

Solicitation CN090154

Refrigerator/Freezer Major Repair Services

State of California

Bid CN090154

Refrigerator/Freezer Major Repair Services

Bid Number	CN090154
Bid Title	Refrigerator/Freezer Major Repair Services
Bid Start Date	Jun 12, 2009 4:15:43 PM PDT
Bid End Date	Jul 7, 2009 10:00:00 AM PDT
Bid Contact	Tamie Thompson tthompson@cde.ca.gov
Pre-Bid Conference	Jun 25, 2009 10:00:00 AM PDT Attendance is mandatory Location: Pomona Distribution Center 2550 Fulton Road Pomona, CA 91767
Standard Disclaimer	<p>The State of California advises that prospective bidders periodically check the websites, including but not limited to Bidsync, and/or other state department links for modifications to bid documents. The State of California is not responsible for a prospective bidder's misunderstanding of the bid solicitation or nonresponsive bid due to failure to check these websites for updates or amendments to bid documents, and/or other information regarding the bid solicitations. Failure to periodically check these websites will be at the bidder's sole risk.</p> <p>The information published and/or responded to on these websites is public information. Confidential questions/issues/concerns should be directed to the contact on the ad.</p>

Description

The California Department of Education (CDE), Nutrition Services Division (NSD), is soliciting bids for Refrigerator/Freezer Major Repair Services for the Pomona Distribution Center. A Mandatory Site Inspection is set for June 25, 2009, at 10:00 a.m., at 2550 Fulton Road Pomona, California 91767.

For questions or copies of the IFB please contact:

Gisa Emeterio
916-323-4187
GEmeterio@cde.ca.gov

Invitation for Bid (IFB)

**California Department of Education
Nutrition Services Division**

**Refrigerator/Freezer Major Repair Services (Pomona)
IFB Number CN090154**

Mandatory Site Inspection: Wednesday, June 25, 2009 at 10:00 am

Bid Due Date: Wednesday, July 7, 2009 at 10:00 am

Contract Period: August 1, 2009 – June 30, 2010

One-Year Option to Renew: July 1, 2010 through June 30, 2011

One-Year Option to Renew: July 1, 2011 through June 30, 2012

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GENERAL INFORMATION

I. **PURPOSE:**

The California Department of Education (CDE) is soliciting bids from potential bidders to provide refrigerator and freezer major repair services for Pomona Distribution Center, 2550 Fulton Road, Pomona, California 91767, for the period of August 1, 2009, through June 30, 2010, with two 1-year options to renew (see Item X. Options to Renew).

II. **ELIGIBLE BIDDERS:**

Public or private corporations, agencies, organizations, associations, or individuals may submit a sealed bid in response to this IFB. The bidder must be legally constituted and qualified to do business within the State of California (registered with the Secretary of State). With the exception of bidders whose legal status precludes incorporation (i.e. public agencies, sole proprietorships, and partnerships), bidders that are not fully incorporated by the deadline for submitting sealed bids will be disqualified.

III. **IFB DOCUMENTS:**

Any conflicts, omissions or errors in the IFB or questions concerning clarification or interpretation of the IFB, shall be brought to the attention of the contact person listed below:

Gisa Emeterio at 916-323-4187

The CDE reserves the right to amend or modify the IFB document prior to the final bid submittal date identified herein by issuing an addendum to all parties. The CDE will not be bound by verbal representations or interpretations.

The CDE reserves the right to cancel or modify this IFB, in whole or in part, prior to the award of any contract. The CDE may waive any immaterial deviation or defect in a bid proposal. The CDE's waiver of a deviation or defect shall in no way modify the IFB documents or excuse the contractor from full compliance with the IFB specifications if awarded the contract.

IV. **MANDATORY SITE INSPECTION:**

A mandatory site inspection is scheduled for June 25, 2009 at 10:00 am at the Pomona Distribution Center, 2550 Fulton Road, Pomona, California 91767.

Note: Bids from contractors who do not attend the mandatory site inspection will be rejected and returned unopened.

V. **BID DOCUMENTS AS PUBLIC RECORD:**

All bids and related documents submitted in response to this IFB become the property of the State of California and are considered public record subject to disclosure upon request, pursuant to Government Code Section 6250 et seq. All contracts and all attachments will become public record.

VI. BID SUBMISSION:

Each bidder shall submit to the CDE a sealed bid meeting the specifications described in this IFB. Bidders are required to return one (1) set of bid documents which must bear the original signature of the individual authorized to do so. The bid shall be returned in a sealed envelope marked "**SEALED BID – Refrigerator/Freezer Major Repair Services (Pomona) - DO NOT OPEN.**" To prevent premature opening, place sealed bid envelop within an envelope addressed as follows:

**Nutrition Services Division
Attn: Juan Gutierrez
Pomona Distribution Center
2550 Fulton Road
Pomona, CA 91767**

The deadline for submission of sealed bids is July 7, 2009 at 10:00 am at which time bids will be publicly opened and read. In a closed session, following the bid opening and reading, the CDE will review the apparent low bid to determine if the low bidder is responsible and responsive to the IFB. Bids not received at the location by the date and time specified will not be accepted. Postmark date will not constitute delivery. It is the bidder's responsibility to ensure that the bid is received at the location specified by the bid deadline.

By submitting a bid, prospective bidders certify that they meet all qualifications specified herein and agree to comply with all terms and conditions of this IFB. After announcement of the apparent successful bidder, there will be no negotiations of the terms and conditions of this IFB or the bidder's submitted proposal between the CDE and the apparent successful bidder.

Bids shall not be qualified. Any bid response modifying the conditions of the IFB will be rejected. Bids submitted must be complete in all respects and may be rejected if incomplete or contain irregularities of any kind.

The State does not accept alternate contract language from a prospective contractor. A bid with such language will be considered a counter proposal and will be rejected.

The cost of bid development is the responsibility of the prospective bidder and shall not be chargeable to the CDE.

A bidder may withdraw its bid at any time prior to the date and time of bid opening by submitting a request in writing. A new bid package may be submitted prior to the date and time of bid opening. Written withdrawal of bidder's bid will not be accepted after the date and time of bid opening. Withdrawals requested by telephone or fax are not acceptable.

Clarification may be requested from the Contracts Office at any phase of the evaluation process for the purpose of clarifying ambiguities in the information presented in the bid response.

Any failure by the bidder to acquaint itself with available information will not relieve them from responsibility for estimating properly, the difficulty, or cost of successfully performing the work.

The bid package must include the following required forms:

Exhibit B.1 - Contractor's Bid Form must be completed and submitted with an original signature by the individual legally authorized to bind the bidder. Proposal form must contain rates for '**Daytime Hourly Service**', '**Evening and Weekend Hourly Service, and Grand Total.**'

Exhibit B.2 - Contractor's Bid Form must be completed and submitted with an original signature by the individual legally authorized to bind the bidder. Proposal form must contain rates for '**Daytime Hourly Service**', '**Evening and Weekend Hourly Service, and Grand Total.**'

Exhibit B.3 - Contractor's Bid Form must be completed and submitted with an original signature by the individual legally authorized to bind the bidder. Proposal form must contain rates for '**Daytime Hourly Service**', '**Evening and Weekend Hourly Service, and Grand Total.**'

Small Business Preference Sheet must be completed and attached to this IFB as Attachment 1, if the preference is being claimed. A copy of the certification letter from Office of Small Business and DVBE Services (OSDS) or a print-out from the OSDS Website must be included.

The California State Department of Office of Small Business and DVBE Services (OSDS) certified small business bidders shall be granted a preference consisting of five percent (5%) of the lowest responsive/responsible bid submitted by a bidder who is not certified by the OSDS as a small business. If you are an OSDS certified small business and are claiming the preference, you must submit a copy of your OSDS certification letter or provide a print-out from the OSDS Website with your bid response. Failure to submit a copy of your OSDS certification letter for the industry appropriate for this bid will not be cause for bid rejection; however, preference for small business will not be considered or granted for your bid.

Contractor Certification Clauses (CCC-307) must be signed and dated with an original signature (attached to this IFB as Attachment 2).

Payee Data Record (Std. 204) must be fully completed (attached to this IFB as Attachment 4).

Licenses: The contractor shall possess a valid C-38 Contractor's License for all work under this contract. The bidder must submit a list of any and all persons to be used in fulfillment of this contract including a photocopy of the C-38 Contractor's License.

- A. J Journeyman Level must be signed and submitted as a condition of receipt of the contract. Contractor must certify that mechanics working under this contract are of "J Journeyman" level as described in California's State Licensing Board Guidelines for their C-38 License (attached to this IFB as Attachment 5).

Darfur Contracting Act Certification (CO-009) must be fully completed and dated with original signature (attached to this IFB as Attachment 6).

VII. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION GOALS

Section 10115 et seq. of Public Contract Code, and Section 999 et seq. of the Military and Veterans Code requires a goal of three percent (3%) for Disabled Veteran Business Enterprise (DVBE) participation for all contracts on an agency-wide basis of \$25,000.00 and over unless exempted due to the services provided.

CDE **WILL NOT** require DVBE participation for this contract.

VIII. DVBE INCENTIVE OPTION

In accordance with Section 999.5(a) of the Military and Veterans Code, an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California Certified DVBE participation as identified on the Bidder Declaration GSPD-05-105 and confirmed by the State. The GSPD-05-105 can be accessed at:

<http://www.documents.dgs.ca.gov/pd/delegations/GSPD105.pdf>. The incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. The following table represents the percentages that will apply:

<i>Confirmed DVBE Participation of:</i>	<i>DVBE Incentive:</i>
100% (prime contractor)	5%
Over 3%	4%
3%	3%
2% up to 3%	2%
1% up to 2%	1%

IX. BASIS OF AWARD:

The contract shall be awarded on the basis of the responsive/responsible bidder submitting the lowest average Grand Total for refrigerator/freezer repair services stated on the Contractor's Bid Forms, Exhibit B.1, B.2, and B.3. The lowest average Grand Total will be computed by adding the Grand Total from each of the three bid forms and then dividing by three. Charged for the contractor's operating expenses such as: transportation, fuel, parking, equipment rental, and/or any other overhead expenses must be included as part of the bidder's hourly service price.

All bid responses must comply with the requirements outlined below. Failure to do so will disqualify the bid. If it is determined not to be in the best interest of the State, the State reserves the right to not award a contract in response to this IFB.

THE STATE RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS.

The method that shall be used as a "tie-breaker" in the event of a two-way (or more) tie of the responsive/responsible lowest bid will be to place the names of the bidders in a container. The first name drawn will be the proposed awardee. The remaining bidder(s) name(s) will be drawn sequentially and noted in case, upon validation, the proposed awardee selected through the tie-breaking process is unacceptable.

Small business bidders, meeting the IFB specifications, shall have precedence over non-small business bidders in that the application of any bidder preference for which non-small business bidders may be eligible under any other provision of law shall not result in the denial of the award to a small business bidder.

In the event of a precise tie between the low responsible bid of bidder meeting the specifications of a small business, and the low responsible bid of a bidder meeting the specifications of a disabled veteran-owned small business, the contract shall be awarded to the veteran-owned small business.

Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the contracting agency at least five working days prior to awarding the contract.

X. OPTIONS TO RENEW:

This contract will expire on June 30, 2010; however, the contractor may exercise their option to renew the contract for two additional one-year agreements.

Costs for the first one-year option to renew (July 1, 2010 – June 30, 2011) shall be computed in accordance with the Contractor's Bid Form, Exhibit B.2. If the State elects to renew the agreement with the contractor, the Contract Monitor will notify the contractor of the option to renew in January 2010.

Costs for the second one-year option to renew (July 1, 2011 – June 30, 2012) shall be computed in accordance with the Contractor's Bid Form, Exhibit B.3. If the State elects to renew the agreement with the contractor, the Contract Monitor will notify the contractor of the option to renew in January 2011.

XI. CONTRACT AWARD PROTEST PROCEDURES:

If prior to the award, any bidder files a protest with the agency against the awarding of the contract on the grounds that it is the lowest responsible bidder meeting the specifications of the Invitation for Bid, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services (DGS) has decided the matter. Protests shall be limited to those bases specified in *Public Contract Code section 10378* (Attachment 3 describes the protest procedures to be followed by a bidder filing a protest). The protest shall be sent to:

Department of General Services
Office of Legal Services
ATTN: Protest Coordinator
707 3rd Street
West Sacramento, CA 95605
FAX: (916) 376-5088

California Department of Education
Contracts Office
ATTN: Margie Burke, Contract Officer
1430 N Street, Suite 2213
Sacramento, CA 95814
FAX: (916) 327-8306

EXHIBIT A**SCOPE OF WORK**

1. The contractor shall come fully equipped to provide major repair service on the freezer and the refrigeration equipment listed below, located at the Pomona Distribution Center, 2550 Fulton Road, Pomona, California.

REFRIGERATION EQUIPMENT

<u>MAKE</u>	<u>MODEL</u>	<u>DESCRIPTION</u>	<u>HP</u>	<u>LOCATION</u>	<u>UNIT</u>
Larkin	LDV2500H2D	Condenser Units	25	Equipment Pad	3
Bohn	FM-6308G	Evaporator Units		Suspended in Warehouse	9

FREEZER EQUIPMENT

<u>MAKE</u>	<u>MODEL</u>	<u>DESCRIPTION</u>	<u>HP</u>	<u>LOCATION</u>	<u>UNIT</u>
Russel	VSD54L44	Condenser Units	54	Equipment Pad	4
Russel	UEL 4-722	Evaporator Units		Suspended in Warehouse	12

2. CDE has the right to add new equipment or remove any equipment that has been replaced, as deemed necessary, from this list.
3. Contractor must be authorized and certified to service replacement equipment. Otherwise, CDE does support the purchase of maintenance and repair agreements for the replacement equipment. Therefore, depending upon the manufacturer, replacement equipment may or may not be covered under this agreement.
4. Repair shall be performed during the regular work hours of the Pomona Distribution Center, 6:00 a.m. to 2:00 p.m., Monday through Friday, excluding all State Holidays.
5. The contractor shall also provide, if requested to do so, major repair service, twenty-four (24) hours a day, seven days a week, including Saturday, Sunday, and holidays. The response time from the time the State initiates a service request to the time the service commences shall not exceed two (2) hours unless an extension of time is approved by the State. Occasionally, the State will inform the contractor that an emergency condition exists and the contractor shall complete the required service within a twenty-four (24) hour period from the Pomona Distribution Center's initial request taking into consideration the nature and degree of the difficulty of the work involved.
6. It is understood and agreed that the refrigerator/freezer major repair agreement **only covers major repair**. Major repair will be defined as any repair that exceeds a cost of \$1,000.00 including parts, labor, and shipping. It is also understood that such service does not include repairs needed due to an accident, fire, water, or abuse.

7. All requests for major repair service will be billed at the "daytime hourly rate" set forth in the contractor's bid, **provided such repairs are not the result of a prior incomplete or inadequately performed repair work.**

NOTE: No mileage, travel time, or fuel charges shall be charged for the purpose of traveling from port to port. Hourly charges will begin at arrival time verified at Pomona Distribution Center.

8. Necessary parts as well as Freon, and oil (except incidental amounts of Freon and oil) shall be installed and charged at contractor's rates for such service. **The cost of Freon for the freezer (R404A) shall not exceed \$15.00 per pound and the cost of Freon for the refrigerator (R22) shall not exceed \$7.50 per pound. Parts, Freon and oil are not to be installed without prior approval of the CDE.**
9. The charges for parts and materials shall not exceed contractor's wholesale costs, excluding tax, plus:
 - a. 40% for parts \$1,999 and below (\$100 parts x 40% x 8.25% sales tax) = \$151.55,
 - b. 30% for parts \$2,000 and above (\$2,000 parts 30% x 8.25% sales tax) = \$2,814.50.

Only original manufacturer parts and materials shall be used. Replaced parts shall be left at the location for State inspection. All work shall be guaranteed for a reasonable period of time and costs for recalls shall be borne by the contractor. **Receipts are required for parts that exceed \$500.00.**

NOTE: No mileage, travel time, or fuel charges shall be charged for the purpose of locating and/or purchasing parts. Necessary equipment required to perform contracted services shall not be an added charge.

10. The CDE, if requested by the contractor's service technician, will provide an operator and forklift with a platform to assist the technician in servicing the 21 evaporators that are suspended in the warehouse.
11. The contractor will be allowed to recover freight or shipping costs for parts with **no** allowance for mark up by:
 - 1) Itemizing the cost of freight or shipping on the invoice.
 - 2) Attaching a copy of the freight or shipping invoice (original when ever possible) to the invoice.
 - 3) When the freight or shipping invoice includes costs not specifically associated with the billing. The contractor will only charge the cost associated with the billing and note the freight or shipping invoice accordingly.
Example: Freight or shipping invoice is for three (3) items; each item costing \$10.00 per item with a total invoice cost of \$30.00; and only one of the parts pertains to the billing. Then the contractor would charge the department \$10.00.
12. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The

Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

13. The Department of Education Contract Administrator and/or designee has the authority to request an estimate prior to authorizing any services.
14. The Contractor shall guarantee all services performed, for a minimum of 90 days from the state of service performed. If it is determined that failure has occurred due to defective parts or workmanship, the Contractor shall correct the failure at no additional expense to the State. Correction shall occur during normal State business hours upon request for service by the State representative(s).
15. Service technicians are required to have the warehouse supervisor or manager or a member of the warehouse staff verify time of arrival on the job site as well as the time of departure.

NOTE: Contractor shall leave a copy of the work order signed by the warehouse supervisor or manager indicating:

- 1) Time of arrival.
- 2) Time of departure.
- 3) Detailed description of work performed at location, and
- 4) Detailed report of future work needed, including estimated cost.

EXHIBIT B**BUDGET DETAIL AND PAYMENT PROVISIONS****I. INVOICING AND PAYMENT:**

For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this agreement. The unit rate bid cost shall include all costs, wages, benefits, allowances, materials, equipment, and Contractor's expenses incurred in the performance hereof.

Invoices shall include the Agreement Number and shall be submitted in arrears, not more frequently than monthly in duplicate to the appropriate sites representative:

**Nutrition Services Division
Attn: Juan Gutierrez
Pomona Distribution Center
2550 Fulton Road
Pomona, CA 91767**

II. BUDGET CONTINGENCY CLAUSE:

It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.

III. PAYMENT:

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

CONTRACTOR'S BID FORM
POMONA DISTRIBUTION CENTER
REFRIGERATOR/FREEZER MAJOR REPAIR SERVICES (POMONA) IFB

Contract Period: August 1, 2009 – June 30, 2010

The undersigned contractor hereby proposes to furnish all labor, material, and equipment necessary to perform all the work required for major refrigeration repair for the California Department of Education, Pomona Distribution Center in accordance with the Terms and Conditions contained herein at the following rates of:

Service	Rate	Hours	Total
Daytime Hourly Service Rate	\$_____ x	200 =	\$_____
Evening and Weekend Hourly Service Rate	\$_____ x	25 =	\$_____
Grand Total	N/A	N/A	\$_____

CDE will include set amount for parts based upon the past usage. This determined amount will be included into the agreement at the time of signing the contract. Contract may be amended to add additional money for parts and labor. Therefore, the monthly service price should not reflect cost of parts.

An unsigned Bid Form will result in disqualification.

Company Name: _____

Address: _____

Signature: _____ Date: _____

Print Name/Title: _____

State Contractors License #: _____ Federal ID #: _____

Phone Number: (____) _____ Fax Number: (____) _____

QUESTIONS REGARDING COMPLETION OF THIS FORM SHOULD BE BROUGHT TO THE ATTENTION OF:

Gisa Emeterio at (916) 323-4187.

CONTRACTOR'S BID FORM
POMONA DISTRIBUTION CENTER
REFRIGERATOR/FREEZER MAJOR REPAIR SERVICES (POMONA) IFB

One-Year Option to Renew: July 1, 2010 – June 30, 2011

OPTION TO RENEW: Completing and submitting this form is a requirement of this bid package, but does not guarantee award of the contract period July 1, 2010 – June 30, 2011.

The undersigned contractor hereby proposes to furnish all labor, material, and equipment necessary to perform all the work required for major refrigeration repair for the California Department of Education, Pomona Distribution Center in accordance with the Terms and Conditions contained herein at the following rates of:

Service	Rate	Hours	Total
Daytime Hourly Service Rate	\$_____ x	200 =	\$_____
Evening and Weekend Hourly Service Rate	\$_____ x	25 =	\$_____
Grand Total	N/A	N/A	\$_____

CDE will include set amount for parts based upon the past usage. This determined amount will be included into the agreement at the time of signing the contract. Contract may be amended to add additional money for parts and labor. Therefore, the monthly service price should not reflect cost of parts.

Company Name: _____

Address: _____

Signature: _____ Date: _____

Print Name/Title: _____

State Contractors License #: _____ Federal ID #: _____

Phone Number: (____) _____ Fax Number: (____) _____

QUESTIONS REGARDING COMPLETION OF THIS FORM SHOULD BE BROUGHT TO THE ATTENTION OF:

Gisa Emeterio at (916) 323-4187.

CONTRACTOR'S BID FORM
POMONA DISTRIBUTION CENTER
REFRIGERATOR/FREEZER MAJOR REPAIR SERVICES (POMONA) IFB

One-Year Option to Renew: July 1, 2011 – June 30, 2012

OPTION TO RENEW: Completing and submitting this form is a requirement of this bid package, but does not guarantee award of the contract period July 1, 2011 – June 30, 2012.

The undersigned contractor hereby proposes to furnish all labor, material, and equipment necessary to perform all the work required for major refrigeration repair for the California Department of Education, Pomona Distribution Center in accordance with the Terms and Conditions contained herein at the following rates of:

Service	Rate	Hours	Total
Daytime Hourly Service Rate	\$_____ x	200 =	\$_____
Evening and Weekend Hourly Service Rate	\$_____ x	25 =	\$_____
Grand Total	N/A	N/A	\$_____

CDE will include set amount for parts based upon the past usage. This determined amount will be included into the agreement at the time of signing the contract. Contract may be amended to add additional money for parts and labor. Therefore, the monthly service price should not reflect cost of parts.

Company Name: _____

Address: _____

Signature: _____ Date: _____

Print Name/Title: _____

State Contractors License #: _____ Federal ID #: _____

Phone Number: (_____) _____ Fax Number: (_____) _____

QUESTIONS REGARDING COMPLETION OF THIS FORM SHOULD BE BROUGHT TO THE ATTENTION OF:

Gisa Emeterio at (916) 323-4187.

EXHIBIT C**GENERAL TERMS AND CONDITIONS**

GTC 307 will be incorporated by reference and made part of this Agreement. The GTC 307 document can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>

EXHIBIT D**SPECIAL TERMS & CONDITIONS****I. RESOLUTION OF DISPUTES:**

If the contractor disputes any action by the project monitor arising under or out of the performance of this contract, the contractor shall notify the project monitor of the dispute in writing and request a claims decision. The project monitor shall issue a decision within 30 days of the contractor's notice. If the contractor disagrees with the project monitor's claims decision, the contractor shall submit a formal claim to the Superintendent of Public Instruction or the Superintendent's designee. The decision of the Superintendent shall be final and conclusive on the claim unless the decision is arbitrary, capricious, or grossly erroneous or if any determination of fact is unsupported by substantial evidence. The decision may encompass facts, interpretations of the contract, and determinations or applications of law. The decision shall be in writing following an opportunity for the contractor to present oral or documentary evidence and arguments in support of the claim. Contractor shall continue with the responsibilities under this Agreement during any dispute.

EXHIBIT E**ADDITIONAL PROVISIONS****I. RIGHT TO TERMINATE:**

The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

This agreement may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the Contractor is unable to render services as a result of any action by any governmental authority.

II. CONTRACTOR EVALUATION (Rev. 3/06):

Within sixty (60) days after the completion of this Agreement, the Project Monitor shall complete a written evaluation of Contractor's performance under this Agreement. If the Contractor did not satisfactorily perform the work, a copy of the evaluation will be sent to the State Department of General Services, Office of Legal Services, and to the Contractor within 15 working days of the completion of the evaluation (Public Contract Code Section 10369).

III. COMPUTER SOFTWARE COPYRIGHT COMPLIANCE:

By signing this agreement, the contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

IV. CERTIFICATE OF INSURANCE REQUIREMENTS:

Liability:

- A. Contractor shall furnish to the California Department of Education, a Certificate of Insurance, issued by the insurance carrier licensed to write liability insurance in the State of California, stating liability is presently in effect for the contractor, of not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage liability combined.
- B. The Certificate of Insurance must provide the following requirements:

1. That the insurer will not cancel the insured's coverage without thirty (30) days prior to written notice to the California Department of Education.
2. The State of California, its officers, agents, employees, and servants are included as insured, but only insofar as the operations under this contract are concerned.

C. Contractor agrees that the bodily injury liability insurance provided shall be in effect at all times during the term of the contract. In the event insurance coverage expires at any time or times during the term of the contract, the Contractor agrees to provide a new Certificate of Insurance to:

California Department of Education
Contracts Office
1430 N Street, Suite 2213
Sacramento, CA 95814

- D. Evidencing coverage as established herein for not less than the number of working days or remainder of the term of the contract, or of a period of not less than one year.
- E. New Certificates of Insurance are subject to the approval of the Department of General Services, Office of Risk and Insurance Management, if required. The contractor agrees that no work or services shall be performed prior to such approval.
- F. Failure to continuously maintain insurance coverage as herein provided is a material breach of the contract for which, in addition to any other remedy provided by law, the state and/or the California Department of Education, may terminate the contract's control over the work and may proceed with the completion of the work in any manner it deems appropriate.

V. WORKERS' COMPENSATION:

Contractor shall furnish to the CDE a Certificate of Insurance, issued by an insurance carrier licensed to write Workers' Compensation insurance in the State of California that hereby warrants it carries Workers' Compensation Insurance on all of its employees who will be engaged in the performance of this Agreement. If staff provided by the Contractor is defined as independent contractors, this clause does not apply.

Attachment 1**SMALL BUSINESS PREFERENCE SHEET**

NOTICE TO ALL BIDDERS: Section 14835, et seq. of the California Government Code requires that a five percent (5%) preference be given to all bidders who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of services, are contained in Title 2, California Code of Regulations, Section 1896, et seq. A copy of the regulations is available upon request. To claim the small business preference, which may not exceed \$50,000 for any bid, your firm must have its principal place of business located in California, have a complete application (including proof of annual receipts) on file with the Office of Small Business and DVBE Services (OSDS) by 5:00 p.m. on the date bids are opened, and be verified by such office. Questions regarding the preference approval process should be directed to the OSDS at 1-800-559-5529.

Are you claiming preference as a small business?

YES

NO

Company Name: _____

Signature: _____ **Date:** _____

If you are claiming the preference, you MUST attach a copy of your certification letter from OSDS. If you have applied and not yet been formally certified, include the date of application.

Date Applied (if not yet certified): _____

Attachment 2**CCC-307****CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)	Federal ID Number
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	Executed in the County of

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO**

REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. **SWEATFREE CODE OF CONDUCT:**

- a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.
- b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. **DOMESTIC PARTNERS:** For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot

require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- a. No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION**: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. **AMERICANS WITH DISABILITIES ACT**: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. **CONTRACTOR NAME CHANGE**: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name

change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all contractors that are not another state agency or other governmental entity.

Attachment 3**PROTEST PROCEDURES FOR INVITATION FOR BIDS**
(Public Contract Code Section 10343 and 10376)**1. Notification**

- a. Five working days before making the award, the CDE will notify the lowest bidder by telephone, fax, overnight courier or personal delivery if the contract will be awarded to another bidder.
- b. If prior to the award any bidder files a protest against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.
- c. Within five working days after filing the protest, the protesting bidder shall file with the Department of General Services a full and complete written statement specifying the grounds for protest plus the "Invitation for Bid" number, the name of the State agency involved and the agency contract officer.

Protests may be sent by regular mail, fax, courier or personal delivery. Protestants should include their fax number if they have one.

2. Grounds for Protest

The lowest responsible bidder meeting the specifications was not awarded the contract.

3. Procedures

Procedures for filing protests under this section are:

- a. Disposition of Protests – Following receipt of a protest filed as prescribed, the Department of General Services shall determine whether the protest is to be resolved by written submission of material or by public hearing (Title 2, California Code of Regulations, Section 1195, et seq.)
- b. Hearing Procedures
 - (1) A hearing shall be conducted by the Director of the Department of General Services or by a designated representative pursuant to the applicable statutes and regulations.
 - (2) The Department of General Services arranges for all hearings to be recorded by a hearing reporter. Any interested party may arrange with the reporter to have a transcript prepared at his or her own costs.
 - (3) All of the costs of the proceeding will be charged to the CDE.

Attachment 4

STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

PAYEE DATA RECORD

(Required when receiving payment from the State of California in lieu of IRS W-9)
STD. 204 (Rev. 6-2003)

1 INSTRUCTIONS: Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement. NOTE: Governmental entities, federal, State, and local (including school districts), are not required to submit this form.				
2 PAYEE ENTITY TYPE CHECK ONE BOX ONLY	PAYEE'S LEGAL BUSINESS NAME (Type or Print)			
	SOLE PROPRIETOR – ENTER NAME AS SHOWN ON SSN (Last, First, M.I.)	E-MAIL ADDRESS		
	MAILING ADDRESS	BUSINESS ADDRESS		
	CITY, STATE, ZIP CODE	CITY, STATE, ZIP CODE		
3 PAYEE RESIDENCY STATUS	ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN):	_____ - _____	NOTE: Payment will not be processed without an accompanying taxpayer I.D. number	
	<input type="checkbox"/> PARTNERSHIP	CORPORATION:		
	<input type="checkbox"/> ESTATE OR TRUST	<input type="checkbox"/> MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.)		
	<input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER:	<input type="checkbox"/> LEGAL (e.g., attorney services)		
<input type="checkbox"/> EXEMPT (nonprofit)				
<input type="checkbox"/> ALL OTHERS				
(SSN required by authority of California Revenue and Tax Code Section 18646)				
4 PAYEE RESIDENCY STATUS	<input type="checkbox"/> California resident - Qualified to do business in California or maintains a permanent place of business in California.			
	<input type="checkbox"/> California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding.			
	<input type="checkbox"/> No services performed in California. <input type="checkbox"/> Copy of Franchise Tax Board waiver of State withholding attached.			
5	I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.			
	AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)		TITLE	
	SIGNATURE	DATE	TELEPHONE ()	
6	Please return completed form to:			
	Department/Office: _____			
	Unit/Section: _____			
	Mailing Address: _____			
	City/State/Zip: _____			
	Telephone: () _____	Fax: () _____		
	E-mail Address: _____			

STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	<u>Requirement to Complete Payee Data Record, STD. 204</u> A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies. Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.
2	Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.
3	Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a). The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).
4	<u>Are you a California resident or nonresident?</u> A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California. A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident. For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident. Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year. For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below: Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: wscs.gen@ftb.ca.gov For hearing impaired with TDD, call: 1-800-822-6268 Website: www.ftb.ca.gov
5	Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.
6	This section must be completed by the State agency requesting the STD. 204.
<u>Privacy Statement</u>	
Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.	
It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.	
You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.	
All questions should be referred to the requesting State agency listed on the bottom front of this form.	

ATTACHMENT 5**STATE OF CALIFORNIA
CALIFORNIA DEPARTMENT OF EDUCATION****JOURNEYMAN CERTIFICATION
FOR REFRIGERATOR/FREEZER MAJOR REPAIR SERVICES (POMONA) IFB
POMONA DISTRIBUTION CENTER**

As a condition of receipt of the proposed contract, I hereby certify that the following technicians working under this contract agreement meet "J Journeyman" standards according to California's Contract Licensing Board Guidelines.

Technician Names and Positions:

- 1.** _____
- 2.** _____
- 3.** _____
- 4.** _____
- 5.** _____

Firm Name: _____

Address: _____

By (Signature): _____

Title: _____ **Date:** _____

Please return to:

**Gisa Emeterio
Nutrition Services Division
California Department of Education
1430 N Street, Suite 1500
Sacramento, CA 95814**

California Department of Education
 Fiscal and Administrative Services Division
 CO-009 (05/2009)

Attachment 6

Darfur Contracting Act Certification

Pursuant to Public Contract Code Section 10478, if a vendor currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a "scrutinized" company as defined in Public Contract Code section 10476.

Therefore, please insert your company name and Federal ID Number and complete **only one of the following** three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

Company/Vendor Name (Printed)	Federal ID Number
Printed Name and Title of Person Initialing (for Options 1 or 2)	

1. Initials We do not currently have, and have not had within the previous three years, business activities or other operations outside of the United States.
OR
 2. Initials We are a scrutinized company as defined in Public Contract Code Section 10476, but we have received written permission from the Department of General Services (DGS) to do business with the State of California pursuant to Public Contract Code Section 10477(b). A copy of the written permission from DGS is attached.
OR
 3. Initials
 + certification below We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company as defined in Public Contract Code Section 10476.

Certification for # 3

I, the official named below, **certify under penalty of perjury** that I am duly authorized to legally bind the above referenced vendor to the clause listed above in # 3. This certification is made under the laws of the State of California.

By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	Executed in the County and State of

Question and Answers for Bid #CN090154 - Refrigerator/Freezer Major Repair Services

OVERALL BID QUESTIONS

There are no questions associated with this bid. If you would like to submit a question, please click on the "Create New Question" button below.