



www.kybuy.org
 KPC – KENTUCKY PURCHASING COOPERATIVES
 GRREC – KEDC - NKCES – SOUTHEAST/SOUTHCENTRAL
 KENTUCKY EDUCATIONAL DEVELOPMENT CORPORATION (KEDC)
 904 ROSE ROAD
 ASHLAND, KY 41102-7104
 Bidding Department (606) 928-0205
www.kedc.org or www.kybuy.org

***** INVITATION TO BID *****

BID TYPE: DISCOUNT FROM:
CATALOG
PRICE LIST
STORE SHELF PRICE

BID REFERENCE: CLS-2006-10

BID PUBLIC NOTICE DATE: Friday, June 16, 2006

BID OPENING TIME & DATE: Tuesday, August 22, 2006 - 3:00 p.m.

BID CONTRACT PERIOD: October 1, 2006 through December 31, 2006

BID CATEGORIES: (Circle the categories you provide)

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Fire/Safety/Security Items.....	11
Food Service	11
Food Service Furniture.....	11
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Office Supply	12
Printing Services	12
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Professional Services (Hourly rates).....	12
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BID PURPOSE:

The KEDC Board of Directors solicits sealed bids that would, if accepted by the KEDC Board of Directors, establish contracts, with the general and detailed terms, conditions, and specifications contained in this bid document, to provide participating bidding member institutions the right to purchase goods and services at a fixed percentage discount on items from the bidder's catalog, price list, or store shelf. Said contracts shall hereinafter be referred to as the Bid Contract.

CLARIFICATION:

For clarification or additional information relative to this Invitation contact the **KEDC Bidding Department** by email at bidding@kybuy.org or phone (606) 928-0205. **PLEASE DO NOT CONTACT SCHOOL DISTRICTS.**

GENERAL CONDITIONS AND INSTRUCTIONS FOR BIDDERS:

These General Conditions and Instructions apply to all bids submitted. Any deviations or exceptions are to be explained as a part of the bid proposal.

Bids must be received at the KEDC office at 904 Rose Road, Ashland, KY 41102-7104, not later than the specified bid opening time and date. **Faxed submissions will NOT be accepted. Bids received after the time designated for the bid opening will be returned to the bidder unopened.** Bids should be sealed in an envelope and clearly marked "BID ENCLOSED" with the Bid Reference Number printed on the envelope. KEDC and the participating bidding institutions cannot assume responsibility for any delay as a result of failure of the mails or delivery services to deliver bids on time. (Please note that FED EX does not guarantee delivery time to KEDC because they classify KEDC as being in a rural area.)

The public notice for this invitation, the invitation itself, and any addendums can be viewed, downloaded, or printed from the Internet at www.kybuy.org or www.kedc.org on the bid public notice date and until the time and date specified for the bid opening. Bid tabulations will be made by KEDC staff and, after the Board has taken official action, will be posted to the KEDC Internet site.

AUTHENTICATION OF BID AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST AND COMPLIANCE WITH THE KENTUCKY MODEL PROCUREMENT CODE:

By my signature on the bid certification, I hereby swear or affirm under penalty of false swearing as provided by KRS 523.040:

That I am the bidder (if bidder is an individual), a partner in the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation having authority on its behalf (if the bidder is a corporation);

That the costs quoted in the attached bid or bids responding to the Kentucky Educational Development Corporation Invitation to Bid are correct and have been arrived at by the bidder independently and have been submitted without collusion and without agreement, understanding, or planned common course of action, with any vendor of materials, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition;

That contents of the bid or bids have not been communicated by the bidder, or its employees or agents, to any person not an employee or agent of the bidder or its surety on any bond furnished with the bids and will not communicate to any such person prior to the official opening of the bid or bids; That the bidder is legally entitled to enter into contracts with agencies of the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, gratuities and kickbacks including those prohibited by the provisions of the Model Procurement Code (KRS Chapter 45A);

That I understand the Kentucky Educational Development Corporation collective bidding process is conducted consistent with KRS Chapter 45A, the Model Procurement Code and that the contents of the bid proposal and the actions taken by the bidder in preparing and submitting the bid proposal are in compliance with KRS Chapter 45A, the Model Procurement Code.

CERTIFICATION CONCERNING DISBARMENT AND SUSPENSION:

I certify on behalf of myself, the company and its key employees that neither myself, the company or its key employees have been proposed for debarment, debarred, or suspended by any Federal Agency.

TERMS AND CONDITIONS:

1. **Participating Member Institutions:** Any institution that is a bidding member of the GRECC, KEDC, NKCES, or SESC Educational Cooperative (hereinafter referred to as member or members) is eligible to utilize the Bid Contract; however this does not mean that all members will participate. A list of eligible members is included in the bid packet. A bidder will not be required to sell to or serve all eligible members. Any bidder that cannot serve all members is required to include in their bid proposal a copy of the provided list of members with the members that the bidder can and will serve circled. If this list is not returned then the bid contract will be available to all members.
2. **Bid Forms and Return Instructions:** Bidders must return the bid certification and bid form. Bidders are to complete the bid form indicating the bid category(s) and the percentage discount offered on the bidder's current catalog, current price list, and/or current store shelf prices. When a category is indicated but a percentage is not indicated, then 0% discount will be assumed with the bid type being subject to clarification. Bidders should also include one copy of the current catalog or price list and Return Policy. Optional information may be requested, but bid will not be rejected if these items are not supplied. Each bid should be submitted in a sealed envelope **CLEARLY** marked with "**BID ENCLOSED**" and the corresponding bid reference number and opening date printed on the outside of the envelope as they appear on the Bid Invitation. **The bidder should retain a duplicate copy.** An officer or member of the bidding firm who is authorized to legally bind the firm must sign the bid certification. The Bid Certification must be submitted with an original signature. The Bid Invitation Forms should be used without alterations. Modifications, additions, or changes to the terms and conditions of this Invitation to Bid may be a cause for rejection of a bid. Bidders are requested to submit all bids on KPC's official forms. Bids submitted on company forms may be rejected. By executing the Bid Certification, the bidder acknowledges that the bidder has read this invitation, understands it, and agrees to bind by its terms and conditions.
3. **Correction of Mistakes:** Bidders are cautioned to re-check their bid for possible errors. No bid can be corrected, altered, or signed after being opened. All prices and quotations must be in ink or typewritten. No pencil figures will be accepted. Mistakes are to be crossed out and corrections inserted adjacent thereto and initialed by the person signing the bid. Errors discovered after public opening cannot be corrected and bidder will be required to accept a bid contract if offered.
4. **Error in Bid:** No bid will be altered, or amended after the specified time and date set for the bid opening. The KEDC Board reserves the right to waive defects and informalities in bids, to reject any or all bids, or to accept any bid as may be deemed to its interest.
5. **Withdrawal of Bid:** All bids shall be valid for a period of thirty (30) days from the bid opening date to allow for tabulation, study, and consideration by the KEDC Board. A bidder may withdraw his bid after it has been submitted only if a written request is submitted and received prior to the expiration of the time during which bids may be submitted, without prejudice to himself or herself, by submitting a written request for its withdrawal to KPC, Attn: Bidding with the corresponding Bid Reference Number.
6. **Addendums:** KPC may issue an addendum to the bid after the bid has been released. In no instance will an addendum be issued within five (5) working days prior to the bid opening.
7. **Pricing:** The purpose of this bid is to obtain Bid Contracts that provide a fixed percentage discount on any or all of the following:
 - **The bidder's current catalog**
 - **The bidder's current price list**
 - **The bidder's current store shelf prices**

Bid Contracts may be accepted from multiple bidders. Contract discounts shall remain in effect for the entire contract and any agreed upon contract extensions, however additional discounts and/or special pricing are encouraged and may be accepted when consistent with other terms and conditions of the contract and offered equally to all members marked to be served by the Bid Contract.
8. **Review:** After the public opening of proposals received from the Bid Invitation, KEDC staff and member officials will review the results, develop a preliminary tabulation, and may contact bidders for the purpose of clarification only. If necessary, members may purchase from the apparent low bidder pending approval by the KEDC Board of Directors.

9. **Award:** After the review of the bid proposals, the KEDC Board may accept one or more bid contracts based on the needs of the members. A bidder whose bid proposal is accepted shall hereinafter be called contractor. Multiple bid contracts may be accepted based on separate pricing structures as follows:
- **The bidder's current catalog**
 - **The bidder's current price list**
 - **The bidder's current store shelf prices**
10. **Contract Period:** The bid contract is for the time period indicated on page one of this bid document. The contract may be extended on an annual basis by KEDC not to exceed five years in total including the first contract period. The determination to renew the contract beyond the initial contract period will be determined in part by the performance of the contractor as reflected by performance evaluations. KPC may periodically provide evaluation summaries to the contractor. (SAMPLE Evaluation Form attached). KEDC shall notify the contractor of its intent to extend or not to extend the contract by October 1 of each year. If KEDC notifies contractor of intent to extend the contract by one year, contractor shall either respond by October 15 that it does not intend to extend the contract, or respond by October 15 with any necessary price increases or decreases for the extended year. If price increases submitted are deemed excessive by KEDC then KEDC shall have cause to not extend the contract. All price increases shall be accompanied by proper documentation of price increase to the contractor. Proper documentation shall include market bulletin(s) from an independent source, manufacturer's invoices, and freight bills. Price change notifications will follow the same pattern as above for any years in which this contract is extended. KEDC reserves the right to extend the term for up to 90 days to continue a source of supply until new or replacement contracts are completed. Since this bid request is subject to multiple contracts being accepted, KEDC reserves the right to renew and/or solicit additional bids for subsequent contract periods. Any contract extension is contingent upon written agreement of KEDC and the contractor. The bid will not be automatically extended beyond any current year unless expressly approved by KEDC.
11. **Quantities:** It shall be understood that the bid contract will not obligate KPC or its members to purchase from the Bid Contract.
12. **Product Information:** The successful bidder shall provide upon request by any member, the most recent MSDS information sheets for any products the vendor may deliver to said member.
13. **Liability:** The contractor agrees to protect, defend, and save harmless KPC and members from any suits or demands for payment that may be brought against it for the use of any patented material, process, article, or device that may enter into the manufacture, construction, or form a part of the work covered by either order or contract; and contractor further agrees to indemnify and save harmless KPC and members from suits or actions of every nature and description brought against it for, or on account of any injuries or damages received or sustained by any party or parties by, or for any of the acts of the contractors, his servants or agents.
14. **Recalls:** The contractor shall notify KPC and its members immediately of any products recalls. Any products that have been recalled and have been delivered shall be issued a credit and/or a comparable substitute immediately.
15. **Usage Reports:** Usage reports in electronic format (Excel, Access, ASCII tab or comma delimited) shall be issued to KPC quarterly by the 15th day of the next month following the end of each quarter during the period of the bid. Contractor shall compile usage reports by member. The reports shall indicate the total orders delivered by individual item. Since the usage report data is useful to both KPC and the contractor, it is of benefit to both parties to share this information.
16. **Delivery Charges:** All products or services procured from the Bid Contract are to be delivered free of freight charges (FOB destination), unless stipulated on the Bid Form.
17. **Transmittal of Orders:** Vendors should issue purchasing instructions and/or guidelines to KPC and members.
18. **Payments:** Each member shall be responsible for making payment to the contractor, unless KPC has been established as the Purchasing Agent for the contractor, in which case, KPC will coordinate orders and payments directly to the contractor with the individual members being the ship to party. Normally, members pay bills only after approval from the member board which meets monthly. KPC reserves the right to negotiate upon mutual agreement to serve as Purchasing Agent for any Bid Contract including charging an administrative fee to the contractor.

19. **Warning and Termination of Contract:** KEDC may terminate the contract if the contractor fails to perform at the service level specified in the bid document. Contracts may be terminated at any time, on 30 days notice upon the mutual agreement of both parties or upon the discretion of KEDC, in a shorter period of time, if the terms of the contract are violated in any way. In the event of termination, the members shall not be liable to any costs other than the cost of items delivered and accepted prior to the termination date. The contractor may terminate the contract if the members fail to meet mutually agreeable and specified payment terms.

Each party shall follow the following procedure if the contract is to be terminated:

- Step 1. Issue a warning letter outlining the violations and state the length of time to correct the problem(s).
- Step 2. Issue a letter of intent to cancel contract, if the problem(s) is not resolved by a given date.
- Step 3. Issue letter to cancel contract.

In the event the physical facilities of the contractor are destroyed or a labor dispute makes performance under the terms of the contract impossible, the contractor shall not be held liable by KPC or the members.

20. **Access to Records:** All contracts over \$10,000, awarded by the SFA, must include a provision to the effect that the SFA, the State agency, USDA, 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 the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

21. **Penalty:** The designated supplier(s) reciprocally agrees to provide total requirements as listed herein, thereby minimizing occurrences when a school district may have to seek other interim product sources. Failure to delivery 100% of the items on this list -- within 48 hours -- shall be considered a default.

A successful bidder must have proven (or believable) record of service, particularly with respect to delivering all items on a regularly scheduled basis, at favorable prices. A distributor may be designated as unacceptable if the requirements listed herein have been previously violated and/or poor communications exist between the seller and the school district.

Modifications, additions, or changes to the terms and conditions of this Invitation to Bid may be a cause for rejection of a bid. Bidders are requested to submit all bids on the school district's official forms. Bids submitted on company forms may be rejected.

22. **Item Substitution and Out-of-Stock Back-Orders:** No substitutions are allowed without prior written authorization from the member. Member must be notified if item is out of stock, backordered or if timely delivery cannot be made. Upon member notification, the contractor must receive written directions from the member on how to proceed, i.e. cancel, process, etc.

23. **Other Conditions:**

- A. This contract shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Kentucky.
- B. Kentucky Sales and Use Tax Certificate of Exemption Form will be issued upon request.
- C. Contractor agrees to retain all books, records, and other documents to this agreement for three years after final payment. KPC and its school districts, its authorized agents and/or state/or federal representatives shall have full access to, and the right to examine any or said materials during said period which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions. If the investigator or audit is in progress, records shall be maintained until stated matter is closed.
- D. Capital construction projects require compliance with 702 KAR 4:160 and its related statutes.

**KPC – Kentucky Purchasing Cooperatives
BID CERTIFICATION – CLS-2006-10**

STATEMENT OF SUBMISSION

We have read all the conditions and requirements of the bid invitation. In compliance with all general and specific terms and conditions of the bid invitation, in consideration of the detailed description attached hereto, and subject to the statements of Authentication, Non-Collusion, and Non-Conflict of Interest thereof, the undersigned agrees that, upon proper acceptance by the KEDC Board of Directors of any part of the bid offer within the time stipulated, a contract shall thereby be created in accordance with the specifications for that part of the bid offer accepted.

* * * * **PLEASE PRINT CLEARLY AND COMPLETELY** * * * *

Bidding Firm	Authorizing Signature
Sales Contact Name	Printed Name of Authorized Signer
Sales Contact Email Address (Required)	Phone # (Preferably toll free)
Fax #	Date
Address	
City, State, Zip	

CONTRACTOR INFORMATION:

Please read and answer completely

1. **Is there any required information that must show on Purchase Orders?** (Other than, PO#, Ship To, etc.)

2. Can you serve all members? **YES** ____ **NO** ____
If no, indicate on the Member List Sheet that is included in the bid specifications the districts that can be serviced and return with Bid Response.

3. Are there any circumstances where shipping charges might occur? **YES** ____ **NO** ____

4. Do you have a website? **YES** ____ **NO** ____
If yes, please list web address. _____

5. Are there any exceptions to the discount offered? **YES** ____ **NO** ____

6. Do you require a minimum order? **YES** ____ **NO** ____ If yes, the amount of _____

7. Do you offer online product information? **YES** ____ **NO** ____

8. Do you offer online product searches with pictures of product? _____

9. Do you offer online ordering? _____

10. What is your return policy? _____
Attach a copy on company letterhead.

11. Do you have a restocking fee? **YES** ____ **NO** ____ If yes, what is that fee? _____

12. If your sales representative does not service all members, please attach a list of members to be served by each sales representative.

13. Do you have liability insurance? **YES** ____ **NO** ____ If yes, what is the coverage limit? _____

Please indicate the level of support you will bid on this contract. *Check only one box.*

Prices will be **no different** from what we ordinarily offer to public educational institutions.

Prices will be the **indicated percent lower** than we ordinarily offer to public educational institutions.

- Two percent (2%) Three percent (3%) Four percent (4%)
 Five percent (5%) Ten percent (10%) Other _____

Before submitting a bid please review the following:

- Has the bid form been signed by an authorized person?
- Have you marked the members to be served and included the list with your bid form?
- Have you attached a copy of your companies Return Policy?
- Have you enclosed a copy of the catalog(s) and/or price list(s)?
- Is this the best price you can give to the members?
- Include pages 1, and 6 through 12.

2006 KPC BID MEMBERS

GRREC

Adair Co.
Allen Co.
Barren Co.
Bowling Green Ind.
Breckinridge Co.
Butler Co.
Campbellsville Ind.
Caverna Ind.
Clinton Co.
Cloverport Ind.
Cumberland Co.
Daviess Co.
Edmonson County
Elizabethtown Ind.
Glasgow Ind.
Grayson Co.
Green Co.
GRREC
Hancock Co.
Hardin Co.
Hart Co.
LaRue Co.
Logan Co.
Meade Co.
Metcalfe Co.
Monroe Co.
Ohio Co.
Providence Ind.
Russellville Ind.
Simpson Co.
Taylor Co.
Todd Co.
Warren Co.
***WKU**

KEDC

Augusta Ind.
Ashland Ind.
Barbourville Ind.
Bath Co.
Boyd Co.
Breathitt Co.
Bullitt Co.
Carter Co.
Elliott Co.
Fairview Ind.
Fleming Co.
Floyd Co.
Greenup Co.
Jackson Ind.
Johnson Co.
KEDC
Knott Co.
Knox Co.
Lawrence Co.
Leslie Co.
Lewis Co.
Magoffin Co.
Marion Co.
Martin Co.
Mason Co.
Menifee Co.
Morgan Co.
Nelson Co.
Paintsville Ind.
Perry Co.
Pike Co.
Raceland Ind.
Robertson Co.
Rowan Co.
Russell Ind.
Scott Co.
Williamsburg Ind.
Wolfe Co.
***MSU**

NKCES

Beechwood Ind.
Bellevue Ind.
Boone Co.
Campbell Co.
Covington Ind.
Dayton Independent
Erlanger-Elsmere Ind.
Ft. Thomas Ind.
Kenton Co.
Ludlow Ind.
Newport Ind.
NKCES
Pendleton Co.
Silver Grove Ind.
Southgate Ind.
Walton Verona Ind.
Williamstown Ind.
***NKU**

SESC

Bell County
Berea Ind.
Casey Co.
Corbin Independent
East Bernstadt Ind.
Estill Co.
Garrard Co.
Jackson Co.
Lincoln Co.
Madison Co.
McCreary Co.
Mercer Co.
Middlesboro Ind.
Monticello Ind.
Pineville Ind.
Powell Co.
Pulaski Co.
Rockcastle Co.
Russell Co.
Science Hill Ind.
SESC
Somerset Ind.
Wayne County
Whitley Co.
***EKU**

** Partner College or University*

**OUR COMPANY CAN SERVICE ALL MEMBERS - YES NO
IF NO, THEN CIRCLE MEMBERS THAT CAN BE SERVED.
RETURN THIS LIST WITH BID.**

On the pages following are the different categories that a contractor can respond to as part of the **Catalog - Price List – Shelf Price Bid**. There are instances when a given contractor may be able to provide items and or services that apply to multiple categories listed below. To eliminate duplication for the vendors' the form that follows will allow vendors to indicate the different areas that can be covered.

- * If you can provide a catalog with a discount place an **X** in the box before Catalog Discount in the areas that you can cover and write in the percentage discount offered. **(Provide one catalog along with your bid response)** If the percent discount is left blank then 0% will be assumed.
- * If you do not have a published catalog but can provide a Product Price List with a discount place an **X** in the box before Price List Discount and write in the percentage discount offered. **(Provide one Price list along with your bid response)** If the percent discount is left blank then 0% will be assumed.
- * If you have a Retail Store and can allow schools to purchase using District Purchase Orders place an **X** in the box before Shelf Price Discount and write in the percentage discount offered. If the percent discount is left blank then 0% will be assumed.

There are 35 categories that are available. Fill in the percentage discount for EACH category you are responding to on the following pages and answer the questions following the categories on page 12.

The first line on the following form gives an example of a vendor that has a catalog and a retail store. The vendor is giving a 3% discount from their published catalog. The vendor is also giving a 4% discount from their store shelf price for in store purchases. Email bidning@kybuy.org if you have any questions on how to fill out this bid invitation.

CATEGORIES	Catalog Discount		Price List Discount		Shelf Price Discount	
		%		%		%
EXAMPLE	X	3%		NA	X	4%
Athletic						
Athletic Reconditioning						
Audio Visual						
Band Supplies						
Band Uniform						
Business Forms						
Computer Software						
Custodial Maintenance						
Duplicating Supplies						
Fire Extinguisher Inspection						
Fire, Safety & Security						
First Aid						
Food Service						
See Attachment A						
Food Service Equipment						
Food Service Repairs						
Food Service Custodial Supplies						
Food Service Furniture						
Food Service Uniform						

CATEGORIES	Catalog Discount		Price List Discount		Shelf Price Discount	
	%		%		%	
Furniture						
Instructional						
Laminating & Binding						
Library & Textbooks						
Lumber & Garden Supply						
Miscellaneous						
Office Supply						
Playground Equipment & Supplies						
Printing Services						
Professional Services (Hourly Rates)						
Answer the questions on the following page regarding professional services.						
Specialty						
Technology Supplies & Repair						
Toner						
Tools & Equipment						
Transportation						
Trophies & Awards						
Uniforms						
Answer the questions on the next page for all categories except Professional Service which is a separate section on the next page.						

If you answer "YES" to any question below, provide a clear Typewritten explanation on your company letterhead.		
Are there product exceptions to the discount? (Provide clear details on company letterhead)	YES	NO
Do you require a MINIMUM ORDER ?	YES	NO
Is there every an instance of shipping charges?	YES	NO
When are catalogs published?		
Do you have other business locations that will honor these bid conditions/prices to KPC member districts? (Provide a detailed explanation of these locations with addresses, contact names, phone and fax numbers.)	YES	NO

Exception questions regarding Category Professional Services		
If you answer yes to any questions below provide a clear explanation, if additional space is needed attach a typewritten explanation on company letterhead.		
Do you offer a professional service to school districts?	YES	NO
Do you charge a flat rate hourly fee?	YES	NO
Is there a charge for travel?	YES	NO
How do you provide information of services?		

**KPC – KENTUCKY PURCHASING COOPERATIVE
 VENDOR MONTHLY PERFORMANCE REPORT
 (TO BE COMPLETED BY DISTRICT PERSONNEL)**

District: _____

Name: _____

Vendor: _____

Month of Survey: _____

5	4	3	2	1	N/A
Excellent	Very Good	Acceptable	Poor	Unacceptable	N/A
No Problems	Problems Occur rarely	Problems occur occasionally	Problems occur frequently	Problems occur daily	Not Applicable

1. Overall fill rates are:	5	4	3	2	1	N/A
2. Fill rates on critical items are:	5	4	3	2	1	N/A
3. Special and/or surge requirements are handled effectively:	5	4	3	2	1	N/A
4. Emergency orders are filled in a timely manner:	5	4	3	2	1	N/A
5. I was given adequate time and notice to agree to substitutions:	5	4	3	2	1	N/A
6. Quantities received match quantities ordered:	5	4	3	2	1	N/A
7. Vendor Representative is responsive to my needs.	5	4	3	2	1	N/A
8. Deliveries arrive within agreed upon time window:	5	4	3	2	1	N/A
9. Rate overall product quality:	5	4	3	2	1	N/A

Additional Comments and Concerns:

Attachment A



United States
Department of
Agriculture

Food and
Nutrition
Service

Southeast 77 Forsyth Street, S.W.
Region Atlanta, GA 30303

Reply to

Attn. of: SESN-207

Subject:

NSLP 94-10: Buy American Requirement

To:

All State Child Nutrition Directors
Southeast Region

It has come to the U.S. Department of Agriculture's (USDA) attention that school food authorities (SFA) may be using Federal funds to purchase foreign foods, e.g. canned peaches, even though the law, Federal Regulations, and local specifications prohibit this practice. USDA, therefore, wants to reiterate the "Buy American" requirement, which (1) benefits our children by ensuring that high-quality foods are available in school lunch programs, and (2) supports American agriculture.

As you are aware, Section 3 (h) of the Commodity Distribution Reform Act and WIC Amendments of 1987, and Section 250.23 of Federal Food Distribution Program regulations mandate that recipient agencies, including SFA's participating in the National School Lunch Program (NSLP), purchase, whenever possible, only food products that are produced in the U.S. A "food product produced in the U.S." is defined as "an unmanufactured food product produced in the U.S. or a food product that is manufactured in the U.S." In addition to exemptions set forth in the law for specific States and territories, and unusual or ethnic food preferences, the regulations identify two other situations which warrant a waiver to permit purchases of foreign products: (1) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and (2) competitive bids reveal the cost of a U.S. product is significantly higher than the foreign product. These circumstances are the only exceptions to Section 3 (h).

It is imperative that each SFA comply with the "Buy American" requirement by purchasing food products produced in the U.S. for its school feeding programs. Subject to the exemptions cited above, such purchases must at least be proportionate with the extent of Federal funding in the SFA's school food service account. Therefore, given reports of foreign products in school feeding programs, we request that you remind the SFA's in your State of the "Buy American" requirement and ask them to (1) check their purchasing specifications to ensure adequate procurement of U.S. food products, (2) remind their vendors and distributors of the "Buy American" requirement, and (3) examine product packaging. The Nutrition Labeling and Education Act of 1990 mandates that the country of origin for both domestic and imported food products be identified on the product labels.

Should you or your staff have any questions regarding this matter, please contact Rosie Daugherty or Brian Frasier of the School Programs Section at (404) 730-2631.

NENA P. BRATIANU

Regional Director

Special Nutrition Programs