



# ALBUQUERQUE PUBLIC SCHOOLS

Procurement Division

*Expect Great Things!*

Winston Brooks  
SUPERINTENDENT

Mark Heckart, CPM  
DIRECTOR/PROCUREMENT OFFICER

June 15, 2011

**BID:** 11-075PS-MC Bread, Fresh for APS Food and Nutrition Services

**DATE:** June 28, 2011

**TIME:** 2:00 p.m.

**LOCATION:** Albuquerque Public Schools  
**(Address for** Procurement Department  
**Hand or Courier** 6400 Uptown Blvd NE, Suite 600W  
**Delivery)** Albuquerque, NM 87110

**U.S. MAIL** Albuquerque Public School  
**DELIVERY:** Procurement Department  
P.O. Box 25704  
Albuquerque, NM 87125  
**(Allow appropriate time for delivery to the Procurement Department location before the deadline time and date.)**

**CONTACT:** Priscilla A. Saavedra, District Buyer  
Saavedra\_pr@aps.edu (505) 878-6117

**SPECIAL INSTRUCTIONS:** Complete Bid/RFP documents as required. Your response must be received in the APS Procurement Department prior to the specified date and time regardless of delivery option selected. **Late bids are not accepted and will be returned un-opened.** To ensure proper identification and handling, clearly indicate the Bid/Proposal Number and the Opening Date and Time on the outside of the sealed response envelope.

MC

6400 Uptown Blvd NE, Suite 600W Albuquerque, NM 87110 505.878.6126 505.830.1161 fax

Strategic  
Direction:



Excellence in Academic  
Achievement in a  
Standards-Based Approach



Quality, Safe Learning  
and Working Environments



Effective and Efficient  
Systems

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES**  
**BID NO. 11-075PS-MC**

**INTENT:** Albuquerque Public Schools (APS) invites you to bid on the annual supply of **Fresh Bread for APS Food & Nutrition Service**. The intent is to establish contract(s) for providing delivered fresh bread products to the APS Central Kitchen location.

Food & Nutrition Services will be the primary user of any contracts awarded under this bid.

**INFORMATION FOR BIDDERS**

1. **Contract Documents:** The bidding documents included in this packet and listed below constitute the contract documents. The bidder's signature signifies his full understanding of the terms of the contract documents and agreement to perform the work under these terms if awarded the contract. The award shall be made by a blanket contract issued by APS to the contractor and shall bind the contractor to the terms of the contract documents.
  - Bid Information
  - Information for Bidders
  - General Terms and Conditions
  - General Conditions
  - General Requirements
  - Specifications and Pricing
  - Terms and Conditions (Signature Page -2)
  
2. **Preparation of Bids:** Each bid must be submitted on the prescribed forms. Bidders are to comply with all instructions and provide the information requested into the appropriate spaces. Bid prices must be entered in **black ink** or type written. Mistakes may be corrected, prior to bid opening, but shall be initialed by the person signing the bid. Corrections and/or modifications received after the bid opening time will not be accepted. Each bid must be submitted in a sealed envelope bearing on the outside the name and address of the Bidder and the bid number as listed on the Bid invitation. Improper identification may result in premature opening of, or failure to open bid. **An authorized representative of the company must sign all bids. Bids not signed and returned with bid submittal will be considered non-responsive and may be rejected.**

All cost incurred by the bidding company in the preparation, transmittal or presentation of any proposed or material submitted in response to this Bid will be borne solely by the bidding company.

3. **Receipt and Opening of Bids:** Bids must be prepared and submitted in accordance with the provisions hereof. The owner reserves the right to reject all bids if all bids exceed the available funds. Any bid may be modified or withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof by delivering written notice to the location designated as the place where bids are to be

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES**  
**BID NO. 11-075PS-MC**

received. Any bid received after the specified time for the opening of bids shall not be considered.

Procurement law requires sealed bids or proposals. Therefore, APS cannot accept bids which are transmitted using facsimile equipment. This may not apply to amendments for addenda which do not refer to pricing or to the transmittal of supplemental product literature, drawings and the like. Please refer the specific situation to the buyer for clarification before proceeding.

4. **Qualification of Bidder:** APS may make such investigations as necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish all such information and data for this purpose as APS may request. APS reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy APS that such bidder is qualified to carry out the obligations of the contract and to complete the work described therein.

Bidder shall also construe this provision to incorporate any necessary investigation and/or monitoring during the life to the contract to enforce any current policy of the Board of Education such as, but not limited to, no smoking or alcoholic beverages on APS property. As a general rule, any such regulation or law applies to APS personnel shall be deemed to be in force for contractor's work force occupying any work site.

5. **Conditional Bids:** Bids in which acceptance is in some manner restricted or conditioned by the bidder will be reviewed by APS. If the limitations imposed are not in the best interest of APS or are prejudicial to other bidders, the bid will be rejected.
6. **Multiple Offers:** APS will not select from multiple offers on a single document. If bidder offers more than one brand and/or price per item, the 1) as specified or the 2) most expensive will be considered as the primary bid. Other offers will not be evaluated unless the primary bid is low bid in its own right. If you wish to offer an alternate bid in addition to your regular bid, make extra copies of the necessary pages (including the signature pages) and submit as Bid #2. Each bid must stand alone and comply with the terms and conditions of the contract.
7. **Familiarity with Conditions:** Clarification of bidding procedures for this contract may be made by contacting Priscilla A. Saavedra, District Buyer at (505) 878-6117, e-mail: saavedra\_pr@aps.edu. Clarification of the specifications or other technical aspects of this may be made by contacting Juan Saiz, Food & Nutrition Services, at (505) 345-5661 ext. 37027. **Bidders must have acquainted themselves with all conditions affecting this contract before submitting a bid.** No claim shall be made nor will one be allowed to the contractor for negligence, misunderstanding or error in this regard.

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES  
BID NO. 11-075PS-MC**

Bidder shall carefully examine the proposed contract documents to obtain first-hand knowledge of all proposed work. Contractors will not be entitled to any additional compensation or any extension of the contract time for conditions which can be determined by examining current work requirements and the proposed contract documents. Submission of a bid constitutes a representation by the bidder that the bidder has made all appropriate examinations, investigations and analyses and has made provision as to the cost thereof in his bid.

8. **Records:** Records shall be maintained by the contractor in compliance with municipal, federal or state laws, ordinances, codes, and this contract. At any time during normal business hours and as APS may deem necessary, there shall be made available to APS for examination of all contractor's records with respect to all matters covered by this agreement. APS may audit, examine and/or make excerpts or transcripts from such records including but not limited to invoices, materials, payrolls, records or personnel, conditions of employment or any other such data as may be pertinent.
  
9. **Awards:** APS reserves the right 1) to award the contract on the basis of individual items, or groups of items, or on the entire list of items; 2) to reject any or all bids or any part thereof; 3) to waive any informality in the bids; and 4) to accept the bid that is in the best interest of APS. Bid award will be made to the low responsible and responsive bid taking into consideration prior qualifications and capabilities of the bidder, availability of funds and any other relevant factors. **It is the responsibility of the bidder to inquire as to the status and/or subsequent award of bids.**
  
10. **Taxes:** APS holds a Class 9 Nontaxable Transaction Certificate and is exempt from payment of taxes on tangible personal property. A NTTC will be issued on request. Bid is for product only.
  
11. **Protest:** Any bidder, offeror, or contractor who is aggrieved in connection with a procurement may protest to the Procurement Division, Albuquerque Public Schools. The protest shall be submitted in writing within 15 calendar days after the fact of occurrences giving rise thereto.
  
12. **The Procurement Code:** The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.
  
13. **USE OF FEDERAL FUNDS:** Food Service revenues are derived primarily from federal sources. Federal law prohibits application of any residential preference when the expenditure of federal funds designated for specific purchase(s) is involved.
  
14. **Promotional Gifts and Activities:** APS policy prohibits the distribution of jackets, shirts, caps or any other clothing items with company or product logo or any other

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES  
BID NO. 11-075PS-MC**

form of advertising to its employees. Furthermore, APS employees are prohibited from entering drawings, contests, or other promotional/advertising activities with vendors or potential vendors in connection with a procurement action.

If your company is approached by any person seeking to receive favors, gratuities, kickbacks, either monetary or in kind, in connection with the performance of this contract, please contact the Purchasing Director at 505-878-6112 or the Director of Internal audit at 505-842-3685.

**GENERAL TERMS AND CONDITIONS**

The submission of a bid will indicate that the bidder has read the terms and conditions, understands the requirements and that bidder can supply item(s) perform work as specified.

No contract exists on the part of Albuquerque Public Schools until a written Blanket Purchase Order (BPO) is executed which will bind the bidder to the terms and conditions of the bid. Issuance of a BPO will be considered sufficient notice of acceptance of contract.

It is mutually understood and agreed that the successful bidder(s) shall not assign, transfer, convey, sublet or otherwise dispose of the purchase order or contract with any other person, company or corporation to perform the contract without the previous written consent of Albuquerque Public Schools.

Albuquerque Public Schools reserves the right to return product which does not meet specifications indicated in bid at bidder's expense.

Failure to examine any specifications and/or instructions will be at bidder's risk.

**GENERAL CONDITIONS**

- Contract Modification:** No oral statement by any person shall modify or otherwise affect the terms, conditions, specifications or price agreements stated in this contract. This contract is the final expression of the agreement between the parties unless amended in writing by the Procurement Division.

Submit all questions about the proposed contract specifications including any discrepancies, omissions or ambiguities noted by any bidder to Priscilla Saavedra, District Buyer. If appropriate, APS Procurement Division will issue a written addendum which shall thereafter become part of the bid documents and proposed contract documents. Oral interpretations other than routine clarification and the like, if given shall not be binding unless reduced to a written addendum issued prior to bid opening. All bids shall be responsive to and include any addenda issued prior to bid opening.

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES  
BID NO. 11-075PS-MC**

2. **Cancellation:** Failure to comply with the terms of the contract documents and/or unsatisfactory performance on the job will constitute grounds for cancellation of the contract. If, after consultation between APS using department, APS Procurement Division and the Contractor grounds for cancellation still exist, immediate notification of cancellation will be provided in writing by the Procurement Division. Upon such notification, the contractor will cease work immediately and shall submit an invoice for work satisfactorily completed to date. No allowance will be made for anticipated profits.
  
3. **Purchase Order and Invoicing Procedures:** Invoices must clearly state the Blanket Purchase Order Number assigned to your company for this fiscal year bidding, the quantity, description, individual prices and total. All information on invoice(s) must be filled out in black ink or typed and readable. APS will make a good faith effort to work with your company to remedy the problems with invoices. If a problem with invoicing cannot be rectified within a two week period after notification by telephone and letter the contract may be cancelled.

APS reserves the right to refuse to process or honor invoices in which quantity, description, individual prices and totals are left blank. Payments will not be made with respect to such invoices until such invoices are returned to APS in proper understandable form. APS will have no liability for delayed payment or other consequence due to improper invoicing.

Each delivery to the Central Kitchen Warehouse shall be invoiced separately by contractor and the original copy shall be left at the warehouse, showing the full signature of the receiving clerk. Initials only are not acceptable and delivery tickets showing only initials will not be processed for payment. APS will not pay for unauthorized purchases.

**Note:** Orders are placed "as needed". All products ordered will be delivered to the Central Kitchen Warehouse. Contact persons are Steve Carlton, phone no. 505-243-6685 X37625 or Drayanna Masigale, 505-243-6685 X37618. Refer order or delivery questions to them.

Schools operating year round are, Cochiti Elementary School (ES), Duranes ES Eugene Field ES, Mark Twain ES, Navajo ES, Mary Ann Binford ES, Susie Rayos ES, and Oate ES. Other schools are closed for the summer.

Bidders will be advised of APS closings by Food & Nutrition Services and/or Procurement Division. Year round schools that are open will serve food as usual, although the numbers of lunches may be less than during the traditional August-May time period.

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES**  
**BID NO. 11-075PS-MC**

4. **Prompt Payment:** APS will strive to meet or exceed prompt payment terms as may be established by statute; late payment charges may be assessed on any unpaid balance due over 60 days in arrears at the rate of one and one-half percent (1.5%) per month. The 60 days does not begin to run unless and until a proper invoice is submitted. APS will not automatically include late charges in your payment. Late charges must be properly documented with separate invoice numbers, amount, date and computation to verify charges. Typically, APS payment schedule will be 30-45 days.

**GENERAL REQUIREMENTS**

1. **Scope of Work:** APS is one of the nation's largest school districts. It comprises an area of approximately 1300 square mile geographical area that encompasses all of the Albuquerque metro area in Bernalillo County and one location in Sandoval County, New Mexico. At the present time there are nearly 89,000 students attending 131 schools. The APS cafeteria services are the largest food operation in the state providing low-cost nutritional meals to students and staff at each school site and appropriate administrative sites throughout the district. The Department is responsible for the Nutritional School Breakfast Program, the National School Lunch Program, the After School Snack Program and the Summer Food Service Program.

APS Central Kitchen Warehouse location prepares and bakes all the bread products for all the APS school sites. Therefore, bread will be ordered and purchased on an "as needed" basis. Due to the procedure for the purchasing of bread products, all items listed in the specification sheet will not list any estimated quantities. Also, listed on specification sheets, in order to meet the nutritional guidelines all bread products except for rolls are whole wheat items.

Bread is a staple product in our menu planning and should be readily available for delivery to the Central Kitchen Warehouse.

Central Kitchen Warehouse requires and expects "on time" and "as ordered" deliveries. A late delivery or delivery of the wrong product(s) creates a stressful situation at our cafeterias. APS should not have to resolve a contractor's delivery problem. If an emergency arises and a school needs a product for the day, contractor will be expected to accommodate the school's needs, by making a prompt delivery to the Central Kitchen Warehouse. All orders will be a "special delivery" being that this proposal is being bid on an "as needed" basis and/or when an emergency arises where more bread is needed.

Day old bread products will not be delivered under any circumstances. If this situation occurs, contractor will be expected to immediately replace the product at no charge, and correct the problem as soon as it occurs. If problem is not resolved within five (5) working days this may be cause for termination of the contract. If

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES**  
**BID NO. 11-075PS-MC**

termination of contract is necessary, APS will have the right to work with contractor to determine a phase out period for ease of transition to a new contractor. APS reserves the right to award to the next low bidder or re-bid. At no time will APS be without service.

Again, if delivery or poor product problems arise, contractor will be notified and given the opportunity to correct the problem. APS Food & Nutrition Service and/or Purchasing will make no more than one phone request. If within 5 days after phone notification, meeting and/or written letter expressing the problems and the problems have not been resolved, APS reserves the right to cancel the contract and award to the next low bidder or re-bid. In the event this should occur, APS Purchasing and Food & Nutrition Service in conjunction with the contractor will determine a phase out period for ease of transition to a new contractor. At no time will APS be without service.

Contractor will replace without cost, or issue prompt credit at APS option, for any spoiled or damaged product unless such spoilage or damage is due to the fault or negligence of APS. Contractor will pickup and issue credit for any spoiled or damaged bread items.

Deliveries will be at the time specified by Central Kitchen. An authorized person will sign all delivery invoices. If invoices are not generated as per contract pricing, APS reserves the right to request corrected invoices or APS may correct invoices without notice to company. Authorized personnel will be identified at the beginning of the contract and Contractor shall exercise due care to ensure the proper receipt of product. All pricing will be F.O.B. destination, freight prepaid.

APS reserves the right to add new products within each category as they are introduced to the market.

2. **Contract Period:** Any contract issued as a result of this solicitation will be in effect from date of award through July 31, 2012.
3. **Pricing:** All prices quoted will be F.O.B. destination including freight. APS will require a 30 day written notice for any request for price escalations/decreases. **Price escalation will not be allowed for any reason other than Market-related issue.**
4. **Escalation Clause: Prices must remain firm for the first three months.** After three (3) months, price escalation may be considered. In other words, only in the event of a fuel price increase or, if successful contractor cannot honor pricing due to a Market related issues that will result in a price increase for packer to APS, or an "Act of God.: or similar catastrophe and/or unusual event beyond the control of the bidder during the life of the contract, then price escalation may be allowed.



**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES**  
**BID NO. 11-075PS-MC**

A request for price escalation must be supported with price documentation specifying the circumstances relied upon for escalation. Any such approved increase will be confirmed by amendment. No substitutions of product are allowed unless approved by APS Purchasing Department and Food & Nutrition Services.

Contractor may decline renewal with no penalty and APS will either award to the next low bidder or re-bid. If prices should decrease in the market, APS must also benefit from any market fluctuation which would derive a savings.

All prices quoted will be F.O.B. destination including cost, insurance and freight. APS will require a 30 day notice for any request for price escalations/decreases.

A letter of withdrawal will be required by Bidders unable to honor pricing after bid has closed or after contract award, due to misquote by Broker, unavailability of product, unacceptable product upon delivery, etc. APS will go to the next low bidder to obtain goods in question and/or re-bid. Letter to be addressed or e-mailed to APS Purchasing Department Attn: Priscilla Saavedra, 6400 Uptown Blvd. NE, Suite 600W, Albuquerque, N.M. 87110, E-mail:saavedra\_pr@aps.edu.

5. **Request(s) NOT Defined in Scope of Work:** Contractor shall be held responsible to **NOT** fill requests which are clearly beyond the defined scope of the proposed contract. Should such requests occur, contractor has the responsibility of calling such violations to the attention of the APS Procurement Officer.
6. **Negotiation of Related Items:** APS does, however, reserve the right to negotiate with successful bidder(s) for pricing on items related to this contract but not specifically named herein. In the event a purchase is made as a result of such negotiations, the contract shall be amended to reflect the new item(s) and pricing structure.
7. **INSURANCE:** The contractor shall, at his own expense, carry and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance listed:
  - A. **Workers' Compensation Insurance:** As required by the Labor Laws and the New Mexico Statutes.
  - B. **Public Liability Insurance:** At the time of the Contractor's execution of the contract, Contractor shall deliver to Owner a certificate(s) of insurance testifying that he has obtained full Worker's Compensation and employer's Liability insurance coverage for all persons whom he employs or may employ during the course of the project. Such coverage shall be maintained for the duration of the contract and the warranty period and shall meet the most current requirements.

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES  
BID NO. 11-075PS-MC**

\$1,000,000 Bodily Injury and Property Damage per occurrence  
\$1,000,000 Bodily Injury and Property Damage aggregate

General Liability Insurance shall be provided with the following limits.

\$1,000,000 General Aggregate  
\$1,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury and Advertising Injury  
\$1,000,000 Each Occurrence  
\$50,000 Fire Damage (any one fire)  
\$5,000 Medical Expense (any one person)

If coverage is provided under Comprehensive General Liability Prior to 11/85 ISO Policy limits shall be:

\$1,000,000 Bodily Injury and Property Damage combined per occurrence  
\$1,000,000 Bodily Injury and Property Damage combined aggregate

This policy must include premises/operations, independent contractors, products and completed operations, contractual liability covering the contract, broad form property damage including completed operations, personal injury and underground coverage if project requires underground operations. The Contractor shall procure and maintain during the life of the contract, Automobile Liability Insurance with the following limits. Excess insurance or umbrella liability insurance will be acceptable in attaining the required limits.

\$1,000,000 combined single limit bodily injury or property damage per occurrence.

8. **Auto Insurance:** Coverage must be on an “any Auto” basis or must include owned, hired and non-owned automobile coverage.

Contractor shall carry professional liability and automobile liability insurance up to the limits of the Tort Claim Act. to-wit: Contractor must submit proof of auto insurance prior to services to the Albuquerque Public Schools. In any action for damages against a government entity or a public employee while acting within the scope of his duties as provided in the Tort Claims Act (41-4-1 to 41-4-27 NMSA 1978), the liability shall not exceed:

- a) The sum of one hundred thousand dollars (\$100,000) for damage to or destruction or property arising out of a single occurrence; and

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES**  
**BID NO. 11-075PS-MC**

- b) The sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically-related expenses arising out of a single occurrence, and
- c) The sum of four hundred thousand dollars ((\$400,000) to any person for any number of claims arising out of a single occurrence for all damages other than property damage and medical and medically-related expenses as permitted under the Tort Claims: or
- d) The sum of seven hundred fifty thousand (\$750,000) for all claims other than medical or medically related expenses arising out of a single occurrence.

Contractor will provide to APS proof of such insurance prior to the execution of a contract. Contractor also agrees to keep such insurance in force throughout the term of the contract, including any renewals, and to notify APS immediately if such insurance is not in force. Failure to comply with this provision may result in immediate cancellation of the contract. In additional, the contractor's employees shall be insured for Worker's Compensation if applicable.

Successful contractor **must** furnish proof of coverage to the APS Procurement Officer **prior** to official award.

If any policy changes occur during the life of the contract, it is the contractor's responsibility to provide updated proof of coverage to the APS Procurement Department.

- 9. **WARRANTY/GUARANTEE:** All bidders must guarantee full satisfaction of their products' use or permit unsatisfactory product to be returned collect for full money refund. Bidders will replace damaged items at no cost to APS.
- 10. **The Agriculture Appropriations Act for Fiscal Year – Buy American Provision of the Law:** Section 104(d) of the William F. Goodling Child Nutrition Reauthorization of 1998 requires schools and institutions participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) in the contiguous United States to purchase, to the maximum extent practicable, domestic commodities or products for use in meals served under the NSLP and SBP. The legislation defines "domestic commodity or product" as one that is produced and/or processed in the United States substantially using domestic agricultural commodities. "Substantially" means that over 51% of the final processed products consist of agricultural commodities that were grown in the United States.

It is essential that all purchases of agricultural commodities and food products comply with this statutory provision.

**BREAD, FRESH FOR APS FOOD & NUTRITION SERVICES  
BID NO. 11-075PS-MC**

Specify if your company will impose any minimum order quantity in either product or dollars.

What is your minimum? \_\_\_\_\_

Average lead time? \_\_\_\_\_

Although, Food Service manager's contact awarded vendor's a week in advance for orders for the following week, there may be an incident when not enough bread products were ordered and your company may be contacted for same day service. What will your average lead time be in this case scenario?

\_\_\_\_\_  
\_\_\_\_\_

Interested bidders must complete the requested information contained in the paragraph which pertains to available equipment to make required deliveries.

Identify a contact person(s) for product or delivery problems.

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

Identify a contact person(s) for invoice problems.

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

Please list number of vehicles available and a list of the names of each driver or person(s) who will be delivering dairy products to the Albuquerque Public Schools (by Owner).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ANNUAL FRESH BREAD PRODUCTS  
BID NO. 11-075PS-MC**

ITEM NO.	DESCRIPTION
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1. **Whole Wheat Sandwich Bread**  
**Enriched Whole Wheat Sandwich Bread, thin sliced, 1 ½ # loaf. Each slice must weigh at least 26 gm or .9 oz.**

UPC PRODUCT CODE (As appears on your invoice)	YOUR PACKAGING	UNIT PRICE/DOZ.	TOTAL PRICE
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2. **Whole Wheat Hamburger Buns, 4"**  
**Enriched Whole Wheat Hamburger Buns, 4", per dozen. Each bun must weigh at least .52gm or 1.8 oz.**

UPC PRODUCT CODE (As appears on your invoice)	YOUR PACKAGING	UNIT PRICE/DOZ.	TOTAL PRICE
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3. **Coney Hinged Whole Wheat Buns, 5 ½ -6"**  
**Enriched Whole Wheat Coney Hinged Buns, per pkg. Each bun must weigh at least .52gm or 1.8 oz.**

UPC PRODUCT CODE (As appears on your invoice)	YOUR PACKAGING	UNIT PRICE/DOZ.	TOTAL PRICE
--	----------------	-----------------	-------------

4. **Whole Wheat Rolls, Dinner (pan rolls), 2 dozen per package**  
**Enriched Whole Wheat rolls, per pkg. Each roll must weigh at least 26gm or .9 oz.**

UPC PRODUCT CODE (As appears on your invoice)	YOUR PACKAGING	UNIT PRICE/DOZ.	TOTAL PRICE
--	----------------	-----------------	-------------

5. **Enriched White Rolls, Dinner (pan rolls), 2 dozen per package**  
**Enriched White Rolls, per pkg. Each roll must weigh at least 26 gm or .9 oz.**

UPC PRODUCT CODE (As appears on your invoice)	YOUR PACKAGING	UNIT PRICE/DOZ.	TOTAL PRICE
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**ALBUQUERQUE PUBLIC SCHOOLS  
BOARD OF EDUCATION  
TERMS AND CONDITIONS  
Bid No: 11-075PS-MC**

**Preparation of Bids**

Bidders are to comply with all instructions and provide the information requested in the appropriate spaces. Bid prices must be entered in ink or typewritten. Mistakes may be corrected prior to bid opening, but shall be initialed by the person signing the bid. Corrections and/or modifications received after the bid opening time will not be accepted. Bids must be submitted by the date and at, or prior to, the time specified for consideration. Late bids will not be accepted. All bids must be signed by an authorized representative of the company.

Paste provided bid label on your return bid package. Improper identification may result in premature opening of or failure to consider the bid. Bids must be submitted in a sealed envelope. Procurement law requires sealed bids. Therefore, APS cannot accept bids which are transmitted using facsimile equipment.

Albuquerque Public Schools holds a Class 9 Tax Exemption Certificate and is exempt from paying sales tax on tangible personal property. A non-taxable transaction certificate (NTTC) will be provided upon request. Services (including construction or materials that become part of a construction project) are not exempt. The Contractor shall comply with all requirements of the State of New Mexico Gross Receipts Law and shall require all subcontractors to comply with same. Do not include tax in your bid price. Tax must be shown as a separate item on all invoices.

**General**

**Brand Names:** It is intended that bid specifications admit maximum competition. Brand names or model numbers, where used, are for reference as to standard of character, quality and/or operation and are not indicative of preference on the part of APS. Equal item(s) will be considered, provided the bid clearly describes the item by brand, model number, level of quality or any other appropriate criteria. Descriptive literature must be included for bid evaluation purposes. Include sample(s) if specifically requested. Failure to provide this information may disqualify your bid. Determination by APS as to what item(s) are equal shall be final and conclusive. When brand, model or other identification is not stated, it shall be understood that the bidder is quoting as specified.

**Qualifications of Bidders:** APS may make such investigations as necessary to determine the ability of the bidder to perform the work required. Bidder shall furnish all necessary information and data as may be requested. APS reserves the right to reject any bid if the evidence submitted or the investigation of a bidder fails to satisfy APS that the bidder is qualified to perform the obligation of the contract.

**Award**

Award(s) will be made to the low responsible and responsive bid(s) taking into consideration prior qualifications and capabilities of the bidder, availability of funds and any other relevant factors.

APS reserves the right: (1) to award bids received on the basis of individual item(s), or groups of items, or on the entire list of items; (2) to reject any or all bids, or any part thereof; (3) to waive any informality in the bid(s) and (4) to accept the bid(s) that is in the best interest of APS.

APS will take advantage of prompt payment discounts whenever possible; however, these will not be used as award criteria.

New Mexico procurement law provides for a five percent (5 %) residential preference. A bidder who meets state requirements shall be awarded a contract in preference to a non-resident bidder whenever the resident contractor, whose bid is nearest to the low bid of the non-residential contractor, is made lower when multiplied by a factor of .95. This does not apply when federal funds are being used. Any New Mexico firm claiming preference will insert its residential reference number as issued by the State Purchasing Department in the appropriate space. Provision of the number will be the responsibility of the contractor.

Any bidder, offeror or contractor who is aggrieved in connection with a procurement action may protest to the Albuquerque Public Schools Procurement Department. The protest shall be submitted in writing within fifteen (15) calendar days after the facts or occurrences giving rise thereto.

Bidders are informed that initial orders must be furnished at prices submitted. Albuquerque Public Schools reserves the right to make award(s) within (90) days after the date of bid opening unless bidder distinctly specifies that acceptance must be within a shorter time.

Time of delivery may be a consideration in bid award(s) and shall be defined as the number of calendar days following receipt of the order, either verbally or in writing until receipt of materials, supplies or services by APS.

**Packing, Shipping and Invoicing**

Bidder agrees to deliver all item(s) inclusive of all cost, insurance, freight, drayage, express or other charges. Title to materials or supplies shall pass directly from bidder to APS at the F.O.B. point shown, subject to the right of APS to reject upon inspection. All bids must be F.O.B. destination.

The purchase order number, vendor's name and user's name and location shall be shown on each packing and delivery ticket, pack-age, bill of lading and any other correspondence in connection with any shipment. The user's count will be accepted by the Seller as final and conclusive on all shipments not accompanied by a packing list. All invoices shall reference the order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices are required for each shipment.

Bidder shall be paid upon submission of acceptable invoices for materials, supplies or services delivered and accepted. Invoices must be accompanied by transportation receipts or facsimiles, if transportation is payable and charged as a separate item.

**Patent Indemnity**

Seller shall pay all royalty and license fee(s) relating to the item(s) covered hereby. In the event any third party shall claim the manufacture, use and sale of goods covered hereby to be infringement of any copyright, trademark or patent, Seller shall indemnify and hold APS harmless from any cost, expense, damage or loss incurred in any manner by APS because of any such alleges infringement.

**Warranties**

Materials, supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar materials, supplies or services. The rights and remedies provided herein shall extend to APS and are in addition to and do not limit any rights afforded to APS by any other clause of this order. Seller agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

**Inspection**

Materials, supplies or services shall be furnished exactly as specified, free from all defects in workmanship, materials, and design. Final inspection and acceptance will be made at the destination. If, prior to final acceptance, any item(s) or service(s) are found to be defective or not as specified, APS may reject them, require the Seller to correct without charge or require delivery at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such item(s) within a time deemed reasonable by APS, APS may terminate the order in whole or in part. Seller shall bear all risks as to rejected materials, supplies or services and, in addition to any other costs for which the Seller may become liable to APS under other provisions in these terms and

conditions, shall reimburse APS for all transportation costs, other related costs incurred, or payments to Seller for unaccepted materials, supplies and services. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud. Any test programs and procedures required by the specifications are in addition to, and do not limit, APS rights provided in this section.

**Assignment**

Neither the order nor any interest therein, nor claim thereunder shall be assigned or transferred by the Seller except as authorized in writing by APS. No assignment or transfer shall relieve the Seller from its obligations and liabilities.

**Non-discrimination**

Sellers doing business with APS must be in compliance with Federal Civil Rights Act of 1964 and Title VII of the Act. Rev. 1979.

**Changes**

APS may make changes within the general scope of this order by giving notice to the Seller and subsequently confirming such changes in writing. If such changes affect the cost and/or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by the Seller shall be recognized without written approval of APS. Any claim of Seller for any adjustment must be made in writing within thirty (30) days from date of receipt by Seller of notification of such change unless APS shall waive this condition. Nothing in this section shall excuse Seller from proceeding with performance of the order as changed hereunder.

**Kickback Statement**

The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for this violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kick-backs.

**Termination**

APS may, by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. APS shall pay Seller as full compensation for performance until such termination (1) the unit or prorata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total order price.

APS may by written notice terminate this order for Seller's default in whole or in part, at anytime, if Seller refuses or fails to comply, with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to make deliveries of the item(s) or service(s) or to perform the service(s) within the time specified or any written extension thereof. In such event, APS may purchase or otherwise secure item(s) or service(s) and except as may be otherwise provided, Seller shall be liable to APS for any excess costs occasioned thereby.

If after notice of termination for default, APS determines that the Seller was not in default or that the failure to perform was due to causes beyond the control and without the fault or negligence of the Seller, termination shall be deemed for the convenience of APS, unless APS shall determine that the item(s) or service(s) were obtainable from other sources in sufficient time to meet required delivery schedule.

If APS determines that Seller has been delayed due to causes beyond the control and without the fault and negligence of the Seller, APS may extend the time for completion when promptly applied for in writing by the Seller. If such delay is due to failure of APS, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of order shall be subject to change under the Changes section. Sole remedy of Seller in event of delay by failure of APS to perform shall be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. No allowance will be made for anticipated profits. 'Seller' is defined as the Seller and his subsuppliers at any tier.

**Contingency**

Seller warrants that no person or selling agency has been employed or retained to solicit or secure this order upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies maintained or utilized by Seller for the purpose of securing business. For violation or breach of this warranty, APS shall have the right to annul this order without liability or, at its discretion, to deduct from this order price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

**Other Applicable Laws**

Any provisions required to be included in a contract of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

**Non-Collusion**

The undersigned certifies that he or she has not either directly or indirectly entered into any action in restraint of free competitive bidding in connection with this solicitation and agrees to furnish the materials, supplies or services as required within the time specified under the conditions imposed and at the price indicated.

Signature of Authorized Representative \_\_\_\_\_

Date \_\_\_\_\_

Type or print name of above \_\_\_\_\_

Name of Firm \_\_\_\_\_

Address \_\_\_\_\_

Area Code and Telephone No. \_\_\_\_\_

Contractor's License No: \_\_\_\_\_  
(If Applicable)

Resident Certification No: \_\_\_\_\_  
(If Applicable)

Federal I.D. No. \_\_\_\_\_

Fax No: \_\_\_\_\_

Wats Line (If available) \_\_\_\_\_

E-Mail Address (If available) \_\_\_\_\_