

## Attestation Sheet

By submission of this bid, the Vended School Meal Company acknowledges that it has carefully examined all terms and conditions set forth in the Request For Proposal (RFP)/Vended School Meals Contract in the bid document/solicitation issued by **Education Achievement Authority of Michigan** on **May 15, 2015**. The Company acknowledges that it has made examinations and verifications, and is fully conversant with all conditions under which services are to be performed for the **Education Achievement Authority of Michigan**. No claims for additional compensation will be considered, and no contractual amendments will be executed, due to the successful bidder's failure to be so informed.

The Company acknowledges that the School Food Authority (SFA) reserves the right to accept or reject any and all bids, to waive irregularities, and to accept the bid which, in the SFA's opinion, is in the SFA's best interest.

Negligence in the preparation or presentation of, errors in, or omissions from, bids shall not relieve the Company from fulfillment of any and all obligations and requirements of the proposed contract. Once a contract is executed, the Company shall not claim any modification thereof resulting from any representation or promise made at any time by an officer, agent, or employee of the **Education Achievement Authority of Michigan** or any other person.

By submitting a bid, the Vended School Meal Company agrees to execute a contract with the SFA, and to perform services in accordance with the finalized contract documents.

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Signature of Vended School Meal  
Company Representative

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Date

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Name of Company

**REQUEST FOR  
PROPOSAL/  
VENDED SCHOOL MEAL  
CONTRACT**

# GENERAL PROCEDURAL TERMS AND CONDITIONS

## A. INTENT

This solicitation is for the purpose of entering into a contract for the purchase of vended meals for **Education Achievement Authority of Michigan** herein after referred to as the School Food Authority (SFA). The bidder will be referred to as the Vendor and the contract will be between the Vendor and the SFA.

1. The SFA shall retain **signature authority** for the application/agreement to participate in the **National School Lunch Program (NSLP), and/or School Breakfast Program (SBP), and/or Special Milk Program (SMP), and/or Afterschool Snack Program, and/or Summer Food Service Program (SFSP), and/or Child and Adult Care Food Program (CACFP), and/or the Fresh Fruit and Vegetable Program (FFVP)** including, but not limited to the Application Renewal, the Verification of Application Form, and letters to the MDE to amend the application. [7 CFR 210.16 (a) (5)]
2. The SFA shall retain signature authority for the Monthly Claim for Reimbursement. [7 CFR 210.16 (a) (5)]

## B. BID SUBMISSION AND AWARD

1. Sealed bids/proposals are to be submitted to [FoodServiceRFP@EAAofMichigan.org](mailto:FoodServiceRFP@EAAofMichigan.org) or Buy4Michigan.com. Bids/proposals will not be accepted after **1:00 PM on June 5, 2015**. The bid is to be submitted in a sealed envelope marked "Food Service Vended Meal Proposal."
2. The SFA reserves the right to exercise its discretion to reject any or all bids.
3. To be considered, each bidder must submit a complete response to this solicitation using the forms provided, including a signed *Attestation Sheet*.
4. Awards, if any shall be made to a qualified and responsible bidder whose bid is responsive to this solicitation. A responsible bidder is one who's financial, technical, and other resources indicate an ability to perform the services required by this solicitation.
5. Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and

he/she cannot secure relief on the plea of error.

6. If additional information is required, please contact [FoodServiceRFP@EAAofMichigan.org](mailto:FoodServiceRFP@EAAofMichigan.org).

### **C. INCURRED COSTS AND BONDING REQUIREMENT**

1. The SFA is not liable for any cost incurred by the bidder prior to the signing of a contract by all parties.
2. Bid Guarantee: Bidder shall submit with his/her bid, a bid guarantee in the amount of five percent (5%) of the total bid price, which shall be in the form of a firm commitment such as a bid bond, postal money order, certified check, cashiers check, or irrevocable letter of credit. Bid guarantees will be returned (a) to unsuccessful bidders as soon as practicable after the opening of the bids; and (b) to the successful bidder upon execution of such further contractual documents (i.e. insurance coverage) and bonds as may be required by the bid. [7 CFR 3016.36 (h) (1)]

### **D. MEALS AND MEAL EQUIVALENTS**

1. The Vendor will prepare the following meals: **breakfast, lunch, supper, and snacks**, including: **warmers, coolers, eating utensils, paper service items, condiments**, and provide safe transportation containers.

Meals will be delivered in **unitized** form. The school participates in the **offer versus serve** option.

The Vendor shall **serve** meals on such days and such times as requested by the SFA.

The SFA requests the Vendor also provide a **salad with optional soup bar three (3) of times per week** to the following sites: **Henry Ford, Central, Denby, Mumford, Southeastern, and Pershing High Schools**. The foods included should be delivered in **bulk** form. The salad bar will consist of a minimum of **one (1) meat, four (4) additional toppings, and three (3) of dressings**, one of which should be vegan. The Vendor will charge the SFA for the **actual** cost of the salad bar items. If the Vendor is going to charge costs other than the actual cost of the soup and salad bar items, they must identify the **fixed fee markup (per day the soup or salad bar is served)** to be charged to the SFA for the preparation and packaging of these items on the bid sheet where applicable.

2. All meals provided shall conform to the minimum meal requirements including the nutrient standards of the United States Department of Agriculture (USDA) for those meals and for the age group served. The

Vendor shall comply with the rules and regulations of MDE and USDA, and any additions or amendments thereto, including but not limited to, 7 CFR Parts 210, 215, 220, 225, 226, 235, 250, 3016, and 3019, if applicable; and Food and Nutrition Service instruction, final rules, and policy, as applicable.

3. The Vendor shall make substitutions in the food components of the meal pattern for students with disabilities when their disability restricts their diet, and those non-disabled students who are unable to consume regular lunch because of medical or other special dietary needs. Substitutions shall be made on a case-by-case basis when supported by a statement of the need for substitutes that includes recommended alternative foods, unless otherwise exempted by the USDA Food and Nutrition Service. Such statement shall in the case of a student with a disability, be signed by a medical doctor or in the case of a non-disabled student, be signed by a recognized medical authority. There will be no additional charge to the student for such substitutions. [7 CFR 210.10 (g)]
4. The Vendor shall be liable for meals that do not meet the meal pattern requirements as specified in the Contract or are spoiled or unwholesome at the time of delivery. The SFA shall not pay for such meals. Vendor shall pay the SFA for any costs incurred to provide substitute meals and may pay additional penalties as specified in the Contract.
5. The Vendor shall promote nutritional education and coordinate the SFA's food service with classroom instruction in accordance with the School District's Wellness Plan.
6. The SFA shall retain control of the quality, extent, and general nature of the food service.
7. The Vendor shall sell on the premises only those foods and beverages authorized by the SFA and only at the times and places designated by the SFA.
8. In order for the Vendor to offer a la carte food service, the Vendor must offer free, reduced price, and paid reimbursable meals to all eligible children.
9. For the purpose of making the meal count computation, the number of lunches, breakfasts, suppers, and snacks served to children shall be based on a projection of the number of meals and snacks to be served. The Vendor and the SFA shall determine a la carte meal equivalents by dividing a projected net a la carte and catering revenue (if applicable) by the sum of the Federal free lunch reimbursement plus the value of USDA entitlement and bonus donated foods. The revenue shall include catering sales, adult meals, and a la carte sales to students and adults less sales tax. If applicable, include revenue from vending machine sales as part of

the a la carte revenue.

## **E. DELIVERY, ORDERING, AND PAYMENT**

1. Delivery of meals will be made to the SFA's dining sites based on Information Section – Building Demographics. The Vendor is liable for meals delivered outside of the agreed upon delivery time.
2. The SFA shall notify the Vendor by telephone or in person each day prior to **12:00 pm** of the total number of meals needed for the following day.
3. Vendor shall submit to the SFA monthly invoices for Services **performed in the previous billing cycle** electronically to finance@eaaofmichigan.org or via U.S. Mail to the address below:

Education Achievement Authority of Michigan  
Attention: Accounts Payable  
300 River Place, Suite 3600  
Detroit, Michigan 48207

Invoices shall: 1) itemize all costs, including quantities; 2) reference a Purchase Order number; 3) identify any discounts offered to the SFA (e.g., discounts for early payment, etc.); 4) identify any credits as outlined in Section 0.7 and 8 of this Agreement; 5) outline all Services performed during the applicable billing cycle in detail; and 5) provide any and all supporting documentation that verifies the delivery of such Services. Backup documentation must correspond with and be attached to each invoice submitted.

The SFA shall pay invoices for undisputed Services satisfactorily performed within forty-five (45) days after SFA receives an invoice from Vendor that meets the criteria listed above.

No late charges will be applied per month for any unpaid balances in excess of thirty (45) days.

4. All bids shall be calculated based on the information provided by the SFA in the Information Section of this solicitation. All bids shall be submitted using the Bid Sheet – Vended School Meals Contract form.
5. The Vendor shall receive a fixed price per meal for **breakfast, lunch, or supper** and fixed price per meal equivalent (a la carte).
6. The Vendor shall receive a fixed price per unit rate for each reimbursable snack served in the Afterschool Care Program.
7. The Vendor shall receive a fixed per unit rate for each one-half pint of milk served in the Special Milk Program.

8. The Vendor must subtract from the SFA's monthly bill/invoice, the value of all USDA Foods received for use in the SFA's meal service in the school year or fiscal year (including both entitlement and bonus foods), and including the value of donated food contained in processed end products. Credit issued by the Vendor to the SFA for USDA Foods received shall be recorded on **each** monthly bill/invoice as a separate line item and shall be clearly identified and labeled.
9. The Vendor shall submit separate billing for special functions conducted outside of the non-profit school food service account.

## F. CONTRACT TERMS

1. This contract shall be for an initial term of one year effective on July 1, 2015, or upon written approval of the contract by the Michigan Department of Education (MDE), whichever occurs last, and ending June 30, 2016, with up to four (4) one-year renewals, with mutual agreement between the SFA and the Vendor. [7 CFR 210.16 (d)]

In no event shall the contract be effective without prior approval of MDE. Per 7 CFR 250.53 (a) (12), contract extensions or renewals are contingent upon the fulfillment of all contract provisions relating to USDA Foods.

2. The only rates that may be adjusted in subsequent years of this contract are the fixed price per meal for **breakfast, lunch, and supper**, and **the fixed per unit rate for each snack** served, and **fixed per unit rate for one-half pint of milk**, and **the fixed per day fee for the FFVP** and **a daily salad bar** contained within this contract. Before any fixed rate or fee increased can be implemented as part of a contract renewal agreement, the Vendor shall document to the SFA, through a written financial analysis, the need for such increases. Renegotiation of all fixed rates in subsequent years of the contract must not exceed the *Consumer Price Index for Urban Consumers – Food Away from Home* annualized rate for December of the current school year, or a flat percentage rate of **3%**, whichever is less.
3. This solicitation/contract, the RFP proposal of the successful bidder, attachments, and mutually negotiated and MDE-approved addenda constitute the entire agreement between the SFA and Vendor. Aside from the adjustments and amendments referenced in Section (F) (2), supra, additional documents and/or agreements, including non-negotiated provisions developed by the contractor, cannot become part of the executed contract. **Any additional documents resulting in a substantial change to the contract awarded by the SFA will not be executed by the SFA without prior MDE approval.** No other contracts will be signed by the SFA.
4. All state agency-mandated changes to the terms of this contract or any

amendment will be incorporated therein before the SFA executes any agreement between it and the Vendor.

5. The SFA may request the Vendor provide meals for additional food service programs. If the addition is a Child Nutrition Program not identified in the original RFP, prior to implementation the SFA must notify MDE and discuss whether the addition constitutes a material change to the contract. [Food Service, Administrative Policy # 5, SY 2013-14]

#### **G. PRE-BID MEETING**

The bid packet will be available on **May 15, 2015**, at <https://www.buy4michigan.com> or <http://michigan.gov/ea> (under the "Resources" tab). Interested bidders must meet to review the specification, to clarify any questions, and to go on a walk-through of the facilities with school officials on **May 21, 2015 at 3:00 pm** at the following location: Mumford High School, 17525 Wyoming Street, Detroit, MI 48221. Attendance is required.

#### **H. LATE BIDS**

Any bid received after the exact time specified for receipt will not be considered or opened publicly.

#### **I. GIFTS FROM VENDOR**

The SFA's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State or Federal law, rules, or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards. [7 CFR 3016.36 (b) (3) (iv)]

#### **J. CAPTIONS**

Captions in all sections of this document are provided only as a convenience, and shall not affect the interpretation of this instrument, its attachments, and addenda.

#### **K. STANDARD TERMS AND CONDITIONS**

1. The Vendor shall operate in conformance with the School Food Authority's (SFA) Agreement with the Michigan Department of Education (MDE) and any attachments.
2. The Vendor, as an independent contractor, shall have the exclusive right to provide vended meals for the **NSLP, SBP, SMP, Afterschool Snack, SFSP, CACFP, and FFVP**.

3. The Vendor shall be an independent contractor and not a SFA agent or representative. The employees of the Vendor are not employees of the SFA. All Vendor employees shall remain directly accountable to the Vendor for the duration of this contract. Except as otherwise expressly stated in this agreement, the Vendor has the sole responsibility and authority to hire, assign, supervise, evaluate, and discipline any personnel assigned by it in the performance of this contract.
4. The food service provided shall be operated and maintained as a benefit to the SFA's students, faculty, and staff.
5. All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, grants, loans, etc., shall be deposited in the SFA's food service account. The SFA and Vendor agree that this contract is neither a "cost-plus-a-percentage-of-income" nor a "cost-plus-a-percentage-of-cost" contract, as required under 7 CFR 210.16 (c), 7 CFR 3016.36 (f) (4), and 7 CFR 3019.44 (c).
6. The SFA shall be legally responsible for the conduct of the food service program, and shall supervise the food service operations in such manner as will ensure compliance with the rules and regulations of the MDE and the United States Department of Agriculture (USDA) regarding each of the Child Nutrition Programs covered by this contract. [7 CFR 210.16 (a) (2)]
7. The SFA shall retain control of the Child Nutrition Programs' food service accounts and overall financial responsibility for the Child Nutrition Programs.
8. The SFA shall establish all selling prices for reimbursable and non-reimbursable meals/milk and a la carte prices. [7 CFR 210.16 (a) (2)]
9. The Vendor shall provide additional food service, such as banquets, parties, refreshments for meetings, etc., as requested by the SFA. The SFA or requesting organization will be billed for the actual cost of food, supplies, and labor; plus a **markup (as documented on the Vendor signed and dated bid sheet)** and the Vendors overhead and administrative expenses if applicable, for providing such service. USDA Foods shall not be used for these special functions.

## **L. EMPLOYEES**

The Vendor shall provide bids based on at least **one Server (non-management staff)** per building to accommodate food service. **For the purposes of bidding, the Vendor shall include the cost of one server on the bid sheet in the price per meal rate *and on a separate page shall identify the incremental increase in the price per meal for each additional Server and identify the number per building the Vendor***

***believes will adequately cover service.***

1. The Vendor shall comply with all wage and hours of employment requirements of federal and state laws. The Vendor shall be responsible for supervising and training its own personnel. The Vendor shall maintain its own personnel and fringe benefits policies for its employees. All such policies shall be subject to SFA review upon demand.
2. The Vendor shall provide Workers' Compensation coverage for its employees.
3. The Vendor shall instruct its employees to abide by the policies, rules, and regulations, with respect to use of the SFA's premises as established by the SFA and which are furnished in writing to the Vendor.
4. Staffing schedules shall be mutually agreed upon by the SFA and the Vendor and as established in the original RFP specifications.
5. The Vendor shall provide the SFA with a schedule of employees, positions, assigned locations, salaries, and hours to be worked two (2) full calendar weeks prior to the commencement of service.
6. The SFA shall provide sanitary toilet and hand washing facilities for the employees of the Vendor.
7. Pursuant to the requirements of Section 1230 and 1230a of the Michigan Revised School Code, the SFA shall request a criminal history check through the Michigan State Police, as well as a criminal records check through the Federal Bureau of Investigation, with regard to all persons assigned by FSMC to regularly and continuously work in any of the SFA facilities. Vendor agrees that it shall not assign any of its employees, agents, or other individuals to perform any services under this Agreement where such individuals would regularly and continuously work in the SFA facilities if such person has been convicted of any of the following offenses:
  - a. Any "listed offense" as defined under Section 2 of the Michigan Sex Offenders Registration Act, MCL 28.722; or
  - b. Any offense enumerated in Sections MCL 380.1535a or 380.1539b or the Revised School Code, MCL 380.1535a; 380.1539b (for positions requiring State Board of Education approval); or
  - c. Any offense of a substantially similar enactment of the United States or another State; or
  - d. Any felony. Provided that with prior written approval of the SFA's Superintendent and its Board of Education an individual regularly

and continuously providing services under this Agreement at the SFA may be permitted to perform such services when, in the judgment of the Superintendent and Board of Education of the SFA, such individual's presence will not pose a danger to the safety or security of the SFA students or employees; or

- e. Any offense that would, in the judgment of the SFA create a potential risk to the safety and security of the students served by the SFA or employees of the SFA.

The SFA reserves the right to refuse Vendor's assignment of any individual, agent, or employee of the Vendor to render services under this Agreement where the criminal record history of the individual (including any pending criminal charges) indicate, in the SFA's judgment, unfitness to perform services under this Agreement.

The Vendor agrees that it shall pay the costs associated with criminal history checks and criminal records checks required under this contract and which are accomplished in order to comply with Section 1230 and 1230a of the Revised School Code with respect to Vendor's employees and agents.

- 8. Notwithstanding the provisions of Section VIII and its subparts, the SFA may request in writing the removal of any employee of the Vendor who violates health requirements or conducts himself/herself in a manner, which is detrimental to the physical, mental or moral well-being of students.
- 9. In the event of the removal or suspension of any such employee, the Vendor shall immediately restructure the food service staff without disruption of service.
- 10. All SFA and/or Vendor personnel assigned to each school shall be instructed in the use of all emergency valves, switches, fire, and safety devices in the kitchen and cafeteria areas.

#### **M. FRESH FRUIT AND VEGETABLE PROGRAM**

The SFA requests the Vendor be responsible for the following aspects of the FFVP:

Purchase of fruits and vegetables including the cost of pre-cut produce and delivery charges;

Purchase of non-food items and supplies that are used in serving and cleaning of the fruits and vegetables;

Salaries and fringe benefits for employees engaged in preparing and

distributing fresh fruits and vegetables and maintaining a sanitary environment

- The SFA will provide assurance that the Vendor is completely apprised of all FFVP Policies and rules to guarantee the program is operated in compliance with FNS standards.
- The SFA will regularly monitor Vendor operations to ensure compliance with relevant FFVSP requirements and provisions of the contract.
- **If the Vendor is going to charge costs other than the actual costs of fresh fruits and vegetables, they must clearly identify the fixed fee (per day FFVP is served) markup charged to the SFA's FFVP on the bid sheet contained in the *Information Section* of the RFP.** Additionally, the FSMCs are required to submit a FFVP cycle menu based on FNS Guidance.
- Vendors must document and track Fresh Fruit and Vegetable Program (FFVP) expenses **separately** and must make this documentation easily accessible for the SFA to review. This documentation must fully identify allowable costs and the allocation of costs charged to the FFVP. The SFA uses this information as the basis for its reimbursement claim under the FFVP.
- Costs reported by the SFA for reimbursement from the FFVP grant must be allowable, actual costs, and fully documented. Labor costs, which must be minimal in either the "operating or administrative" category, must be reported by the SFA in a manner that clearly identifies the actual time allocated to the FFVP. Administration costs must not exceed 5% of the overall grant.

#### **N. FREE AND REDUCED PRICE MEALS POLICY**

1. The SFA shall be responsible for or may delegate to the Vendor the establishment and maintenance of the free and reduced price meals eligibility roster. [Food Service, Administrative Policy #3, SY 2008-2009]
2. The SFA shall be responsible for or may delegate to the Vendor the development, distribution, and collection of the parent letter and application for free and reduced price meals and/or free milk. [Food Service, Administrative Policy #3, SY 2008-2009]
3. The SFA shall be responsible for or may delegate to the Vendor accessing the direct certification report available from the Center for Educational Performance and Information (CEPI) each year of eligible students for free meals. Students on this report will not require an application from the parent/guardian. [Food Service, Administrative Policy #3, SY 2008-2009]

4. The SFA shall be responsible for or may delegate to the Vendor the determination of the eligibility for free and reduced price meals and free milk. Neither the SFA nor the Vendor will disclose confidential information that is not needed for meal counts from free and reduced price meal applications and/or the direct certification list, if used. The SFA will provide the Vendor with a list of children and their category of eligibility. This limit must be updated when changes occur in a student's eligibility status. [Food Service, Administrative Policy #3, SY 2008-2009]
5. The SFA shall be responsible for conducting any hearings related to determinations regarding eligibility for free and reduced price meals and free milk. [Food Service, Administrative Policy #3, SY 2008-2009]
6. The SFA shall be responsible for or may delegate to the Vendor the responsibility for verifying applications for free and reduced price meals, as required by federal regulations. [Food Service, Administrative Policy #3, SY 2008-2009]
7. The SFA shall be responsible for performing the annual on-site review. [Food Service, Administrative Policy #3, SY 2008-2009]

#### **O. USDA FOODS**

1. Any USDA Foods received by the SFA and made available to the Vendor or received by the Vendor on behalf of the SFA, must accrue solely to the benefit of the SFA's non-profit school food service program and shall be fully utilized therein. The Vendor must credit the SFA for the value of all USDA Foods received for use in the SFA's food service program, including the value of USDA Foods contained in processed end products, in accordance with 7 CFR 250.51 (a).
2. The SFA shall retain title to all USDA Foods. [7 CFR 250.13 (c)]
3. The Vendor is prohibited from entering into any processing contracts utilizing USDA donated food on behalf of the SFA. [7 CFR 250.50 (d)]
4. The Vendor shall collaborate with the SFA on the selection of USDA Foods and they will accept and use USDA Foods in as large quantities as may be efficiently utilized in the SFA's non-profit food service on a monthly basis to ensure they will not accumulate excess inventory.

If the current selection of USDA Foods cannot be utilized in the food service program, either the SFA or Vendor must work directly with the SFA's chosen consortium to trade or obtain a different selection of food items prior to delivery to the Vendor or SFA. USDA Foods entitlement can be spent on a value-added (brown box), processed USDA Foods, or Department of Defense (DoD) fresh produce.

5. The Vendor shall select, accept, and use the USDA Foods in as large quantities as may be efficiently utilized in the SFA's non-profit food service, subject to approval of the SFA.

**The Vendor must utilize no less than 95% of the SFA's overall entitlement.** If less than 95% is spent, the Vendor must submit justification of the underutilization of this federal program to the SFA as part of their mandatory annual reconciliation of USDA Foods.

Furthermore, the SFA will use all donated ground beef and ground pork products, and all processed end products in the SFA's food service, and all other USDA Foods or commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods, in the SFA's food service. [7 CFR 250.51 (d)]

6. The Vendor shall store and account for all USDA Foods separately from purchased food unless the SFA has chosen not to maintain a separate inventory. The Vendor is required to maintain accurate and complete records with respect to the receipt, use/disposition, storage, and inventory of all USDA Foods. The Vendor shall submit to the SFA monthly inventory reports showing all transactions for processed and non-processed USDA Foods. Quarterly physical inventories of all USDA Foods must be conducted by the Vendor and supervised by the SFA. Failure by the Vendor to maintain the required records under this contract shall be considered prima facie evidence of improper distribution or loss of the USDA Foods. [7 CFR 250.16 (a) (6) and 250.52 (b)]
7. The Vendor shall have records available to substantiate that the full value of all USDA Foods is used solely for the benefit of the SFA. The Vendor must provide all documents as necessary for the independent auditor, MDE reviewers, or agents of USDA who may perform onsite reviews of the Vendor's food service operation to ensure compliance with the requirements for the management and use of USDA Foods. [7 CFR 250.54 (d) (1) and (2)]
8. The SFA must determine the existence of the proper pass through value of the USDA Foods, e.g., credits or reductions on the invoice in the month the donated foods were received for use.
9. The value of all USDA Foods are to be based on the values at the point the SFA received the USDA Foods from the Distributing Agency and are to be based on the USDA Commodity Value Listing pertinent to the time period. This listing is available from the following website:

<http://www.fns.usda.gov/fdd/processor-pricing-reports>

**School Year (SY) 2015 Material Pricing Information**

Average Price File for Processors for SY 2015

10. A year-end reconciliation shall be conducted by the SFA to ensure and verify correct and proper credit has been received for the full value of all USDA Foods used by the Vendor during the school year. The SFA reserves the right to conduct monthly commodity credit audits throughout the year to ensure compliance with federal regulations 7 CFR 210 and 7 CFR 250. [7 CFR 250.53 (a) (1)]
11. The Vendor shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to, USDA Foods and shall credit the SFA either monthly or through a year-end-reconciliation. [7 CFR 250.15 (c)]
12. The SFA and Vendor shall consult and agree on end products to be produced from USDA Foods during the time of this agreement. If an agreement cannot be reached, the Vendor shall utilize the USDA Foods in the form furnished by the USDA.
13. Upon termination of the contract, the Vendor must return all unused donated ground beef, ground pork, processed end products, and at the SFA's discretion, return other unused donated foods. The SFA must ensure that the Vendor has credited it for the value of all donated foods received for use in the SFA's meal service in a school year. [7 CFR 250.52 (c)]

#### **P. HEALTH CERTIFICATIONS**

1. The Vendor agrees that the state and local health and sanitation requirements will be met at all times. All food will be properly stored, prepared, packaged and transported free of contamination and at appropriate temperatures following HACCP guidelines.
2. The SFA shall maintain all applicable health certifications on its facilities and shall ensure that all state and local regulations are being met by the Vendor preparing or serving meals at any SFA facility. [7 CFR 210.16 (a) (7)]
3. The Vendor shall maintain for the duration of the contract state and/or local health certifications for any facility outside the SFA in which it proposes to prepare meals and shall maintain this health certification for the duration of the contract as required under 7 CFR 210.16 (c) (2).

#### **Q. RECORD KEEPING**

1. The Vendor agrees to maintain (for a period of three years after the end of the fiscal year to which they pertain, or until final resolution of outstanding audits or claims), all records pertaining to this Contract including records of food purchased, daily quantities prepared and delivered, daily menu records, nutrition information from food products

and recipes used, and delivery receipts. The Vendor must submit delivery reports and invoices to the SFA on a monthly basis. The Vendor also agrees that such records will be made available to representatives of MDE, USDA, and the United States General Accounting Office, at any reasonable time and place. [7 CFR 210.23 (c) and 250.16 (b)]

2. The Vendor agrees to comply with all requirements regarding the Nutrition Review process of MDE for the school meals including providing nutrition information on food products and recipes used.
3. The Vendor shall surrender to the SFA upon termination of the Contract all records pertaining to the operation of the food service, to include all food and non-food inventory records, menus, production records, product invoices, claim documentation, financial reports, and procurement documentation. The records shall be in appropriate order and complete to the extent necessary to reconstruct individual cost of prior Vendor billings.
4. The Vendor shall maintain such records (supported by invoices, receipts, and other evidence) as the SFA will need to meet monthly reporting responsibilities and shall submit monthly bills/invoices in a format approved by the SFA.
5. The SFA and Vendor must provide all documents as necessary for the independent auditor, MDE Reviewers, or agents of the USDA to conduct the SFA's single audit.
6. The Vendor shall purchase all food and supplies for the SFA at the lowest prices possible consistent with maintenance of quality standards prescribed by the SFA, including taking advantage of all local trade discounts. All such transactions shall meet USDA procurement standards.

## **R. MONITORING**

1. The SFA shall monitor the food service operation of the Vendor through periodic on-site visits to ensure that the food service is in conformance with all USDA program regulations.
2. The records necessary for the SFA to complete the required monitoring activities must be maintained by the Vendor under this contract, and must be made available to the Auditor General, the USDA, the MDE, and the SFA upon request for the purpose of auditing, examination, and review.
3. On a monthly and at least quarterly basis, the SFA shall conduct an internal reconciliation of invoices and supporting documentation to verify per meal charges, labor if separately bid, salad bar or FFVP costs and flat fees (if applicable), and USDA Food usage credits in accordance with 7 CFR 210.21 (f)(iv) and (vi); 250.51 (b); and MDE Food Service SY 2014-2015 Administrative Policy Memo #12.

## **S. USE OF ADVISORY GROUP/MENUS**

1. The Vendor shall participate in the formation and establishment and periodic meetings of the SFA advisory board, comprised of students, teachers, and parents, to assist in menu planning.
2. The Vendor must comply with the twenty-one (21) day menu developed by the SFA for **NSLP**, and/or **SBP**, and/or **SFSP**, and/or **CACFP** included in the request for bid/proposal. Any changes made by the Vendor after the first twenty-one (21) day menu for the **NSLP**, and/or **SBP**, and/or **SFSP**, and/or **CACFP** may be made only with the approval to the SFA. The SFA shall approve the menus no later than two (2) weeks prior to service.

## **T. USE OF FACILITIES, INVENTORY, EQUIPMENT, AND STORAGE**

1. The SFA will make available without any cost or charge to the Vendor, area(s) of the premises agreeable to both parties in which the Vendor shall render its services.
2. The Vendor shall maintain adequate storage practices, inventory and control of USDA donated foods in conformance with the SFA's agreement with the Michigan Department of Education.
3. The SFA shall furnish and install any equipment and/or make any structural changes needed to comply with federal, state or local laws, ordinances, rules or regulations.
4. Equipment purchases must be submitted to the MDE School Nutrition Programs Unit for review and approval in accordance with the stipulations set forth in MDE Food Service Administrative Policy #13 for School Year 2014-2015.
5. The SFA shall be responsible for any losses including USDA donated foods, which may arise due to equipment malfunction or loss of electrical power not within the control of the Vendor.
6. The SFA, on the termination or expiration of the contract, shall conduct a physical inventory of all equipment and commodities owned by the SFA.

## **U. PURCHASES**

1. The Vendor shall purchase all food and supplies at the lowest price possible consistent with maintaining quality standards and in full compliance with Office of Management and Budget (OMB) Super-Circular (formerly Circulars A-21, A-87, A-110, A-122, and A-133), 7 CFR Parts 210, 215, 220, 225, 226, 235, 245, 250, 3016 and 3019.

2. This contract shall not prevent the SFA from participating in food consortia or purchasing food from vendors with whom the Vendor normally does not do business.

#### **V. LICENSES, FEES, AND TAXES**

1. The Vendor and the SFA shall obtain and post all licenses and permits as required by federal, state, and/or local law.
2. The Vendor shall comply with all SFA building rules and regulations.

#### **W. INSURANCE AND INDEMNIFICATION**

1. A Certificate of Insurance of the Vendor's insurance coverage, indicating the specified amounts, must be submitted at the time of award. The Vendor shall provide the SFA copies of all applicable insurance policies at the time of award. All insurance required as a result of a response to this RFP shall provide that the insurer will provide notice of cancellation directly to the SFA thirty (30) days before such cancellation occurs.
2. The SFA shall keep its buildings, including the premises, and all property contain therein insured against loss or damage by fire, explosion, and similar casualties.
3. The Vendor shall indemnify and hold harmless the SFA, or any employee, director, or agent of the SFA from and against all claims, damages, losses, and expenses (including attorney's fees and court costs incurred to defend litigation), decrees or judgments whatsoever arising from any and all injuries, including death or damages to or destruction of property, resulting from the Vendor's acts, or omissions, willful misconduct, or breach of the Vendor's obligations under the Agreement by the Vendor and its agents, servants, or employees, or other persons under its supervision or direction.
4. The Vendor shall not be required to indemnify or hold harmless the SFA from any liability or damages arising from the SFA's sole acts or omissions.

#### **X. EMERGENCY CLOSING**

1. The SFA shall notify the Vendor of any interruption in utility service of which it has knowledge.
2. The SFA shall notify the Vendor of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations.

## **Y. TERMS and TERMINATION**

1. This contract shall be for an initial term of one year effective on **July 1, 2015**, or upon written approval of the contract by the Michigan Department of Education, whichever occurs last, and ending on **June 30, 2016**, with up to four (4) one-year renewals with mutual agreement between the SFA and the Vendor. [7 CFR 210.16 (d)]

In no event shall the contract become effective without the prior approval of the MDE. Per 7 CFR 250.53 (a) (12), contract extensions or renewals are contingent upon the fulfillment of all contract provisions relating to USDA Foods.

2. The SFA may suspend or terminate services without cause by providing at least thirty (30) days written notice of such suspension/termination to Vendor.
3. Either Party may terminate services for cause upon breach by the other Party, which breach remains uncured fourteen (14) days after written notice describing such breach is given to the breaching Party.
4. Neither the Vendor nor the SFA shall be responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any acts not within the control of the Vendor or the SFA, respectively, and which by the exercise of due diligence they were unable to prevent.

## **Z. NON-PERFORMANCE BY VENDOR**

In the event of the Vendor's non-performance under this contract and/or the violation or breach of the contract terms, the SFA shall have the right to pursue all administrative, contractual, and legal remedies against the Vendor and shall have the right to seek all sanctions and penalties as may be appropriate.

### **AA. CERTIFICATIONS**

1. The Vendor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy efficiency conservation plan issued in compliance with the Energy Policy and Conversation Act (Pub. L. 94-163).
2. The Vendor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations, 41 CFR, Part 60.
3. The Vendor shall comply with all applicable civil rights laws, as amended,

which include but are not limited to: Title VI and Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities; the Michigan Elliott-Larsen Civil Rights Act; and the Michigan Persons with Disabilities Civil Rights Act.

4. The Vendor shall comply with the Buy American provision for contracts that involve the purchase of food products with Federal funds, 7 CFR Part 250.23.
5. Where applicable, the SFA or FSMC shall take affirmative steps to ensure small and minority businesses are solicited whenever they are potential sources and to use the services and assistance of the Small Business Administration and Minority Business Enterprise of the Department of Commerce as required (7 CFR 226.22(f)).
6. The successful Vendor **has signed** the Certificate of Independent Price Determination, which was attached as an addendum to the Vendor's bid and which is incorporated herein by reference and made a part of this contract.
7. The successful Vendor **has signed** the Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, which was attached as an addendum to the Vendor's bid and which is incorporated herein by reference and made a part of this contract.
8. The successful Vendor **has signed** the Certification Regarding Clean Water and Air, which was attached as an addendum to the Vendor's bid and which is incorporated herein by reference and made a part of this contract.
9. The successful Vendor **has signed** the Certification Regarding Disclosure of Lobbying Activities, which was attached as an addendum to the Vendor's bid and which is incorporated herein by reference and made a part of this contract.
10. The successful Vendor **has signed** the Certificate of Compliance with Michigan Public Act 517, which was attached as an addendum to the Vendor's bid and which is incorporated by reference and made a part of this contract.

**BB. MISCELLANEOUS**

1. Except as otherwise expressly stated, this contract shall be construed as arising under the laws of the State of Michigan. Any action or proceeding arising out of this contract shall be heard in the appropriate courts within

the State of Michigan.

2. The Vendor shall comply with the provisions of the bid specifications, which are hereby **in all respects made a part of this contract**.
3. No provision of this contract shall be assigned or subcontracted without prior written consent of the SFA and notification to MDE prior to implementation.
4. No waiver of any default shall be construed to be or constitute a waiver of any subsequent claim.
5. Any silence, absence, or omission from the contract specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and that only materials (e.g., food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.
6. Payments on any claim shall not preclude the SFA from making a claim for adjustment on any item found not to have been in accordance with the provisions of this contract and bid specifications.
7. The SFA shall be responsible for ensuring the resolution of program review and audit findings.
8. This contract is subject to review and approval by the Michigan Department of Education.

**USDA FOODS AGREEMENT**

This is an Agreement between \_\_\_\_\_ and  
(Vendor)

\_\_\_\_\_  
[School Food Authority (SFA)]

to consign the commodity food to which the SFA is entitled to the Vendor for **School Year 2015-2016.**

The Vendor hereby agrees to assume the physical control of the commodity food consigned by the SFA. Pursuant to that assumption, the Vendor agrees to control, secure, and use these commodities in a manner that complies with the United States Department of Agriculture (USDA) commodity regulations in Subpart D of 7 CFR Part 250.50 – 250.54. The Vendor will make the appropriate price adjustment to the SFA, which recognizes the net value of these commodities. The Vendor agrees that the commodities will be used only to produce school meals for the SFA. The Vendor agrees to compensate the SFA for any loss of commodity products through misuse or negligence. The Vendor will maintain records to document that the commodities were used only to benefit the SFA.

The SFA agrees to monitor the proper use of commodities each month and to correct any errors in handling or use of the commodities by the Vendor immediately.

The SFA will continue to have sole financial liability for any misuse or loss of commodities pursuant to Subpart D of 7 CFR Part 250.50 – 250.54 and Section M of the vended school meals contract.

Check and initial the appropriate statement:

\_\_\_\_\_The Vendor agrees to pay all storage and delivery fees as billed by the distributor.

\_\_\_\_\_The SFA agrees to pay all storage and delivery fees as billed by the distributor.

This Agreement expires **June 30, 2016**. There are no automatic renewals of this Agreement. This agreement can be canceled, at any time, by written notification from the SFA or the Vendor.

\* \_\_\_\_\_  
**Signature of School Food Authority Official and Title** **Date**

School District Agreement Number: \_\_\_\_\_

I authorize delivery of our commodities to our Vendor’s address at:  
\_\_\_\_\_  
\_\_\_\_\_

and certify that those commodities ordered are compatible with submitted menus by Vendor.

\* \_\_\_\_\_  
**Signature of Vendor Representative and Title** **Date**

Phone Number: \_\_\_\_\_

# AGREEMENT PAGE

This bidder certified that he/she shall operate in accordance with all applicable State and Federal laws and regulations.

This solicitation/contract, attachments, and the RFP proposal of the successful bidder, with addenda, if any, constitute the entire agreement between the SFA and the Vendor. The parties shall not execute any additional contractual documents pertaining to this RFP, except as permitted by applicable law.

This Agreement shall be in effect for one year and may be renewed by mutual agreement for four (4) additional one-year periods.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representative on this day and year.

**ATTEST:**

**SCHOOL FOOD AUTHORITY:**

\_\_\_\_\_  
Signature of Witness for SFA

\_\_\_\_\_  
Signature of SFA Representative

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTEST:**

**FOOD SERVICE VENDED MEAL COMPANY:**

\_\_\_\_\_  
Signature of Witness for Vendor

\_\_\_\_\_  
Signature of Company Representative

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# **SUCCESSFUL BIDDER CERTIFICATIONS**

**These forms have been completed by each food service vended meal company and posted to the following website:**

[http://www.michigan.gov/mde/0,4615,7-140-43092\\_61446-289948--,00.html](http://www.michigan.gov/mde/0,4615,7-140-43092_61446-289948--,00.html)

**Certificate of Independent Price Determination**

**Suspension and Debarment Certification**

**Clean Air and Water Certificate**

**Disclosure of Lobbying Activities**

**Certification of Compliance for Public Act 517**

They are listed by name of the vending company. When the SFA determines the recommended successful bidder, it will need to download the company's signed certificates. The Certificate of Independent Price Determination will need to be signed by the SFA and submitted with the final contract for MDE approval.

**A copy of each certificate will be retained by the school district for its file.**