



ADVERTISEMENT DATE: **July 3, 2023**

**HAMILTON COUNTY DEPARTMENT OF EDUCATION
3074 Hickory Valley Road
Chattanooga, Tennessee 37421
(423) 498-7030
REQUEST FOR PROPOSAL**

RFP 23-45, ICE CREAM PRODUCTS FOR SCHOOL NUTRITION PROGRAM

Sealed envelopes containing proposals must be sent to the Purchasing Department and addressed to the Hamilton County Department of Education, 3074 Hickory Valley Road, Chattanooga, Tennessee 37421. In the lower left corner of the envelope, print your company name, RFP Bid File Number and the time and date of opening. Proposers must submit and mark an “original” bid, one “copy”, and one “USB Flash Drive” in one (1) sealed envelope. Proposal documents may be secured from the Purchasing Department at the above address and on our website at www.hcde.org via vendor registry. Proposals received shall be opened by the Purchasing Department at the time and place designated in the Request for Proposal and/or associated addenda. The opening for the RFP shall not be open to the public.

Proposals must be received in the Purchasing Department prior to the designated time for opening. Proposals received after the designated time of opening will be considered late and shall be considered Non-Responsive.

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| SOLICITATION NUMBER & TITLE | RFP 23-45, ICE CREAM PRODUCTS FOR SCHOOL NUTRITION PROGRAM |
| OPENING/DUE DATE & TIME | July 27, 2023 AT 1:30PM |
| LOCATION | 3074 Hickory Valley Road, Chattanooga, Tennessee 37421 |
| PROCUREMENT CONTACT | DEBBIE JACKSON |
| PHONE | 423-498-7030 |
| EMAIL | doe_purchasing@hcde.org |
| PRE-SOLICITATION MEETING | NO |
| TYPE | N/A |
| DATE & TIME | N/A |
| LOCATION | N/A |

BIDDER NAME: _____

**HAMILTON COUNTY DEPARTMENT OF EDUCATION
3074 Hickory Valley Road
Chattanooga, Tennessee 37421
(423) 498-7030**

REQUEST FOR PROPOSAL

RFP 23-45, ICE CREAM PRODUCTS FOR SCHOOL NUTRITION

Sealed bids will be received addressed to the **Attention of Purchasing Department, Hamilton County Department of Education**, 3074 Hickory Valley Road, Chattanooga, Tennessee 37421, **until 1:30PM on July 27, 2023**. Any bid received after the scheduled closing time for receipt of such bid will be considered late and shall be considered Non-Responsive.

ANTICIPATED PROCUREMENT SCHEDULE

The following is an anticipated timetable for the procurement process. HCS reserves the right to adjust the schedule, as it deems necessary. In the event significant adjustments are necessary, all affected parties will be notified. All times are for the Eastern Time Zone (ET).

| # | EVENT | DATE | TIME |
|---|--|------------------------------------|--------|
| 1 | RFP For Ice Cream Products Posted in Vendorregistry.com | July 3, 2023 | |
| 2 | Vendor to submit pre-approved equal request with nutrition and crediting information | July 17, 2023 | 3:00pm |
| 3 | Vendor clarifications, comments, and questions | July 17, 2023 | |
| 4 | Deadline to submit sample product, if requested | July 19, 2023 | 4:30pm |
| 5 | HCS deadline to notify the vendor of pre-approval | July 21, 2023 | 4:30pm |
| 6 | Deadline to submit bids | July 27, 2023 | 1:30PM |
| 7 | Bid will be presented to the Board for approval | August 17, 2023 | 5:30pm |
| 8 | HCS to issue Purchase Order to the awarded vendors | August 18, 2023 or soon thereafter | |

TERMS AND CONDITIONS

These terms and conditions shall be part of the Contract.

Note: Throughout this document the terms Proposer, Contractor, Company, Vendor, Firm or Bidder are used interchangeably and refer to any organization submitting a response to any solicitation. Additionally, the words terms, quote, bid, proposal are used interchangeably and refer to the submission in response to any solicitation. Hamilton County Schools, will be referenced as "HCS". The District will be used interchangeably. SNP stands for School Nutrition Program.

1. **Quality and Guarantee** - All material on which bids are submitted shall be of the quality and grade specified. Each bid must be accompanied with complete descriptions, catalog cuts, or other illustrations of each item upon which a bid is made. The names of manufacturers and stock numbers shall be clearly indicated. Approximate delivery dates are to be given for each item. Any item bid which does not completely meet stated specifications must be listed as an alternate and go through the pre-approved process.
2. **Requirements for Submitting Bids** – Only one bid package per vendor will be allowed. Bids made on forms other than the Bid Form will not be considered. No modifications or alterations to the bid documents may be made either by interlineation, supplements or deletions. Any additional materials offered by the vendor to be included in the bid submission that create a material change must be approved prior to the bid opening. The signature of the person submitting the bid shall be in longhand without erasure.
3. **Bid amendment:** If it becomes evident that an invitation must be amended, a formal written amendment will be issued to all known Bidders. If necessary, a new due date will be established.
4. **Bid delivery:** HCS requires that all bids be submitted and time/date-stamped by the date and before the time specified in the bid documents to be considered, regardless of method of delivery. The time clock in the Procurement Department shall be the official record of the time. HCS is not responsible for any technical difficulties of any vendor in the delivery of its bid. No late bids will be accepted, opened or returned.
5. **Bid forms:** Vendors must complete bid forms contained in the bid package. Failure to fully complete the bid forms may result in rejection of the bid.
 - a. All information shall be entered in ink or typed/computer generated. Mistakes may be crossed out and corrections inserted before submission of your bid. Corrections shall be initialed in ink by the person signing the bid. Corrections and/or modifications received after the closing time specified will not be accepted.
6. **Bid preparation:** Prospective bidders are solely responsible for their own expenses in Bid preparation and subsequent negotiations with HCS, if any.
7. **Bid submission and transmission:** Bid must be submitted in a sealed envelope with the Bid Number/Name, the closing date and time, as well as your company name provided on the envelope. If your response envelope is enclosed in another envelope/package for delivery, the latter should also be clearly labeled with the same identifying information.
 - b. All bids are to be F.O.B. Hamilton County, TN. All responses to this invitation become the property of HCS. Bids/Bids submitted via e-mail or facsimile machine are unacceptable.

8. **Rights of Owner** - The Hamilton County Board of Education reserves the right to reject any or all bids or any part thereof, to waive technicalities and informalities, and to award a contract to other than the low bidder. The right is reserved to reduce or increase the quantity of any item; and to award contract by item number, or group of items. Price, quality, and suitability will be considered in awarding bids. Samples to be submitted by the bidder upon request.
9. **Negotiation** – Hamilton County Department of Education may select a successful Proposer on the basis of initial offers received without discussions. Therefore, each Bid shall contain the Proposer's best terms from a cost or price, experience and technical and service standpoint. Hamilton County Department of Education reserves the right to enter into negotiations with Proposers. If Hamilton County Department of Education and the selected Proposer cannot negotiate a successful agreement, Hamilton County Department of Education may terminate said negotiations and begin negotiations with the other Proposers. Hamilton County Department of Education retains the right to negotiate with multiple Proposers simultaneously. This process will continue until a Contract has been executed or all Proposers have been rejected. No Proposer shall have any rights against Hamilton County Department of Education arising from such negotiations.
10. **Clarification of Bid Document** - Should a bidder find discrepancies in or omissions from the bid document or should he be in doubt as to its meaning, he shall at once request clarification from the Purchasing Department, at 423-498-7030 or doe_purchasing@hcde.org. This must be done prior to the date/time of the bid opening.
11. **Awarding of Contract** - Award will be made to the most responsive, responsible bidder(s) meeting specifications, whose proposal will be most advantageous to the District, price and other factors considered on this RFP, subject to Board approval. HCS reserves the right to add terms and conditions, deemed to be in the best interest of HCS, during final contract negotiations. Any such terms and conditions shall be within the scope of the RFP and shall not affect the basis of proposal evaluations.
12. **Tie-Bids** - A tie bid exists where two or more vendors offer products that meet all specifications, terms and conditions at identical points, including cash discount offered for prompt payment. In such case, a tie bid will be broken by the following methods, in descending order:
- By lot or coin toss.
13. **Tax Exemption**- Hamilton County Board of Education is a tax exempt entity/organization and will only pay those taxes for which it is obligated. Hamilton County Board of Education can provide a Government Certificate of Exemption for purchases where the entity's tax exemption may apply. All bidders should include in their bids, all sales and use tax which they are obligated to pay when making purchases for material or sub-contractor services. Sales and Use Tax shall be omitted when requesting pricing related to only equipment, supplies, product or equivalent purchases where the Certificate of Exemption would exempt Hamilton County Board of Education from paying such taxes.
14. **Meeting Specifications** - By my written signature on this bid, I (we) agree and certify that all items included in the bid meet or exceed any and all specifications covering such items. I (we) further agree, if awarded a contract, to deliver merchandise which meets or exceeds the specifications. Failure to comply with this section will result in removal of your firm from our list of bidders for at least six (6) months. This penalty does not preclude action to enforce specific performance.
15. **Declaration/Statement by Bidder** - The respondent hereby states that he, his company, or any of its employees, agents, officers or proposed sub-contractors have not violated or participated in a violation of, been convicted, or pled "nolo contendere" to any act involving an unlawful restraint of trade such as, but not limited to violations of the Sherman Act (15 U.S.C. § 1-2), the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961-1968), the Hobbs Act (18 U.S.C. §1961), the mail or wire fraud

statutes (18 U.S.C. §1341,1343), the false statements statute (18 U.S.C. §1001), the Tennessee Anti-Trust Act (T.C.A. § 47-25-101) or similar state or federal law. Respondent further states that he, his company or any of its officers, agents, or employees have not been debarred by any governmental agency (Federal, state, or local).

- c. In submitting this bid, you are certifying that you are aware of the requirements imposed by T.C.A. §49-5-413(d) to conduct criminal background checks through the Tennessee Bureau of Investigation and the Federal Bureau of Investigation on yourself and any of your employees who may come in direct contact with students or who may come on or about school property anytime students are present. You are further certifying that at no time will you ever permit any individual who has committed a sexual offense or who is a registered sex offender to come in direct contact with children or to come on or about school property while students are present.

16. Regulation Compliance:

- 1) **Environmental Tobacco Smoke:** Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years.
This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines.
- 2) **Equal Order 11246, "Equal Employment Opportunity":** All contracts awarded in excess of \$10,000.00 by grantees and their contractors or sub grantees shall be in compliance with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 (October 13, 1967), and Department of Labor regulation (41 CFR Part 60). Additional information can be obtained from the U.S. Department of Labor or the State's Department of Labor.
- 3) **Energy Policy and Conservation Act.** Applies to all contracts. All contracts must recognize appropriate mandatory standards and policies relating to energy efficiency which are contained in the State's Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163, 89 Statute 871) (PL94-165).
- 4) **2 CFR Appendix II to Part 200(I) Restrictions on Lobbying** - Applies to contracts renewals in excess of \$100,000.00. Contractors must comply with the certification and reporting requirements of 2 CFR 200.326.
- 5) **2 CFR Appendix II to part 200 (H)-Suspension and Debarment** - Applies to contracts expected to equal or exceed \$25,000 and contract renewals meeting the applicable dollar thresholds. Potential contractor must certify eligibility by signing the included form.
- 6) **2 CFR 200.319 (a) and (c) Drafting of Bid Specifications** - Requires that any person that develops or drafts specifications, requirements, statements of work, invitations bid, requests for proposals, contract terms and conditions or other documents for use by a State, school or institution conducting a procurement under the school nutrition programs must be excluded from competing for such procurements.
- 7) **2 CFR 200.319 Local Geographical Preferences** – Local geographical preferences shall be prohibited as specified in 2 CFR 200.319 (b), and prohibits the use of statutorily or administratively imposed in-state or local geographic preferences.
- 8) **2 CFR 200.322 Domestic Preference for Procurements** – Requires the District provide a preference for the purchase of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement and other manufactured products).
- 9) **T.C.A. § 50-9-113, Drug-Free Workplace Affidavit** – A form required to be signed to affirm company is in compliance.
- 10) **Certification of Compliance with Tennessee Public Chapter #587** – A background check is not a requirement of the vendor representatives as long as school nutrition staff is present for visits and deliveries. The Public Chapter 1080, (D) was amended to: (C) Exempt delivery or

pick-up service providers where those services involve only scheduled visits under the supervision of school personnel.

- 11) **Non-Collusion Affidavit** – The form states the proposer agrees and understands the affidavit and is required to be signed.
- 12) **Certification of Compliance with IRAN Divestment Act.** A local form required to be signed by the vendor for each bid
- 13) **Food, Drug, and Cosmetic Act, 1938, amended 1990, 21 CFR Part 101; Nutrition Labeling and Education Act of 1990; and the Agricultural Marketing Act 1953, amended 1957** - The vendor will responsibly supply goods for the School Nutrition Department programs meeting the listed regulations for standards of identity, quality and fill; grades of foods; and product definition.
- 14) **Discovery Rights** – After purchasing your product the School Nutrition Program will be the sole user. The School Nutrition Program will respect the patent and copyright of your product and will not share with any other entity.
- 15) **Title VI of the Civil Rights Act of 1964** - No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- 16) **Title IX of the Education Amendments of 1972** - Prohibits discrimination based on gender in all programs or activities that receive Federal financial assistance. Title IX also includes same gender harassment as well as student-to-student harassment.
- 17) **Buy American Certification**– This District participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for program meals. A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR Part 210.21(d). Note that products must be both produced and processed in the U.S. Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be completed using the “Buy American Certification Form” and submitted with the bid. If a request for an exception occurs after time of bid and during the contract period, it must be submitted in writing to the School Nutrition Director, a minimum of 1 day in advance of delivery.
Failure to complete and sign the Buy American Certification form and include it with the bid response will be considered a non-responsive bid.

If the vendor ships items that have not been approved by the SFA during the contract period, the non-compliance will be addressed as a breach of contract.

17. **Bid Acceptance**- Bidders shall hold their price and/or discount firm and subject to acceptance by HCS for the bid period unless otherwise indicated in their bid.
18. **Qualifications of Bidders**- A bidder may be required, before the award, to show to the complete satisfaction of HCS that it has the necessary facilities, ability, insurance, and financial resources to provide the service or goods specified.
19. **Restrictive or Ambiguous Specifications**- It is the responsibility of the prospective bidder to review the entire Request for a Proposal packet and to notify the Procurement Department if the specifications are formulated in a manner that would unnecessarily restrict competition. Any such protest or question regarding the specifications of bidding procedures must be received in the Procurement Department *not*

less than seventy-two hours prior to the time set for bid opening. These requirements also apply to specifications that are perceived to be ambiguous.

20. **Samples:** Samples of articles, when required, shall be furnished free of cost of any sort to HCS and may be retained for future comparison. Samples which are not destroyed by testing or which are not retained for future comparison will be returned upon request at bidder expense.
21. **TN Department Of Revenue Requirements:** Before the Contract resulting from this solicitation is signed, the apparent successful Proposer must be registered with the Department of Revenue for the collection of Tennessee sales and use tax. HCS shall not approve a contract unless the Proposer provides proof of such registration. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation.
22. **No Contact Policy-** After the date and time established for receipt of bids by the HCS Procurement Department, any contact initiated by any bidder with any HCS representative, other than the Procurement Division representative listed herein, concerning this solicitation is prohibited. Any such unauthorized contact may cause the disqualification of the bidder from this procurement transaction.
23. **Quantities-** HCS does not guarantee any quantities of items to be purchased. We will buy these items on an as-needed basis.
24. **TN Cooperative Purchasing:** also known as piggybacking, HCS reserves the right to extend the terms, conditions and prices of this contract to other HCS departments who express an interest in participating in any contract that results from this RFP. Total participation cannot exceed 10% of the total dollar amount of the original contract. Each of the piggyback institutions will issue their own purchasing documents for purchasing of the goods. Bidder agrees that HCS- School Nutrition Dept shall bear no responsibility or liability for any agreements between Bidder and the other HCS Department(s) who desire to exercise this option.
25. **Acceptance:** all terms and conditions in this contract are deemed to be accepted by the vendor and incorporated in the bid, except the provision(s) which are expressly excluded by the specifications.
26. **Additional Information:** vendors are cautioned that any statement made by any individual or employee of HCS that materially changes any portion of the bid document, either before or after the issuance of the bid documents, shall not be relied upon unless subsequently ratified by a formal written amendment to the bid document.
27. **Alteration or amendments:** no alterations, amendment, changes, modifications or additions to any contract resulting from this bid shall be binding on HCS without the prior written approval of HCS.
28. **Assignment:** contractors shall not assign or sub-contract this agreement, its obligations or rights hereunder to any party, company, partnership, incorporation or person without the prior written consent of HCS.
29. **Brand names:** brand names and numbers, when used, are for reference to indicate the character or quality desired. The proposal should be made for the brand and item code specified or pre-approved equal. Pre-approved equal items will be considered, they are clearly identified by manufacturer, item code, nutrition information, crediting information and other related material. If the vendor is submitting an item to be approved as an equal, specifications are to be submitted as outlined in the Instructions to Bidders. Pre-approval requests must come from a broad-line distributor with the capacity to service this contract. Manufacturers seeking pre-approval for items must coordinate the request through a distributor.

- 30. Code of Conduct, 2 CFR 200.318(c)(1)**, No employee, officer or agent of the Hamilton County Department of Education School Nutrition Department can participate in the selection, award of administration of a contract supported with Federal Funds if a conflict of interest, real or apparent, would be involved. Real and apparent conflicts of interest exist when:
- The employee, officer or agent; any immediate family member of same; partner or organization that employs or is about to employ any of the above or has a financial or other interest in the firm selected for the award
 - Organizational structures and personnel practices exist that undermine the independence and integrity of the procurement process
 - Gratuities, favors, or anything of monetary value are solicited or accepted from current or potential vendors on behalf of any individual or the organization before, during, or after contract award.
- 31. Code Of Ethics**: all suppliers are expected to adhere to business ethics and professional behaviors as outlined in these documents.
- 32. Compliance With All Laws**: companies submitting bids must agree to observe and comply with all federal, state, and local laws, statutes, ordinances, and regulations, including but not limited to title vi of the federal civil rights act of 1964, the equal employment opportunity act and the regulations issued there under by the federal government, the Americans with disabilities act of 1990 and the regulations issued there under by the federal government, in any manner affecting the provision of goods and/or services, and all instructions, prohibitive orders issued, and shall obtain all necessary permits.
- 33. Declarative Statement**: any statement or word (e.g., must, shall, will) are declarative statements and the vendor must comply with the conditions. Failure to comply with any such statement may result in their bid being deemed non-responsive and disqualified.
- 34. Default**: in case of default by the vendor, HCS may procure the articles or services from other sources and may deduct from any monies due, or that may thereafter become due to the vendor, the difference between the price named in the contract or purchase order and actual cost thereof to HCS. Prices paid by HCS shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the procurement director.
- 35. Deliveries**: must be accompanied by delivery tickets or packing slips. These shall contain the following information for each item delivered: purchase order number; school name, item number; name of article; quantity; and supplier.
- 36. Delivery Of Goods And Services** - it is understood and agreed that this bid shall constitute an offer which, when approved by the school board and accepted in writing by the purchasing department, will constitute a valid and binding contract between the undersigned and the Hamilton County Department of Education. Failure to supply needed material and/or services will result in removal of your firm from our list of bidders for at least six (6) months.
- 37. Contract Approval**: The RFP and the provider selection processes do not obligate HCS and does not create rights, interests, or claims of entitlement in the apparent best-evaluated Proposer or any vendor. No services or goods may be rendered without issuance of a valid HCS Purchase Order.
- 38. RFQ, RFP, and Proposal Incorporated into Final Contract**: Any Request for Qualifications and/or Request for Proposal and the provider's response to such, as amended between HCS and the successful provider, will be included as a part of the contract by reference. It should be understood that in the event of a discrepancy or ambiguity regarding the Proposer's duties, responsibilities and performance under this contract, these documents shall govern in the following order of precedence: Request For Qualifications and/or Request for Proposal and associated amendments, the Proposal/Bid Response and

any amendments, technical specifications, clarifications and addenda made to the Proposal/Bid response.

- 39. Indemnifications/Hold Harmless:** contractor shall indemnify, defend, save and hold harmless HCDE, the school board, administration, and their agents and employees from any and all suits, claims, actions or damages of any nature brought because of, arising out of, or related to the contractor's performance under the terms of this contract, including the work of any sub-contractor, and without regard to any allegations of fault.
- 40. Invoices:** The Proposer shall invoice the District for Food items delivered to the school cafeterias and as required below prior to any payment. Invoices submitted electronically will be preferred. Statements and invoices are required to be submitted to CN_AP@hcde.org and SN-AP@hcde.org.

The Proposer agrees that an invoice shall be clear and accurate (all calculations must be extended and totaled correctly) and detail the following required information:

- Company Name
- School Name
- Purchase Order Number
- Invoice/Reference Number (assigned by the Vendor)
- Invoice Date
- Item Numbers
- Description of Item
- Quantity
- Unit Price and Extensions by Item
- Total Amount Due for the Invoice Period
- Delivery Date

The Proposer understands and agrees that an invoice to the District under this Contract shall:

- include only charges for items described in this RFP.
- not include any future work but will only be submitted for completed service; and
- not include sales tax or shipping charges.

The Proposer agrees that timeframe for payment (and any discounts) begins when the District Accounts Payable representative is in receipt of each invoice meeting the minimum requirements above.

- 41. Non-Collusion:** vendors, by submitting a signed bid, certify that the accompanying bid is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under Tennessee or federal law.
- 42. Non-Conflict Statement:** vendors, by submitting a signed bid, agree that it has no public or private interest and shall not acquire directly or indirectly any interest that would conflict in any manner with the provision of its goods or performance of its services. Supplier warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of HCS as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the contractor in connections with any goods provided or work contemplated or performed relative to the agreement.
- 43. Non-Discrimination Statement:** supplier must agree that no person on the grounds of age, color, disability, gender, genetic information, national origin, political affiliation, race, religion, sexual orientation, or veteran's status shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this agreement, or in the employment practices of vendor. Supplier shall upon request show proof of such non-discrimination, and shall post in conspicuous

places available to all employees and applicants notices of non-discrimination. Suppliers covenants that it complies with the fair wage and hour laws, the national labor relations act, and other federal and state employment laws as applicable. Supplier covenants that it does not engage in any illegal employment practices.

- 44. Payment Method**- The successful bidder shall be issued a purchase order per contract period. This has to be received prior to products being ordered/shipped. Purchase Order will detail the quantity, specific items(s) and the contracted price for each item.
- 45. Payment Terms**: HCS payment terms are Net 30 after receipt/inspection of merchandise and receipt of invoice unless otherwise stated in the contract documents. The District does not permit late fees on invoices.
- 46. Public Access to Procurement Information**: Subject to the requirements of the TN Open Records Act, information relating to the award of a particular contract shall be open to the public only after evaluation of that bid or bid has been completed. All public records pertaining to procurement shall be open for inspection during normal business hours as scheduled in advance with the Procurement Department.
- 47. Protest of Award**: Any vendor who has submitted a timely bid or bid in response to a solicitation may protest the recommendation of award for a contract by submitting such protest to HCS's Director of Procurement. Any protest must be submitted in writing and be in the possession of the Procurement Department before noon (ET) of the 2nd working day following the public recommendation of contract award.

FAILURE OF A VENDOR TO FOLLOW THE PROTEST REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED IN THIS SECTION CONSTITUTES A WAIVER OF THE PROTEST AND ANY RESULTING CLAIMS.

- 48. Right to Audit**: During all phases of the work and services to be provided hereunder the Provider agrees to permit duly authorized agents and employees of HCS to enter the Provider's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Provider will maintain all books, documents, papers, accounting records, and other evidence pertaining to the fee paid/charged under this Contract and make such materials available at their offices at all reasonable times during the period of this Contract and for seven (7) years from the date of payment under this Contract for inspection by HCS or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.
- 49. Severability**: If any provisions of these Rules or any application thereof to any person or under any circumstance is held to be invalid, such invalidity shall not affect the provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these Rules are declared to be severable.
- 50. Taxes**: HCS is a tax-exempt organization. Sales, use or federal excise taxes should not be included in your bid.
- 51. Termination for Cause**: In the event of any breach of contract by the successful service provider(s), HCS may serve written notice to the service provider of its default, setting forth with specificity the nature of the default. If the defaulting party fails to cure its default within thirty (30) days after receipt of the notice of default, then HCS shall have the right to terminate the contract upon thirty (30) days written notice and pursue all other remedies available to HCS, either at law or in equity, HCS shall have the option of awarding the contract to the next most advantageous proposer or reissuing a bid.
- 52. Termination for Convenience**: Contract may be terminated for convenience by either party by giving written notice to the other, at least sixty (60) days before the effective date of termination unless otherwise

specified in the solicitation and/or contract documents. Said termination shall not be deemed a Breach of Contract.

- 53. Termination Due To Non-Appropriation:** HCS shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of HCS's future fiscal years unless and until HCS appropriates funds for this Contract in HCS's Budget for each such future fiscal year.
- 54. Terms and Conditions:** In the event of a conflict between the specifications and these terms and conditions, the specifications will govern.
- 55. Vendor Performance -** The School Nutrition Director or designee shall be responsible for verifying contract performance. If the Vendor fails in full or part to perform or comply with any provision of this Contract or the terms or conditions of any documents referenced and made a part hereof, Hamilton County School Nutrition Program may terminate this Contract, in whole or in part, and may consider such failure or noncompliance a breach of Contract. Vendors with poor performance will be notified at the time of such performance and be given opportunity to correct the problems. Documentation will be kept on file. Any vendor with continued poor performance will be removed from the potential vendor list for the rest of the school year and the next bid cycle.

Failure to deliver within the time specified or within a reasonable amount of time, or failure to make replacements of a rejected item immediately will constitute authority to purchase on the open market so as to replace the item(s) rejected and/or not received. On all such purchases, the Vendor agrees to promptly reimburse schools for excess costs incurred by such a purchase. Reasons for product rejection may be any one of the following:

- Quality
- Price
- Serviceability of item (damage)
- Product does not meet bid specifications

Breach - A party shall be deemed to have breached the contract if any of the following occurs:

- 1) Failure to provide products or services that conform to contract requirements or
- 2) Failure to maintain/submit any report required hereunder; or
- 3) Failure to perform in full or in part any of the other conditions of the contract
- 4) Violation of any warranty

Hamilton County School Nutrition Program actions in event of a breach –

Upon the occurrence of any event of breach, the School system may take any one, or more, or all, of the following actions:

- a. Give the Vendor a written notice of the breach requiring it to be remedied within thirty days from the date of the notice, unless another time line is specified; and in the event of breach is not remedied within the time limit, terminate this contract with notice provided to the Vendor;
- b. Give the Vendor a written notice specifying the event of breach and suspending all payments to be made under this contract and ordering that the portion of the contract price, which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the HCS SNP determines that the Vendor has cured the breach, shall never be paid to the Vendor;
- c. Set off against any other obligation the HCS SNP may owe to the Vendor any damages the HCS SNP suffers by reason of any event of breach;
- d. Treat the contract as materially breached and pursue any of its remedies at law or in equity, or both.

- 56. Non-Compliance.** If a proposer materially fails to comply with any terms of an award, whether stated in a Federal Statute or regulation, an assurance, in a State plan or application, a notice of award, or

elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstance(s):

- Temporarily withhold cash payments pending correction of the deficiency by the proposer or more severe enforcement action
- Disallow all or part of the cost of the activity or action not in compliance
- Wholly or partly suspend or terminate the current award for the proposer
- Withhold further awards for the program
- Take other remedies which may be legally available
- Excluding the current bidder from rebidding from current bid as well as the next bid cycle.

57. Warranties: Vendor warrants to HCS that all items delivered and all services rendered shall conform to the specifications, drawings, bid and/or other descriptions furnished and/or incorporated by reference, and will be fit for the particular purpose purchased, of merchantable quality, good workmanship, and free from defects. Vendor extends to HCS all warranties allowed under the U.C.C. Vendor shall provide copies of warranties to the HCS. Return of merchandise not meeting warranties shall be at Vendors expense.

58. Insurance Requirements: The Vendor shall maintain the following minimum insurance requirements throughout the duration of the Agreement unless otherwise stated herein. HCS reserves the right to request additional documentation or additional policies be provided at its sole discretion and where deemed in its best interest. HCS in no way represents that the insurance required is sufficient or adequate to protect the Vendor's interest or liabilities.

Vendor shall provide Worker's Compensation Insurance as required by applicable laws of the State of Tennessee and shall provide liability insurances as required. All insurance must be occurrence based. Vendor shall add Hamilton County Department of Education as additional named insured by policy endorsement and provide a certificate of insurance evidencing such coverage and endorsement number (#) for each additional named insured. Complete copies of insurance policies must be provided, if requested. A failure to provide said documentation will be considered a contract breach and grounds for termination of contract or pending award recommendation.

| Insurance Required | |
|------------------------------|---|
| Coverage | Amount |
| Workers Compensation | Statutory Limits of Tennessee |
| Employers Liability | \$1,000,000 per occurrence |
| Commercial General Liability | \$1,000,000 each occurrence; \$2,000,000 aggregate |
| Auto (Truck) Liability | \$1,000,000 each occurrence |

59. Waiving of Informalities: HCS reserves the right to waive minor informalities or technicalities when it is in the best interest of HCS.

60. Provisions Required by Law Deemed Inserted: Each and every provision of law and clause required by law to be inserted in this contract will be deemed to be inserted herein and the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract will forthwith be physically amended to make such assertion or correction.

61. Assurance Statement:

The vendor hereby agrees that it will comply with:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

- iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
- vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
- viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3);
- ix. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- x. The USDA non-discrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

62. Governing Law/Jurisdiction: The Agreement shall be governed by the laws of the State of Tennessee. Any action brought in law or in equity to enforce any provision of the entire Agreement shall be filed in the appropriate state court in Hamilton County, Tennessee. In any action to enforce this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney's fees. By submission of a proposal and acceptance of a Purchase Order or Contract, Vendor hereby agrees to adhere to Governing Law/Jurisdiction requirements as described herein.

HCS DOES NOT DISCRIMINATE ON THE BASIS OF AGE, COLOR, DISABILITY, GENDER, GENETIC INFORMATION, NATIONAL ORIGIN, POLITICAL AFFILIATION, RACE, RELIGION, SEXUAL ORIENTATION, OR VETERAN'S STATUS IN THE EVALUATION AND AWARD OF BIDS.

SPECIAL TERMS & CONDITIONS

1. **Contract Period**

The Vendor shall be responsible for furnishing and delivery to the HCS School Nutrition Department the commodity or services described herein on an “as-needed basis” for School Year 2023-2024. Upon mutual written agreement of both parties, the parties may renew the Agreement, in whole or in part, for up to four additional years (five years total). The vendor is allowed to petition for price re-determination (price increases/decreases) by February 1 each year. The Contract Period is to begin as soon as it is Board approved and end on June 30, 2024.

2. **Renewal Provision-** The contract may be renewed for up to four additional years (five years total) with price redeterminations upon mutual agreement by the vendor and the Hamilton County Department of Education School Nutrition program. The vendor must petition items for price redetermination (price increases/ decreases) by February 1 of each year for consideration in the next contract period:

February 1, 2024 – for contract period of July 1, 2024 – June 30, 2025

February 1, 2025 – for contract period of July 1, 2025 – June 30, 2026

February 1, 2026 – for contract period of July 1, 2026 – June 30, 2027

February 1, 2027 – for contract period of July 1, 2027 – June 30, 2028

3. **Pricing:** the price must be firm for the contract period.

4. **Contract Period-** The contract period ends June 30, 2024.

5. **Price Re-determination-** Price re-determination is allowed annually at the time of contract renewal and at the frequency agreed upon prior to contract award, as outlined in the technical proposal. The Bureau of Labor, Consumer Price Index – All Urban consumers, U.S. Food Away from Home will be the comparison index that will be used for price-redeterminations. Since the indexes are subject to revision after originally published, the most current index will be used. Base Index at the time of renewal (latest available) divided by the index at the time of the beginning of the contract period, or last price revision. For the potential contract renewal for July 1, 2024: December 2023 Index divided by July 2023 Index. For the potential contract renewal for July 1, 2025: December 2024 Index divided by July 2024 Index. The contract value using the price re-determinations must fall within the acceptable range. If the contract value is not within the acceptable price range, the vendor must revisit the pricing. Price increases based on uncontrollable events will not be accepted. If the pricing requirements cannot be met, the bid will not be approved for purchasing and will have to be re-bid.

6. **Pre-Approved Process-** Vendors electing to submit a brand and product number that is not specified must mail, email or deliver a list of requested substitutions with nutrition labels and crediting information, please refer to page 2, **Anticipated Procurement Schedule** for dates and times. If requested, please contact Kristen Nauss at Nauss_K@hcde.org (2501 Dodd Ave, Chattanooga, TN 37407). Early requests are encouraged and will be considered on a rolling basis.

If the vendor prefers to deliver the samples, delivery arrangements can be made by calling Mrs. Nauss at 423 498-7283.

The samples will be used to help determine selection of items and the “PRE-APPROVED EQUAL” status. Partial cases may be sent, if requested. Samples must be clearly marked with manufacturer’s name, code number and product description. Samples are to be provided at no cost to the District.

1. The proposed item must meet the specification as written in the “Product” column on Product list spreadsheet. If the proposed item doesn’t meet these conditions, please don’t send it.

- After meeting the previous requirement, the vendor will be asked to provide enough servings to fulfill a tasting test, conducted by SNP. For the proposed item to be pre-approved, it must reach an 80% acceptance in the tasting test.

The nutrition data MUST be submitted with ALL ‘Pre-Approved Equal’ requests.

All the bid forms, product formulation sheets, proposal form (spreadsheet) SPSPD as well as the calculations must be provided by the vendors with the hardcopy submission on a USB drive.

7. All the products in this RFP must meet **USDA** Smart Snacks Guidelines.

8. The original document cannot be changed in format or in items requested. If the bidder changes pack, size and/or brand, it must be clearly changed on the bid form before it is considered. The bidder must draw a straight line through the originally requested item. Do not “white out” or delete the originally requested item. You may write the changed pack, size and/or brand under/beside the original request. DO NOT CHANGE THE ESTIMATE USAGE. We prefer that all bids be submitted type written or computer generated.
9. **Items Not Bid-** Proposers are expected to bid all items they stock and only use an item one time in the bid. If an item is used multiple times in the bid, it will be counted for the line item where it most accurately meets the written description and others will be considered a no bid item. For the purpose of calculating a bottom line tabulation, in the event an item is not bid, the highest quoted price (from another vendor or market price) will be used for that item in calculating extensions to obtain bottom line pricing totals.

Failure to obtain pre-approval for a request to substitute a brand will deem the item as NO BID. Proposals with more than 50% NO BID items will be rejected.

10. **Do Not Change The Estimated Usage** – Estimated usages are given for each item for the contract period and for the purpose of bid evaluation. School Nutrition will re-adjust the estimated usages for the purpose of bid tabulation; the distributor is not to change this. The estimated usages do not indicate the actual quantity which will be ordered, since the volume will depend upon the requirements which develop during the contract period. Estimated usages are based on last year’s purchases and anticipated menu changes and are estimated for the bid period. When the estimated usage is for new/never used item, the amount is a projected amount based on anticipated acceptance by the students as well as without prior knowledge of the final price of the item(s). The School Nutrition Program (SNP) shall not be bound to purchase based on estimated usage. Efforts will be made as soon as possible after the award is made to communicate with the vendor any items for which the estimated usage is expected to drastically change. Also, the vendor will be notified of items that won’t be purchased due to their high price. The SNP will make every effort to provide the monthly menu to the vendor in advance.

11. **Additional Items Added To Bid-**

- A) Sampling Items: The School Nutrition Program reserves the right to purchase new items not on the current bid. The purchase will be a one-time only purchase and for the purpose of evaluating items/sampling items for future menus (student sampling), and all procurement regulations will be followed. If the item is acceptable with students, the appropriate methods for procurement will be followed for the purchase of these items. This purchase will be declared as a “purchase for sampling.”
- B) Adding Items During the Year: The School Nutrition Program may purchase new items during the year and will adhere to the local, state and federal procurement regulations.
- C) Adding Items at the Time of Contract Renewal: Since new products are developed and reformulated during the year, new items may be added to the bid at the time of Contract Renewal or as needed. The addition of new items at time of contract renewal must not change the scope of the original bid. Bid quotes will be obtained for all items and evaluated by the School Nutrition Program.
- a. If an item cost is between \$1.00 and \$10.00, the fee will be \$1.00
 - b. If an item cost is between \$10.01 and \$30.00, the fee will be \$2.00
 - c. If an item cost is \$30.01 and above, the fee will be \$3.00
 - d. A minimum of 20% of the items will be audited by the School Nutrition Program prior to the time of renewal by requesting the vendor’s invoicing to determine cost. The fixed fee cannot change. The items added will remain firm-fixed throughout the contract period.
 - e. The awarded items will become part of the bid list for the next contract period.
 - f. The additions/or deletions to this bid will not exceed 10% of the monetary value of bid. This will be calculated based on the velocity reports from the previous year. New items will be calculated based on estimated usage. Any changes greater than 10% will not be allowed.

Adding an Item to Replace Permanently Rejected Item: In the event that the School Nutrition Program determines any item on the current bid is unacceptable due to continued poor quality, lack of availability or poor student acceptance the School Nutrition Program has the right to permanently reject the unacceptable item. The replacement products will be of equality meeting original bid specs and equal to or less than the original bid price. If the vendor cannot replace the product at the original bid price, then the item will be added at cost plus fixed fee value. replaced product has to be pre-approved by the School Nutrition Program Director or designee.

12. **Items Unavailable-** If, during the bid period, a vendor cannot supply an item, the Director of School Nutrition must be notified before a substitution is made. Substituting an item for which approval was not requested and received by the SNP Director may result in rejections of that item plus delaying or refusal of payment by the Board. A cafeteria manager is not to accept substitutions unless authorized by the School Nutrition Director or designee. Any items delivered that were not authorized by the School Nutrition Director will be picked up at the vendor's expense and proper credit issued to the school where deliveries were made. Substitutions will be of equal quality meeting original bid specs, case size and/or equal to or less than the original bid price.
13. **Stock Item-** If an item was originally bid, unless the School Nutrition Program identified an item on the specification sheet as a "Special order requests", (meaning that is a seasonal/special situation item) then all bid items are expected to be in stock and available for regular delivery. Failure to be able to provide regular products at a 90% fill rate can constitute a breach in contract.
14. **Velocity Report-** A velocity report of items used (including those never purchased) are required periodically in email form to the School Nutrition Director or designee. The successful bidder MUST supply a RECAP by item sold (quantity per month) on a YEAR-END basis. Final invoice will not be paid until the year-end recap is provided.
15. **Lost/Damaged During Delivery-** The successful bidder must accept liability for the expense of goods delivered damaged, lost during delivery, or any other damage incurred by the supplier's employees.
16. **Contact Information-**The successful bidder must furnish the School Nutrition Department office with a local contact name and number for potential issues during the contract period. This contact should be available 24 hours.
17. By the vendor's signature on the face of this bid, they certify this bid is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud.
18. **Inspection And Acceptance-** All food products which are discovered to be defective or which does not conform to the 'sell by date' of the manufacturer herein upon initial inspection, or at any later time if the effects contained in the food products were not reasonably ascertainable upon inspection, may be returned at the seller's expense for full credit or replacement. No goods returned as defective will be replaced without buyer's written authorization. Such return shall in no way affect the District's discount privileges. Such right to return offered to the District arising from the District's receipt of defective goods shall not exclude any other legal, equitable or contractual remedies the District may have therefore.
19. **Bankruptcy Or Insolvency-** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of seller, or in the event of breach of any of the terms hereof including the warranties of the seller, the District may cancel this contract or affirm the contract and hold the seller responsible for damages.
20. **Responsibility For Supplies-** The Proposer shall be responsible for the items in this RFP until they are delivered at the designated delivery point; and the proposer shall bear all risk for rejected and recalled after notice of rejection. These will be replaced free of charge upon notice of recall/rejection or if wrong

items are bought. No deliveries can be left on a dock or other outside location or with any other person than the school nutrition manager or designee.

- 21. Record Retention**- All records shall be maintained by the proposer for three (3) years after final payment has been made or until all disputes are resolved. All such records must be made available to the State Agency, the United States Department of Agriculture, the Comptroller General of the United States, or any of their duly authorized representatives.

Records must be retained for at least the Federal record retention period of three (3) years; however, records must be retained longer if the following occurs:

- A) Until all pending matters are resolved. Pending matters include contract disputes, audits, investigative and review findings.
- B) The Federal record retention period begins with the later of the date:
 - 1) The final payment is made under the contract,
 - 2) The contract concludes; or
 - 3) The final claim for reimbursement for the fiscal year in which the contract concludes is submitted.
- C) For renewable contracts, records of the initial procurement through the conclusion of the final renewal must be maintained.

- 22. Documentation**- All aspects of each procurement, including the rationale for the procurement selected, contract type selected and basis for contract price must be documented. All records documenting the procurement history, including all extensions and renewals, must be retained for the greater of the State's record retention requirements or for the Federal record retention period. Records must be retained beyond this period until all pending matters are resolved. Failing to maintain required records can result in audit and review findings, cost disallowances and prevent the School Nutrition department from effectively responding to RFP protests and contract disputes.

- 23. Independent Successful Proposer**- The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. The Successful proposer, being an independent Successful proposer and not an employee of the District, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Successful proposer's employees, and to pay all applicable taxes incident to this Contract.

- 24. Limitation Of Liability**- The parties agree that the Proposer's liability under this Contract shall be limited to services actually rendered that have not been previously paid for but for which the warranty is still in place and as may be added, PROVIDED THAT in no event shall this section limit the liability of the Proposer for intentional torts, criminal acts, or fraudulent conduct.

- 25. District Liability**-The District shall have no liability except as specifically provided in this Contract. HCS shall not be responsible for any payment, insurance, or incurred liability.

- 26. Subject To Funds Availability** - The Contract is subject to the appropriation and availability of District funds. In the event that the funds are not appropriated or are otherwise unavailable, the District reserves the right to terminate the Contract upon written notice to the Proposer. Said termination shall not be deemed a breach of Contract by the District. Upon receipt of the written notice, the Proposer shall cease all work associated with the Contract. Should such an event occur, the Proposer shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon

such termination, the Proposer shall have no right to recover from the District any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

27. Proposer shall acknowledge that it and its employees serve as independent proposers and that HCS shall not be responsible for any payment, insurance, or incurred liability.
28. **RFP Cancellation**-The District reserves the right, at its sole discretion, to cancel or to cancel and reissue this RFP in accordance with applicable laws and regulations and does not guarantee that a contract award will result from this RFP.
29. **Removal Of Proposer's Employees**- The successful proposer agrees to utilize only experienced, responsible and capable people in the performance of the service. The District may require that the successful proposer remove from the job covered by this contract, employees who endanger persons or property or whose continued employment under this contract is inconsistent with the interest of the District.
30. **Licensure**-The apparent successful Proposer (and Proposer employees as applicable) must hold all necessary, appropriate business and professional licenses to provide service as required. The District will require any Proposer to submit copies of proper licensure along with the proposal.
31. **Disclosure Of Proposal Contents**-
- Each proposal and all materials submitted to the District in response to this RFP become the property of the District. Selection or rejection of a proposal does not affect this right. By submitting a proposal, a Proposer acknowledges and accepts that the full proposal contents and associated documents will become open to public inspection in accordance with the laws of the District.
 - The District will hold all proposal information, including both technical and cost information, in confidence during the evaluation process. Notwithstanding the foregoing, a list of actual Proposers submitting timely proposals may be available to the public, upon request, after technical proposals are reviewed and the recommended proposer is approved by the Board.
32. **Proposal & Proposer Prohibitions**-
- A proposal must not include the Proposer's own contract terms and conditions that constitute material change. If a proposal contains such terms and conditions, the District, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.
 - A proposal must not restrict the rights of the District or otherwise qualify the offer to deliver products and services as required by this RFP. If a proposal restricts the rights of the District or otherwise qualifies the offer to deliver products and services as required by this RFP, the District, at its sole discretion, may determine the proposal to be a non-responsive counteroffer and reject it.
 - A proposal must not propose alternate services (i.e., offer products or services different from those requested and required by this RFP). The proposer cannot contract with third party vendor to deliver the contract services. The District will consider a proposal of alternate products or services or third-party contracts to be non-responsive and reject them.
 - A Cost Proposal must not result from any collusion between Proposers. The District will reject any Proposal that was not prepared independently without collusion, consultation, communication, or agreement with any other Proposer. Regardless of the time of detection, the District will consider any such actions to be grounds for proposal rejection or contract termination.
 - A Proposer must not provide, for consideration in this RFP process or subsequent contract negotiations, incorrect information that the Proposer knew or should have known was materially incorrect or subject to record. If the District determines that a Proposer has provided such incorrect information, the District will deem the Proposer's proposal non-responsive and reject it.

- A Proposer must not submit more than one Technical Proposal and one Cost Proposal in response to this RFP. If a Proposer submits more than one Technical Proposal or more than one Cost Proposal, the District will deem all of the proposals non-responsive and reject them.
- A Proposer must not submit a proposal as a prime proposer while also permitting one or more other Proposers to offer the Proposer as a sub-proposer in their own proposals. Such may result in the disqualification of all Proposers knowingly involved.

33. Proposal Errors & Revisions - A Proposer is liable for any and all proposal errors or omissions. A Proposer will not be allowed to alter or revise proposal documents after the Proposal Deadline time and date given.

34. Proposal Withdrawal - A Proposer may withdraw a submitted proposal at any time before the Proposal Deadline time and date detailed in the RFP deadline time and date by submitting a written request signed by an authorized Proposer representative. After withdrawing a proposal, a Proposer may submit another proposal at any time prior to the Proposal Deadline.

SCOPE OF SERVICES

RFP 23-45 ICE CREAM PRODUCTS FOR THE SCHOOL NUTRITION PROGRAM

1.0 SUMMARY OF SCOPE

Hamilton County Schools (HCS) seeks to contract with a qualified, experienced, and professional Vendor to furnish and deliver Ice Cream Products to the school kitchens.

2.0 DETAILED SCOPE OF SERVICES

Hamilton County Schools (HCS) seeks to contract with a qualified proposer to furnish and deliver Ice Cream Products to the 72 kitchens in the School District and School Nutrition warehouse. The proposer will be evaluated on qualifications and experience, as well as technical availabilities to provide service and affordable prices in the best interest of the District.

2.1 Deliveries –

- Deliveries must be accompanied by Delivery Tickets or Detailed Packing Slips. These shall contain the following information for each item delivered: Purchase Order Number; Item Number; Name of Article; Quantity; Name of School. All food must be processed, packaged, and delivered under the best possible sanitary conditions in accordance with local, State of Tennessee, and Federal Pure Food Laws and Health regulations.
- The Proposer shall be responsible for the items in this RFP until they are delivered at the designated delivery point; and the proposer shall bear all risk for rejected and recalled items after notice of rejection. These will be replaced free of charge upon notice of recall/rejection or if wrong items are bought. No deliveries can be left on a dock or other outside location or with any other person than the school nutrition manager or designee. Each School Nutrition Program shall retain the right to reject any or all of a delivery that does not meet product specifications. Rejected items are to be picked up at the supplier's expense and credit memo issued.
- Deliveries will be made to a reduced number of school locations during the months of June and July. August through May the deliveries shall be made to each of the schools according to a mutually agreed-upon schedule but must be made to each location at least weekly. Any changes in deliveries must be pre-approved by the School Nutrition Director or designee. In case of a "Holiday", "1/2 School Day" or "No School Day" during a delivery week, the deliveries may be asked to be moved up or pushed back only one operating day, or as agreed upon between the vendor and the School Nutrition Director or designee. The School Nutrition Program reserves the right to cancel orders if needed.
- An emergency contact name with phone number (a "before hours" and an "after hours: name/number) must be provided in the event of unanticipated school closures. An alternate delivery schedule will be agreed-upon in these events.
- Deliveries must be made within school business hours but not after the latest time listed on the attached school information sheet for the cafeteria identified, unless in the event of an emergency. In that event, the vendor must contact the Inventory Technician at 423 498-7287 to make alternate arrangements.
- Deliveries will be made to the kitchens in each school. Stock is to be placed in the appropriate storage areas as designated by the manager or his/her designee. Upon delivery, the manager is to sign the invoice/packing slip and retain a copy. Unsigned invoices will not be paid. Vendors cannot leave the products with anyone but the School Nutrition manager or designee. No products can be left during non-operating hours and left outside unattended.
- Late deliveries may be subject to charges paid by the vendor for employee overtime, in the event of egregious actions or repeated offenses.

- The vendor must ensure that HACCP policies are developed and followed when loading, traveling and unloading foods that are to be kept cold or frozen. For items to stay refrigerated or frozen, deliveries must be made in mechanically refrigerated trucks or maintaining a temperature below freezing at all times for the appropriate items shipped. The manager/designee has the right to refuse any shipment that does not meet the temperature required or has evidence of temperature abuse during the transportation and receiving. The SNP Director/designee reserves the right to reject the use of any equipment by the carrier if it is not in a clean, sanitary condition and suitable for hauling of all items.
 - Orders not delivered on the specified date and timeframe MUST be delivered on the next business day, unless alternative delivery is agreed upon by both the vendor and the SNP Director/designee.
 - Proposer agrees to provide company uniforms and/or ID badges to all its delivery personnel.
 - Orders not delivered on the specified date and timeframe MUST be delivered on the next business day, unless alternative delivery is agreed upon by both the vendor and the SNP Director/designee. Proposer agrees to provide company uniforms and/or ID badges to all its delivery personnel.
- 2.2 Orders** - Vendors will be sent an electronic file of the order(s). Orders are submitted one week prior to the delivery week. Vendor must have system that is compatible with Titan software. The School Nutrition Program reserves the right to cancel an order(s) due to emergency situations such as school cancellations due to weather conditions.
- 2.3 Equipment** –if the successful vendor will provide ice cream freezers, a list of schools where they are needed will be provided. Currently they are around 50 vendor owned ice cream freezers in the District that represents 73% of our schools. Should school owned freezers fail during the school year; the vendor will provide freezers for the school to use for the remainder of the bid period. The district uses both program freezers as well as vendor freezers. The bid evaluation structure will take in consideration the bid amounts quoted for school owned and vendor owned equipment. The equipment listed at the time of the initial bid procedure will be used for price determination. The bottom line cost will be calculated on the percentage of total. The size and number of the freezer(s) will be determined by the sales volume in each school. All maintenance and repairs for the vendor owned ice cream freezers are exclusively vendor's responsibility.

SUBMITTAL REQUIREMENTS & EVALUATION CRITERIA

Interested proposers shall include the following information in their submittal responses to this solicitation. The following format and sequence should be followed in order to provide consistency in the proposer's response and to ensure each proposal receives full consideration. It is requested that proposers use 8 ½ x 11 sheet pages only with minimum font size of 10 points and with tabs or section dividers to separate sections as defined below. More than one section is permitted on one page unless otherwise indicated below. Undesignated information shall be inserted at the rear of each package. Place page numbers at the bottom of every page, excluding dividers. Proposal documents should not contain links to other web pages; such links may not be reviewed for evaluation purposes.

Submittal package is requested to not exceed **20 pages** printed single-sided; **PLEASE INCLUDE SEPARATE SEALED ENVELOPES FOR TECHNICAL AND COST PROPOSALS** so that those evaluating your submittal can easily compare each section with others that are submitted. If any of the information provided by the Proposer is found to be, in the sole opinion of the Evaluation Committee and Procurement Management Director, substantially unreliable their proposal may be rejected.

Proposers shall submit one (1) original hard copy (clearly marked as such), one (1) "copy", and one (1) electronic version on a USB flash drive containing the proposal submittal in an unlocked PDF format. HCS may request specific files be submitted in specialty format (IE: Provide a products formulation sheets.) Vendor shall accommodate such specialty requests as stated within the submittal requirements describe herein. Should files not be provided in the format or quantity as requested, Vendor may be deemed Non-Responsive and therefore ineligible for award. In case of any discrepancies, the original will be considered HCS in evaluating the Proposal, and the "copy" and electronic version are provided for the agency's administrative convenience only.

It is the responsibility of the proposer to submit a proposal that best meets the requirements outlined in this Request for Proposal. It is the intent HCS to award a contract for the service described herein as a result of this Request for Proposal. HCS reserves the right to reject any or all such proposals.

COVER PAGE: Introduction

- RFP Number & Name
- Company's Name & Address
- Company's Contact Person & Information (phone, fax and email address)
- How many years has Proposer been in business under present name?
- Under what other former names has your organization operated?

Cover Page: Introduction does NOT count towards page restriction requested herein.

1. **Proposal Requirements-** A response to this RFP requires two parts, a Technical Proposal and a Cost Proposal.

- Technical Proposal.
 - The RFP Attachment A: Technical Proposal & Evaluation Guide details specific requirements for making a Technical Proposal in response to this RFP. The guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical proposal must not include any pricing or cost information. If any pricing or cost information, amounts of any type (even pricing relating to other projects) is included in

any part of the technical proposal, the District will deem the proposal to be non-responsive and reject it. Cost proposals are to be entered on RFP Attachment B.

- A Proposer must use the RFP Attachment A, Technical Proposal & Evaluation Guide to organize, reference, and draft the Technical Proposal by duplicating the attachment, adding appropriate proposal page numbers as required, and using the guide as a table of contents covering the Technical Proposal.
- A proposal should be prepared, with emphasis on completeness and clarity. A proposal, as well as any reference material presented, must be written in English and must be written on standard 8-½" x 11" pages. All proposal pages must be numbered.
- All information and documentation included in a Technical Proposal should respond to or address a specific requirement detailed in the RFP Attachment A, Technical Proposal & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.

2. The District may determine a proposal to be non-responsive and reject it if:

- the Proposer fails to organize and properly reference the Technical Proposal as required by this RFP and the RFP Attachment A, Technical Proposal & Evaluation Guide; or
- the Technical Proposal document does not completely respond to, address, or meet all of the requirements and proposal items detailed in the RFP Attachment A, Technical Proposal & Evaluation Guide.
- the RFP is not returned in its entirety with appropriate questions answered and pages signed, documented as required.

3. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment B., Cost Proposal & Scoring Guide.

A Cost Proposal worksheet must be submitted in Microsoft Office Excel Workbook format as well as a hard copy of Cost Proposal bid worksheets as a backup. No other form will be considered. All Bidders must submit a Microsoft Office Excel Workbook file on a USB flash drive (readable by Microsoft Windows 11 version) with the bid worksheets. In case of errors in extensions, the unit price shall prevail.

NOTICE: If a proposer fails to submit a cost proposal exactly as required, the District will deem the proposal to be non-responsive and reject it.

- A Proposer must only record the proposed cost exactly as required by the RFP Attachment B, Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.
- The proposed cost shall incorporate ALL costs for purchase, and deliver the Food Items under the contract.
- A Proposer must sign and date the hard copy of the Cost Proposal.
- A Proposer must submit the Cost Proposal and the Technical Proposal in different sealed envelopes and place them in the package with the other RFP forms.

4. **Proposal Delivery** - A Proposer must deliver (via hand carry, mail, carrier or the like) a proposal in response to this RFP as detailed below. The District will not accept a proposal delivered by any other method (electronic, facsimile, or the like).

A Proposer must ensure that both the original and copy of Technical Proposal and Cost Proposal documents meet all form and content requirements detailed within this RFP for such proposals including, but not limited to, required signatures.

A Proposer must ensure that the Purchasing Agent receives a proposal in response to this RFP no later than the Proposal Deadline time and date designated on the front cover of the RFP.

Hamilton County Department of Education
Purchasing Department
3074 Hickory Valley Road
Chattanooga, TN 37421

5. **Proposal Evaluation & Contract Award**

- Evaluation Categories & Maximum Points

The School Nutrition Evaluation Team will consider qualifications, experience, technical approach, and cost in the evaluation of proposals and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each apparently responsive proposal.

| EVALUATION CATEGORY | MAXIMUM POINTS POSSIBLE |
|--|-------------------------|
| General Qualifications & Experience | 10 |
| Technical Qualifications, Experience & Approach (refer to RFP Attachment A Part 2 and Part 3) | 50 |
| Cost Proposal (Refer to RFP Attachment B.) | 40 |

- Evaluation Process

The proposal evaluation process is designed to award the contract resulting from this RFP not necessarily to the Proposer offering the lowest cost, but rather to the responsive and responsible Proposer offering the best combination of attributes based upon the evaluation criteria. ("Responsive Proposer" is defined as a Proposer that has submitted a proposal that conforms in all material respects to the RFP. "Responsible Proposer" is defined as a Proposer that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.) Upon request, the Proposer shall submit documentation substantiating the Proposer's financial responsibility.

- **Technical Proposal Evaluation.** The RFP Proposal Evaluation Team (consisting of the School Nutrition Director or designee and at least two other School Nutrition employees) will use the RFP Attachment A, Technical Proposal & Evaluation Guide to manage the Technical Proposal Evaluation and maintain evaluation records.

The Evaluation Team reserves the right, at its sole discretion, to request Proposer clarification of a Technical Proposal or to conduct clarification discussions with any or all Proposers. Any such clarification or discussion will be limited to specific sections of the proposal identified by the Team. The subject Proposer must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the District.

The Director of School Nutrition or designee will review each Technical Proposal to determine compliance with RFP Attachment A, Technical Proposal & Evaluation Guide, Part 1—Mandatory Requirements. If the Director of School Nutrition determines that a proposal may have failed to meet one (1) or more of the mandatory requirements, the Proposal Evaluation Team will review the proposal and document the team's determination of whether:

- a. the proposal adequately meets requirements for further evaluation;
- b. the Team will request clarifications or corrections; or,
- c. the Team will forward the RFP to the Purchasing Agent to determine the proposal non-responsive to the RFP and reject it.

Proposal Evaluation Team members will evaluate each Technical Proposal (that appears responsive to the RFP) against the evaluation criteria in this RFP and will score each in accordance with the RFP Attachment A, Technical Proposal & Evaluation Guide, Part 2 and Part 3.

For each proposal evaluated, a designated team member will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment A, Technical Proposal & Evaluation Guide, Part 2 and Part 3, and record each average as the proposal score for the respective Technical Proposal section.

Before Cost Proposals are reviewed, the Proposal Evaluation Team will review the Technical Proposal Evaluation record and any other available information pertinent to whether or not each Proposer is responsive and responsible. If the Proposal Evaluation Team identifies any Proposer that appears not to meet the responsive and responsible thresholds such that the team would not recommend the Proposer for Cost Proposal Evaluation and potential contract award. The Cost Proposal envelope won't be open. The team members will fully document the determination.

- **Cost Proposal Evaluation.** The Director of School Nutrition or designee will review the Cost Proposal for evaluation of each apparently responsive and responsible Proposer that the Proposal Evaluation Team has effectively recommended for potential contract award and will calculate and record each Cost Proposal score in accordance with the RFP Attachment B, Cost Proposal & Scoring Guide.

Total bottom line cost for the Cost Proposal Section will be determined by multiplying each total unit cost, the estimated usage figure and adding the extended dollar figures. In the event a vendor fails to quote a price on an item, the highest price for that item from all bids received will be inserted to calculate the bottom line price. In the event that no vendor provides a price, a zero will be entered for all vendors for that item. The District will recalculate usage and line extensions to make necessary conversions for differences in pack size. The bottom line total will be adjusted if mathematical conversions and extensions indicate the need for correction. Mathematical calculations involving decimals must be carried to two (2) places.

- **Total Proposal Score.** The team designee will calculate the sum of the Technical Proposal section scores and the Cost Proposal score and record the resulting number as the total score for the subject Proposal (refer to RFP Attachment C, Proposal Score Summary Matrix).

6. Contract Award Process

- The Director of School Nutrition will determine the apparent best-evaluated proposal. (To recommend a contract award to a Proposer other than the one receiving the highest evaluation process score, the Director of School Nutrition must provide written justification and obtain approval from the District Purchasing Director.)
- The Director of School Nutrition or designee will submit the Proposal Evaluation Team determinations and proposal scores to the HCS Purchasing Agent for consideration along with any other relevant information that might be available and pertinent to contract award.
- The School Nutrition Proposal Evaluation Team reserves the right to make an award without further discussion of any proposal.
- The Purchasing Director will submit the request for approval of the recommended proposer to the next earliest Board meeting. All proposers will be notified by this Director as to the status of their proposal submission.

HAMILTON COUNTY DEPARTMENT OF EDUCATION
Chattanooga, Tennessee 37421
SOLICITATION RESPONSE & BID/PROPOSAL FORM

RFP 23-45 ICE CREAM PRODUCTS FOR THE SCHOOL NUTRITION PROGRAM

1. Vendor Name _____
2. Vendor Address _____
3. City _____ State _____ Zip _____
4. Telephone Number _____ Fax Number _____
5. Contact Person _____
6. Contact Person's email address _____
7. By submission of this bid/proposal, each Vendor and each person signing on behalf of any Vendor certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Vendor is not on the list created pursuant to Tennessee Code Annotated § 12-12-106.
8. Authorizing Signature _____
(Sign)
9. Authorizing Print Name & Title: _____
10. Vendor's Hamilton County Business License Number _____
(If Applicable) Attach A Copy Of The License.
11. I Acknowledge the Receipt Of: (Please Write "Yes" If You Received One)
Addendum 1 _____ Addendum 2 _____ Addendum 3 _____ Addendum 4 _____
12. Do you accept the Terms and Conditions of the solicitation/contract? Yes _____ No _____
13. May other Government Agencies in Tennessee purchase these products/services at the same prices as this bid/proposal? Yes _____ No _____
14. Will you accept E-commerce payments? Yes _____ No _____
15. Pricing: Complete following page Bid/Proposal Form

REMINDER:

All questions pertaining to this solicitation must be submitted electronically to doe_purchasing@hcde.org no later than **July 17, 2023** prior to the Opening/Due date designated herein. Failure to submit a question in the timeframe indicated above may result in the question going unanswered at the discretion of HCS.

An extension to the opening date does not guarantee an extension to the question deadline period. Such will be communicated in associated addendum posting.

It is the sole responsibility of the Vendor to ensure they receive/obtain all solicitation related documentation.

PROPOSAL STATEMENT OF ASSURANCES

The Proposer must sign and complete the Proposal Statement of Certifications and Assurances below as required, and it must be included in the Technical Proposal (as required by RFP Attachment A., Technical Proposal & Evaluation Guide, Part 1, Item 7.).

The Proposer does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Proposer will comply with all of the provisions and requirements of the RFP.
2. The Proposer will provide all the items and service (including delivery) as defined in the Scope of the RFP for the total contract period.
3. The Proposer accepts and agrees to all terms and conditions set out in the RFP.
4. The Proposer acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. Both the Technical Proposal and the Cost Proposal submitted in response to the RFP shall remain valid for at least 90 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

By signing this Proposal Statement of Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Proposer (if an individual) or the Proposer's company *President or Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the proposing entity.

****DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE PROPOSING ENTITY****

SIGNATURE: _____

PRINTED NAME & TITLE: _____

DATE: _____

PROPOSER LEGAL ENTITY NAME: _____

PROPOSER FEDERAL EMPLOYER IDENTIFICATION NUMBER (or SSN): _____

Form 1 (Page 3 of 3)



BID/PROPOSAL FORM

COMPANY NAME: _____

SOLICITATION: ***RFP 23-45 ICE CREAM PRODUCTS FOR THE SCHOOL NUTRITION PROGRAM***

Having carefully examined the Solicitation/Contract Documents, Contractor/Vendor proposes to furnish the Scope of Services as described herein and within all applicable proposal submission documents for the fee(s) as presented below.

Pricing shall be inclusive of all labor, equipment, supplies, overhead, profit, material, and any other incidental costs required to perform and complete all work as specified in the Solicitation/Contract Documents. All Unit Prices shall be bid at the nearest whole penny.

In the event there is a discrepancy between a subtotal or total amount and the unit prices and extended amounts, the unit prices shall prevail, and the corrected extension(s) and total(s) will be considered the price.

HCS requests bids/proposals be submitted on bid/proposal forms provided by the HCS for this solicitation. Fee(s) submitted on other forms, other than those provided by the HCS, may be deemed non-Responsive upon review by and at the sole discretion of the HCS Purchasing Office.

| Item | Description |
|---|--|
| 1 | ICE CREAM PRODUCTS FOR THE SCHOOL NUTRITION PROGRAM |
| BID SUMMARY | |
| TOTAL ESTIMATED CONTRACT FOR FY24 | |
| \$ | |
| <small>**Quantities are not guaranteed. Final payment will be based on actual quantities.</small> | |
| TOTAL: | |
| (Use Words to Write Total) | |

This page serves as a header/placeholder only. Please refer to the Excel document provided with the solicitation for the complete Bid/Proposal Form. The Excel document may contain formulas for convenience, however it is the Vendor's responsibility to verify all pricing and calculations are CORRECT. HCS is not responsible for errors in formulas or calculations contained within Excel document(s).

Bidders may not adjust or modify data provided within the Bid/Proposal Form. Bids received with modified data may deem the Bidder as non-responsive and ineligible for award.

PLEASE ENSURE you have provided a printed copy of the Bid/Proposal Form with your hard copy submission packages and provided the excel version with your digital submission package. This form must be included with the Cost Proposal.

Form 2 (page 1 of 3)
Attachment A

TECHNICAL PROPOSAL & EVALUATION GUIDE

PART1: MANDATORY REQUIREMENTS. The Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below.

The Contract Administrator will review the proposal to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Proposal Evaluation Team must review the proposal and attach a written determination. In addition to the Mandatory Requirement Items, the Contract Administrator will review each proposal for compliance with all RFP requirements.

| PROPOSER LEGAL ENTITY NAME: | | |
|-----------------------------|--|-------------|
| | Part 1— Mandatory Requirement Items | Circle One: |
| 1 | The Proposal must be delivered to the District no later than the Proposal Deadline specified in the RFP. | Pass / Fail |
| 2 | The Technical Proposal must NOT contain cost or pricing information of any type. | Pass / Fail |
| 3 | The Technical Proposal must NOT contain any restrictions of the rights of the District or other qualification of the proposal. | Pass / Fail |
| 4 | A Proposer must NOT submit alternate proposals, change language or format, or submit more than one bid for the same proposal or more than one bid from different locations for the same company. | Pass / Fail |
| 5 | A Proposer must NOT submit multiple proposals in different forms (as a prime and a sub-proposer). | Pass / Fail |
| 6 | The Proposer must submit the completed RFP with all appropriate acknowledgements, forms, requested documents, notary and general signatures, as required. Proposer may not add additional sheets unless requested. | Pass / Fail |
| 7 | Provide the Proposal Statement of Certifications and Assurances completed and signed by an individual empowered to bind the Proposer to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification. | Pass / Fail |
| 8 | Provide a statement, based upon reasonable inquiry, of whether the Proposer or any individual who shall perform work under the contract has a possible conflict of interest (e.g., employment by the District) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the District, and the District reserves the right to cancel any award. | Pass / Fail |
| 9 | The proposer must submit all local, state, and federal agency licensing requirements for their company. | Pass / Fail |
| | <i>District Use – Contract Administrator Signature, Printed Name & Date:</i> | |

Form 2 (page 2 of 3)

Attachment A

TECHNICAL PROPOSAL & EVALUATION GUIDE

PART 2: GENERAL QUALIFICATIONS & EXPERIENCE. On a separate page(s) the Proposer must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign up to the maximum score for each response to PART 2—General Qualifications & Experience Items. The maximum points for this PART 2 are ten (10).

| PROPOSER LEGAL ENTITY NAME: | | | | |
|---|------------|---|---------|------------|
| Proposal Page # (Proposer complete s) | Item Ref . | Part 2— General Qualifications & Experience Items | Max Pts | Item Score |
| | 2.1 . | Detail the name, e-mail address, mailing address, telephone number of the person the District should contact regarding the proposal. | 0.5 | |
| | 2.2 . | Describe the Proposer's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile). | 1 | |
| | 2.3 . | Detail the number of years the Proposer has been in business. | 1.5 | |
| | 2.4 . | State whether or not there have been any mergers, acquisitions, or sales of the Proposer within the last ten years. If so, include an explanation providing relevant details. | 0.5 | |
| | 2.5 . | Provide three (3) customer references from individuals (who are <u>not</u> current or former officials or staff of the District) for projects similar to the services sought under this RFP. Detail the name, e-mail address, mailing address, telephone number, and facsimile number for each reference. | 1.5 | |
| | 2.6 . | State whether or not the Proposer has been declared in default of any contract | 1 | |
| | 2.7 . | State whether or not the Proposer or, to the Proposer's knowledge, any of the Proposer's employees, agents, independent proposers, or sub-proposers, proposed to provide work on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details. | 1 | |
| | 2.8 . | State whether or not, in the last ten (10) years, the Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details. | 1 | |
| | 2.9 . | State whether or not there is any material, pending litigation against the Proposer that the Proposer should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Proposer's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Proposer's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Proposer must be properly licensed to render such opinions. The District may require the Proposer to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders such opinions. | 1 | |
| | 2.10 . | State whether or not your company has ever been sanctioned or found in violation (past, present, pending) of any local, state or federal environmental violations. If so, include an explanation providing relevant details. | 1 | |
| SCORE (for <u>all</u> Part 2—Qualifications & Experience Items above) (maximum possible score = 10): | | | | |
| District Use – Evaluator Identification: | | | | |
| District Use – Contract Administrator Signature, Printed Name & Date: | | | | |

Form 2 (page 3 of 3)

Attachment A

TECHNICAL PROPOSAL & EVALUATION GUIDE

PART 3: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. On a separate page(s) the Proposer must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Proposer must also detail the proposal page number for each item in the appropriate space below. A Proposal Evaluation Team, made up of three (3) School Nutrition employees, will independently evaluate and score the proposal's response to each item. The maximum points for this section are forty (40).

| PROPOSER LEGAL ENTITY NAME: | | | | | | |
|---|-------|-------------------|---|---------|------------|--|
| Pg # | Ref. | | Part 3–Technical Qualifications, Experience & Approach Items | Max Pts | Item Score | |
| | 3.1. | ORDERING | | | | |
| | 3.1.1 | | Describe the method and timeline for order placement and ability to make changes. For electronic ordering, please describe the abilities of your software to receive consolidated orders. If orders are not required, please explain the method for fulfilling requests, while preventing off-bid ordering. | 3 | | |
| | 3.1.2 | | Indicate if a minimum order is required per site, if so please state how much | 3 | | |
| | 3.1.3 | | Describe the process for notification and handling of shortages or substitutions. Provide the contact information for the person handling these issues. | 2 | | |
| | 3.1.4 | | Describe any reports available to the district, including usage/velocity reports and the information available to be included in these reports. | 1 | | |
| | 3.2. | DELIVERING | | | | |
| | 3.2.1 | | Describe the proposer's delivery schedule, including the ability to deliver weekly, as well as the minimum and maximum number of days each week the proposer would need to run to deliver to each location weekly. Identify the number of delivery trucks that will be utilized daily to meet the delivery schedule described | 3 | | |
| | 3.2.2 | | Describe alternate procedures to deliver to the schools for holidays, ½ days and school closures due to inclement weather days. | 2 | | |
| | 3.2.3 | | Describe the proposer's plan to respond to problems with deliveries, such as wrong or damage products delivered, etc. | 2 | | |
| | 3.2.4 | | Describe your Quality Control policies and procedures. | 2 | | |
| | 3.3. | | Provide vendor product variety in percentage of the specs items on this RFP. Reminder that each code can only be bid for one line item (no duplicates). | 2 | | |
| | 3.4. | | Explain the vendor's ability to provide ice cream freezers per location as needed. Describe the equipment specifications, including size, lighting, accessories, etc. List minimum volume requirements to qualify for a freezer. Detail the estimated call response for repairs to the vendor owned ice cream freezers (time to arrive on site) after notified by the District. | 15 | | |
| | 3.5. | | Identify the process for handling product recalls, including primary person and back up person contact information | 2 | | |
| | 3.6. | | Describe emergency support to service the District in the event of a District or Distributor computer failure. | 2 | | |
| | 3.7. | | Provide the contact information for after 4:30pm and before 7:00am. Sunday through Saturday. | 1 | | |
| Total Score (maximum possible score = 40): | | | | | | |
| <i>District Use – Evaluator Identification:</i> | | | | | | |
| <i>Contract Administrator Signature, Printed Name & Date:</i> | | | | | | |

Attachment C
Score Summary Matrix

| <i>Ice Cream Products Items</i> | PROPOSER NAME | | PROPOSER NAME | | PROPOSER NAME | |
|--|-----------------|--|-----------------|--|-----------------|--|
| GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 10) | | | | | | |
| | | | | | | |
| | | | | | | |
| | AVERAGE: | | AVERAGE: | | AVERAGE: | |
| TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 40) | | | | | | |
| | | | | | | |
| | | | | | | |
| | AVERAGE: | | AVERAGE: | | AVERAGE: | |
| COST PROPOSAL (maximum: 50) | | | | | | |
| | | | | | | |
| | | | | | | |
| | SCORE: | | SCORE: | | SCORE: | |
| TOTAL PROPOSAL EVALUATION SCORE: (maximum: 100) | | | | | | |
| <i>Contract Administrator Signature, Printed Name & Date:</i> | | | | | | |

CERTIFICATE OF COMPLIANCE

By indication of the authorized signature below, the Proposer/Bidder does hereby make certification and assurance, under penalty of perjury, of the Proposer's/Bidder's compliance with all provisions of this bid/bid and the following items:

1. the laws of the State of Tennessee and Hamilton County;
2. Title VI of the Civil Rights Act of 1964;
3. Title IX of the Education Amendments of 1972
4. the condition that no amount shall be paid directly or indirectly to an employee or official of Hamilton County Department of Education as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Proposer/Bidder in connection with the procurement under this Bid/RFP.

Signed _____ Dated _____

Print Name _____ Email _____

Company _____ Telephone No. _____

Address _____ Fax No. _____

City _____ State _____ Zip _____

AUTHORIZATION TO BIND

By signing this proposal, I certify and acknowledge that the information contained in this document is true and correct, containing **NO** misrepresentations. The information is **NOT** tainted by any collusion. I certify and acknowledge that I have reviewed and approved the release of this proposal/bid for HCS's consideration. Further, I am authorized to bind my company to the responses and pricing in these proposal/bid documents, and any subsequent negotiations, as well as execute the actual Contract documents, if selected.

Authorized Signature (Officer of the Company)

Name of Authorized Signer (Printed or Typed)

Title of Authorized Signer

Firm Name

Taxpayer Identification Number

Firm Address, City and Zip Code

Telephone Number

Fax Number

Email Address

Date

**Drug-Free Workplace Requirements & Affidavit
TENNESSEE CODE ANNOTATED, § 50-9-113**

- (1) Each Contractor or Subcontractor with no less than five (5) employees receiving pay shall submit an affidavit stating that such employer has a drug-free workplace program in effect at the time of submission of bids. Said program shall comply with Title 50, Chapter 9, TCA.
- (2) If it is determined that an employer subject to the provisions of this section has entered into a contract for this Project and does not have a drug-free workplace pursuant to the referenced requirements, such employer shall be prohibited from entering into another contract with any local government or state agency until such employer can prove compliance.
- (3) The written affidavit shall be submitted with the Construction Contractor's Bid Form, and the Bid shall not be considered complete if said affidavit is not included, and the Bid shall be rejected as Non-Responsive. For all other product or service contracts submission of the affidavit is encouraged only.
- (4) For purposes of compliance with this section, any private employer shall obtain a certificate of compliance with the applicable portions of the Drug-Free Workplace Act from the Department of Labor and Workforce Development.

(To be submitted with bid by construction contractor with 5 or more employees and encouraged for all others)

AFFIDAVIT

I _____, president or other principal

Officer of _____, swear or affirm that the
(Name of Company)

Company has a drug-free workplace program that complies with Title 50, Chapter 9, Tennessee Code Annotated, in effect at the time of this bid submission at least to the extent required of governmental entities. I further swear or affirm that the company is in compliance with the Tennessee Code Annotated, § 50-9-113.

President of Principal Officer

For: _____

STATE OF TENNESSEE}
COUNTY OF _____}

Subscribed and sworn before me by _____, President

or principal officer of _____,

On this _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires: _____

Instructions for Non-Collusion Affidavit

- (1) This non-collusion affidavit is material to any contract awarded pursuant to this bid.
- (2) This non-collusion affidavit must be executed by the member, officer, or employee of the bidder who makes the final decision on prices and the amount quoted in the bid.
- (3) Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that such statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.
- (4) In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an affidavit must be submitted separately on behalf of each party.
- (5) The term "complementary bid" as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, and intentionally high or noncompetitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.

**Non-Collusion Affidavit
(Attachment D)**

State of _____

County of _____

I state that I am _____ of _____
(Title) (Name of Firm)

and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

- (1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder, or potential bidder.
- (2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
- (4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
- (5) _____, its affiliates, subsidiaries, officers, directors and
(Name of my Firm)
employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that _____ understands and acknowledges that the
(Name of my Firm)

above representation are material and important and will be relied on by Hamilton County Department of Education in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from Hamilton County Department of Education of the true facts relating to submission of bids for this contract.

(Signature and Company Position)

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY OF
_____, 20 _____

NOTARY PUBLIC:

My Commission Expires: _____

Form 9

**CERTIFICATION OF COMPLIANCE WITH
THE IRAN DIVESTMENT ACT**

Effective July 1, 2016, this form must be submitted for any contract that is subject to the Iran Divestment Act, Tenn. Code Ann. § 12-12-101, et seq., ("Act"). This form must be submitted with any bid or bid regardless of where the principal place of business is located.

Pursuant to the Act, this certification must be completed by any corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization, or other business organization that is contracting with a political subdivision of the State of Tennessee.

Certification Requirements.

No state agency or local government shall enter into any contract subject to the Act, or amend or renew any such contract with any bidder/contractor who is found ineligible under the Act.

Complete all sections of this certification and sign and date it, under oath, in the presence of a Notary Public or a person authorized to take an oath in another state.

CERTIFICATION:

I, the undersigned, certify that by submission of this bid, each bidder and each person signing on behalf of any Respondent certifies, and in the case of a joint bid or contract each party thereto certifies, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

Respondent represents it has the full power, knowledge, and authority to make this Certification and that the signatory signing this Certification on behalf of bidder/contractor has been duly authorized to do so on behalf of the bidder/contractor.

Sworn as true to the best of my knowledge and belief, subject to the penalties of false statement.

Company Name

Signature of Authorized Official

State of _____

County of _____

The foregoing instrument was signed and acknowledged before me, by means of physical presence or personally known, this _____ day of _____, 20____, by

_____ who has produced _____ as identification.
(Print or Type Name) (Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

Notary Commission Number/Expiration

The signee of these Affidavit guarantees, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made.

Hamilton County Board of Education Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

The prospective participant / vendor certifies, by submission of this bid, that neither it nor its Principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or agency.

Where the prospective participant / vendor is unable to certify to any of the statements in this Certification, such prospective participant / vendor shall attach an explanation to this bid.

Organization Name

Name(s) and Title(s) of Authorized Representative(s)

Signature

Certification of Compliance with Tennessee Public Chapter # 587

The General Assembly of the State of Tennessee requires any person, corporation or other entity who enters into or renews a contract with a local board of education comply with Tennessee Public Chapter #587 (TPC587).

TPC587 requires persons, employees of the person or corporation that have direct contact with school children or access to school grounds when children are present to have supplied to the corporation a fingerprint sample and have conducted a criminal history records check by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation prior to permitting the person to have contact with such children or enter school grounds. (The Public Chapter 1080, (D) was amended to: “A person whose contract is for the performance of a service at a school-sponsored activity, assembly or even at which school officials or employees are present when the service is performed and where the activity, assembly, or event is conducted under the supervision of school officials or employees.”)

TPC587 provides guidance for employees who have been convicted of an offense that is classified as a sexual offense or a violent sexual offense.

I have read the attached TENNESSEE PUBLIC CHAPTER # 587 and certify compliance with the regulations.

Name/Address of Organization

Name/Title of Submitting Official

Signature

Date

CERTIFICATION REGARDING LOBBYING

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds. Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into of a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub awards and that all sub recipients shall certify and disclose accordingly to undersigned.

Name & Address of Consultant/Contractor/Vendor

Name & Title of Submitting Authorized Official

Signature of Authorized Official

Date

Complete as applicable only.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB
4040-0013

| | | |
|---|--|--|
| 1. * Type of Federal Action: <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance | 2. * Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award | 3. * Report Type: <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change |
| 4. Name and Address of Reporting Entity: <input checked="" type="checkbox"/> Prime <input type="checkbox"/> SubAwardee * Name <input type="text"/> * Street 1 <input type="text"/> Street 2 <input type="text"/> * City <input type="text"/> State <input type="text"/> Zip <input type="text"/> Congressional District, if known: <input type="text"/> | | |
| 5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: | | |
| 6. * Federal Department/Agency: <input type="text"/> | 7. * Federal Program Name/Description: <input type="text"/> CFDA Number, if applicable: <input type="text"/> | |
| 8. Federal Action Number, if known: <input type="text"/> | 9. Award Amount, if known: \$ <input type="text"/> | |
| 10. a. Name and Address of Lobbying Registrant: Prefix <input type="text"/> * First Name <input type="text"/> Middle Name <input type="text"/> * Last Name <input type="text"/> Suffix <input type="text"/> * Street 1 <input type="text"/> Street 2 <input type="text"/> * City <input type="text"/> State <input type="text"/> Zip <input type="text"/> | | |
| b. Individual Performing Services (including address if different from No. 10a) Prefix <input type="text"/> * First Name <input type="text"/> Middle Name <input type="text"/> * Last Name <input type="text"/> Suffix <input type="text"/> * Street 1 <input type="text"/> Street 2 <input type="text"/> * City <input type="text"/> State <input type="text"/> Zip <input type="text"/> | | |
| 11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. * Signature: <input type="text"/> * Name: Prefix <input type="text"/> * First Name <input type="text"/> Middle Name <input type="text"/> * Last Name <input type="text"/> Suffix <input type="text"/> Title: <input type="text"/> Telephone No.: <input type="text"/> Date: <input type="text"/> | | |
| Federal Use Only: | | Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97) |



Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion AD-1048 Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction. According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal, civil, fraud, privacy, and other statutes may be applicable to the information provided.

(Read instructions on page two before completing certification.)

- A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
- B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| | |
|--|---------------------------------|
| ORGANIZATION NAME | PR/AWARD NUMBER OR PROJECT NAME |
| NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S) | |
| SIGNATURE(S) | DATE |

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint (<https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer>) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

Instructions for Certification

- (1) By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page above in accordance with these instructions.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- (6) The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Form 14

BUY AMERICAN CERTIFICATION

We require that suppliers comply with the Buy American provision in all program meals and:

1. Certify that the products they are offering are domestic; or
2. Request permission to provide an alternative item when domestic is not available or is priced substantially higher than the non-domestic item.

Requests for alternatives or exceptions should be made as a last resort. However, if you do not have domestic item to provide for any line item specification on this bid, we will entertain a request for exception at the time of the bid requests for exceptions during the bid period must be made in writing using this same form. All requests must be submitted at least (3) days prior to the schedule delivery date.

| Item as specified (include vendor number) | Reason for exception (check one: "Limited or lack of availability" or "Price") | | Alternative substitute item (include vendor number) | Price of specified item | Price of alternative item |
|---|---|-------|--|-------------------------------|---------------------------------|
| | Limited or lack of availability | Price | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

** use additional pages if needed*

In all cases, the school food authority is the determining official that makes the decision to accept non-domestic items. Unless a specific exception has been granted, non-domestic items may not be shipped.

What other alternatives to using Non-Domestic food products were considered?

I/We _____ certify that all food items on this bid have at least _____ percent U.S. content and were processed in the U.S. except for those listed above.

Vendor Certification

Authorized signature

Date

Attachment: Immigration Law Affidavit Certification

This Affidavit is required and should be signed by an authorized principal of the Consultant/Contractor/Vendor and submitted with HCS Procurements where applicable. Further, Consultant/Contractor/Vendor are required to enroll in the E-Verify program, and provide acceptable evidence of their enrollment, upon request by HCS personnel. Acceptable evidence consists of a copy of the properly completed E-Verify Company Profile page or a copy of the fully executed E-Verify Memorandum of Understanding for the company.

HCS will not intentionally award HCS contracts to any vendor who knowingly employs unauthorized alien workers, constituting a violation of the employment provision contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) of the Immigration and Nationality Act (“INA”).

HCS may consider the employment by any vendor of unauthorized aliens a violation of Section 274A (e) of the INA. Such Violation by the recipient of the Employment Provisions contained in Section 274A (e) of the INA shall be grounds for unilateral termination of the contract by HCS.

Vendor attests that they are fully compliant with all applicable immigration laws (specifically to the 1986 Immigration Act and subsequent Amendment(s)) and agrees to comply with the provisions of the Memorandum of Understanding with E-Verify and to provide proof of enrollment in The Employment Eligibility Verification System (E-Verify), operated by the Department of Homeland Security in partnership with the Social Security Administration at any time upon request by HCS.

Name & Address of Consultant/Contractor/Vendor

Name & Title of Submitting Authorized Official

Signature of Authorized Official

Date

Cut along the outer border and affix this label to your sealed solicitation envelope to identify it as a “Sealed Submission/Proposal”.

| PROPOSAL DOCUMENTS • DO NOT OPEN | |
|----------------------------------|--|
| SOLICITATION No.: | 23-45 |
| SOLICITATION TITLE: | ICE CREAM PRODUCTS FOR SCHOOL NUTRITION PROGRAM |
| OPENING/DUE DATE: | JULY 27, 2023 |
| TIME DUE: | Prior to: 1:30PM |
| SUBMITTED BY: | _____ |
| | (Name of Company) |
| <small>e-mail address</small> | <small>Telephone</small> |
| DELIVER TO: | Hamilton County Board of Education Attn: Purchasing Department 3074 Hickory Valley Road Chattanooga, TN 37421 |

***Notices:**

- The Date Due/Submission Deadline Date/Opening Date as stated on this label and other forms contained herein may have been updated via issuance of Addenda against this project. It is the sole responsibility of the Contractor/Vendor to monitor the HCS solicitation for any updates to the Date Due/Submission Deadline Date/Opening Date via Addenda. This label or other original forms may not be updated. Contractor/Vendor may strike through and update Date Due/Submission Deadline Date/Opening Date at their discretion to match any updates to this date that have been published via Addenda.
- Submissions received after the time and date of the Date Due/Submission Deadline Date/Opening Date will not be accepted at the sole discretion of HCS.
- Some submissions may require the Vendor to provide the company name, Tennessee Contractor’s license number, expiration date, license classification and company address on the outside of the sealed bid envelope in accordance with TCA 62-6-119. Where this is requested within the project documents the Vendor is solely responsible for compliance with this request.

PLEASE PRINT CLEARLY