Section I

INVITATION TO BID

MILK, JUICE & DAIRY ITEMS

For Seven (7) N. GA County School Nutrition Programs

SCHOOL DISTRICTS PARTICIPATING INCLUDE: Fannin, Forsyth, Habersham, Rabun, Stephens, Towns, and Union County

Date: March 19, 2012

Bid Number and Title: Bid number 1-Seven (7) North Georgia County Milk Bid

To All Vendors

Announcement: A group of 7 N. GA County School Nutrition Programs are soliciting bids on Milk, Juice & Dairy Items.

Contract Term: This contract term will be (12) months from (July 1, 2012) to (June 30, 2013) with possibility of 4 annual renewals if mutually agreeable to both parties and compliant with the terms of renewal within the contract. (See Terms & Conditions)

Submission Procedures: Sealed bids will be received subject to the terms of the solicitation, at the office of: Cynthia L. Dean, School Nutrition Director, Towns County Board of Education, 67 Lakeview Circle-Suite C, Hiawassee, Georgia, 30546. The solicitation can be found at: http://www.towns.k12.ga.us/tcs/dept/nutrition/nutrition.htm, or you may request that a paper copy be mailed to you by contacting: Cynthia L. Dean, 706-896-2279.

Bids must be on the Price Quote Form(s) furnished with this document. Price quote form(s) must be completed in their entirety. Any corrections made on the quote form (white out or strike through) must be initialed by an authorized representative of the company submitting the bid. Each vendor is required to furnish all information requested in the Invitation for Bid. The original and one copy of the bid must be submitted in a sealed envelope marked: (7 N.GA Counties Milk Bid).

Bid Opening: Bid 1 will be opened on April 17, 2012 at 10:00 a.m. Bid will be opened at Towns County Board of Education, School Nutrition Office. Please allow ample time for delivery. Faxed bids will not be accepted. Bids received late will not be considered.

Contact Info: Cynthia L. Dean, 67 Lakeview Circle-Suite C, Hiawassee, Georgia, 30546. Telephone 706-896-2279.
**Award Determination:** Award for this Fixed-Firm Contract shall be made to lowest-priced responsible and responsive bidder meeting all Terms and Conditions based on the award criteria set forth in the Special Terms and Conditions as consideration will be given to student preference and acceptance, compatibility with menus and foodservice operations, and acceptable service. The participating Counties reserves the right to accept or reject any and all bids with a sound, documented reason and to waive any informality, which may result in awards to other than the lowest bidder, if such action would result in the “best value” for the Nutrition Programs. A condition of the bid award is the vendor’s agreement to extend all pricing, terms and conditions quoted to Counties participating in the bid initially. The participating Counties reserves the right to re-bid any or all items not assigned in contract.

Your interest and participation are solicited and appreciated.

“In accordance with Federal law and U. S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, and disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D. C. 20250-9410, or call (202) 750-5964 (voice and TDD). USDA is an equal opportunity provider and employer.”
Section II

General Terms and Conditions

1. Debarment and Suspension Verification (7CFR 3017)
   By signing this agreement, the bidder is testifying that they are not debarred, suspended or has any ineligible or voluntary exclusion with the U.S. Department of Agriculture. All responses will be verified.

2. Escalation/De-escalation clause (see Clause specific to milk in Special Terms & Conditions)
   **Economic Price Adjustment:** All prices offered shall be firm against any increase until a new Federal Market Order goes into effect. The 7 N. GA Counties participating may entertain a request for escalation in accordance with the most recently published USDA Marketing Service Federal Order Number 7. Each successive option will be treated in the same manner. These Counties reserves the right to accept, reject, or negotiate the request for a price increase. If the price increase is approved, the price will remain firm for one year from the date of the increase. This clause also enables these Counties to seek de-escalation on the same terms.

3. Contract Term Clauses (Including Renewal and Extension)
   **Contract Term.** The contract between 7 N.GA Counties and the Vendor shall begin and end on the dates specified in the Invitation for Bid, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 50-5-64, this Contract shall not be deemed to create a debt of the State for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.
   **Contract Renewal.** The participating Counties shall have the option, in its sole discretion, to renew the Contract for additional renewals as defined in the Standard Contract on a year-to-year basis for up to 4 additional bid periods by giving the Vendor written notice of the renewal decision at least (30) days prior to the expiration of the initial term or renewal term. Renewal will depend upon the best interests of the participating Counties, funding, and Vendor’s performance. Renewal will be accomplished through the issuance of a written notice or Notice of Award Amendment.
   **Contract Extension.** In the event that this Standard Contract shall terminate or likely to terminate prior to the making of an award for a new contract for the identified goods and services, the 7 N.GA Counties may, with the written consent of Vendor, extend this Contract for such period as may be necessary to afford the 7 N.GA Counties a continuous supply of the identified goods and services.

   Vendor must comply with Buy American Act which states that a school food authority purchase, to the maximum extent practicable, domestic commodities or products. *Buy American -- (1) Definition of domestic commodity or product.* In this paragraph (d), the term ‘domestic commodity or product’ means—(i) An agricultural commodity that is produced in the United States; and (ii) A food product that
is processed in the United States substantially using agricultural commodities that are produced in the United States.

5. **Non-Performance or/and Termination Clauses**

   a. **Immediate Termination.** This Contract will terminate immediately and absolutely if the 7 N.GA Counties determine that adequate funds are not appropriated or granted or funds are de-appropriated such that the 7 N.GA Counties cannot or any member cannot fulfill its obligations under the Contract, which determination is the 7 N.GA Counties’ sole discretion and shall be conclusive. Further, the 7 N.GA Counties may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

      (i) In the event the Vendor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

      (ii) The 7 N.GA Counties determine that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life health or safety to be jeopardized;

      (iii) The Vendor fails to comply with confidentiality laws or provisions; and/or

      (iv) The Vendor furnished any statement, representation or certification in connections with the contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

   b. **Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for the 7 N.GA Counties or individual members to declare the Vendor in default of its obligations under the Contract:

      (i) The Vendor fails to deliver or has delivered nonconforming goods or services or fails to perform, to the 7 N.GA Counties’ satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;

      (ii) The 7 N.GA Counties determine that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;

      (iii) The Vendor fails to make substantial and timely progress toward performance of the Contract;

      (iv) The Vendor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or county or state law including bankruptcy laws; the Vendor terminates or suspends its business; or the 7 N.GA Counties reasonably believe that the Vendor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or State law;

      (v) The Contractor has failed to comply with applicable Federal, State, Local laws, rules, ordinances, and orders when performing within the scope of the Contract;

      (vi) The Vendor has engaged in conduct that has or may expose 7 N.GA Counties to liability, as determined in the 7 N.GA Counties’ sole discretion; or

      (vii) The Vendor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of 7 N.GA Counties, or a third party.
c. **Notice of Default.** If there is a default event caused by the Contractor, the 7 N.GA Counties shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the 7 N.GA Counties’ written notice to the Vendor. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the 7 N.GA Counties may:
(i) Immediately terminate the Contract without additional written notice; and/or
(ii) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or
(iii) Enforce the terms of the Contract and seek any legal or equitable remedies.

d. **Termination Upon Notice.** Following thirty (30) days’ written notice, the 7 N.GA Counties may terminate the Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Vendor. Following termination upon notice, the Vendor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for goods and services provided under the Contract to the 7 N.GA Counties up to and including the date of termination.

e. **Payment Limitation in Event of Termination.** In the event of termination of the Contract for any reason by the 7 N.GA COUNTIES, the 7 N.GA COUNTIES shall pay only those amount, if any, due and owing to the Vendor for goods and services actually rendered up to and including the date of termination of the Contract and for which the School Food Authority is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Vendor’s Claim. This provision in no way limits the remedies available to the 7 N.GA Counties under the Contract in event of termination. The School Food Authority shall not be liable for any costs incurred by the Vendor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

f. **The Vendor’s Termination Duties.** Upon receipt of notice of termination or upon request of the School Food Authority, the Vendor shall:
(i) Cease work under the Contract and take all necessary or appropriate steps to limit Disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting from, and any other matters the School Food Authority may require;
(ii) Immediately cease using and return to the School Food Authority, any personal property of materials, whether tangible or intangible, provided by the School Food Authority to the Contractor;
(iii) Comply with the School Food Authority’s instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
(iv) Cooperate in good faith with the School Food Authority, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
(v) Immediately return to the School Food Authority any payments made by the School Food Authority for goods and services that were not delivered or rendered by the Vendor.

6. **Clean Air Act – CFR7-3016.36(i)12**
   All vendors must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S. C 1857(h), section 508 of the Clean Water Act (33 U.S. C 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR part 18) if contract is in excess of $100,000.00.

7. **Civil Rights Statement**
   In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex age and disability. To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202)720-5964 (voice and TDD). USD is an equal opportunity provider and employer.

8. **Record Retention- CFR7-3016.36(i)11**
   The vendor must retain all books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the School Food Authority, throughout the term of the Contract for a period of at least five (5) years plus the current year following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records.

   In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992. Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800)877-8339 or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

10. **Energy Efficiency-CFR7-3016.36(e)**
   All vendors must 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, 94163, 89 Stat 871).

11. **Potential Small Business, Minority, and Women’s Business Enterprise – CFR7-3016.36-e**
   It is the intent of 7 N.GA COUNTIES to provide maximum practicable opportunities in its solicitations to small businesses, minority firms, women’s enterprises and labor surplus area firms.
12. **Non Collusion**

The bidder, by affixing its signature to this solicitation, certifies that this bid is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same materials, supplies or equipment, and is in all respect fair and without collusion or fraud. I understand that collusive bidding is a violation of State and Federal law and can result in fines, prison sentence, and civil damage awards. I agree to abide by all conditions of this bid, and certify that I am authorized to sign this bid for the bidder.

13. **Contractor must comply with USDA Federal Regulations regarding procurement for Child Nutrition Programs – 7 CFR Part 3015 to CFR Parts 3016 and 3019.**

This contract shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the state of Georgia. State Sales and Use Tax Certification of Exemption forms will be issued upon request.

14. **Lobbying (over 100K) – CFR 7.3018**

All applicable Solicitations must include both Certification and Disclosure Statement. (See Appendix for Sample)

15. **Insurance Requirements:** The contractor shall provide and maintain during the entire period of performance under this contract, the following minimum insurance:

   (i) **Workman’s Compensation:** Coverage of all individuals engaged in any work under this contract, and meeting the requirements of Georgia Law regarding workman’s compensation insurance.

   (ii) **Comprehensive General Liability:** Limits of coverage shall not be less than $300,000 per occurrence for bodily injury and $100,000 property damage per accident.

   (iii) **Comprehensive Automobile Liability:** Limits of coverage shall not be less than $100,000 per person and $300,000 per accident for bodily injury and $100,000 property damage.

16. **Protest Procedures**

Any protests arising from this solicitation and award shall be made in writing and shall be delivered to the Superintendent as the acting protest official of the School Food Authority holding this bid—Towns County Board of Education, 67 Lakeview Circle-Suite C, Hiawassee, Georgia, 30546. The protest shall be filed no later than ten (10) days from the award notice and shall include:

   (i) The name, address, and telephone number of the protester;

   (ii) The signature of the protester or an authorized representative of the protester, identification of the purchasing agency and the solicitation or contract number;

   (iii) A detailed statement of the legal and factual grounds of the protest including copies of relevant documents;

   (iv) The form of relief requested.

A written response to the protest will be made within 30 days from receipt of the protest.
Section III

Special Terms and Conditions

1. **SYSTEM CONTACT INFORMATION:** See attached list of participating districts and their individual schools.

2. **BID EVALUATION BY:**
   a. Acceptable taste & appearance of milk & juice items.
   b. Nutrition factors of milk & juice items.
   c. Lowest extended cost for consolidated estimated usage

**SAMPLES REQUIRED:** To determine the acceptability of milk and juice products as part of the bid evaluation, each bidder is required to provide at least 12 units of the each flavor of ½ pint milk and juice that would be supplied by this bid to: the Towns County School Nutrition dept. by the date of the bid opening.

3. **BID AWARDED BY:**
   a. The lowest bottom line cost based on total usage of acceptable milk and juice items (Section A) will be used to determine the award.
   b. If there is a tie it will be broken by adding in bottom line cost of “other dairy items” (Section B) based on total usage provided.
   c. Participating counties are not bound to, but may purchase juice and/or other dairy items in this contract as meet their menu needs from the vendor awarded the contract.

   **NOTE:** Price of ½ pint milk to individual districts may be higher if using vendor-provided equipment (milk box). These prices will not be considered in the award. Please indicate upcharge for use of vendor equipment on a separate sheet.

4. **CONTRACTOR QUALIFICATIONS:**
   Only qualified companies will be allowed to submit a bid. The following criteria must be met before a potential contractor is qualified:
   a. Product Line—The potential contractor shall provide proof that all items listed in Specification Section are in stock or can be obtained.
   b. Financial Capacity—the potential contractor shall have financing adequate to purchase items in the most economical quantities. At the request of the school district the potential contractor shall provide three (3) written references to document adequate financial capacity.
   c. Service Level—if the school district does not have adequate historical data to determine the contractor’s ability to comply with the service level requirement outlined in the Bid, three (3) letters of reference from previous school district customers shall be provided.
   d. Accounting Practices—A potential contractor must clearly demonstrate to school district officials the capability to provide accurate, reliable and timely reports, in terms of invoices, statements, credits and utilization reports. Moreover, a potential contractor must demonstrate the capability to spontaneously provide data for periodic reviews of prices by school district officials.
Food Defense Plan—All potential manufacturers and distributors involved in the bid quotation must have in place a thorough Food Defense Plan. Sanitation and safety must be an integral part of the day to day operation.

5. QUANTITY:
   a. The estimated quantities of items specified herein are based upon the best information obtainable and represent the estimated and not the actual amounts which may be required during the contract period. The fact that specific quantities cannot be determined will not relieve the above named Boards of Education of their obligation to order from the successful bidder, all milk which, in judgment of the Director of School Food Services may be needed, and shall not in any case relieve the successful bidder of its obligation to fill all orders for milk which may be required during the contract period.
   b. Estimated quantities which are not ordered prior to expiration of the period specified, or termination of the contract, shall stand automatically canceled.
   c. The projected quantities to be used by the County School Nutrition Programs bidding are shown on the attached Quotation Sheet.

6. ORDERS:
   a. The individual cafeteria manager shall place order daily based on needs to be conveyed as agreed upon by individual districts.
   b. Daily deliveries must contain quantities of each type of milk order.
   c. Orders shall be for those items “on the current bid only” unless prior approval has been given by the Director of Food and Nutrition Services. Items without prior written approval will not be paid.
   d. No personal orders can be taken and/or delivered.
   e. Empty cases must be removed DAILY.

7. DELIVERY:
   a. Delivery shall be made to all schools each day, Monday through Friday. Delivery times shall be arranged by the district.
   b. Delivery person will be responsible for closing, locking, and securing cooler/milk box and school exterior door when delivery is made after hours.
   c. Holiday Deliveries: Holiday shall be defined as any week that has less than five (5) school days. If the holiday falls on a scheduled delivery day, the delivery shall be made on a day to be mutually agreed upon by the school district and the successful vendor.
   d. Delivery schedules shall be submitted to the Food Service Director for prior approval and shall remain constant from delivery to delivery.
   e. Drivers shall place product delivered in the cooler or milk box, whichever is designated by the manager. Driver shall rotate stock when placing milk in designated area. Do not mix milk with different dates within the same crate.
   f. No cardboard or paper cases will be accepted.
   g. No more than 50 half pints are to be placed in milk crate.
   h. The vendor shall pick up and credit milk on hand prior to school holidays and closings of longer than 5 days duration.
   i. The vendor shall make arrangements with Food Service Director regarding return of keys. These should be labeled. Final payment being pending until keys are returned appropriately.

8. HANDLING OF UNUSED/DAMAGED MILK:
a. Unsatisfactory milk (off flavor, damaged container, empty cartons, etc.) shall be replaced with fresh milk each day, at no cost to the Boards of Education or a credit given to the Boards of Education. Replacement of milk will be at the direction of the manager.
b. In the event that milk is not delivered to any school in time to be served with the regular student breakfast or lunch, the vendor will be required to pay the Federal reimbursement rate of the meal, since the meal does not meet the requirements for making a claim without the milk being offered.

9. BILLING:
   a. The vendor's invoice shall be left at the time of delivery and should agree with the product delivered.
   b. In the event of errors, a credit or debit (as the case may be) is to be issued against the invoice.
   c. The credit, or debit in regards to deliveries or pickups, shall be sent to the Food Service Department.
   d. The credit or debit shall show the original invoice number, date, and error being corrected.
   e. Delivery tickets will not be changed due to pricing errors in over billing and will be held for payment until credits are issued. These credits should be mailed directly to the Food Service Department.
   f. All invoices are to clearly indicate the school name and the “account name” such as Food Service, After School Care, etc.
   g. All handwritten invoices shall be marked “actual” invoice unless it will be re-billed on a computer generated ticket.
   h. Monthly statements shall be submitted to the Food Service Department of each county involved in this bid (see attached addresses) attention: Food Service Bookkeeper no later than the fifteenth of the following month.

10. PAYMENTS:
    All invoices for products received for the month will be paid within 30 days of the following month.

11. TEMPERATURE:
    Milk should be held and delivered according to recognized food safety HACCP standards, never reaching a temperature above 40 degrees or below 35.

12. PRODUCT REQUIREMENTS:
    a. All milk must be fresh, clean, fluid cow’s milk free from objectionable odors and flavors. It shall contain not less than 8.25% nonfat milk solids and have a specific gravity at 60 degrees of 1.028.
    b. All fresh milk furnished and delivered shall meet the following requirements:
       i. Be Grade “A”
       ii. Be Pasteurized and Homogenized
       iii. Have milk fat content of
            Flavored Fat Free - Chocolate, Strawberry, and Vanilla
            Unflavored Fat Free
            Unflavored 1% Low-fat
       iv. Be Vitamin D enriched
       v. All fresh milk furnished and delivered must be produced in compliance with the conditions, regulations, and requirements of the Georgia Department of Agriculture.

13. CONTAINER REQUIREMENTS:
    a. All half pint containers in which milk shall be in environmentally conscious packaging which is sound, sanitary, clean, leak-proof and tamperproof. All containers must be treated to kill bacteria and provide adequate protection of contents from contamination.
b. Paper cartons, which are plastic coated of the Pure-Pak or Tetra-Pak type or approved equal, with spouts which open properly, and collapsible when empty. Positive nutritional education message and the required nutrition label should be printed on the carton.

14. PRICING:
   a. Prices are to be quoted on the half (1/2) pint cartons/bottles on the basis of per half (1/2) pint. Bid price should be as of the bid opening date.
   b. Escalation Clause: In the event of an increase or decrease in the cost of raw milk prices per 1/2 pint will be increased or decreased .001 cents per 1/2 pint for each 15c CWT, as per the published monthly on the United States Department of Agriculture Marketing Service Federal Order Number 7.
   c. Prices quoted for juice items and other “dairy products” shall remain fixed for the duration of the contract without escalation or de-escalation.
   d. Price of ½ pint milk to individual districts may be higher if using vendor provided equipment (milk box). These prices will not be considered in the award. Please indicate upcharge for use of vendor equipment on a separate sheet.
7 N.GA County School Nutrition Programs – Contract Agreement

THE CONTRACT AGREEMENT MUST BE COMPLETED BY THE VENDOR AND RETURNED WITH THE BID.

We have carefully examined and fully understand the General and Special Terms and Conditions and related documents, in providing Milk, Juice & Dairy Items to the 7 N. GA County School Nutrition Programs, and do agree to all terms and conditions by so signing this document.

It is understood that all prices bid include delivery to the individual schools or departments or the specified District Warehouse.

Withdrawals, cancellations, etc., will not be accepted unless authorization is given by 7 N.GA Counties. In the event vendors fail to comply, they will be removed from the vendor list.

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<tr>
<th>Company Name</th>
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<td>Address</td>
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<tr>
<td>City, State, and Zip Code</td>
<td>Email Address</td>
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Signing the Contract Agreement affirms that the original Invitation to Bid has not been altered in any way and that the bidder agrees to all terms and conditions, both general and special, stated in this contract.