

BOERNE INDEPENDENT SCHOOL DISTRICT
PURCHASING DEPARTMENT
235 Johns Road
Boerne, Texas 78006

RFP #23-021
REQUEST FOR PROPOSAL
Spirit Logo and Merchandise

Options:

- 1) Logo Rights, Onsite/Online Sales**
- 2) Logo Rights Only, Sales at your Physical Business Location Only**

Eddie Ashley
BISD Purchasing Department
Phone: (830) 357-2026
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Proposal Submittal Deadline
Wednesday, May 15, 2024, by 2:00 PM



Boerne Independent School District (BISD) Solicitation

Solicitation # 23-021
Due Date: <u>May 15, 2024</u>
DUE NO LATER THAN 2:00 PM (CST) LATE BIDS WILL NOT BE ACCEPTED

REQUEST FOR PROPOSAL (RFP): Spirit Logo and Merchandise
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DISTRICT PROFILE

Boerne Independent School District is a rural district located in the scenic Texas Hill Country 30 miles north of San Antonio. Boerne ISD has an enrollment of over 11,100 students at seven elementary schools, three middle schools, two high schools and an alternative campus. Viola Wilson Elementary School will be opening August of 2024. We are a fast growth district anticipating five percent growth each school year. With more than 1,600 faculty and staff, Boerne ISD is the largest employer in the community. District boundaries are in Kendall, Bexar, and Comal counties. Our teachers are dedicated professionals whose commitment to excellence is recognized consistently on regional, state, and national levels.

TABLE OF CONTENTS

Items below represent components which comprise this RFP package. Respondents are asked to review the package to be sure that all applicable parts are included.

Part	Page
1.0 Notice of Intention.....	3
2.0 Proposal Requirements.....	4
3.0 Instructions to Vendors.....	5
4.0 Scope & Specifications.....	8
5.0 Evaluation & Award of RFP	9
6.0 General Terms and Conditions	11
7.0 Attachment A.....	19
8.0 Required Attachments	22

PART 1.0 – NOTICE OF INTENTION

There are two components to this RFP vendors must consider when responding:

1. It is the intention of BISD to establish a single contract with a highly qualified Vendor for Spirit Logo and Merchandise for Onsite/Online sales at the BISD Athletic Office and all Boerne ISD events as determined by BISD in exchange for a percentage of the gross sales from merchandise sold at the Athletic Office, Boerne ISD events, and online.

2. The District is also entering into multiple contracts with qualified vendors for the rights to use the District Logos and sale logo merchandise at their physical place of business. Online sales is not an option under the terms of this option.

It is highly recommended that if you are submitting a proposal for logo rights, onsite/online sales, you also submit a proposal for logo rights only, in case you are not the awarded vendor for onsite/online sales. This will give you the opportunity to still be considered for the logo rights only option.

The Purchasing Department of the Boerne Independent School District (“BISD” or the “School district”) is conducting this procurement to establish contract(s) for **Spirit Logos and Merchandise**. Contract issued between Boerne ISD and the successful proposer(s) for onsite/online sales shall be for a period of one (1) year commencing on July 1, 2024 and ending June 30, 2025, with BISD having the option to renew the Agreement for four (4) additional years in one (1) year increments. Consequently, the total term of the Agreement may be for a period of five (5) years. The phrase “Term” in this Agreement shall mean the then-current Term of the Agreement, whether the initial term or a renewal term. It is also the intent of Boerne ISD to also enter into multiple contracts with qualified vendors, for a specified annual fee, for the rights to use the District and Campus Logos and sale merchandise at their physical place of business. The term of logo only contracts will be for period of one (1) year starting July 1 and ending June 30. Vendors are requested to submit a response offering their total line of available products and services that are commonly purchased by school districts and other public, not-for-profit agencies and organizations.

Pursuant to Government Code 2254 – Subchapter A, this Request for Proposal (RFP) is intended to solicit Proposals with the intent of the Boerne ISD to select the Respondent(s) demonstrating the **best overall value** to the District and to enter into a single contract with a qualified vendor to provide services to Boerne ISD for merchandise sales at the Athletic Office and all Boerne ISD events as determined by BISD. It is the intent of Boerne ISD to also enter into multiple contracts with qualified vendors, for a specified annual fee, for the rights to use the District and Campus Logos.

Electronic proposals will be accepted through online submission at BISD Purchasing web page <https://www.boerneisd.net/Page/3074>.

Proposals will be received at: <https://www.boerneisd.net/Page/3074>.

Sealed Proposals may be received at: Boerne Independent School District
ATTN: Purchasing Dept. – **RFP #23-021**
235 Johns Road
Boerne, TX, 78006

Proposals will be received until **2:00 p.m. on Wednesday, May 15, 2024.**
Proposals received after closing time will be disqualified.

During the selection process, the District will rank all statements of professional qualifications submitted. Interviews/presentations may be requested from selected vendors. The most qualified Vendor(s) will be recommended to the Board of Trustees’.

Number of Copies:

Submit one (1) copy of the signed proposal sheets, certifications, and supporting data.

Proposals will be opened in accordance with Texas Education Law 44.031. However, the proposals will be “under evaluation” until final awards are determined. The District will select Vendor(s) for additional information, including proposed fees and prices for fulfilling the general conditions.

PART 2.0 – Request for Proposal Requirements

Please carefully read this entire RFP document and specifications. Complete all forms and submit your bid with all appropriate attachments.

2.1 Request for Proposal (RFP) Documents

BISD Purchasing Department documents are made available via the BISD webpage to anyone who wishes to submit a response. The BISD Purchasing Department website is located at <https://www.boerneisd.net/Page/3074>

2.2 Tentative Timetable

BISD anticipates following the timetable listed below for this solicitation:

Item	Activity	Date & Time
1	Solicitation starts to advertise (1 st run)	April 14, 2024
2	Solicitation advertised (2 nd run)	April 21, 2024
3	Deadline for Questions	April 22, 2024
4	District Responses to Questions	April 23, 2024
5	Proposal Due Date	May 15, 2024 @ 2:00pm
6	Anticipated Board Meeting Notification	June 2023

The table above is only an estimate and may vary.

2.3 Procurement Method

BISD is utilizing the Request for Proposal (RFP) method of procurement in accordance with Texas Education Code Section 44.031 (f), Request for Proposal. For information regarding the RFP process, contact Eddie Ashley of the Purchasing Department at eddie.ashley@boerneisd.net or by calling 830-357-2026.

2.4 Requirements for Return of RFP Responses

Respondents must submit RFPs by the established deadline (day and time). Please refer to the “Instructions to Vendors” section to ensure that you submit all required information to BISD. BISD does not accept responses after the due date and time.

2.5 Rights Reserved by BISD and Restrictions on RFP Process

- a) BISD reserves the right to cancel this solicitation in whole or in part by issuance of a revised or amended Request for Proposal.
- b) Should funds for the services provided under the contract not be appropriated in a given District Fiscal Year, BISD may terminate the contract.
- c) BISD further reserves the right to award one or more contracts, in part or in whole, to a single or to multiple prospective vendors.

- d) BISD assumes no financial responsibility for any costs incurred by prospective vendors in developing and submitting a response or any amendments or addenda, participating in bid conferences, participating in any negotiation sessions or discussions, or any other costs incurred by vendors prior to award of a contract pursuant to this RFP.
- e) BISD reserves the right to reject any and/or all responses, to award contracts for individual products or services as may appear advantageous, and to negotiate separately in any manner necessary to serve the best interests of the School District. BISD further reserves the right to accept, reject, or negotiate modifications in any terms of a proposed vendor's response or any parts thereof. BISD further reserves the right to waive any formalities or technicalities if deemed in the best interest of the School District. BISD also reserves the right as sole judge of quality and equality.

2.6 Questions and Clarification

- a) Questions regarding the requirements specified in this solicitation must be submitted via e-mail to Eddie Ashley at eddie.ashley@boerneisd.net In the subject line type: "Questions" followed by the solicitation number and title.
- b) BISD will not answer verbal questions; Question responses/Addendums will be posted on the district website at: <https://www.boerneisd.net/Page/3074>.

PART 3.0 – INSTRUCTIONS TO VENDORS

This portion of the RFP includes instructions on the format vendors must follow in preparing and submitting their online responses. It further identifies how questions can be raised and will be addressed.

3.1 Compliance with Specifications

Vendors are required to respond to all requests identified in this RFP and indicate their acceptance or objection to the terms of the RFP and the terms of the Agreement. Any exceptions to the terms and conditions in the RFP or the Agreement must be clearly indicated in the appropriate section of the vendor's submitted response. Each vendor, by making its response, represents that the vendor has read and understands the RFP and the Agreement.

3.2 Required Response Submission Format

Responders must submit one (1) complete set of the sealed RFP/proposal to the Boerne ISD Purchasing Department electronically through online submission at BISD Purchasing web page <https://www.boerneisd.net/Page/3074> or submitted in a sealed envelope to BISD Central Office at 235 Johns Road, Boerne TX 78006, prior to the response due date and time as described in the Request for Proposal. Failure to submit the necessary completed documents may result in the RFP being declared unresponsive to specification and may not be further evaluated. All submittals must be written in ink or typed. Mistakes may be crossed out, corrections inserted and initialed in ink by the person signing the RFP submission. No oral, telegraphic, telephonic, e-mailed, or facsimile RFPs will be considered. All submittals must be submitted in a sealed envelope on uploaded online. Responders must provide all documentation required with the RFP response. Failure to provide this information may result in rejection of the RFP. For additional instructions related to RFP Preparation, please see the General Conditions contained herein.

3.3 General Corporate Financial Information

Vendor agrees to provide BISD with the following financial information if requested by BISD at any point during the procurement process, including before or after contract award: If public, the vendor's income statement, balance sheet, and cash flow for the past three (3) years; if private, the vendor's audited financial statements for the past two years (if available). A vendor's failure to provide this financial information may impact the BISD Administration's recommendation to the BISD Board of Trustees for the award of the contract.

3.4 Online Submission Web Page Link/Physical Delivery Location

RFP #23-021
Spirit Logo and Merchandise
<https://www.boerneisd.net/Page/3074>

or

Any responses received after the submittal deadline date and time will be disqualified.

3.5 Addendum

Any interpretations, corrections, additions, or changes to this RFP will be communicated to vendors by the issuance of an addendum. It is the responsibility of the vendor, prior to submitting their response, to determine whether an addendum was issued. Addendums will be uploaded to the same location as the RFP posting on the District Website. All vendors shall comply with the requirements specified in any addendum issued by BISD.

3.6 Disqualification

A vendor may be disqualified before or after the responses are unsealed, upon evidence of collusion with the intent to defraud, or evidence of intent to perform other illegal activities for the purpose of obtaining an unfair competitive advantage.

3.7 Environmental Initiatives

BISD is committed to reducing waste and promoting energy conservation. Toward that end, vendors responding to this solicitation are encouraged to provide their company's environmental policy and green initiative.

3.8 Interpretation

This solicitation represents the basis for any award and supersedes all prior offers, negotiations, exceptions, and understandings (whether orally or in writing). Submitted responses should be self-explanatory and should not require any clarification or additional information.

3.9 No Return of Responses

Once submitted, BISD will not return responses to vendors.

3.10 Non-Collusion Statement

Vendors are required to certify a Non-Collusive Statement. Vendors are required to state the party submitting a response, that such response is genuine and not collusive or sham; that vendor has not colluded, conspired, connived or agreed, directly or indirectly, with an entity or person, to put in a sham response or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the response price or of any other vendor, or to fix any overhead, profit or cost element of said response price, or of that of any other vendor, or to secure any advantage against BISD or any person interested in the proposed contract, and that all statements in response are true.

3.11 Open Records Policy

BISD is a governmental body subject to the Texas Public Information Act. Responses submitted to BISD as a result of this solicitation may be subject to release as public information after contracts are executed or the procurement is terminated. If a vendor believes that its response, or parts of its response, may be exempted from disclosure under Texas law, the vendor must specify page-by-page and line-by-line the parts of the response which it believes are exempt. In addition, the vendor must specify which exception(s) to the Texas Public Information Act are applicable and provide detailed reasons to substantiate the exception(s). Vague or general claims to confidentiality will not be accepted. BISD assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by vendors.

3.12 Preferences

BISD may apply applicable preferences for Texas resident vendors in the event of a tie bid. Preferences must be explicitly claimed by vendor and may not be applicable in procurements and/or contracts involving federal funds unless the procurement and/or contract involves unprocessed locally grown or locally raised agricultural products for use by BISD in a Child Nutrition Program. *See* Texas Government Code §§ 2252.001 - .004; 2 C.F.R. § 200.319.

3.13 Responsible Vendor

A responsible vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the items listed herein.

3.14 Responsive Submittals

Submissions shall be deemed responsive if they comply with all material and administrative aspects of this solicitation.

3.15 Similar Products

Whenever an article or material is defined by BISD in this solicitation by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied (as applicable). The specified article or material shall be understood as indicating type, function, minimum standard of design, efficiency, and quality desired and shall not be construed as to exclude other manufactured products or comparable quality, design, and efficiency (as applicable).

3.16 BISD is tax-exempt

BISD is tax-exempt. Response prices should not include taxes.

3.17 Sole Source

In order to become a Sole Source Vendor, a vendor must meet the requirements of Texas Education Code § 44.31 (j) Sole Source, as described below.

Selected purchases may be exempt from competitive procurement if they meet the established criteria for a sole source purchase:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process, or monopoly.
- Identification and confirmation that the product is a film, manuscript, book, utility service (including electricity, gas, or water), or a captive replacement part or component for equipment.
- Sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of \$15,000.

It is incumbent upon the School district to obtain and retain documents from the vendor which clearly delineate the reasons that qualify the purchase to be made on a sole source basis. In order to do business with BISD as a Sole Source Vendor, BISD must receive a notarized Sole Source Affidavit along with proof of your company qualifying as a sole source.

Please mail this information to:

Boerne Independent School District
Attn: Purchasing Office
235 Johns Road
Boerne, Texas 78006

BISD reserves the right to decide if your company is a qualified Sole Source Vendor.

3.18 Conflict of Interest (CIQ Form – must be filled out and attached to response)

BISD is required to comply with Texas Local Government Code Chapter 176, Disclosure of Certain Relationships with Local Government Officers. House Bill 23 significantly changed Chapter 176 as well as the required disclosures and the corresponding forms. As of September 1, 2015, any vendor who does business with BISD or who seeks to do business with BISD must fill out the new Conflict of Interest Questionnaire (CIQ) whether or not a conflict of interest exists. A conflict of interest exists in the following situations:

- (a) If the vendor has an employment or other business relationship with a local government officer of BISD or a family member of the officer that results in the officer or family member receiving taxable income, other than investing income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local government entity and vendor had been executed; or

- (ii) the local government entity is considering entering into a contract with the vendor.
- (b) If the vendor has given a local government officer of BISD, or a family member of the officer one or more gifts that have an aggregate value of \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) A contract between the local government entity and vendor had been executed; or
 - (ii) The local government entity is considering entering into a contract with the vendor.

3.19 Interlocal Cooperation Act

It is the intent of BISD to allow other governmental entities, including other School Districts, to “piggyback” onto any existing contract between BISD and Vendor entered pursuant to this RFP. Accordingly, as permitted under the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and Chapter 271, Subchapter F of the Texas Local Government Code, other governmental entities that have entered an Interlocal Agreement with BISD are authorized to enter into separate and independent contracts with Vendor that employ the same negotiated terms and conditions contained in an existing contract(s) between BISD and Vendor.

PART 4.0 – SCOPE & SPECIFICATIONS

4.1 Request for Proposal Defined

BISD is utilizing the Request for Proposal (RFP) method for the procurement of this service in accordance with Texas Education Code Section 44.031 Purchasing of Contracts, Item (3) Request for Proposals. For information regarding the RFP process, contact Eddie Ashley of the Purchasing Department at 830-357-2026. Interested vendors should respond to this RFP and submit responses to BISD.

4.2 Scope of Services

Boerne ISD is requesting proposals in order to execute a single contract for logo and spirit merchandise onsite/online sales, in exchange for a percentage of the gross sales from merchandise sold at the Athletic Office, Boerne ISD events, and online. Boerne ISD is also intending to enter into multiple contracts for the rights to use District and Campus Logos for merchandise sales at their physical place of business for a specified fee of \$5000 annually. The contract period for both options is July 1 through June 30. The intent of these contracts is to provide appropriate spirit wear and logo items for our student body, parents, staff, and community at reasonable prices. Selected vendors will have exclusive rights to BISD logos for the duration of the contract, subject however, to the public use and application procedures established on the District’s website. Ownership of the logos, names, and any word marks together with all associated copyrights, trademarks and other protections and intellectual property rights shall remain with the Boerne Independent School District.

4.3 Specifications

It is the intention of BISD to establish a single contract with a highly qualified Vendor for Spirit Logo and Merchandise for onsite/online sales at the BISD Athletic Office and all Boerne ISD events as determined by BISD. The District is also entering into multiple contracts with qualified vendors for the rights to use the District Logos for the sale of merchandise at their physical place of business (online sales is not included in this option). Vendor(s) shall provide these services under the terms of this RFP and the Contract set forth in Section 6.0 Contract Terms and Conditions

4.4 Estimated Expenditures

The estimated total value of the contract is determined by the sales of Spirit Wear.

4.5 Submission

To assist in the evaluation process, your Proposal response shall be submitted in the following order, with each section clearly identified:

- Section I: Executive Summary
- Section II: Proposal Response Index

Section III: Part 7: Attachment A: Spirit Logo and Merchandise Questionnaire

Section IV: Responder's Standard Contract (If applicable)

Section V: Part 8 Attachments

4.5.1 Section I: Executive Summary

The Responder shall provide an executive summary, briefly introducing their response, highlighting any specific areas that are considered of importance.

4.5.2 Section II: Proposal Response Index

The Responder shall provide a *Proposal Index* that provides the section numbers, headings, and the page numbers for each heading, allowing for ease in locating specific pieces of information within the response.

4.5.3 Section III: Response to Part 7: Spirit Logo and Merchandise Questionnaire (starts on page 19).

4.5.5 Section IV: Responder's Standard Contract

The District reserves the right to tender its own contract which shall incorporate the requirements of the district and the successful Responder's responses. The Responder must list any special provisions or clauses that it would like to have considered in the resulting contract and an explanation of the intent of such special provision or clause. The Responder must provide a copy of their standard, if applicable, contract with the Proposal Response.

4.6 Evaluation of Qualifications, Negotiations, and Contract Award

THIS IS A REQUEST FOR PROPOSALS, and as such, an award will be made to the Responder(s) who is/are BEST QUALIFIED TO SERVE THE DISTRICT. The District shall rank the responses it deems to be in the best interest of the District through an evaluation process, subsequently negotiating terms and conditions for a contract arrangement.

BISD reserves the right to negotiate a contract with any Responder.

PART 5.0 – EVALUATION AND AWARD OF RESPONSES

In accordance with applicable laws, rules, and regulations for public purchasing, award(s) will be made to the responsible vendor(s) whose response(s) are/is determined, after evaluation by the BISD Procurement Department, to be the best value to BISD. To qualify for evaluation, a response must have been submitted on time and must materially satisfy all mandatory requirements identified in this document.

5.1 Evaluation Criteria and Score Sheet

A committee selected by BISD will review and evaluate all responses and make a recommendation to the BISD Board of Trustees. BISD will base a recommendation for contract award on the following factors, in accordance with Texas Government Code § 2254: and, in accordance with Texas Education Code § 44.031:

Criteria	RFP 22-028 Spirit Logo and Merchandise	Maximum Points Attainable
1. Quality of the Vendors Products and Services.	Based on completeness and accuracy of the RFP response, reputation of vendor, experience with similar districts, and dependability. Variety of products. Physical business location.	25

2. Ability to Meet District's Needs	<p>May include but is not limited to:</p> <ul style="list-style-type: none"> • Ability of the vendor to meet all specifications. • Vendor's acceptance to District's standard terms and conditions. • Impact on District based on any Vendor's stated exceptions or deviations from the District's standard/special terms and conditions and requirements. • For Onsite Sales: Availability of Financial Records and verification of financial stability. 	25
3. Price/Discount	Vendor(s) with Best Value (40 points), each vendor thereafter will receive a deduction in points. Percent of commission paid to District.	30
4. Past Relationship with District	<ul style="list-style-type: none"> • Previous Positive Business with District • Previous business District with concerns • No Previous Business with District 	10
5.	<ul style="list-style-type: none"> • References 	10
	<ul style="list-style-type: none"> • Maximum Points Attainable 	100

5.2 Awards

Awards will be made to the successful vendor(s) for the total line of products and services submitted. Awards will be based on the criteria set forth within this document. BISD shall comply with the Texas Public Information Act in the event BISD receives an open records request for information relating to responses submitted in response to this RFP.

5.3 Competitive Range

It may be necessary for BISD to establish a competitive range of acceptable responses as part of the evaluation process. Responses not in the competitive range are unacceptable and do not receive further award consideration.

5.4 Estimated Quantities

BISD makes no guarantee or commitment of any kind concerning quantities that will be purchased. BISD makes no guarantee or commitment of any kind regarding usage of any contracts resulting from this solicitation.

5.5 Inspection & Acceptance

Awarded vendor(s) shall deliver the goods or services procured on this contract to the BISD Department issuing a Purchase Order. If delivery is not or cannot be made within proper time frame, the awarded vendor must receive authorization from the issuing BISD Department for the delayed delivery. If defective or incorrect goods are delivered, BISD may make the determination, in its sole discretion, to return the goods to the vendor at no cost to BISD. The vendor agrees to pay all shipping and handling costs for any such return shipment. The vendor also shall be responsible for arranging the return of the defective or incorrect goods.

5.6 Formation of Contract

A response to this solicitation is an offer to contract with BISD based upon the terms, conditions, scope of work, and specifications contained in this procurement solicitation. A solicitation/response does not become a contract unless and until it is accepted by BISD after approval by the BISD Board of Trustees.

5.7 Exclusive/Non-Exclusive Contract

The contact to sell merchandise at the Athletic Office and Boerne ISD events is an exclusive contract for a single vendor for duration of the specified term of this RFP. Any contract resulting from the annual fee paid to utilize the rights to the logos as a result of this solicitation is non-exclusive and shall be awarded with the understanding and agreement that it is for the sole convenience of BISD.

5.8 Pricing

BISD requires that the pricing submitted to be set for duration of the contract. BISD may request the awarded vendor(s) to provide discounts or other adjustments to the quantity one price for larger orders, on a per-purchase order basis. If discounts or quantity prices are offered by an awarded vendor, the vendor must also offer the same reductions in pricing to be available for orders of similar size.

PART 6.0 – GENERAL TERMS AND CONDITIONS

The words “bids,” “Request for Proposal,” “quotes,” “RFPs,” “solicitation,” “procurement,” and their derivatives may be used interchangeably in these terms and conditions. These terms and conditions apply to all bids, Request for Proposal, quotes, and other procurement solicitations to which they are attached. The term “Vendor” means each awarded vendor chosen by BISD.

These General Terms and Conditions are part of the final contract in each commodity and/or service contract and are part of the terms and conditions of each purchase order or other bid/response forms issued in connection with this solicitation. Vendors are responsible for identifying any exceptions to these terms and conditions. **ANY EXCEPTIONS MUST BE CLEARLY NOTED IN THE SUPPLIER RESPONSE.** Responses that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by BISD and eliminated from further consideration by BISD.

This Agreement is entered into between Boerne Independent School District (“BISD”) and Vendor, having submitted a response to a procurement solicitation issued by BISD and whose response has been accepted and awarded by BISD. In consideration of the mutual covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BISD and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Agreement, agree as follows:

6.1 Agreement Terms; Amendment

The terms of this Agreement shall govern all procurements conducted hereunder. No pre-published terms on the Vendor’s order acknowledgments, invoices, or other forms shall have any force or effect. Further, no amendment of this Agreement shall be permitted unless first approved in writing by BISD, and no such amendments shall have any effect unless and until a written amendment to this Agreement is executed by BISD’s Superintendent or its Chief Financial Officer (or their designees) after any necessary approvals have been obtained from the BISD Board of Trustees.

6.2 Assignment of Agreement

Vendor may not assign this Agreement or any of its rights, duties, or obligations hereunder without the prior written approval of BISD. Any attempted assignment of this Agreement by Vendor shall be null and void. Any purchase or work order made as a result of this Agreement may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of BISD. Vendor is required to notify BISD when any material change in operations occurs, including but not limited to, changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

6.3 Buy America Act

BISD has a preference for domestic end products for supplies acquired for use in the United States when spending federal funds. Purchases that are made with non-federal funds or grants are excluded from the Buy America Act.

6.4 Captions

The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

6.5 Catalog Discounts

In the event of a catalog discount type solicitation, Vendor may be allowed to make additions and/or deletions from Vendor’s offerings on an annual basis during the Agreement renewal period, in BISD’s sole discretion, provided the item(s) substituted are of a like quality and category. These changes will be compliant with the format of Vendor’s original response (i.e. manufacturer name, product category, or entire catalog discount). BISD will send

notification to Vendor(s) seeking any additions and/or deletions, and Vendor will return these proposed changes on company letterhead within the given timeframe. If BISD, in its sole discretion, accepts Vendor's proposed changes, such changes will remain in effect for the entire year until the next renewal period.

6.6 Compliance with Laws

Vendor shall comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations, the DAVIS-BACON ACT (40 U.S.C. § 276a / 29 CFR Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 / 29 CFR Part 5), the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 / 41 CFR Chapter 60), the McNamara-O'Hara Service Contract Act (41 U.S.C. 351), Section 306 of the Clean Air Act (42 U.S.C. § 1857h, Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), the Contract Work Hours and Safety Act (40 U.S.C. § 3701-3708; 29 C.F.R. Part 5), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), the Education Department General Administrative Regulations, 2 C.F.R. Parts 200 and 3474, and 34 C.F.R. Parts 75-77 and 81 ("EDGAR"), mandatory standards and policies contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights and those mandated by federal agencies making awards of federal funds to BISD. Vendor understands that Vendor is ineligible to receive a contract award with BISD if Vendor is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689) or is 30 days or more delinquent in paying child support (Tex. Fam. Code § 14.52). For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. Vendor must comply with all state and local building code requirements unless otherwise specifically provided in the BISD's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site. When required or requested by BISD, Vendor shall furnish BISD with satisfactory proof of Vendor's compliance with this provision.

6.7 Confidentiality

Vendor and BISD agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor and BISD understand that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable. Vendor also acknowledges that BISD is subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability BISD, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Agreement or otherwise created, assembled, maintained, or held by Vendor and determined by BISD, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

6.8 Contract Term

Contract issued between Boerne ISD and the successful proposer for onsite sales shall be for a period of one (1) year, with BISD having the option to renew the Agreement for four (4) additional years in one (1) year increments. Consequently, the total term of the Agreement may be for a period of five (5) years. The phrase "Term" in this Agreement shall mean the then-current Term of the Agreement, whether the initial term or a renewal term. The contract term will commence July 1, 2024, and end June 30, 2025. The contract for logo rights only can be renewed annually for a specified fee paid to the District upon mutual agreement.

6.9 Criminal History Review (SB 9 Contractor Certification: Contractor Employees Form; SB 9 Contractor Certification: Subcontractor Form – must be filled out and returned, if applicable)

Prior to commencing any work under the Agreement, if Vendor contracts with BISD to provide services, Vendor must certify, on the form provided herein, that for each covered employee of Vendor who will have direct contact with students, Vendor has obtained, as required by Texas Education Code Section 22.0834: (a) state criminal history record information from a law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for each covered employee of Vendor employed before January 1, 2008; and (b) national criminal history record information for each employee of Vendor employed on or after January 1, 2008. Vendor must also obtain similar certifications of compliance with Texas Education Code Chapter 22's requirements from any subcontractors on the form provided herein. Covered

employees with disqualifying criminal history are prohibited from serving at BISD; Vendor and any subcontracting entity may not permit a covered employee to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Tex. Educ. Code § 22.085(a) (i.e., Title 5 felony or an offense requiring registration as a sex offender and victim was under 18 years of age or was enrolled in a public school at the time the offense occurred). The criminal history record information review obligation applies if Vendor contracts with BISD to provide services; it does not apply to a contract for the purchase of goods or real estate.

6.10 Customer Reference List

Vendor agrees to submit a customer reference list upon request by BISD.

6.11 Customer support

Vendor shall provide timely and accurate technical advice and sales support to BISD and BISD staff. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to BISD staff regarding products and/or services supplied by Vendor, at no additional charge, if requested by BISD.

6.12 Entire Agreement

This Agreement, the procurement solicitation issued by BISD, and Vendor's response submitted in response to BISD's procurement solicitation, and the attached and incorporated addendum or exhibits, if any, contain the entire agreement of the parties relative to the purpose(s) of the Agreement and supersede any other representations, agreements, arrangements, negotiations, or understanding, oral or written, between the parties to this Agreement. In the event of a conflict between the procurement solicitation issued by BISD and Vendor's response submitted in response to BISD's procurement solicitation, BISD's procurement solicitation shall control. This Agreement supersedes any conflicting terms and conditions on any purchase or work orders, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto, and which may be issued by Vendor after the Effective Date of this Agreement.

6.13 Equal Opportunity

It is the policy of BISD not to discriminate on the basis of race, color, National origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Agreement shall contain a provision requiring non-discrimination in employment herein specified binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Agreement.

6.14 Force Majeure

Neither BISD or Vendor shall be deemed to have breached any provision of this Agreement as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond such party's control.

The parties to this Agreement are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other party in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Agreement has not been terminated. Delay or failure of performance, by either party to this Agreement, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. Neither party shall have any claim for damages against the other resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Agreement, in the event the Vendor's performance of its obligations under this Agreement is delayed or stopped by a force majeure event, BISD shall have the option to terminate this Agreement. This section

shall not be interpreted as to limit or otherwise modify any of BISD's contractual, legal, or equitable rights.

6.15 Governing Law and Venue

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Agreement. Any dispute under this Agreement may be brought in the state and federal courts located in Boerne, Kendall County, Texas, and the parties hereby submit to the exclusive jurisdiction of said courts.

6.16 BISD Property

In the event of loss, damage, or destruction of any property owned by or loaned by BISD that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify BISD and pay to BISD the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of BISD's determination of the amount due. If Vendor fails to make timely payment, BISD may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by BISD.

6.17 Indemnification

VENDOR SHALL INDEMNIFY AND HOLD BISD HARMLESS FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM THE ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY ITEM VENDOR IS REQUIRED TO DELIVER. Vendor's obligations under this clause shall survive acceptance and payment by BISD.

6.18 Insurance (if applicable)

Successful Vendor, as a part of his/her proposal, shall provide proof of insurance showing, as a minimum, the coverage listed below. The Contractor shall not commence any portion of the work under this contract until he/she has obtained the insurance required herein and copies of certificates have been approved by the District and filed in the Purchasing Department. Approval of the insurance shall not relieve or decrease the liability of the successful vendor. The insurance certificate(s) shall become a part of the contract documents.

- Comprehensive General Liability: \$500,000 each person
- Bodily Injury Liability: \$1,000,000 each occurrence
- Property Damage Liability: \$100,000 each occurrence
- Workmen's Compensation: * AS STATUTORY PROVISIONS REQUIRE

* If vendor does not provide Workman's Compensation, a letter explaining alternate benefits should be included with the proposal.

Automobile Liability Insurance:

- Comprehensive Automobile Liability: \$500,000 each person
- Bodily Injury Liability: \$1,000,000 each occurrence
- Property Damage Liability: \$100,000 each occurrence

Umbrella Liability:

- Minimum Limits: \$1,000,000 each occurrence
- Bodily Injury Liability: \$1,000,000 aggregate
- Excess: \$1,000,000

Coverage shall include:

- a. Waiver of subrogation endorsement in favor of the District and its Agents.
- b. Thirty (30) day written notice of cancellation or material change endorsement in favor of the District and its Agents.
- c. The District shall be named as additional insured on the successful vendor's policy(ies).

6.19 Interpretation

Vendor agrees that the normal rules of construction that require that any ambiguities in this Agreement are to be construed against the drafter shall not be employed in the interpretation of this Agreement.

6.20 Invoices; Payments

Invoices shall be directed to BISD’s Accounts Payable Department. All invoices shall be itemized to include the type of good(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during BISD’s fiscal year in which the good(s) and/or services are purchased. In accordance with Texas Government Code § 2251.021, payments are due to Vendor within forty-five (45) days after the later of the following: (1) the date BISD receives the goods under the Agreement; (2) the date the performance of the service under the Agreement is completed; or (3) the date BISD receives an invoice for the goods or service. Vendor agrees to pay any subcontractors, if any, the appropriate share of the payment received from BISD not later than the tenth (10th) day after the date Vendor receives the payment from BISD. The exceptions to payments made by BISD and/or Vendor listed in Texas Government Code § 2251.002 shall apply to this Agreement.

**Invoices are to be mailed for payment of delivery to:
Boerne ISD
Accounts Payable Department
235 Johns Road
Boerne, Texas 78006**

6.21 IRS W-9

In order to receive payment under this Agreement, Vendor shall have a current I.R.S. W-9 Form on file with BISD.

6.22 Multiple Contract Awards; Non-Exclusivity

BISD reserves the right to award multiple contracts for each commodity category. Commodity categories are established at the sole discretion of BISD. Nothing in this Agreement may be construed to imply that Vendor has the exclusive right to provide products and/or services to BISD. During the Term of this Agreement, BISD reserves the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor.

6.23 New Products

New products that meet the specifications detailed in the solicitation may be added to this Agreement, with prior written approval from BISD. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add products to an existing contract if: the replacing products are equal to or superior to the original products offered; are discounted in a similar or to a greater degree; and the products meet the requirements of the original solicitation. No products may be added to avoid competitive procurement procedures. BISD may reject any proposed additions, without cause, in its sole discretion.

6.24 No Substitution

Any order issued pursuant to this Agreement shall conform to the specifications and descriptions identified in this Agreement and in the solicitation. Unless otherwise agreed to in advance by BISD, Vendor will not deliver substitutes without prior authorization from BISD.

6.25 No Agency or Endorsements

BISD and Vendor are independent contractors and have no power or authority to assume or create any obligation or responsibility on behalf of the other party. This Agreement shall not be construed or deemed an endorsement of a specific company or product. It is the intention of the parties that Vendor is independent of BISD and is not an employee, agent, joint venturer, or partner of BISD, and nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer, or partner, between BISD and Vendor or BISD and any of Vendor’s agents. Vendor agrees that BISD has no responsibility for any conduct of any of Vendor’s employees, agents, representatives, contractors, or subcontractors.

6.26 Non-Appropriation Clause

Renewal of this Agreement, if any, will be in accordance with Texas Local Government Code § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Agreement or

obligation imposed on BISD by this Agreement, BISD shall have the right to terminate this Agreement without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of BISD if it is determined by BISD, in BISD's sole discretion, that there are insufficient funds to extend this Agreement. The parties agree that this Agreement is a commitment of BISD's current revenue only.

6.27 Notice

Any notice provided under the terms of this Agreement by either party to the other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the address listed in the signature line of this Agreement. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified or registered mail, return receipt requested.

6.28 Penalties

If Vendor is unable to provide the goods or services at the prices quoted in Vendor's response or if Vendor fails to fulfill or abide by the terms and conditions of the Agreement, BISD may take the following action(s), in BISD's sole discretion, and Vendor agrees to comply with BISD's action(s):

1. insist that Vendor honor the quoted price(s) specified in Vendor's response.
2. have Vendor pay the difference between Vendor's price and the price of the next acceptable response (as determined by BISD).
3. have Vendor pay the difference between Vendor's price and the actual purchase price of the good or service on the open market; and/or
4. recommend to BISD's Board of Trustees that Vendor no longer be given the opportunity to submit a response to BISD and/or that this Agreement be terminated.

6.29 Performance

Vendor agrees to use best efforts to provide the good(s) and/or service(s) subject to this Agreement. BISD reserves the right to conduct reviews of vendor performance at any time during the contract period.

6.30 Performance and Payment Bonds

Vendor agrees to provide performance bonds and/or payment bonds as required by Texas law on specified contracts and/or projects, as applicable. BISD will include the performance and payment bonds requirement in the specifications section of any solicitation if performance bonds and/or payment bonds are required.

6.31 Prevailing Wage Rates

Vendor and all subcontractors of Vendor shall comply with all laws regarding wage rates including, but not limited to, Texas Government Code Chapter 2258 and any related federal requirements applicable to this Agreement and to this solicitation by BISD.

6.32 Prices

All prices in Vendor's response shall be firm for the Term of the Agreement. All price changes shall be presented to BISD for acceptance or rejection by BISD, in its sole discretion, using the same format as was accepted in Vendor's original response; all price changes for goods and/or services provided under this Agreement must be approved, in writing, by BISD prior to taking effect. The following documentation shall be provided to support a request for a price change: justification for change/increase; terms and conditions; market conditions; manufacturers/distributors' impact (if any).

6.33 Quantities

Because all commodities will be provided on an "as needed" basis, BISD makes no representation either orally or in writing to the number of commodities, services, or related items BISD will use during the Term of the Agreement.

6.34 Records Retention

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all goods and/or services provided by Vendor to BISD under this Agreement. These records and accounts shall be retained by Vendor and made available for audit by BISD for a period of not less than three (3) years from the date of completion of the services, receipt of the goods, or the date of the receipt by BISD of Vendor's final invoice or claim for payment in connection with this Agreement, whichever is later. If an audit has been announced, Vendor shall retain its records and accounts until such audit has been completed.

When federal funds are expended by BISD pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

6.35 Right to Audit

BISD, upon written notice, shall have the right to audit all of Vendor's records and accounts relating to this Agreement. Records subject to audit shall include, but are not limited to, records which may have a bearing on matters of interest to BISD in connection with Vendor's work for BISD and shall be open to inspection and subject to audit and/or reproduction by BISD or its authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

- (a) Vendor's compliance with this Agreement and the requirements of the solicitation,
- (b) compliance with BISD procurement policies and procedures,
- (c) compliance with provisions for computing billings to BISD, and/or
- (d) any other matters related to this Agreement.

6.36 Safety

Vendor, its subcontractors, and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Agreement, including, without limitation, those promulgated by BISD and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by BISD. Vendor shall indemnify and hold BISD harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

6.37 Severability

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

6.38 Shipments

Vendor shall ship ordered products within seven (7) working days for available goods and within four (4) to six (6) weeks for special-order items after the receipt of the purchase order unless otherwise previously agreed to, in writing, by BISD. If a product cannot be shipped within that timeframe, Vendor shall notify BISD of the reasons why the product has not shipped and shall provide an estimated shipping date, if applicable. BISD may cancel the order if the estimated shipping time is not acceptable to BISD, in its sole discretion.

6.39 Software Maintenance

Maintenance, support, hosting, and other services associated with software purchased pursuant to this procurement solicitation may be renewed on an annual basis indefinitely, in Boerne ISD's sole discretion, subject to appropriation of sufficient funding for such services in Boerne ISD's annual budget and any necessary approvals by Boerne ISD's Administration and Board of Trustees.

6.40 Subcontractors

If Vendor uses subcontractors in the performance of any part of this Agreement, Vendor shall be fully responsible to BISD for all acts and omissions of the subcontractors just as Vendor is responsible for Vendor's own acts and omissions. Nothing in this Agreement shall create for the benefit of any such subcontractor any contractual relationship between BISD and any such subcontractor, nor shall it create any obligation on the part of BISD to pay or to see to the payment of any moneys due any such subcontractor except as may otherwise be required by law.

6.41 Taxes

BISD is tax-exempt, and BISD shall not pay taxes for goods and/or services provided under this Agreement. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Agreement, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. BISD shall not be liable for any taxes resulting from this Agreement. BISD is a political subdivision of the State (Tax Identification Number 1-74-6001850)

6.42 Tax Responsibilities of Vendor and Indemnification for Taxes

Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to their operation and any persons employed by Vendor and all subcontractors of Vendor. Vendor shall require all subcontractors to hold BISD harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

6.43 Termination of Contract

This Agreement shall remain in effect until (1) the Agreement expires by its terms or (2) the Agreement is terminated by mutual agreement of BISD and Vendor. In the event of a breach or default of the Agreement and/or the procurement solicitation by Vendor, BISD reserves the right to enforce the performance of the Agreement and/or the procurement solicitation in any manner prescribed by law or deemed to be in the best interest of BISD. BISD further reserves the right to terminate the Agreement immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in this Agreement, the procurement solicitation, and/or a purchase or work order; (2) make any payments owed; or (3) otherwise perform in accordance with this Agreement and/or the procurement solicitation. BISD also reserves the right to terminate the Agreement immediately, with written notice to Vendor, if BISD believes, in its sole discretion that it is in the best interest of BISD to do so. Vendor agrees that BISD shall not be liable for damages in the event that BISD declares Vendor to be in default or breach of this Agreement and/or the procurement solicitation. Vendor further agrees that upon termination of the Agreement for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or vendor.

6.44 Title and Risk of Loss

Whenever BISD is purchasing (and not leasing) an item under this Agreement, title and risk of loss shall pass upon the later of BISD's acceptance of the item or payment of the applicable invoice.

All deliveries under this Agreement shall be delivered: **Freight Prepaid, F.O.B. Destination (Inside Delivery)**, Boerne Independent School District, Boerne, TX unless otherwise specified herein and shall be included in all pricing in Vendor's response unless otherwise clearly stated in writing in Vendor's response.

6.45 Waiver

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

6.46 Warranty

All goods and/or services provided by Vendor under this Agreement must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of BISD's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all goods and/or services furnished under this Agreement shall conform in all respects to the terms of this Agreement, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the procurement solicitation issued by BISD. In addition, Vendor warrants that goods and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Agreement or the solicitation procurement.

6.47 Workforce

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Agreement. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on BISD's property, nor may such workers be intoxicated or under the influence of alcohol or drugs on BISD's property.

Part 7- ATTACHMENT A
Spirit Logo & Merchandise Questionnaire

Vendor Must Provide the Following Information:

Company Name:		
Company Address:		
City:	State:	Zip:
Taxpayer I.D. #:		Website Address:
Telephone:	Fax:	E-mail:
Remit to Address if different from above:		
Authorized Representative Name:		
Authorized Representative Signature:		

1. Company's home office location is: _____
2. Number of years in business: _____
3. Does your Business have a store front in Boerne or the surrounding area? Yes No
4. Do you currently do business with Boerne ISD? Yes No
5. Do you have any pending litigation? Yes No If yes, please attach a separate page explaining.
6. Did you provide a certificate of insurance with your response? Yes No
7. Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? Yes No
8. Is this company a minority, or woman-owned business enterprise? Yes No _____

(2024-2025) COMPLETE THIS SECTIONS FOR VENDORS INTENDING TO SUBMIT A PROPOSAL FOR LOGO RIGHTS AND ONSITE SALES OF SPIRIT WEAR AND MERCHANDISE FOR A PERCENTAGE OF GROSS SALES

Having carefully examined the Proposal Notice & Terms and Conditions, the undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the specifications and conditions at the prices and/or commissions quoted. This proposal is to be considered for the following provisions:

1. Payments to BISD will be paid quarterly (October, January, April, & July no later than the 10th), with a detailed sales report for each school and sale location attached. Commission checks should be made payable to Boerne ISD and mailed to the Boerne ISD Business Office at, 235 Johns Road, Boerne TX 78006. No other delivery location will be acceptable. If payment is not received within 30 days of the due date, BISD will assess penalties and interest on any unpaid commissions at a rate LIBOR plus of 5% until all commissions are paid.
2. Sale logo and spirit merchandise for Boerne High School, Boerne-Samuel V. Champion High School, Boerne Middle School North, Boerne Middle School South, and Capt. Mark Tyler Voss Middle School. All spirit & logo merchandise sales shall be reported as commissionable sales.
3. Merchandise will be sold according to this minimum schedule, with additional events as desired:
 - a. All home varsity football games
 - b. At least two varsity games per sport, as directed by the Athletic Director.
 - c. Sell at special functions, such as Special Olympics, orientation, Teacher Days, etc.
 - d. Provide playoff shirts with logos for qualifying sports in a timely manner.
 - e. Online sales
4. Comply with all logo usage as required by BISD. Work in cooperation with the Athletic Director and School Principals to comply with school standards. Protect the BISD logos and report logo misuse when observed.
5. The Athletic Director and School Principals have authority and final approval over creative expression of contracted merchandise.
6. Contractor is responsible to report sales tax and obey IRS and state regulations.
7. Promote merchandise at coach and teacher meetings, through Athletic Department notices, and other advertising opportunities. Sales are encouraged at JV, Freshman, and Middle School athletic events.
8. The contract shall be subject to the public use application rights and procedures established on the District's website.

Our company can commit to the above requirements: _____ Yes _____ No

Noted Exceptions: _____

Our company will commit to the following percentage of gross sales, payable on a quarterly basis:

Continuing Commissions: _____%
(Commissions are to be paid on a quarterly basis regardless of school days in session)

Our Company has _____ years of school spirit & logo merchandising experience at on-campus venues. Please attach three references.

Vendor agrees to provide BISD with the following financial information if requested by BISD at any point during the procurement process, including before or after contract award: If public, the vendor's income statement, balance sheet, and cash flow for the past three (3) years; if private, the vendor's audited financial statements for the past two years (if available). A vendor's failure to provide this financial information may impact the BISD Administration's recommendation to the BISD Board of Trustees for the award of the contract.

(2024-2025) COMPLETE THIS SECTION FOR VENDORS INTENDING TO SUBMIT A PROPOSAL ONLY FOR LOGO RIGHTS TO USE FOR THE SALE OF SPIRIT WEAR AND MERCNANDISE

Having carefully examined the Proposal Notice & Terms and Conditions, the undersigned hereby proposes and agrees to pay a set fee of **\$5000.00 annually** at the time of vendor selection resulting from this RFP. Fee must be paid in full before vendor can begin using District Logos. Selected Vendor(s) will act in strict compliance with the specifications and conditions of this RFP. This proposal is to be considered for the following provisions:

1. Obtain logo rights for Boerne High School, Boerne-Samuel V. Champion High School, Boerne Middle School North, Boerne Middle School South, and Capt. Mark Tyler Voss Middle School.
2. Comply with all logo usage as required by BISD. Work in cooperation with the Athletic Director and school principals to comply with school standards. Protect the BISD logos and report logo misuse when observed.
3. The Athletic Director and School Principals have authority and final approval over creative expression of contracted merchandise.
4. The intent of the Logo Rights Only option is for the sale of merchandise at **your physical** place of business. Partnering with other businesses to sale merchandise from multiple locations and online sales are not acceptable under the terms of this contract.
5. The contract shall be subject to the public use application rights and procedures established on the District's website.

Our company can commit to the above requirements: _____ Yes _____ No

Noted Exceptions: _____

I understand with a payment to the District in the amount of \$5000.00 annually at the time of vendor selection, my company has the right to use District logos specified in this RFP for Spirit Wear and Merchandise sales at my place of business. This payment does not grant me the right to sell merchandise on District property or during District events.

Signature: _____

- Please attach three references.



Part 8 Attachments

Boerne ISD Vendor Application

This Vendor Application is intended for use in identifying vendors interested in participating in bids and requests for proposals (RFP) published by Boerne ISD for various goods & services. Submittal of this application is for the convenience of the Purchasing Office and does not imply or guarantee to the submitter the receipt of any invitation to bid or RFP released. Proposal/bidding opportunities will be advertised in the Boerne Star newspaper & on the Boerne ISD website on the Purchasing Office page. **Vendors must subscribe to E-mail Bid Registration on the BISSD Website at www.boerneisd.net, under Departments link to the Purchasing Office. All attached forms must be submitted or application is not valid.** Please do not send non-form pages. Vendor is responsible for checking the newspaper & website notices.

Company Name: _____

Order Address: _____

City _____ State _____ Zip _____

Phone #: _____ Fax #: _____

E-mail address: _____

Website address: _____

Contact Person: _____ Title _____

(Signature)

(Date)

Vendor has been awarded a contract with the following purchasing co-op(s):

TASB BuyBoard
 Region 2013
 DIR
 NCPA
 Reg. 19
 OMNIA
 TIPS/TAPS
 TX SmartBuy
 HCDE/Choice Partners
 HGAC

Co-op contract will expire on _____ (date). **Attach copy of co-op contract or award notice.**

Boerne I.S.D. Commodity List

Please indicate all commodity areas that apply to your firm

- | | |
|--|--|
| <input type="checkbox"/> Athletic/PE Supplies | <input type="checkbox"/> Music Supplies |
| <input type="checkbox"/> Automotive Supplies | <input type="checkbox"/> Music Instruments |
| <input type="checkbox"/> Construction Supplies & Materials | <input type="checkbox"/> Office Furniture |
| <input type="checkbox"/> Custodial Supplies | <input type="checkbox"/> Office Supplies |
| <input type="checkbox"/> Consumable Paper Goods | <input type="checkbox"/> Printing |
| <input type="checkbox"/> Electrical Supplies | <input type="checkbox"/> Tires |
| <input type="checkbox"/> Food & General Supplies | <input type="checkbox"/> T-Shirt Printing |
| <input type="checkbox"/> Household Goods | <input type="checkbox"/> Vehicle Fuel |
| <input type="checkbox"/> Instructional Supplies | <input type="checkbox"/> Fresh Produce |
| <input type="checkbox"/> Landscaping Materials | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Furniture | |
| <input type="checkbox"/> Technology equipment or services | |

PURCHASING PROCEDURES

I. Vendor Qualifications

The Purchasing Office shall verify product and service quality, company performance, insurance and warranty standards. On-campus solicitations are not allowed. Promotional materials and catalogs must be distributed via the Purchasing Office.

II. Purchase Orders

All purchases shall be executed by a Boerne I.S.D. purchase order, signed by the proper authorities and shall conform to the terms of that contract. **No unauthorized changes may be made to a Purchase Order after issuance. Backorders are not allowed. Orders placed without an authorized Boerne ISD PO are not the financial responsibility of the district. Purchase Order number must be included on all invoices, packing slips & other correspondence.**

III. Invoicing

Original invoices should be addressed to Boerne I.S.D., Attn: Accounts Payable, 235 Johns Rd., Boerne, TX 78006, **having the authorizing purchase order noted on it. Invoices sent to any other location run the risk of delayed payment. Invoices may be emailed to: accounts.payable@boerneisd.net**

IV. Statements

When used, a monthly statement should be sent to Boerne I.S.D., Attn: Accounts Payable, 235 Johns Rd., Boerne, TX 78006. Payments will only be made from original invoices, however.

V. Payment

Payment of a satisfactorily completed purchase order having an accompanying, original, authorized invoice, may be expected within thirty (30) days. Checks will be mailed via US Postal service once per week after the checks have been issued. Checks will not be held for pick-up, hand-carried to the vendor, or issued outside of the scheduled check run.

VI. Pricing and Freight

Goods or services purchased by Boerne I.S.D. purchase order shall be considered delivered and freight prepaid unless especially noted on the bid, contract, or purchase order. Changes of prices are not allowed without written authorization from the purchasing authority.

VII. Warranty

When goods or services sold in Boerne I.S.D. have no written warranty statement or disclaimer or warranty presented to the purchasing authority, a one year parts and labor warranty will be assumed to be a part of the contract of purchase.



Boerne Independent School District
235 Johns Rd.
Boerne, Texas 78006

Automated Clearing House Agreement (ACH)
(PAYMENT BY ACH)

Boerne ISD is now offering payment by ACH direct deposit to all vendors to increase efficiency and improve the quality of services. Payments by ACH are deposited directly into your bank account. Please complete the form below and return to the Business Office by mail to address above, Attention: Purchasing or email to purchasing@boerneisd.net.

Original Request: <input type="checkbox"/>	Change Request: <input type="checkbox"/>	Termination Request: <input type="checkbox"/>
--	--	---

Section 1- Vendor Information

Vendor Name:	
Address:	
City/State/Zip:	Phone:
Last 4 digits of EIN or SSN (to verify vendor identification):	
Email Address for Notification of Deposit (required):	

Section 2 – Bank Account Information (contact bank ACH department for correct routing number)

Financial Institution Name:	
Financial Institution Address:	
Routing Number for ACH:	
Vendor's Bank Account Number:	
Type of Account:	Checking: <input type="checkbox"/> Savings: <input type="checkbox"/>

Section 3 – Authorization

I authorize Boerne ISD to credit my account with the above-named financial institution. If the district should erroneously deposit funds into my account, upon notification by the district I will authorize the necessary debit entries to correct the error, not to exceed the amount deposited in error.	
This authorization will remain in effect until the district has received written notification to terminate. A new authorization form must be completed if the above-name bank account is closed, or if vendor wished to designate a new bank account to received funds. Failure to notify Boerne ISD of a closed account will cause a delay in receiving payments.	
Print Name:	Title:
Signature:	Date:

To ensure accuracy, please attach a voided check for the above account. If a voided check is not attached, it is the responsibility of the vendor to ensure information is accurate. Incorrect information may delay receipt of funds.

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY	
Date Received	

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 Signature of vendor doing business with the governmental entity _____ Date _____

NOTE: FORM MUST BE COMPLETE WITH COMPANY NAME, SIGNATURE AND DATE EVEN IF COMPANY HAS NO CONFLICT OF INTEREST.

FELONY CONVICTION NOTIFICATION

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (a), states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony”.

Subsection (b) states “a School district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The District must compensate the person or business entity for services performed before the termination of the contract”.

This notice is not required of a Publicly Held Corporation.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Vendor’s Name: _____

Authorized Company Official’s Name (Printed): _____

Check one of the following and sign as appropriate.

My firm is a publicly held corporation; therefore, this reporting requirement is not applicable.

My firm is not owned or operated by anyone who has been convicted of a felony.

My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Details of Conviction(s): _____

Signature of Company Official: _____

Date: _____

TX SENATE BILL 19 – CHAPTER 2274 VERIFICATION

Pursuant to Section 2274.001, Texas Government Code: Effective September 1, 2021, contracts with companies who discriminate against firearm and ammunition industries is prohibited.

I, _____, the undersigned representative of _____ (Company or Business Name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, SB 19, Chapter 2274, Section 2274.001, certify that the company named does not discriminate against firearm and ammunition industries. If at any time the company named above discriminates against firearm and ammunition industries, I will immediately notify the Boerne Independent School District’s Purchasing Department.

TX SENATE BILL 13- SECTION 2274.002 VERIFICATION

Pursuant to Section 2274.002, Texas Government Code: Effective September 1, 2021, contracts with companies who boycott energy companies.

I, _____, the undersigned representative of _____ (Company or Business Name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, SB 13, Chapter 2274, Section 2274.002, certify that the company named does not boycott energy companies and will not boycott energy companies during the term of the contract. If at any time the company named above boycotts and energy company, I will immediately notify the Boerne Independent School District’s Purchasing Department.

HOUSE BILL 89 – SECTION 2270.001 VERIFICATION

Pursuant to Section 2270.001, Texas Government Code:

1. “Boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli- controlled territory, but does not include an action made for ordinary business purposes; and
2. “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

I, _____, the undersigned representative of _____ (Company or Business Name) being an adult over the age of eighteen (18) years of age, do hereby verify that the company named above, under the provisions of Subtitle F, Title 10, Government Code 2270:

Does not boycott Israel currently; and Will not boycott Israel during the term of the contract the above-named company, business or individual with Boerne Independent School District.

SENATE BILL 252 – CHAPTER 2252 VERIFICATION

Effective September 1, 2017 contracts with companies engaged in business with Iran, Sudan, or foreign terrorist organization is prohibited. A governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Section 806.051, 807.051 or 2252.153. The comptroller shall prepare and maintain, and make available to each governmental entity, a list of companies known to have contracts with or provide supplies and services to a foreign terrorist organization.

I, _____, the undersigned representative of _____ (Company or Business Name) being an adult over the age of eighteen (18) years of age, pursuant to Texas Government Code, Chapter 2252, Section 2252.152 and Section 2252.153, certify that the company names above is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. I further certify that should the above-named company enter into a contract that is on said listing of companies on the website of the Comptroller of the State of Texas which do business with Iran, Sudan or any Foreign Terrorist Organization, I will immediately notify the Boerne Independent School District's Purchasing Department.

Printed Name

Title

Signature

Date

NON-COLLUSIVE BIDDING CERTIFICATE

By submission of this bid or proposal, the Bidder certifies that:

1. This bid or proposal has been independently arrived at without collusion with any other Bidder or with any Competitor;
 2. This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of bids, or proposals for this project, to any other Bidder, Competitor, or potential competitor;
 3. No attempt has been or will be made to induce any other person, partnership, or corporation to submit or not to submit a bid or proposal;
 4. The person signing this bid or proposal certifies that he has fully informed himself regarding the accuracy of the statements contained in this certification, and under the penalties being applicable to the Bidder as well as to the person signing in its behalf.
-

LEGAL COMPLIANCE

It is the proposing company's duty and responsibility to have knowledge of and be responsible for the compliance with all applicable laws, rules, and regulations as they apply to this procurement process and any subsequent award.

If awarded under this document, does the firm agree to comply, in all relevant respects, with all Federal, State, and Local laws, rules and regulations related to the performance of services or supply of goods to Boerne ISD?

YES _____ NO _____

Signature below certifies accuracy of answers to all sections on this page.

Authorized Signature Printed Name

Company Name and Address

Telephone Number Date

Instructions - Form 1295

Effective January 1, 2016, a governmental entity may not enter into a contract requiring board approval, unless the business entity submits a Disclosure of Interested Parties (Form 1295) at the time the business entity submits the signed contract.

The following definitions apply:

1. "Interested Party" means a person:
 - a. Who has a controlling interest in a business entity with whom a governmental entity contracts: or
 - b. Who actively participates in facilitating the contract or negotiating the terms of the contract, including a Broker/Agent, intermediary, adviser, or attorney for the business entity.
2. "Intermediary" means "a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:
 - a. Receives compensation from the business entity for the person's participation;
 - b. Communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
 - c. Is not an employee of the business entity
3. "Business Entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. "Business entity" includes a for-profit or nonprofit entity. He term does not include a governmental entity or state agency.
4. "Contract" includes an amended, extended, or renewed contract.
5. "Controlling Interest" means:
 - a. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;
 - b. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or
 - c. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers."

A business entity must file Form 1295 electronically with the Texas Ethics Commission using the Commission's online filing application, which can be found at:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

The business entity must **print a copy** of the completed form, which will include a certification of filing containing a unique certification number. The Form 1295 must be **signed by an authorized agent** of the business entity, and **the form must be notarized**. **The business entity must then submit the completed, signed, notarized Form 1295 to the contracting School district.**

Again, inter-local contracts DO NOT REQUIRE a Form 1295 because governmental entities do not fall within the definition of "business entity". Notably, though, compliance with HB 1295 is required for contracts with nonprofit agencies, such as the Boerne Independent School District.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION
 My name is _____, and my date of birth is _____.
 My address is _____, _____, _____, _____, _____.
 (street) (city) (state) (zip code) (country)
 I declare under penalty of perjury that the foregoing is true and correct.
 Executed in _____ County, State of _____, on the _____ day of _____, 20____.
 (month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

