent to award a contract. The appeal may be hand delivered, by mail, or by facsimile and must comply with the requirements of this section.*

*2. A written appeal shall, at minimum, contain the following:*

- a. The name, address, and telephone number of the interested party filing the appeal;*
- b. The signature of the interested party or the interested party's authorized representative;*
- c. Identification of the proposed award at issue;*
- d. A statement of the legal or factual grounds for the appeal;*
- e. Copies of all relevant documents; and*

*f. A fee of \$300.00 shall be paid to the District and must be received by the deadline for filing the written appeal. This fee shall be refundable if the appellant prevails in the appeal to the Superintendent.*

*3. The purchasing officer shall reject an untimely or incomplete appeal or an appeal filed without timely payment of the required fee.*

*4. If a timely and complete appeal is filed with the fee, the award of a contract or purchase order shall be stayed until all administrative remedies have been exhausted, unless the Superintendent determines in writing that award of the contract or purchase order pending resolution of the appeal is in the best interest of the District.*

*5. Notice of the stay and appeal shall be delivered to any party who may be adversely affected by the Superintendent's decision by facsimile, first class mail or in person within three (3) business days of receipt of a properly filed appeal.*

*6. The Superintendent shall issue a written decision to the appellant within ten (10) business days of the date that the appeal is filed. If multiple appeals have been filed, they may be consolidated for purposes of the decision. Copies of the appeal and decision shall be provided as requested.*

#### L. PUBLIC RECORDS CLAUSE

This Invitation to Bid and the resulting Bids received, together with copies of all documents pertaining to the award of this ITB, will be kept by the Purchasing Department and made a part of the record which, following award of the ITB, will be open to public inspection, unless restricted by the bidder and/or School Board Policy. If a bid contains any information which is proprietary or confidential, each such page of the bid must be clearly marked. Cost or price information will be open to public inspection.

#### M. LOCAL PREFERENCE CONDITIONS

School Board Policy AR 3311 states:

*KPBSD intends to give preference to local residents, businesses, contractors, producers and dealers to the extent consistent with the law and best interest of the public.*

*The district purchasing officer shall purchase from the lowest qualified, responsive, and responsible bidder or business. When bids or quotes are within 5% of being equal, preference may be given to local businesses if it is determined by the superintendent to be in the best interest of the district. For the purpose of this policy, a local business is defined as: any business or company having a physical presence in the borough, registered in the borough to collect sales tax, and locally provides the products and services sought. The 5% policy may be applied to all purchases up to \$25,000.00.*

Note: Local Bidder Preference does not apply where the provisions of an applicable statute, regulation, or grant prohibit local bidder preference.

#### N. CONTRACTOR'S VIOLATIONS OF TAX ORDINANCES

School Board Policy BP 3311 states:

*No contract or purchase order shall be awarded to any individual or business that is found to be in violation of the Kenai Peninsula Borough Code of Ordinances in the several areas of taxation which is not remedied within ten (10) days of notice.*

*Any contract can be terminated for cause if it is determined that the contractor is in violation of any taxation ordinance and if such violation is not remedied within ten (10) days of notification by regular mail. If the delinquency arises due to non-filing of sales tax, no payment will be made to the contractor until all filings have been made and all amounts due are remitted.*

*The District will remit any amounts owed by its contractor(s) to the Kenai Peninsula Borough for delinquent Borough taxes against any amount owing to the contractor(s) under a contract between the District and the contractor(s).*

O. RESPONSE REQUIRED

Your response, whether you are bidding or not, is our only indication of interest in District business. To assure continued receipt of invitations when not bidding, return only the cover sheet with the statement "NO BID" on its face and the name of the firm. Continued failure to do so will result in automatic removal of your firm from the commodity listing selected for this commodity(s).

P. AWARD

ITB will be awarded All-or-None.

II. GENERAL CONDITIONS

A. RIGHT TO ENTRY

1. The selected bidder, and any of its officers, employees, or agents performing services, shall be permitted to enter upon District property in connection with the performance of its services hereunder, subject to the Terms and Conditions contained herein and those rules established by the District.
2. In the case of any property owned or leased by the District the selected bidder shall comply with and shall cause each of its officers, employees, and agents to comply with any and all instructions and requirements for the use of such property. Any and all claims, suits or judgments, costs, or expenses, including attorneys' reasonable fees arising from, by reason of, or in connection with any such entries shall be treated in accordance with the applicable terms and conditions of this Invitation to Bid, including without limitation, the indemnification provisions contained in this section.

B. PERSONNEL

1. The selected Proposer shall immediately assign and maintain a staff of competent personnel fully equipped and qualified to perform the services required by the contract. Resumes may be required for all personnel assigned, or to be assigned to the project. The District reserves the right to approve the assignment of any proposer personnel and/or any replacement personnel.
2. **RESTRICTIONS ON SEX OFFENDERS ON CAMPUS**  
KPBSD School Board Policy BP 3515.7, [www.kpbsd.org](http://www.kpbsd.org)

C. SHELF LIFE

Fresh milk products shall have a minimum of ten (10) days shelf life remaining at the time of delivery. Milk products delivered with less than ten (10) days may be refused and returned.

D. SAMPLES

1. Samples may be furnished to the District at no charge. Samples will not be returned.
2. Samples shall be of the grade and quality of the product to be furnished. Samples must come from a regular production run in a full, sealed case. One case is required for each sample submitted. If the product is wrapped with an ovenable wrap, a Material Safety Data Sheet (MSDS) must be submitted.
3. If the manufacturer or broker is supplying samples for you, list the manufacturer or broker and identify the samples they are supplying.
4. Each samples shall be completely identified (i.e. manufacturer's name and product ID number and the item number as listed on the Specifications/Bid Forms. Unidentified samples will not be considered. Nutritional and shelf life information is required for all samples and must be provided. All frozen products must be delivered so that the product is frozen upon receipt at the Student Nutrition Department and has been maintained at the continual frozen state of 0 degrees Fahrenheit or below since shipment from manufacturer. Any product, which is damaged or thawed in transit, will not be accepted.

5. Sample(s) submitted directly by the manufacturer(s) or broker(s) shall require the manufacturer(s) or broker(s) to identify the sample(s) as specified above.

6. A detailed explanation of the decoding procedure for dating product (i.e. expiration date) must be provided for and accompany all samples.

7. Samples shall be shipped or delivered to:

Kenai Peninsula Borough School District  
ATTN: Warehouse, Student Nutrition  
139 East Park Avenue  
Soldotna, AK 99669

8. Approved products that undergo a formulation change are no longer considered “approved” and must be tested. It is up to the manufacturer and broker to keep the District up to date.

E. NUTRITIONAL ANALYSIS

1. Federal Regulations require the District to have nutritional information on file for each food product served. Upon award, vendor(s) shall provide nutritional information per serving for each item awarded to them.

2. Vendors must provide, annually, a vitamin analysis from a certified third party laboratory for all fresh milk products and UHT shelf-stable milk products.

F. GUARANTEE, INSPECTION AND CERTIFICATION OF QUALITY

1. All items are to be guaranteed for their normal shelf life, provided proper care and storage conditions are maintained. Guarantee is to cover product as well as wrapper and/or container. Pull date is to be clearly indicated on each container.

2. No product that is or has been frozen will be delivered by the vendor to the District.

3. Full code protection (current date production) is required on all merchandise delivered. Vendor shall conduct tests to assure that all products at the time of production meets the chemical, bacteriological, and temperature standards for Grade A pasteurized milk as required in Part 1 of the 1978 Grade A Pasteurized Milk Ordinance.

4. The District shall have access to all Quality Control documents on third party products. Vendor shall review the results of such tests prior to delivery of product to the District and shall not deliver any product to the District for which the required tests have not been performed or for which required standards have not been met.

5. Vendor shall maintain all such tests results for a period of at least six (6) months following delivery to the District and shall provide access to such results to the District or its designee as requested by the District at no additional cost to the District.

6. All dairy products, which are delivered, must be securely packaged, wrapped or cartoned. The vehicles used for transport must be covered and not used for any other use other than to transport finished food products. Damaged goods or pallets piled unreasonably high will not be accepted. Glass containers will not be accepted.

7. Inspection for visible damage, shortage, sanitation, etc., will be made at time of delivery or when authorized Student Nutrition Employee arrives. The District reserves the right to reject acceptance at a later date for any non-visible discrepancy with conditions or specifications contained in this bid.

8. The vendor will be responsible for merchandise rejected for either visible or latent non-compliance. Damaged or inferior merchandise for which the vendor is responsible will be replaced at no increase in cost to the District.

9. The District may request, at no added cost, copies of any plant or product inspections or analysis.



G. WARRANTY

1. The Seller expressly warrants that all food products purchased will be of the best quality available and they will meet the highest standard of the trade. The Seller guarantees to answer personally for all food products supplied to the District and shall undertake to correct workmanship or other defect(s) in food products found by the District or District designee.
2. Removal of Defective Food Products: Seller will promptly remove any food products that District designates as nonconforming or defective.
3. Replacement of Defective Food Products: Seller will promptly replace defective food products so as to avoid disrupting the Districts schedule.

H. QUANTITIES

1. The quantities listed herein are estimates only and are not intended to commit the Districts to purchase any specific quantity. In the event the District's requirements do not result in the request for the full amount described herein, such occurrence shall not constitute the basis for price adjustments under this contract.
2. Bidders must state in their bid any change of quantity or unit of measure, due to manufacturer's unit pack, for items that they are bidding. In the event a bidder does not specify his/her quantities and/or unit pack, the District will assume the bidder is bidding the quantity as specified in the Invitation to Bid and will require receipt of the quantities specified.
3. If Bidder elects to specify a minimum order quantity for specific items, it must be so stated in the bid document. The District may consider the minimum order quantity and elect to accept or reject, whichever is in the best interest of the District.

I. ORDERING

1. Orders for the District shall be placed with the vendor(s) approximately by authorized District employees. All orders should be received by email 10 days prior to delivery date. The successful bidder(s) shall provide the names, telephone numbers and email contact information of all persons to contact for order submission.
2. The District may, at its sole discretion, increase or decrease the quantities of any item beyond those originally bid. When increasing or decreasing said quantities, all bid prices shall be as originally bid. Bidders shall state on their bid the earliest delivery/receipt date. If time varies for different items, the bidder shall so state.
3. Orders will be placed approximately August 7, 2017 for first delivery on August 21, 2017. Subsequent orders are "as required" by District.
4. If the total quantity cannot be received, a partial order must be authorized, in advance, by the Student Nutrition Office (907) 714-8890. If a partial order is authorized, satisfactory arrangements must be made for receipt of the remaining order.

J. DEFAULT

1. The Buyer may terminate this Order in whole or in part by written, telegraphic or FAX notice:
  - a. if the Seller shall become insolvent or make a general assignment for the benefit of creditors, or
  - b. if a petition under any bankruptcy act or similar statute is filed by or against the Seller and is not vacated with ten (10) days after it is filed, or
  - c. if the Seller fails to make delivery of the items or to perform the services within the time specified in this Order, or any increments thereof or extensions thereto, or
  - d. if the Seller fails to perform any other obligations under the Order, or so fails to make progress, so as to endanger performance of this Order, or

- e. if the Seller's financial condition shall become such as to endanger completion of performance.
2. If the Buyer terminates this Order in whole or in part as provided in paragraph 9.a of this clause, the Buyer may procure, upon such terms and in such manner as the Buyer may deem appropriate, items similar to those terminated, and the Seller shall be liable to the Buyer for any excess costs of such similar items; however, the Seller shall continue the performance of this Order to the extent not terminated,
3. The rights and remedies of the Buyer provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Order.

K. DELAYS

The Seller shall not be liable for any delays in delivery caused by circumstances beyond its control, including acts of God or of the public enemy, acts of the United States Government, fire, floods, epidemics, quarantine restrictions, strikes, or embargoes. When any delays in delivery will occur or are anticipated, the Seller shall immediately give notice thereof to the Buyer.

L. DELIVERY

1. Deliveries are F.O.B. Destination to all schools within the boundaries of the District. Coordinate all deliveries with all participating District Schools.
2. Delivery to the schools shall be from 7:30 A.M. to 1:30 P.M. when an employee of the District authorized by the District's Administrator of Student Nutrition is on duty and all products shall be placed at the time in an approved storage unit.
3. At the discretion of the authorized District employee deliveries may be made during serving hours but shall not interfere with the breakfast and lunch service. Serving hours range from 7:15 A.M. to 9:00 A.M. for breakfast and 10:25 A.M. to 1:30 P.M. for lunch.
4. Delivery vehicles are to be equipped so that proper state of refrigeration is maintained for any perishable product. Temperatures of the product shall be no lower than 34 degree Fahrenheit and no higher than 40 degrees Fahrenheit. In all cases where product is shipped to the District from out of state, the vendor shall make use of a telltale thermometer to assure that the temperature has been maintained within the approved range during shipping. Vendor shall certify that each shipment has been so maintained. Vendor shall retain the tapes from the telltale thermometer for a period of at least six (6) months from the date of delivery to the District and shall, upon request from the District, provide access to these records to the District or the District's authorized designee at no additional cost to the District.
5. If deliveries are made in boxes, cases or on racks, proper sanitation of these items is the responsibility of the vendor. The District may reject delivery of or return at no cost any containers delivered in an unsanitary condition including, but not limited to, any leaking containers or any containers, which have been affected by other leaking containers.
6. If successful bidder is unable to supply fresh, usable product as required (availability, sour milk, etc.) bidder shall acquire acceptable replacement product from an approved source. Such replacement product is to be available to the District at the time of required service by the District. Price to the District shall be the same as that of the contract award price. Risk of late delivery, non-delivery or delivery of unacceptable product is assumed by and is the total responsibility of the vendor.

M. PRICING

1. Prices bid must be valid from August 1, 2017 through May 31, 2018.
2. All prices bid shall be in U.S. dollars.
3. Prices should be stated in units of measure specified (e.g. each, package, box, case, etc.) or in minimum packaging required by manufacturers.

a. All changes to the quantity, unit of measure, description, etc., must be noted on the Specifications/Bid Forms.

N. REBATES

If manufacturer rebates are allowed or offered, they will be paid to the District.

O. INVOICING AND PAYMENT

1. Original Invoices shall be directed to Student Nutrition Office at the following address:

Kenai Peninsula Borough School District  
Student Nutrition Department  
139 East Park Avenue  
Soldotna, Alaska 99669

2. Payment will be made upon receipt of products, inspection and acceptance of products.

3. Purchase order numbers shall appear on all invoices.

4. The District is not subject to sales tax.

P. SANITATION AND INSPECTION OF FOODS

1. All food products must be securely packaged, wrapped or cartoned. The vehicles used for transport must be covered and not used for any other use other than to transport finished food products. Damaged goods or pallets piled unreasonably high will not be accepted. Glass containers will not be accepted.

2. Foods received, stored, issued or sold will be handled in a food safe and sanitary manner. All food products will be protected from sun, water, heat, dust, insects, rodents and other external contaminants. This is to ensure products are not damaged as a result of temperature abuse.

3. If bidding items that are wrapped with an ovenable wrap, bidders must submit with their bid a Material Safety Data Sheet (MSDS) for each such item.

4. All foods delivered must be labeled with production date and best before date on packaging. An explanation of the date code system is mandatory.

5. **The successful bidder(s) must provide a current recall plan for the District in the event of a product being discontinued for any food safety reason.**

Q. SUBSTITUTIONS

Successful bidder(s) is required to obtain prior approval for any item to be substituted by calling or emailing the Student Nutrition Services office.

R. TEMPERATURE REQUIREMENTS

Delivery vehicles are to be equipped so that proper state of refrigeration is maintained for any perishable product. Temperatures of the product shall be no lower than 34 degree Fahrenheit and no higher than 40 degrees Fahrenheit. In all cases where product is shipped to the District from out of state, the vendor shall make use of a telltale thermometer to assure that the temperature has been maintained within the approved range during shipping. Vendor shall certify that each shipment has been so maintained. Vendor shall retain the tapes from the telltale thermometer for a period of at least six (6) months from the date of delivery to the District and shall, upon request from the District, provide access to these records to the District or the District's authorized designee at no additional cost to the District.

S. PRICE ESCALATION/DE-ESCALATION

1. Ninety (90) days after the award date, the Seller may pass on to the District verifiable increases with a minimum of 30 days' notice in its supplier's price or increase in shipping costs. Conversely, the Seller shall pass on to the

District any decrease of like costs. In either case, the Seller shall maintain the same margin. The Seller shall advise the District of price changes as they occur. These price changes shall be reported by submission of a price change notification from Seller's supplier and transportation entities. Once an order has been placed, the Seller shall not increase the price(s) on that order. The Seller shall be required to provide the District Purchasing office documentary evidence to support price changes. Additionally, the District reserves the right to terminate this contract, in whole or part, if there is a reduction in price for an item on this contract in the general market and the Seller's price does not reflect this reduction. The District reserves the right, at its option, to audit the Seller's financial records as they pertain to administration of this clause. At the end of the first semester and year end, the vendor shall provide usage data on each product by school. The statements are to be mailed to:

Kenai Peninsula Borough School District  
Attn: Student Nutrition Services  
139 East Park Avenue  
Soldotna, AK 99669

2. Unit Cost: Unit cost changes shall be based on actual documentation submitted to the District Purchasing office. Adjustments shall not exceed the cost adjustment from the supplier to the contractor, and will be applied as a pass through on the actual cost only (not to any other associated costs including profit, overhead, packing, delivery, etc.).