

Child Nutrition Programs

Request for Proposal

Heber-Overgaard Unified School District No. 6 Cost-Reimbursable (SFA Purchases Food)

Note: The SFA may not change the purchasing option once it has issued its RFP. Any change would be considered material and require the SFA to begin its procurement process again so that all Offerors have the same opportunity.

Solicitation/RFP Number: FY24-29-FSMC-HOUSD6

Solicitation Release Date: April 24, 2024

Pre-Offer Conference Date: May 8, 2024

Pre-Offer Conference Time: 1:00 pm

Pre-Offer Conference Location: 3375 Buckskin Canyon Road, Heber, AZ 85928

Solicitation Due Date: May 28, 2024

Solicitation Due Time: 1:00 pm

Submittal Location: Heber-Overgaard Unified School District Office PO Box 547, Heber, AZ 85928 or physical address 3375 Buckskin Canyon Road, Heber, AZ 85928

Offer Opening Date: May 28, 2024

Offer Opening Time: 1:00 pm

Offer Opening Location: Heber-Overgaard Unified School District Office 3375 Buckskin Canyon Road, Heber, AZ 85928

Description of Procurement:

Competitive sealed proposals for the materials or services specified will be received by **Heber-Overgaard Unified School District No. 6** at the above specified location until the time and date cited. Offers received by the correct time and date will be opened and the name of each Offeror will be publicly read. Offers must be in the actual possession of **H-OUSD6** on or prior to the time and date, and at the submittal location indicated above. **Late offers will not be considered.**

Offers must be submitted in a sealed envelope or package with the Solicitation/RFP Number and the Offeror's name and address clearly indicated on the envelope or package. All offers must be completed in ink or typewritten. Additional instructions for preparing an offer are included in this Solicitation.

Persons with disabilities may request special accommodations such as interpreters, alternate formats, or assistance with physical accessibility. Requests for special accommodations must be made with seventy-two (72) hours prior notice. Such requests are to be addressed to the Solicitation Contact Person or Procurement Officer listed below.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION

SFA Procurement Officer/Contact: Andrea Despain (928)535-4622 ext. 5003 or andrea.despain@h-oschools.org

Procurement Officer/Contact Phone Number: Laura Tomlinson (928)535-4622 ext. 5000 or laura.tomlinson@h-oschools.org

OFFER AND AWARD
Solicitation/RFP Number: FY24-29-FSMC-HOUSD6

The Undersigned hereby offers and agrees to furnish the materials, service(s), or construction in compliance with all the terms, conditions, specifications, and amendments in the solicitation.

Company Name

Name of Person Authorized to Sign Offer

Street Address

Title of Authorized Person

City State Zip Code

Signature of Authorized Person Date of Offer

Telephone Number: _____

Offeror's Arizona Transaction (Sales) Privilege Tax License Number: _____

Offeror's Federal Employer Identification Number: _____

Offeror's Unique Entity Identifier Number: _____

Acknowledgement of Amendment(s): <i>(Offeror acknowledges receipt of amendment(s) to the Solicitation for Offers and related documents numbered and dated)</i>	Amendment Number	Date
	_____	_____
	_____	_____
	_____	_____

ACCEPTANCE OF OFFER AND AWARD

Solicitation/RFP Number: FY24-29-FSMC-HOUSD6

Your Offer is hereby accepted as described in the Notice of Award. You are now bound to perform based upon the solicitation and your Offer, as accepted by the SFA.

This Contract shall henceforth be referred to as Contract Number _____ **FY24-29-FSMC-HOUSD6**

Signature

Date

Printed Name

Title

SFA Name: Heber-Overgaard Unified School District No. 6

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In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

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

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted 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; or*
- 3. email: program.intake@usda.gov.*

Section 1

Scope of Work

BACKGROUND

Heber-Overgaard Unified School District No. 6, hereby referred to as the School Food Authority (SFA), seeks to contract with a Food Service Management Company (FSMC) to operate the following food services: **National School Lunch Program (NSLP), School Breakfast Program (SBP), Seamless Summer Option (SSO), Summer Food Service Program (SFSP), and some catering for the district and to other schools.**

This Request for Proposal (RFP) is intended to provide a basis for selection of an FSMC. The selected FSMC will be responsible for: the management of the food services staff, including training and development; quality and control; extensive operational and technical support; and financial management of the program. In submitting a proposal, the FSMC agrees that it will perform the work described in the RFP in full compliance with all applicable laws, rules, and regulations adopted or promulgated by any Federal or State regulatory body or governmental agency. By reading and accepting this pre-qualification outline, the interested FSMC acknowledges that the SFA has no obligation to contract, unless, in its sole opinion, it is in its best interest to do so.

The SFA employs **7** persons and provides food service to approximately **500** children at three sites, including four schools, One SFSP/SSO feeding sites.

The food service prepares approximately **39,000** meals annually. **Detailed SFA information is on Exhibit A.**

A. The SFA will adhere to the following Code of Federal Regulations (CFR) in the oversight of the food service program.

- (1) The SFA shall adhere to the procurement standards specified in 7CFR§210.21 when contracting with an FSMC. 7CFR§210.16(a)(1) and 2CFR§200.319
- (2) The SFA shall ensure that the food service operation is in conformance with the SFA's agreement under the program. 7CFR§210.16(a)(2)
- (3) The SFA shall monitor the performance of the FSMC through periodic on-site visits and shall have access to all portions of the food service facilities at all times. 7CFR§210.16(a)(3) and 7CFR§210.21(e)(1)
- (4) The SFA shall retain control of the nonprofit school food service account and overall financial responsibility for the food service operation. The SFA shall retain control of the quality, extent, and general nature of the food service and prices charged to children for meals. 7CFR§210.16(a)(4)
- (5) The SFA shall retain signature authority on the Food Program Permanent Service Agreement, free and reduced policy statement, and claims. 7CFR§210.16(a)(5) and 7CFR§210.21(b)
- (6) The SFA shall establish an advisory board composed of parents, teachers, and students to assist in menu planning. 7CFR§210.16(a)(8)
- (7) The SFA shall obtain written approval of requests for proposals (RFP) for an FSMC before their issuance. The SFA must incorporate all Arizona Department of Education (ADE) required changes to its solicitation documents before issuing those documents. 7CFR§210.16(a)(9)
- (8) The SFA shall ensure that ADE has reviewed and approved the contract terms and that the SFA has incorporated all ADE required changes into the contract or amendment before any contract or amendment is executed. Any changes made by the SFA to the prototype contract must be approved in writing by ADE before the contract is executed. When requested, the SFA must submit all procurement documents by the due date set by ADE. 7CFR§210.16(a)(10)
- (9) The SFA shall maintain responsibility for the application process for all free and reduced-price meals and shall establish and notify parents and guardians of program criteria for eligible students. The SFA shall be responsible for verifying applications for free and reduced-price meals as required by USDA regulations. The SFA will ensure that no child is discriminated against race, color, national origin, sex (including gender identity and sexual orientation),

disability, age, or reprisal or retaliation for prior civil rights activity. Both the SFA and the FSMC shall be responsible for protecting the anonymity of students receiving free or reduced-price meals. [7 CFR 245.6]

(10) Every school year, prior to February 1, the SFA with more than one school shall perform no less than one on-site review of the lunch counting and claiming system and the readily observable general areas of review as identified under 7CFR§210.18(h) in each school operating the National School Lunch Program (NSLP) and 50% of schools operating the School Breakfast Program (SBP) under its jurisdiction. In addition, schools operating Breakfast in the Classroom (BIC) are encouraged to observe as many classrooms as they deem necessary. While the annual requirement is to complete 50% of the schools approved to participate in the SBP in the SFA’s jurisdiction, each school approved to participate in the SBP must be reviewed at least once every two years. If the review discloses problems with a school's meal counting or claiming procedures, the SFA shall ensure that the school implements corrective action; and, within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problem. Each on-site review shall ensure that the school's claim is based on the counting system authorized by the State agency under 7CFR§210.7(c) and that the counting system, as implemented, yields the actual number of reimbursable free, reduced-price, and paid lunches, respectively, served for each day of operation. 7CFR§210.8(a)(1)

B. The SFA will maintain a written code of conduct that prohibits real or apparent conflict of interest and disciplinary actions that are to be applied for violations of such standards. 2CFR§200.318(c)(1)

C. The SFA will maintain written procurement procedures that ensure full and open competition exists to the maximum extent possible. 2CFR§200.319

METHOD OF APPROACH AND IMPLEMENTATION PLAN

1. Food Purchase Specifications.

A. The SFA will be responsible for purchasing all food items, supplies, and equipment required for the Child Nutrition Programs (CNP). The SFA will purchase quality products at the lowest possible cost utilizing existing contracts in place. The FSMC shall credit the SFA for the value of all USDA Foods received for the use in the SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA Foods contained in processed end products. The manner in which the FSMC shall account for the value of USDA Foods is listed in [7 CFR 250.50]

All purchases generated by the FSMC upon SFA approval, must adhere to the federal CNP procurement regulations in 2CFR§200 and 7CFR§210.21 and will adhere to Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) and Section 12(n) of the NSLA (42 USC 1760(n)). The SFA shall purchase all food and non-food at the lowest price possible consistent with maintaining quality standards and service.

The SFA shall be responsible for purchasing standards and specifications to bring about the best quality and price for the SFA’s food service program. Specifications shall cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time. Official U.S. grade standards for all meal components are available from: <http://www.fns.usda.gov/fdd/specifications-us-grading-standards>. 7CFR§210.16(c)(3)

Beef	USDA inspected	Fresh fruits	US Fancy
Poultry	USDA inspected	Canned fruits	US Fancy
Variety meats	High quality	Canned vegetables	US Fancy
Dairy products	Grade A	Frozen fruits	High quality
Eggs	Fresh Grade A	All other items	High quality
Fish	Government Inspected		

B. The FSMC must submit a comprehensive plan on how the SFA will receive all the credits, rebates, and discounts as it pertains to the USDA requirements as stated in the Special Terms and Conditions. In the plan, the FSMC must describe the methodology it will use to document the market value of the USDA Foods *used* on the invoice. The FSMC must state the estimated food costs in Attachment 7.3(Financial Projected Worksheet). **The FSMC shall provide a sample invoice in the proposal that will meet all the information listed in the Special Terms and Conditions that pertain to USDA requirements.**

C. Whether the SFA conducts its own procurement, or if the FSMC procures products on behalf of the SFA, the FSMC may not require any additional liability coverage, regardless of dollar value, beyond that which the SFA would require under procurements not involving the FSMC.

2. Buy American Provision.

A. The FSMC will purchase, to the maximum extent practicable, domestic commodities or products for Program meals in accordance with 7CFR§210.21(d) and 7CFR§220.16(d).

B. A “domestic commodity or product” is defined as one that is either produced in the U.S. and its territories or is processed in the U.S. and its territories substantially using agricultural commodities that are produced in the U.S. and its territories. 7CFR§210.21(d).

C. The SFA and the FSMC shall purchase, to the maximum extent practicable, domestic agricultural commodities or products substantially processed in the United States. “Substantially” means the final processed product contains over 51% domestically grown agricultural commodities.

D. This provision applies to all food purchases paid from the nonprofit school food service account.

E. Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request.

(1) Exceptions include:

(a) The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality, or

(b) Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.

(2) To be considered for the alternative or exception, the request must be submitted in writing to a designated official of the SFA, a minimum of 1 days in advance of delivery. The request must include the:

(a) Alternative substitute(s) that are domestic and meet the required specifications:

(i) Price of the domestic food alternative substitute(s); and

(ii) Availability of the domestic alternative substitute(s) in relation to the quantity ordered.

(b) Reason for exception: limited/lack of availability or price (include price):

(i) Price of the domestic food product; and

(ii) Price of the non-domestic product that meets the required specification of the domestic product.

(3) Buy American exceptions should be kept on file for review.

3. Menu Plan.

A. The SFA participates in the programs listed in the Background Section of this Agreement and USDA Foods are available for use in the selected program(s), and it is the intent of the SFA that such items will be included in menus to the greatest extent possible.

B. The FSMC shall include 21-day cycle menus developed in accordance with the meal pattern requirements specified in 7CFR§210.10 for the programs listed in the Background Section of this Agreement. These menus will be used as a basis for projecting costs. The FSMC must adhere to the FSMC developed menu for the first twenty-one (21) days of meal service. The menus shall meet the requirements stated in Public Law 111-296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). Changes thereafter may be made with the approval of the SFA. 7CFR§210.16(b)(1) ***Complete Attachment 7.5 for each program.*** (21-Day Cycle Menus)

C. Successive menus must offer the same level of quality, variety, and nutritional value as the first 21-day proposed menu. The FSMC shall ensure compliance with the SFA’s Agreement with the Arizona Department of Education (ADE).

D. The SFA chooses to offer **A MINIMUM OF HALF** of the grain components whole grain rich. The FSMC agrees to abide by this request.

E. The FSMC shall provide a salad bar at 66.67% of sites. The salad bars offered must contain 3 types of fresh vegetables and 2 types of fruit **DAILY**.

F. The FSMC shall provide reimbursable meals which meet the nutrition standards stated in section 201 of the Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111-296, HHFKA) amended Section 4(b) of the NSLA, 42 USC 1753(b). Refer to Exhibits B - F for meal pattern requirements.

G. The FSMC may not change or vary the menus after the first menu cycle without written approval of the SFA. (7CFR§210.16(b)(1)) The SFA shall approve the menus no later than two weeks prior to service. Any changes or variances requested by the FSMC for substitutions to the SFA menu of lower quality food items shall be justified and documented in writing. The FSMC must maintain documentation for substitutions and justification of lower quality food items for the records retention period that is applicable to food production records and shall make such documentation available to the SFA, ADE, and USDA for review upon request.

H. The FSMC will use strategies to keep costs low and quality high to prepare and serve a variety of high quality, wholesome, and nutritious foods and beverages for students, faculty, staff, employees, and others as chosen by the SFA. 7CFR§210.10(a)

I. As applicable, any additional items served by the FSMC shall comply with 7CFR§210.11, Competitive Food Service standards, and any other nutrition standards as a requirement under the Healthy, Hunger-Free Kids Act of 2010.

J. The SFA is required to implement the Arizona Nutrition Standards as stated in ARS 15-242 and to follow the Competitive Food Service standards for any food or beverage sold or served on the school campus during the school day. 7CFR§210.11(a)(5)

K. The SFA and the FSMC shall agree to detailed specifications for each a la carte item included in the 21-day cycle menu; at a minimum, such specifications shall include:

- (1) A recipe for each menu item that includes the total yield, portion size, ingredients, and all USDA required nutrient information.
- (2) The identity of all branded items that may be used in the meal/a la carte, vending, school stores, etc.; and
- (3) Whenever possible, the grade, style and condition of each food item, and other information that indicates the acceptable level of quality for each food item.

L. Free and reduced-price lunches are provided to pupils who qualify, as determined by the USDA guidelines. Occasionally, special food services are requested for functions other than the regular lunch periods. **The FSMC should include in the offer a provision for accommodating such special requests.**

4. Program.

A. The FSMC shall implement an accurate point of service count using the counting system submitted to ADE by the SFA. The counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under USDA Regulation. 7CFR§245.8.

B. The FSMC shall post signage at the beginning of the serving line and prior to the Point of Service, all the food items that constitute a reimbursable meal at both breakfast and lunch. The signage will assist students in identifying the portion sizes and components of a reimbursable meal. The signage must be age/grade appropriate.

C. The FSMC will promote the nutritional education aspects of the SFA's local wellness policy and cooperate in the efforts of the SFA to coordinate these aspects with classroom instruction. The FSMC must provide detailed information about the FSMC's philosophy regarding promotion (increasing awareness and participation) of the school food service program.

D. The FSMC must have extensive experience as food service operators and consultants of food service programs in general, and in schools as stated on Attachment 7.8. The FSMC shall have specific strategies for increasing both student and adult participation, while at the same time providing high quality, nutritional food. The FSMC shall have experience with this in other schools.

E. The FSMC shall ensure compliance with a food safety management system that complies with the Hazard Analysis and Critical Control Point (HACCP) principles or meets the USDA guidance for developing a process approach to HACCP. Public Law 108-265. The FSMC will ensure compliance with site-specific written food safety plans based on HACCP.

5. Accounting Systems and Records.

- A. The SFA will designate by name and title, the employee who will be responsible to supervise and audit all financially related operations of the FSMC pertinent to the SFA.
- B. All deposits will be provided to the SFA, by the FSMC, in bags, with completed deposit tickets organized by school, to be deposited into the SFA's account.
- C. The FSMC shall have a detailed internal accounting process as described on Attachment 7.6 of the offer. This should include, at a minimum:
- (1) Detailed inventory control for storage areas, including USDA Foods.
 - (2) Accounting controls.
 - (3) Method of recording, checking, and reporting sales.
 - (4) Internal control of cash handling.
 - (5) Internal audit system.
 - (6) All regular accounting forms used, with explanation of each.
 - (7) Account periods.
 - (8) Detailed description of showing credits and rebates on invoices and the method used to reach those amounts; and
 - (9) Data collection for purposes of evaluating the effectiveness of new and current programs.
- D. The FSMC shall have a policy on how the meals will be served and how proper, accurate pupil participation records will be maintained.

6. Cost Controls and Fees.

- A. Each FSMC shall have a plan for controlling costs which includes:
- (1) Previous record on meeting budgets and estimating costs.
 - (2) Management and accounting tools that the FSMC will implement to monitor cost controls, revenue, meal counts, and productivity.
 - (3) Outline the number of weeks the FSMC Management will work, the number of Management vacation days, and number of Management leave days that will be charged to the SFA.
 - (4) Amount of any bonus the FSMC will provide to the management staff, which will be charged to the SFA; and
 - (5) Identify what the management staff performance guarantee will be.

7. Geographical Preference Option. 7CFR§210.21(g)

- A. The SFA seeks to increase its purchase of seasonal, minimally processed fresh fruits and raw vegetables as part of the Farm to School Program. Reasons for purchasing local products include the potential cost savings, nutrition education for students, and quality of product.
- B. The SFA is interested in the following locally grown products: Within 200 miles of Arizona where possible
- C. The FSMC will make every effort to provide the SFA with locally grown products according to the definitions below. **Complete Attachment 7.7**(Offeror's Farm to School/Local Grown Purchasing Information).
- (1) Locally Grown: *Within 200 miles of Arizona where possible*
 - (2) Minimally processed: Includes refrigerating, adjusting size (peeling, slicing, dicing, cutting, chopping), washing, packaging, and adding ascorbic acid or other preservatives to prevent oxidation of produce (as described in USDA's Final Rule of Geographic Preference).
- D. All products designated under the geographic preference clause shall be labeled with its designating origin (grower name and address/state or area of production) on each case/invoice delivered.
- E. Locally grown products should be generally free from insect damage and decay (flexible on grading for produce only per USDA guidance). Produce items are to be rinsed, cleaned, and packed in appropriate commercial produce packaging such as waxed cardboard boxes or sanitary/reusable bins.

Section 2

Special Terms and Conditions

1. Definition of Terms.

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- A. "ADE" means the Arizona Department of Education.
- B. "ASCSP" means After School Care Snack Program.
- C. "CACFP" means Child and Adult Care Food Program.
- D. "CFR" means Code of Federal Regulations.
- E. "CN" means Child Nutrition.
- F. "CCC" means Commodity Credit Corporation.
- G. "Cost-reimbursable contract" means a contract that provides for payment of incurred costs to the extent prescribed in the contract, with or without a fixed fee.
- G. "Contractor" means any person who has a contract with the SFA.
- H. "Fixed-Price" means an agreed upon amount that is fixed at the inception of the Contract.
- I. "FNS" means Food Nutrition Services.
- J. "FSMC" means Food Service Management Company.
- K. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value present or promised, unless consideration of substantially equal or greater value is received.
- L. "NSLP" means National School Lunch Program.
- M. "Procurement Officer" means the person duly authorized by the SFA to enter into and administer Contracts, direct contract changes and make written determinations with respect to the Contract or their designee.
- N. "SBP" means School Breakfast Program.
- O. "SFA" means School Food Authority.
- P. "Solicitation" means the Request for Proposal (RFP).
- Q. "SMP" means Special Milk Program.
- R. "SFSP" means Summer Food Service Program.
- S. "Sponsor" means the same as "Arizona Schools", but also includes nonprofit ownership's participating in the educational system of the State, public or nonprofit residential childcare institution (RCCI) which operates principally for the care of children.
- T. "USDA" means United States Department of Agriculture.

Contract:

2. Contract Term. 7CFR§210.16(d)

- A. The term of this Contract shall commence on the date the SFA signs the Offer and Award Form, signifying the SFA's acceptance of the Offeror's proposal, but no earlier than **July 1, 2024**. The contract will remain in effect for a term of up to twelve (12) months, unless terminated, canceled, or extended as otherwise provided herein, but will run no later than **June 30, 2025**.
- B. The contract must be up to one (1) year with the option to have four (4) additional one-year extensions.
- C. The total duration of this Contract, including the exercise of any options under this provision, shall not exceed five (5) years.

3. Contract Termination.

- A. The contract may be terminated for cause and for convenience by the SFA. Appendix II to 2CFR§200(B)
- B. Either party may cancel for cause with sixty (60) days written notification.
- C. Upon the service ending by either contract expiration or termination, it shall be incumbent upon the FSMC to cooperate fully with the replacement FSMC. If the SFA is returning to a self-operated food service, the FSMC shall ensure a smooth and timely transition.
- D. The FSMC will purchase back unused supplies from the SFA at the termination of the Contract in order to prevent overbuying.

4. Cooperation with Other Contractors and Subcontractors. The FSMC shall fully cooperate with other SFA contractors, subcontractors, and assigns and shall carefully plan and perform its own work to accommodate the work of other SFA contractors. The FSMC shall not intentionally commit or permit any act which will interfere with the performance of work by any other SFA contractors.

5. Subcontracts.

- A. The FSMC may, with the approval of the USDA, enter into written subcontract(s) for performance of certain functions under the Contract. Subcontractors must be approved in writing by the USDA prior to the effective date of any subcontract.
- B. The FSMC shall not assign and/or delegate any of the duties and/or responsibilities to process USDA Foods under this Contract to any party, either by way of subcontract or any other arrangement, without the prior written consent of the USDA. Prior to utilizing the services of any subcontractor under this Contract, the FSMC shall complete and submit to the USDA a Subcontractor Agreement (Refer to NPA) for each proposed subcontractor. Even if a subcontract is approved, the FSMC remains responsible as prime Contractor to ensure that USDA Foods is accounted for and processed according to the terms and conditions contained in this Contract and is obligated to inform the subcontractor of these requirements.
- C. The FSMC's certificate(s) shall include all subcontractors as insureds under its policies or the FSMC shall furnish to the SFA separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

Financial:

6. Availability of Funds. Every payment obligation of the SFA under this Contract will be contingent upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the SFA at the end of the period for which funds are available. No liability shall accrue to the SFA in the event this provision is exercised, and the SFA shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. Financing of Equipment.

- A. The FSMC may finance equipment for the SFA's Food Service Program in an amount not to exceed \$5,000. The SFA will follow its usual procurement procedures for any transaction that is financed by the FSMC. The FSMC cannot be the vendor for any procurement that it finances for the SFA. The SFA shall repay any financing provided by the FSMC at the rate specified when the equipment was purchased, which sum shall be charged to the SFA as a Direct Cost to the food service program. This information must be documented on Attachment 7.3. Ownership of the equipment shall, at all times, remain with the SFA.
- B. If the Contract expires or is terminated prior to the complete repayment of the investment, the SFA shall, on the expiration date, or within five (5) days after receipt by either party of any notice of termination under this Contract, either:
 - (1) Reimburse the FSMC the unpaid portion of the investment.

- (2) Deliver the equipment or other items funded by the investment to the FSMC; or
- (3) Lease purchase the equipment or other items funded by the investment from the FSMC and continue to pay the FSMC a monthly payment in the amount specified when the equipment was purchased until the balance of the investment is repaid.

C. In this event, the SFA's obligation under the Lease Purchase Agreement with the FSMC shall be subject to the SFA's ratification of the rental agreement for each ensuing fiscal year.

8. General Payment/Invoices.

A. No payment shall be made for meals that are spoiled or unwholesome at the time of service, do not meet specifications developed by the SFA for each food component specified in 7CFR§210.10, or do not otherwise meet the requirements of this Agreement. 7CFR§210.16(c)(3)

B. No deduction in payment shall be made by the SFA unless the SFA notifies the FSMC in writing within forty-eight (48) hours of the meal service for which the deduction is to be made, specifying the number of meals for which a deduction is to be made and describing the reasons for the deduction.

C. The FSMC's purchases must be in compliance with standards and specifications in the RFP. Any silence, absence, or omission from the contract specifications concerning any point must be regarded as meaning that only the best commercial practices are to prevail and only material (food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.

D. The FSMC shall submit a separate billing for food, supplies, and labor for special functions conducted outside of the SFA's nonprofit food service account to prevent double billing.

E. The FSMC shall maintain records to support the SFA's Claims for Reimbursements and shall send the billing claim information to the SFA promptly at the end of each month. Such records shall be made available to the SFA, upon request, and shall be retained in accordance with 7CFR§210.23(c). 7CFR§210.16(c)(1)

F. The SFA shall pay all amounts when due, but if the SFA does not make a payment when due, no interest can be paid to the FSMC from the Child Nutrition Program.

G. The FSMC shall provide the SFA with a year-end statement.

H. Payments shall comply with the requirements of A.R.S. §35.342, Net 30 days. Upon receipt and acceptance of goods or services, the FSMC shall submit a complete, detailed, and accurate invoice, including all rebates, credits, and discounts for payment within thirty (30) days.

I. The SFA and FSMC shall abide by the specific pricing, payment, and invoicing information for the appropriate purchasing option found in Section 6.

9. Pricing Adjustments.

A. Prices shall be firm for the term of the contract. Prices as stated must be complete for the services offered and shall include all associated costs. DO NOT include sales tax on any item in the offer.

B. The SFA will retain control for the establishment of all prices, including price adjustments, for meals served under the nonprofit school food service account, e.g., pricing for reimbursable meals in compliance with Paid Lunch Equity, a la carte service, vending machines, and adult meals. 7CFR§210.16(a)(4)

C. The SFA and the FSMC shall work together to ensure a financially sound operation. The FSMC will provide a guarantee and must describe in detail the guaranteed conditions, forecasting of cost, and settlement of losses and/or surpluses on Attachment 7.4 of this offer.

Options include:

- (1) Guaranteed No Loss: The FSMC guarantees the SFA no loss for the operation of the food service program; or
- (2) Guaranteed Minimum Return: The FSMC guarantees the SFA a return no less than a certain dollar amount for the operation of the food service program.

(a) Guaranteed conditions not clearly defined shall be the sole responsibility of the FSMC. If the contract is renewed, the guaranteed conditions shall apply to subsequent years. The FSMC cannot recover any deficits in subsequent years if contract is renewed. In the event the guaranteed conditions stated on Attachment 7.4 are not met, the FSMC and SFA must mutually agree upon the new guarantee minimum amount for the Contract.

D. Financial terms of the Contract are based upon existing guaranteed conditions stated on Attachment 7.4. If there is a material change in the conditions, including, without limitations, changes to the guaranteed conditions, the contract:

- (1) May be terminated at the end of the current term; or
- (2) Continue under the same terms as written.

Whichever is mutually agreed upon.

E. The Procurement Officer may review a fully documented request for a price increase only after the Contract has been in effect for one (1) year. Any requested increase(s) shall be based on a cost increase to the FSMC that was clearly unpredictable at the time of the Offer and is directly correlated to the price of the services contractually covered. A price increase adjustment should be based on a measurable index such as the Consumer Price Index for All Urban Consumers and shall only be considered at the time of a Contract Extension (Renewal) and shall be a factor in the extension review process.

F. All written requests for price adjustments made by the FSMC shall be initiated at least ninety (90) calendar days in advance of any desired price increase. The ninety (90) calendar days advance notice is required to allow the Procurement Officer sufficient time to make a fair and equitable determination to any such request. The Procurement Officer shall determine whether the requested price increase or an alternate option is in the best interest of the SFA.

10. Prohibitions.

A. Provisions that permit all income and expenses to accrue to the FSMC and “cost-plus-a-percentage-of-cost” and “cost-plus-a-percentage-of-income” provisions are prohibited. 7CFR§210.16(c) and 2CFR§200.323(d)

B. Duplicate Fees: Fee structures that permit an FSMC to bill management fees and charge the same cost as cost-reimbursable expenses are prohibited.

C. Clauses that limit the selection of vendors to only FSMC approved vendors are prohibited.

D. An acceleration clause that has a provision (multi-year) that requires full payment (e.g., program equipment purchases) if the contract is renegotiated, is prohibited.

E. Interest payments to the FSMC, however represented, including interest payments for equipment purchases, are prohibited.

F. A “guaranteed return” provision, unless the “return” remains in the nonprofit food service account, is prohibited. The “return” cannot be contingent upon multi-year contract duration.

G. Provisions that allow the FSMC to be responsible for any functions that must be retained by the SFA are prohibited.

H. Automatic renewal of the contract provisions is prohibited.

I. Provisions, which permit the FSMC to subcontract USDA Foods for further processing, are prohibited.

J. The SFA must not directly or indirectly restrict the sale or marketing of fluid milk (as identified in 7CFR§210.10(d)(4)) at any time or in any place on school premises or at any school-sponsored event. 7CFR§210.21(e)

11. Taxes. If during the term of this Agreement any taxes are added or deleted, or there is a revision of an existing law or regulation such that the responsibility for any tax is shifted or altered, any of which results in increased or decreased costs to the FSMC, then the financial terms of this Agreement shall be adjusted to reflect the change in cost retroactive to the commencement of the change. The obligations described in this paragraph shall survive any termination of this Agreement, and will continue until the applicable statute of limitations, including legal extensions, has expired. The SFA and the FSMC shall agree to remain responsible for any liability or assessment, including related interest and penalties, resulting from a tax responsibility of that party, and reasonable collection expense, attorney’s fees, and costs incurred in connection with the collection of any such amount from that party.

Program:

12. Administrative Review (AR). The FSMC shall meet all Administrative Review (AR) requirements. The Administrative Review (AR) is a comprehensive evaluation of school meals programs by the Arizona Department of Education (ADE) of SFAs participating in the NSLP and SBP and includes both Critical and General Areas of Review to assess compliance with regulations and policies applicable to these programs. The FSMC shall provide accurate Administrative Review (AR) information to the SFA and the ADE and ensure that the meal pattern is executed per the regulations.

13. Compliance with Program Regulations. The FSMC shall be in conformance with the applicable portions of the SFA's agreement under the program. (7CFR§210.16(a)(2)) The FSMC will conduct program operations in accordance with 7CFR Parts 210, 215, 220, 225, 226, as applicable; 245, 250; and FNS instructions and policies, as applicable.

14. Fresh Fruit and Vegetable Program (FFVP). In the event the FSMC provides management services for the Fresh Fruit and Vegetable Program (FFVP) at any of SFA's Food Service Locations, the SFA and the FSMC agree to operate the FFVP in accordance with the requirements of Section 19 of the Richard B. Russell National School Lunch Act, all applicable regulations and policies, and the FFVP Handbook for Schools. The SFA and the FSMC further agree that not more than 10% of the total funds awarded to the school and/or schools for operation of the FFVP may be used for administrative expenses.

15. Location of Records.

A. All FSMC records pertaining to the SFA should be maintained at the SFA property. The SFA must adhere to the recordkeeping requirements found at 7CFR§210.15.

B. The books and records of the FSMC pertaining to operations under this Agreement shall be available to the SFA at any reasonable time. (7CFR§210.16(c)(1)) These records are subject to inspection or audit by representatives of the SFA, State Agency, the US Department of Agriculture, and the US General Accounting Office at any reasonable time and place. The FSMC shall maintain such records, for a period of not less than five (5) years after the final day of the contract, or longer if required for audit resolution (A.R.S §35-214).

(1) If the SFA participates in a provision program, the records must be maintained for five (5) years past the end of the provision cycle.

C. The FSMC shall not remove federally required records from the SFA's premises upon the expiration or termination of this Contract.

16. Local Wellness Policy- Child Nutrition WIC Reauthorization Act of 2004 and Healthy, Hunger-Free Kids Act of 2010. The FSMC will ensure compliance with Federal legislation requiring every SFA participating in the NSLP, SBP, or SMP to develop, implement, and assess a local wellness policy. Public Law 108-265, Section 204 (2004) and Public Law 111-296, Section 204 (2010).

17. Meal Accommodations.

A. The SFA is required, based on Federal law and USDA regulations, to make reasonable modifications to accommodate children with disabilities. Modifications would include providing special meals, at no extra charge, to children with a disability when the disability restricts the child's diet. Modification requests shall be supported by a written statement from a State licensed healthcare professional. SP 59-2016 and SP 26-2017

B. The SFA and the FSMC shall work together to implement procedures for parents or guardians to request modifications to meal service for children with disabilities and to resolve grievances. 7CFR§15b.25 and 7CFR§15b.6(b)

18. Meal Charge Policy. USDA Memo SP 23-2017.

A. All SFAs operating the Federal school meal programs are required to have in place a written and clearly communicated system to address meal charges. The policy, or standard practice, must consist of a written document explaining how the SFA will handle situations where children eligible to receive reduced or paid meals do not have money in their account or in hand to cover the cost of their meal at the time of service. The policy or standard practice must be implemented throughout the SFA.

B. SFAs must ensure the policy is provided in writing to all households at the start of each school year and to households transferring to the school or district during the school year. The policy must also be provided to all SFA staff responsible for collecting payment for meals at the point of service, staff involved in notifying families of low or negative balances, and staff involved in enforcing any other aspects of the meal charge policy.

19. NSLP and SBP Nutrition Standards. The FSMC shall provide meals that meet the Public Law 111-296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). The FSMC must follow a Food-Based Menu Planning (FBMP) meal pattern as described in 7CFR§210.10 for NSLP and 7CFR§220.8 for SBP. The meal shall include the following components: fruits, vegetables, grains, meat/meat alternates, and fluid milk. The FSMC shall meet grade level caloric, sodium, saturated fat, and trans-fat requirements.

20. Procurement Review. The FSMC shall provide accurate Procurement Review information to the SFA and the ADE to ensure that the contract is being executed per the regulations.

21. Professional Standards.

A. The FSMC will ensure compliance with Federal legislation requiring all school nutrition professionals that manage and operate the NSLP and SBP have adequate knowledge and training to meet Professional Standards requirements in 7CFR§210.30.

B. The FSMC must provide the SFA with documentation to show compliance with the annual training standards set forth in 7CFR§210.30(e).

C. The FSMC Food Service Director and the individual of the SFA overseeing the food service activities are both responsible for meeting the hiring and training standards for Program Directors.

22. Program Conformance. The FSMC may not operate an a la carte food service unless the FSMC agrees to offer free, reduced-price, and paid reimbursable lunches to all eligible children. (7CFR§210.16(a)) The FSMC shall ensure that the food service operation is in conformance with the SFA's Agreement under the program. 7CFR§210.16(a)(2)

General Terms:

23. Affordable Care Act. The FSMC understands and agrees that it shall be solely responsible for compliance with the patient Protection and Affordable Care Act, Public Law 111-148 and the Health Care and Education Reconciliation Act, Public Law 111-152 (collectively the Affordable Care Act "ACA"). The FSMC shall bear sole responsibility for providing health care benefits for its employees who provide services to the SFA as required by State or Federal law.

24. Authority. The SFA is the responsible authority without recourse to USDA or ADE for the settlement and satisfaction of all contractual and administrative issues arising in any way from this Contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature. 7CFR§225.6(g)(2)(ix)

25. Byrd Anti-Lobbying Amendment. Pursuant to 31 USC 1352, the FSMC must submit a Certification Regarding Lobbying and Disclosure of Lobbying Activities which conforms in substance with the language provided in Appendix II to 2CFR§200(I). Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, and U.S. Code. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative Agreement to pay 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 any of the following covered Federal actions. Pursuant to 31 USC 1352, the FSMC must disclose lobbying activities in connection with school nutrition programs. If there are material changes after the initial filing, updated reports must be submitted on a quarterly basis. 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. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Appendix II to 2CFR§200(I). *A new certification is required for each renewal period - Complete Attachment 7.16 pages 1 and 3* (Certification Regarding Lobbying and Disclosure of Lobbying Activities).

26. Certificate of Independent Price Determination.

A. The FSMC admits that all prices in this Offer have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor certification regarding non-collusion. *A new certification is required for each renewal period – Complete Attachment 7.17*

B. By submission of this offer, the Offeror certifies, and in the case of a joint Offer, each party thereto certifies as to its own organization, that in connection with this procurement:

- (1) Unless otherwise required by law, the prices which have been quoted in this Offer have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening in the case of an advertised procurement, or prior to award in the case of a negotiated procurement, directly or indirectly to any other Offeror or to any competitor; and
- (2) No attempt has been made or will be made by the Offeror to induce any person or firm to submit or not to submit, an Offer for the purpose of restricting competition.

27. Civil Rights Compliance. The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and 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 benefits of, or otherwise be subject to discrimination

under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

28. Claim Liability.

A. The FSMC accepts liability caused by the FSMC's negligence or for claims assessed as a result of Federal/State reviews/audits, corresponding with the FSMC's period of liability.

B. The SFA shall be responsible for ensuring the resolution of Program reviews and audit findings. The FSMC shall fully cooperate with the SFA in resolving review and audit issues, and the FSMC shall indemnify the SFA for any fiscal action, claims, losses or damages, fault, fraud, required repayment or restoration of funds, including reasonable attorney's fees incurred in defending or resolving such issues, that results from the FSMC's intentional or negligent acts.

C. The FSMC accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods. In the event the SFA is assessed a fine or penalty, as the result of an unsatisfactory or failed food service audit, the FSMC will be responsible for paying one hundred percent (100%) of the fine or penalty as a result of negligence on behalf of the FSMC. If this situation should occur, the FSMC agrees to reduce their management fee charged to the SFA, accordingly, so that their respective percentage of the fine or penalty will be satisfied and paid in full within a reasonable amount of time which will be determined at the discretion of the SFA.

D. The SFA and the FSMC must provide all documents as necessary for the independent auditor to conduct the SFA's single audit.

29. Clean Air Act, Clean Water Act, and Environmental Protection Agency Regulation. The FSMC will comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency regulations which prohibit the use, under nonexempt Federal contracts, grants or loans to facilities included on the EPA List of Violating Facilities. The SFA will report all violations to ADE and to the USEPA Assistant Administrator for Enforcement. Appendix II to 2CFR§200(G)

30. Contract Work Hours and Safety Standard Act. The FSMC shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Appendix II to 2CFR§200(E)

31. Copeland 'Anti-Kickback' Act. The FSMC shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by Department of Labor regulations (29 CFR Part 3). Appendix II to 2CFR§200(D)

32. Davis-Bacon Act. The FSMC shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Appendix II to 2CFR§200(D)

33. Debarment, Suspension, Ineligibility and Voluntary Exclusion. By signing the Offer & Award form, the FSMC shall certify that they have not been debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under executive order 12549 and 12689. (2CFR§200.213 and Appendix II to 2CFR§200(H)) The FSMC shall comply with regulations implementing Office of Management and Budget Guidance in Non-Procurement Debarment and Suspension codified at 2 CFR Part 180 and 2 CFR Part 417. These regulations restrict transactions with certain parties that are debarred, suspended or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities. Signing the Offer section without disclosing all pertinent information about a debarment or suspension shall result in rejection of the proposal or offer or cancellation of a contract. The SFA also may exercise any other remedy available by law.

A. Certification is required by the regulations implementing Executive Order 12549 and 12689, Debarment and Suspension, Section 3017.510, Participants Responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733).

B. The prospective lower tier participant (FSMC) agrees, by signing the Offer and Award form, 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.

34. Energy Policy and Conservation Act. The FSMC shall meet the mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act. (Pub. L. 94-163, 89 Stat. 871)

35. Equal Employment Opportunity. The FSMC shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapters 60). Appendix II to 2CFR§200(C)

36. E-Verify Requirement.

A. The FSMC warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. §23-214, Subsection A. (That subsection reads: After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

B. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the FSMC may be subject to penalties up to and including termination of the Contract.

C. Failure to comply with an SFA audit process to randomly verify the employment records of the FSMC and subcontractors shall be deemed a material breach of the contract and the FSMC may be subject to penalties up to and including termination of the contract.

D. The SFA retains the legal right to inspect the papers of any employee who works on the contract to ensure that the FSMC or subcontractor is complying with A.R.S. §41-4401(A)(1).

37. Federal Immigration and Nationality Act. By submission of the Offer, the FSMC warrants that both it and all proposed subcontractors are and shall remain in compliance with all Federal, State, and local immigration laws and regulations relating to the immigration status of their employees. The SFA may, at its sole discretion require evidence of compliance during the evaluation process. Should the SFA request evidence of compliance, the FSMC shall have five (5) days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the time frame specified shall result in the Offer not being considered for contract award.

38. Health Certification.

A. The SFA will maintain applicable health certification and assure that all State and local regulations are being met by the FSMC preparing or serving meals at the SFA. 7CFR§210.16(a)(7)

B. The FSMC shall comply with all SFA local and sanitation requirements applicable to the preparation of food. The FSMC shall obtain and post all licenses and permits as required by Federal, State, and/or local law.

C. The FSMC will be responsible for maintaining the premises, equipment, and facilities in a condition satisfactory to the School Board. The FSMC shall adhere to the standards of cleanliness and sanitary practices as required by the Health Department, the School Board standards, and USDA standards to ensure continual sanitation in all functions and matters related to the food service program.

D. The FSMC shall maintain, in the storage preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws, and regulations, and comply with the food safety inspection requirement. 7CFR§210.9(b)(14) The FSMC must have two (2) Food Safety Inspections completed during the contract period. The FSMC must provide to the SFA the Food Safety Inspection reports by **June 30, 2024**. (Public Law 108-265).

E. The FSMC shall have State or local health certification for any facility outside the school in which it proposes to prepare meals and the FSMC shall maintain this health certification for the duration of the contract. 7CFR§210.16(c)(2).

F. The SFA shall ensure that food storage, preparation, and service are in accordance with the sanitation and health standards established under State and local law and regulations. 7CFR§210.13(a)

39. Housekeeping.

A. At the beginning and termination of the contract, the SFA and the FSMC shall jointly take inventory of all food and supplies. However, the inventory of food and operational supplies will remain on the SFA's property. The SFA will furnish the necessary small wares, including trays, dishes, glassware, flatware, serving utensils, and the like, necessary for the FSMC to provide services. The FSMC shall be responsible for accounting for any difference between the beginning inventory and the ending inventory and shall compensate the SFA for any shortfall in inventory not arising from:

(1) Normal wear and tear; or

(2) Theft, fire or other casualty loss beyond the control of the FSMC and not arising from the negligence of the FSMC or its agents.

The value of the inventories, except for USDA Foods inventories, shall be determined by invoice cost.

B. The SFA will provide, without cost to the FSMC, suitable office facilities, including furniture and equipment, for use by the FSMC. The SFA will be responsible for the required cleaning and maintenance of dining areas and snack bar seating areas beyond the front edge of the serving lines, as well as periodic cleaning of all ceilings, ceiling fixtures, air ducts, and hood vent systems (as per local ordinance). The SFA will also provide and maintain adequate fire extinguishing equipment for food service areas, provide necessary pest control, and shall be responsible for the removal of refuse from refuse collection centers. The SFA shall, at its sole costs and expense, provide all utilities, including without limitation, proper lighting, electricity, gas, water (hot and cold), and telephone service, necessary for the FSMC to provide services. The FSMC shall maintain the inventory of silverware, chinaware, kitchen utensils, and other operating items necessary for the food service operation and at the inventory level as specified by the SFA.

C. The SFA will replace expendable equipment and replace, repair, and maintain nonexpendable equipment except when damages result from the use of less than reasonable care by the employees of the FSMC.

D. The SFA agrees to provide, install, maintain, and operate the **point of sale/counting and claiming** information technology system (which may include, but not be limited to, hardware, owned and licensed software and systems support) necessary for the operation of the SFA's food service program ("the IT System").

The FSMC agrees to provide, install, maintain, and operate the **meal planning/nutrition** information technology system (which may include, but not be limited to, hardware, owned and licensed software and systems support) necessary for the operation of the SFA's food service program ("the IT System").

The SFA shall provide at its expense a suitable environment, including items such as heat, air conditioning, phone and utility service as may be reasonably required for the installation, implementation, operation, and maintenance of "the IT system."

E. The FSMC shall notify the SFA of any equipment belonging to the FSMC on the SFA premises within ten (10) days of its placement on the SFA premises. The FSMC shall comply with all the SFA building rules and regulations. The FSMC shall not use the SFA's facilities to produce food, meals or services for third parties without the approval of the SFA. If such usage is mutually acceptable, there shall be a signed agreement that stipulates the fees to be paid by the FSMC to the SFA for such facility usage. Such usage may not result in a cost to the Nonprofit Food Service Account. The SFA, on the termination or expiration of this Contract, shall conduct a physical inventory of all equipment, food and supplies owned by the SFA. Upon termination of this Contract, the FSMC shall surrender to the SFA all of the SFA's equipment and furnishings used in the SFA's Food Service Program in good repair and condition, reasonable wear and tear excepted.

F. During the course of this Contract, title to all SFA's food and supplies shall remain with the SFA.

40. Inclusive Contracting. The SFA must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. 2CFR§200.321(a)

41. Inclusive Subcontracting. The FSMC is encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority-owned business enterprises. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned, and/or minority-owned business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements. 2CFR§200.321(b)(1-6)

42. Insurance Requirements.

The Contractor and subcontractors shall procure and maintain, until all their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property, which may arise from, or in connection with, the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The SFA in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees, or subcontractors. The Contractor is free to purchase additional insurance.

A. Minimum Scope and Limits of Insurance: The Contractor shall provide coverage with limits of liability not less than those stated below.

(1) Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury, and broad form contractual liability.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$50,000
- Each Occurrence \$1,000,000

(a) The policy shall be endorsed to include the following additional insured language: ***Heber-Overgaard Unified School District No. 6, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.***

(b) Policy shall contain a waiver of subrogation against the SFA, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

(2) Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000

(a) The policy shall be endorsed to include the following additional insured language: ***Heber-Overgaard Unified School District No. 6, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor.***

(b) Policy shall contain a waiver of subrogation against the SFA, as departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

(3) Worker's Compensation and Employers' Liability

Employers' Liability	Statutory
• Each Accident	\$500,000
• Disease – Each Employee	\$500,000
• Disease – Policy Limit	\$1,000,000

(a) Policy shall contain a waiver of subrogation against the SFA, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

(b) This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. §23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

(c) Worker's Compensation shall be included in the administration fee and not billed separately.

B. Additional Insurance Requirements: The policies shall include, or be endorsed to include the following provisions:

(1) The SFA, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status are required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

(2) The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

(3) Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the

required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the SFA. Such notice shall be sent directly to the SFA office and shall be sent by certified mail, return receipt requested.

D. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A-VII. The SFA in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. Verification of Coverage: Contractor shall furnish the SFA with certificates of insurance (ACORD form or equivalent approved by the SFA) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

(1) All certificates and endorsements are to be received and approved by the SFA before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

(2) All certificates required by this Contract shall be sent directly to the SFA office. The SFA project/contract number and project description shall be noted on the certificate of insurance. The SFA reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

F. Subcontractors: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the SFA separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are an SFA agency, board, commission, or university, none of the above shall apply.

43. Licenses. The FSMC shall maintain, in current status, all Federal, State, and local licenses and permits required for the operation of the business conducted by the FSMC.

44. Nonperformance Sanction. If contractors violate or breach contract terms, the SFA can place administrative, contractual or legal remedies, sanctions, and penalties as may be appropriate. 7CFR§210.16(b)(2) and Appendix II to 2CFR§200(A)

45. Rights to Inventions. The FSMC shall comply with the requirements of 37 CFR Part 401, "Rights to Inventions made by Nonprofit organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements," and any implementing regulations issued. Appendix II to 2CFR§200(F)

46. Safety.

A. The FSMC, at its own expense and at all times, shall take all responsible precautions to protect persons and the SFA property from damage, loss or injury resulting from the activities of the FSMC, its employees, its subcontractors, and/or other persons present. The FSMC will comply with all specific job safety requirements promulgated by any governmental authority, including without limitation, the requirements of the Occupational Safety Health Act of 1970.

B. All items supplied on this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial commission, the national Electric Code, and the National Fire Protection Association Standards.

47. SFA Confidential Information. During the term of this Contract, the FSMC may have access to SFA confidential information ("SFA Confidential Information"), including student identifiable confidential information that is protected from disclosure by Federal law (42 U.S.C. §1758(b)(6)). The FSMC agrees to hold any SFA Confidential Information in confidence during the term of this Contract and thereafter. The FSMC further agrees that the FSMC has no independent rights to this information and will not make any SFA Confidential Information available in any form to any third party or use Confidential Information for any purpose other than the performance of the FSMC's obligations under this Contract. The FSMC will use reasonable security measures to protect the SFA's Confidential Information from unauthorized access, use or disclosure and ensure that the SFA's Confidential Information is not disclosed or distributed in violation of the terms of this Contract. Immediately upon the termination or expiration of this Contract, the FSMC shall return to the SFA any copies of the SFA's Confidential Information provided to the FSMC by the SFA, and the FSMC will destroy all other copies of the SFA's Confidential Information in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

48. Trade Secrets.

A. During the term of this Contract, the FSMC may grant to the SFA a nonexclusive right to access certain proprietary materials of the FSMC, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by the FSMC) and similar compilations regularly used in the FSMC's business operations ("Trade Secrets"). The SFA shall not disclose any of the FSMC's Trade Secrets or other confidential information, directly or indirectly, during or after the term of this Contract. The SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of the FSMC. All trade secrets and other confidential information shall remain the exclusive property of the FSMC and shall be returned to the FSMC immediately upon termination of this Contract. The SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures and methods, without limiting the foregoing and except for software provided by the SFA.

B. In the event of any breach of this provision, the FSMC shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. All SFA's obligations under this section are subject to the SFA's obligations under the Freedom of Public Information Act and any other law that may require the SFA to use, reproduce or disclose FSMC confidential information. This provision shall survive termination of this Contract.

49. USDA Rights. The FSMC acknowledges that the USDA has copyrights, Patent Rights in Data and Reporting of Discoveries and Intervention.

Personnel:

50. Proposed Personnel Requirements.

A. All management food service employees shall be employees of the FSMC.

B. **FSMC ONLY:** All non-management food service employees shall remain employees of the FSMC.

C. The FSMC Food Service Director may direct the SFA food service employees. Refer to Exhibit A for detailed food service employee information.

D. The FSMC will provide sufficient, and qualified management, as well as professional employees to manage the food service operations.

E. The FSMC shall have the sole responsibility to compensate its employees, including all applicable taxes, insurance and workers' compensation.

F. The Food Service Director assigned to the SFA, if awarded the contract, must have at minimum, 3 years of experience with other SFAs of comparable size, with a minimum of 35% free and reduced lunch qualifiers. The SFA reserves the right to approve the selection of the FSMC's personnel and to refuse any applicants recommended by the FSMC to which the SFA objects.

G. The Food Service Director assigned to the SFA, if awarded the contract, must meet the minimum education and training standards for School Nutrition Program Directors set forth in Public Law 111-296, Section 306, paragraph (g) (2015), and be in compliance with the food safety training requirement. The SFA reserves the right to approve the selection of the FSMC's personnel and to refuse any applicants recommended by the FSMC to which the SFA objects.

H. Staffing changes may be initiated by the FSMC only with the prior consent of the SFA, which consent shall not unreasonably be withheld. In effecting staffing changes, the FSMC and the SFA shall work cooperatively to achieve the financial requirements and management goals set forth herein. The FSMC may not implement any staffing change, which would limit or abridge any right or privilege of any SFA employee pursuant to any applicable collective bargaining agreement. "Staffing Change" shall include any hiring, termination, realignment of positions, change in the number of positions, substantial change in conditions of employment, and other similar staffing change, affecting SFA employees.

I. If provided for in the Offer, the SFA and the FSMC may transition the SFA's food service employees to the FSMC's payroll. If transition occurs, the FSMC shall give first consideration to current employees of the SFA or incumbent contractor when hiring employees to provide services pursuant to this Contract, but the FSMC shall not be obligated to hire such employees. The SFA shall not pay the cost of transferring SFA employees to FSMC payroll. Under a cost-reimbursable contract, after transition occurs, the FSMC may charge the cost of transitioned employees to the SFA as Direct Costs.

J. The FSMC managers will direct and supervise all food service employees, including employees of the SFA. The FSMC shall maintain safety programs for employees as required. Also, the use of student workers or students enrolled in the SFA is prohibited without prior approval.

K. The FSMC shall obtain SFA approval before awarding any wage increases during the life of the contract.

L. The SFA may require in writing the removal of an employee of the FSMC, who violates health requirements or conducts himself/herself in a manner that is detrimental to the physical, mental, or moral well-being of students, staff, and faculty. The FSMC will have a policy for the removal or suspension of an employee, and procedures to immediately restructure its staff without disruption in service.

M. The FSMC will abide by the Drug Free, Alcohol Free rules and regulations of the SFA and all local policies. **Complete Attachment 7.13**(Offeror's Drug Free Workplace Policy).

N. The FSMC shall cooperate with the SFA's Food Service Advisory Board, consisting of students, parents, and SFA staff in developing menus and other food service programs. The FSMC staff shall schedule, keep, and maintain records of the advisory meetings, including sign-in sheets and agenda for the term of this contract and all renewals.

51. Proposed Personnel Schedule and Training.

A. The FSMC shall have a daily staffing schedule of food service employees. The staffing schedule will include a daily listing of employees by school and position description, the daily hours scheduled to work for each employee and the corresponding employee wage rate. Each school staffing schedule will illustrate the total daily hours and daily cost. The FSMC will have a plan with regards to employment of the existing food service staff. The FSMC will ensure the level of service meets the needs of each school in the SFA. **Complete Attachment 7.14**(Offeror's Staffing Schedule).

B. The FSMC will have a detailed training program for employees, directors, and managers. The training program will include how the FSMC will train its employees to abide by all policies, rules, and regulations with respect to its use of the SFA's premises. **Complete Attachment 7.15**(Offeror's Training Program).

C. The FSMC will provide the SFA with documentation to support compliance with training requirements for all school nutrition program employees. This documentation should include:

- (1) Name of staff person, date hired, title/position, a brief list of core duties/responsibilities, employment status (full-time, part-time, acting, substitute), and average hours per week.
- (2) Training records for each employee (training title/subject, training date(s), creditable time/length of training, training agenda, certificate of completion, etc.) completed or scheduled.

52. Removal of Contractor Personnel. The FSMC agrees to utilize only experienced, responsible, and capable employees in the performance of the work. The SFA may require that the FSMC remove from the job, by this Contract, employees who endanger person or property or whose continued employment under this Contract is, in the opinion of the SFA, not justified due to unacceptable performance of duties, or is inconsistent with the interests of the SFA.

Optional Programs:

53. USDA Foods. SFAs that participate in the NSLP, SBP, and At-Risk Meals are eligible to receive USDA Foods. USDA gives the SFA an entitlement dollar amount each school year based on the number of meals served the previous school year.

A. The SFA shall ensure that all USDA Foods received by the SFA and made available to the FSMC accrue only to the benefit of the SFA's nonprofit school food service and are fully utilized therein. [7 CFR 250.50]

B. The SFA shall assure that the maximum amount of USDA Foods are received and utilized by the FSMC. 7CFR§210.9(b)(15) The SFA shall coordinate with the FSMC in the selection of USDA Foods; however, the final determination as to the acceptance of USDA Foods will be made by the SFA in accordance with the requirements in 7CFR§250.58(a). Such coordination in ordering will ensure that only those USDA Foods that can be effectively utilized in the food service are ordered, and that such foods are ordered as early in the school year as possible, to ensure their use before the end of the year. 7CFR§250.53(a)(4)

C. The SFA requires the FSMC to use 100% of the USDA Foods in the SFA menus.

D. No USDA Foods will be used for special functions outside of the Child Nutrition Programs listed in the Background Section of this Agreement, such as catering.

E. The SFA shall retain title to all USDA Foods and the FSMC will conduct all activities relating to USDA Foods for which it is responsible in accordance with 7CFR Parts 250, 210, 220, 225 and 226, as applicable.

F. The SFA must ensure that the FSMC is in compliance with the requirements of this section through its monitoring of the food service operation, as required in 7CFR parts 210, 225, or 226.

- G. The FSMC shall credit the SFA for the value of all USDA Foods received for the use in the SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA Foods contained in processed end products. The manner in which the FSMC shall account for the value of USDA Foods is listed in [7 CFR 250.50]
- H. The SFA shall ensure that the FSMC has credited the value of all USDA Foods used for use in the SFA's meal service in the school year. 7CFR§250.51(a) and 7CFR§250.53(a)(1)
- I. The FSMC shall create a method where they will pass the value of the USDA Foods used to the SFA as a credit.
- J. **Cost-reimbursable:** The FSMC must itemize, in a separate line item in the regular monthly billing to the SFA, the credit resulting from use of USDA Foods based on the market value of all USDA donated commodities used for use in the SFA's food service. Market value shall be the value set by the ADE, which is the USDA Foods file cost as of a date specified by the ADE, unless otherwise noted. The FSMC must include a template on how they will report the value of the USDA Foods each month. The SFA will allow crediting to be performed by disclosure, i.e., the FSMC credits the SFA for the value of USDA Foods by disclosing, in its billing for food costs submitted to the SFA, the savings resulting from the receipt of USDA Foods for the billing period. The SFA must also ensure that the method, and timing, of crediting does not cause its cash resources to exceed the limits established in 7CFR§210.9(b)(2). 7CFR§250.51(b) and 7CFR§250.53(a)(2)
- K. The SFA must ensure that, in crediting it for the value of USDA Foods used in the meal service, the FSMC uses the donated food values determined by ADE, in accordance with 7CFR§250.58(e). 7CFR§250.51(c) and 7CFR§250.53(a)(3)
- L. The FSMC shall have a strategy to meet the CFRs for USDA Foods and invoicing on how the FSMC will report the value of the USDA Foods monthly.
- M. The SFA will conduct a reconciliation at least annually (and upon termination of the contract) to ensure that the FSMC has credited it for the value of all USDA Foods received for use in the recipient agency's food service in the school or fiscal year, including, in accordance with the requirements in 7CFR§250.51(a), the value of USDA Foods contained in processed end products. The FSMC shall provide all documentation and assistance required by the SFA to complete the reconciliation.
- N. The SFA shall maintain responsibility for procuring processing agreements, private storage facilities, or any other aspect of financial management relating to USDA Foods.
- O. Any USDA Foods processing contracts shall be established by the SFA based on the ADE approved State contract.
- P. The FSMC shall accept and use all USDA Foods products such as ground beef and ground pork products, and all processed end products, in the SFA's food service program. 7CFR§250.51(d) and 7CFR§250.53(a)(5)
- Q. Upon termination of this Contract, or if this Contract is not extended or renewed, the FSMC must return all unused donated ground beef, pork, and processed end products to the SFA. 7CFR§250.52(c)
- R. The FSMC will use all other USDA Foods or will use (substitute) 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 program. 7CFR§250.51(d) and 7CFR§250.53(a)(6)
- S. The FSMC is prohibited from entering into any processing contracts utilizing USDA Foods on behalf of the SFA. 7CFR§250.53(a)(8)
- T. The FSMC shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods.
- U. In the first year of the contract, the FSMC must integrate the SFA's USDA Foods inventory carried over from the previous year, if the SFA was self-operating in that year. However, if the SFA was operating under a contract with another FSMC in the previous year, the newly contracted FSMC is not required to credit the SFA for the value of USDA Foods in the inventory carried over from the previous year, as the value of such foods would have accrued to the nonprofit school food service in crediting from the previous FSMC.
- V. The FSMC is prohibited from cashing out USDA Foods and providing a credit to the SFA. The FSMC will comply with 7CFR Part 250 concerning storage and inventory management of USDA Foods. The FSMC will maintain accurate and complete records with respect to the receipt, use/disposition, storage, and inventory of USDA Foods.

W. The FSMC shall meet the general requirements of storage and inventory management of USDA Foods in 7CFR§250.14(c). The FSMC must ensure that its system of inventory management will not result in the SFA being charged for USDA Foods. Failure by the FSMC to maintain the required records under this Contract shall be considered prima facie evidence of improper distribution or loss of USDA Foods. 7CFR§250.52(a) and 7CFR§250.53(a)(9)

X. The FSMC may store and inventory USDA Foods together with foods it has purchased commercially for the SFA's use. It may store and inventory such foods together with other commercially purchased foods only to the extent that such a system ensures compliance with the requirements for use of donated foods in 7CFR§250.51(d). 7CFR§250.52(b)

Y. The FSMC shall allow the SFA and/or any State or Federal representative or auditor, including the Auditor General and USDA, or their duly authorized representatives, to perform onsite reviews of the FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA Foods. 7CFR§250.53(a)(10)

Z. The FSMC shall maintain records to document its compliance with requirements relating to USDA Foods in accordance with 7CFR§250.54. 7CFR§250.53(a)(11)

AA. If the FSMC is responsible for receiving shipments on behalf of the SFA and retaining records of receipt of USDA Foods and end products (in accordance with 7CFR§250.54(b)), the SFA must verify receipt of donated food shipments through its electronic records, or by contacting ADE or the processor, and should not rely solely on the FSMC's records.

BB. The FSMC acknowledges that renewal of this Contract is contingent upon the fulfillment of all contract provisions herein relating to USDA Foods. 7CFR§250.53(a)(12)

CC. Upon termination of this Contract, the FSMC must, at the SFA's discretion, return other unused USDA Foods to the SFA. The SFA must ensure that the FSMC has credited it for the value of all USDA Foods received for use in the SFA's meal service in the school year, as applicable. 7CFR§250.51(a) 7CFR§250.52(c)

DD. In the final year of the contract, if the FSMC is not able to use all the SFA's USDA Foods before the termination of the contract, the SFA will not return credit to the FSMC for the value of unused USDA Foods. In addition, the FSMC must not remove or retain unused USDA Foods at contract termination.

EE. USDA Foods delivery fees must be paid in accordance with the terms and conditions set forth in the Agreement between the SFA and AZ contracted warehouse for USDA Foods in Schools program.

54. Summer Food Program (SFSP) Only

A. Bid Bond. An irrevocable bid security payable to the SFA is required with each proposal. The FSMC shall obtain a bid bond that is five (5) percent of the amount of the entire contract. 7CFR§225.15(m)(5)

B. Performance Bond. A Performance Bond is required by the SFA as a matter of protection. The FSMC shall obtain a Performance Bond that is ten (10) percent of the entire contract. 7CFR§225.15(m)(6)

C. The FSMC shall obtain a performance bond and bid bond only from surety companies listed in the current Department of the Treasury Circular 570. The SFA will not allow the FSMC to post any "alternative" forms of bid or performance bonds, including but not limited to cash, certified checks, letters of credit, or escrow accounts. 7CFR§225.15(m)(7)

D. The SFA shall be responsible for all management responsibilities of the SFSP as described in 7CFR§225.15(a)(3). The SFA shall be responsible for determining eligibility of all SFSP sites and will make the final determination of the opening and/or closing dates of all SFSP sites.

E. All meals prepared by the FSMC shall be unitized with or without milk or juice. The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by ADE and upon which the Proposal was based. The SFA shall approve any changes in the menus no later than two (2) weeks prior to service after the initial cycle has been used. The SFA shall inform ADE of menu changes for the SFSP. The meals shall be delivered in accordance with the delivery schedule prescribed in the Offer. 7CFR§225.6(h)(3)

F. The SFA, as an SFSP sponsor, is responsible for conducting and documenting the required SFSP site visits of all sites for pre-approval and during operation of the program. The SFA will provide the FSMC a list of approved sites along with the approved number of meals that will be claimed for reimbursement for each site. The SFA will notify the FSMC of all sites which have been approved, cancelled, or terminated subsequent to submission of the initial approved site list and of any changes in the

approved meals. Such notification will be provided within the time limits mutually agreed upon in the contract. 7CFR§225.6 (h)(2)(iii)

G. The FSMC shall not subcontract for the total meal, with or without milk, or for the assembly of the meal. 7CFR§225.6 (h)(2)(ii)

H. The FSMC must have State or local health certification for the facility in which it proposes to prepare meals for use in the Simplified Summer Food Program. The FSMC must ensure that health and sanitation requirements are met at all times. In addition, the FSMC must ensure that meals are inspected periodically to determine bacteria levels present in the meals and that the bacteria levels found to be present in the meals conform to the standards set by local health authorities. The results of the inspections must be submitted promptly to the SFA and ADE. 7CFR§225.6 (h)(2)(v)

I. The FSMC may use USDA Foods to conduct SFSP in accordance of the Standard Terms and Conditions herein above and 7CFR Part 225.

J. All meals served will meet the meal pattern requirements listed in 7CFR§225.16.

55. Child and Adult Care Food Program (CACFP) Only
N/A

Section 3

Uniform Terms and Conditions

1. Definition of Terms.

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- A. "Attachment" means any item the Solicitation requires an Offeror to submit as part of the Offer.
- B. "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments (Addenda) or Contract Amendments; and any terms applied by law.
- C. "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- D. "Contractor" means any person who has a Contract with the SFA.
- E. "Days" means calendar days unless otherwise specified.
- F. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- G. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value present or promised, unless consideration of substantially equal or greater value is received.
- H. "Offer" means bid or proposal.
- I. "Offeror" means a vendor who responds to a Solicitation.
- J. "Procurement Officer" means the person duly authorized to enter into and administer Contracts and make written determinations with respect to the Contract or their designee.
- K. "SFA" means School Food Authority.
- L. "Solicitation" means a Request for Proposal (RFP).
- M. "Solicitation Amendment (or Addendum)" means a written document that is authorized by the Procurement Officer and issued for the purpose of making changes to the Solicitation.
- N. "Subcontract" means any Contract, express or implied, between the Contractor and another party or between a Subcontractor and another party delegating or assigning, in whole or in part, the making or furnishings of any material or any service required for the performance of the Contract.

2. Advice of Counsel. Each party acknowledges that, in executing this contract, such party has had the opportunity to seek the advice of independent legal counsel and has read and understood all the terms and provisions of this contract. Arizona Department of Education (ADE) is not a party to any contractual relationship between the SFA and the FSMC. ADE is not obligated, liable, or responsible for any action or inaction taken by the SFA or the FSMC based on this contract. ADE's review of the contract is limited to assuring compliance with Federal and State procurement requirements. ADE does not review or judge the fairness, advisability, efficiency, or fiscal implications of this contract.

3. Clarifications. Clarification means communication with Offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the Offer. It is achieved by explanation or substantiation, either in a written response to an inquiry from the SFA or as initiated by Offeror. Clarification does not give Offeror an opportunity to revise or modify its Offer, except to the extent that correction of apparent clerical mistakes results in a revision.

4. Confidential/Proprietary Information.

A. Confidential information request. If Offeror believes that its Offer contains trade secrets or proprietary information that should be withheld from public inspection, a statement advising the SFA of this fact shall accompany the Offer on Attachment 7.19. The SFA shall review the statements on Attachment 7.19 and shall determine in writing whether the information shall be withheld. If the SFA determines to disclose the information, the SFA shall inform Offeror in writing of such determination. **Complete Attachment 7.19.** (Confidential/Proprietary Form)

B. Pricing. The SFA will not consider pricing to be confidential or proprietary.

C. Public record. All Offers submitted in response to this solicitation shall become the property of the SFA. They will become a matter of public record available for review, subsequent to award notification, under the supervision of the Purchasing Official by appointment.

5. Contract Administration and Operation.

A. Records. Under A.R.S. §35-214 and §35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain all data and other records (“records”) relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All records shall be subject to inspection and audit at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

B. Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4, 2000-4 and all other applicable Federal and State laws, rules, and regulations, including the Americans with Disabilities Act.

C. Audit. Pursuant to A.R.S §35-24, at any time during the term of this Contract and five (5) years thereafter, the Contractor’s or any Subcontractor’s books and records shall be subject to audit by the SFA and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

D. Inspection and Testing. The Contractor agrees to permit access to its facilities, Subcontractor facilities and the Contractor’s processes for producing the materials, at reasonable time for inspection of the materials and services covered under this Contract. The SFA shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection at the Contractor’s facilities nor testing shall constitute final acceptance of the materials. If the SFA determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the SFA for testing and inspection.

E. Notices. Notices to the Contractor required by this Contract shall be made by the SFA to the person indicated on the Offer and Award form submitted by the Contractor unless otherwise stated in the Contract. Notices to the SFA required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notices shall be given by written notice. An Amendment to the Contract shall not be necessary.

F. Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

G. Property of the SFA. Any materials, including reports, computer programs, and other deliverables, created under this Contract are the sole property of the SFA. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the SFA.

6. Contract Changes.

A. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract signed by the Procurement Officer. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments, shall be void and without effect, and the Contractor shall not be entitled to any claim to this Contract based on those changes.

B. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract without the advance written approval of the Procurement Officer. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

C. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The Procurement Officer shall not unreasonably withhold approval.

7. Contract Claims. All claims and controversies under this Contract shall be resolved according to A.R.S. §15-213 and rules adopted there under.

8. Contract Interpretation.

A. Arizona Law. The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the SFA and the Arizona School District Procurement Code, Arizona Revised Statutes (A.R.S.) 15-213, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 7, Chapter 2, Articles 10 and 11.

B. Implied Contract Terms. Each Provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

C. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, the following shall prevail in the order set forth below:

- (1) Renewals and Amendments.
- (2) Special Terms and Conditions.
- (3) Uniform Terms and Conditions.
- (4) Statement of Scope of Work.
- (5) Specifications.
- (6) Attachments.
- (7) Exhibits.
- (8) Special Instructions to Offeror; and
- (9) Uniform Instructions to Offeror

D. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee agent of the other party to the Contract.

E. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

F. No Parol Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.

G. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

9. Contract Termination.

A. Termination for Conflict of Interest. Per A.R.S. §38-511 the SFA may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the SFA is, or becomes at any time while the Contract or an extension the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.

B. Termination for Gratuities. The SFA may, by written notice, terminate this Contract, in whole or in part, if the SFA determines that employment or gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the SFA for the purpose of influencing the outcome of the procurement or securing the Contract, an Amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance. The SFA, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three (3) times the value of the gratuity offered by the Contractor.

C. Termination for Suspension or Debarment. The SFA may, by written notice to the Contractor, immediately terminate this Contract if the SFA determines that the Contractor has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body.

D. Termination for Convenience. The SFA reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the SFA without penalty recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all Subcontractors of the effective date of the termination, and minimize all further costs to the SFA. In the event of termination under this paragraph, all documents, data, and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the SFA. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R7-2-1125 shall apply.

E. Termination for Default.

(1) In addition to the rights reserved in the Uniform Terms and Conditions, the SFA reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

(2) Upon termination under this paragraph, all documents, data, and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the SFA.

(3) The SFA may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials and services to replace those under this Contract. The Contractor shall be liable to the SFA for any excess costs incurred by the SFA re-procuring the materials or services.

F. Continuation of Performance through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contractor's Employment Eligibility.

A. By entering the contract, the contractor warrants compliance with A.R.S. §41-4401, A.R.S. §23-214, the Federal Immigration and Nationality Act (FINA), and all other Federal immigration laws and regulations.

B. The SFA may request verification of compliance from any contractor or subcontractor performing work under this contract. The SFA reserves the right to confirm compliance in accordance with applicable laws.

C. Should the SFA suspect or find that the contractor or any of its subcontractors are not in compliance, the SFA may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the contractor. All costs necessary to verify compliance are the responsibility of the contractor.

11. Costs and Payments.

A. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net thirty (30) days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the SFA within thirty (30) days. The Purchase Order number must be referenced on the invoice.

B. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. (Free on Board) destination and shall include delivery and unloading at the destinations.

C. Applicable Taxes.

(1) Payment of Taxes by the SFA. The SFA will pay only the rate and/or amount of taxes identified in the Offer and in any resulting Contract.

(2) State and Local Transaction Privilege Taxes. The SFA is subject to all applicable State and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.

(3) Tax Indemnification. The Contractor and all Subcontractors shall pay all Federal, State, and local taxes applicable to its operation and any persons employed by the Contractor. The Contractor shall and require all Subcontractors to hold the SFA harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or State and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

(4) W-9 Form. In order to receive payment under any resulting Contract, the Contractor shall have a current W-9 Form on file with the SFA. **Complete Attachment 7.21.**

D. Availability of Funds for the Next Fiscal Year. Funds may not presently be available for performance under this Contract beyond the current fiscal year. No legal liability on the part of the SFA for any payment may arise under this Contract beyond the current fiscal year until funds are made available for performance of the Contract. The SFA will make reasonable efforts to secure such funds.

12. Fingerprint Checks.

A. In accordance with A.R.S §15-512(H), a contractor, subcontractor, or vendor or any employee of a contractor, subcontractor or vendor who is contracted to provide services on a regular basis at an individual school may be required to obtain a valid fingerprint clearance card pursuant to Title 41, Chapter 12, Article 3.1. An exception to this requirement may be made as authorized in Governing Board policy.

B. Contractor, subcontractors, vendors, and their employees shall not provide services on SFA properties until authorized by the SFA.

C. Contractor shall comply with the Governing Board's fingerprinting policies of each individual SFA.

13. Gift Policy. The SFA will not accept gifts, gratuities, or advertising products from vendors. The SFA has adopted a zero-tolerance policy concerning vendor gifts. The SFA may request product samples from vendors for official evaluation with disposal of those said samples at the discretion of the Procurement Officer.

14. Integrity of Offer. By signing this Offer, the Offeror affirms that the Offeror has not given, nor intends to give any time hereafter any economic opportunity, future employment, gift, loan gratuity, special discount, trip favor, or service to any employee of the SFA in connection with the submitted Offer. Failure to sign the Offer, or signing it with a false statement, shall void the submitted offer or any resulting contract.

15. Israel Boycott Certification. By signing this Offer, the Offeror affirms that the Offeror is not currently engaged in, and will not for the duration of this contract, engage in a boycott of Israel as defined by A.R.S. §35-393.01.

16. Offshore Performance. Due to security and identity protection concerns, direct services under any subsequent contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the SFA or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the SFA shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

17. Risk and Liability.

A. Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

B. General Indemnification. To the extent permitted by A.R.S. §41-621 and §35-154, the SFA shall be indemnified and held harmless by the Contractor for its vicarious liability as result of entering into this Contract. Each party to this Contract is responsible for its own negligence.

C. Indemnification - Patent and Copyright. To the extent permitted by A.R.S. §41-621 and §35-154, the Contractor shall indemnify and hold harmless the SFA against any liability, including costs and expenses, for infringement of any patent, trademark, or copyright arising out of Contract performance or use by the SFA of materials furnished or work performed under this Contract. The SFA shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.

D. Force Majeure.

(1) Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injections-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

(2) Force Majeure shall not include the following occurrences:

- (a) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market; or
- (b) Late performance by a Subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- (c) Inability of either the Contractor or any Subcontractor to acquire or maintain any required insurance, bonds, licenses, or permits.

(3) If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt requested, and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of

completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

(4) Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

E. Third Party Antitrust Violations. The Contractor assigns to the SFA any claim for overcharges resulting from antitrust violation the extent that those violations concern materials of services supplied by third parties to the Contractor toward fulfillment of this Contract.

18. SFA Contractual Remedies. Appendix II to 2CFR§200(A)

A. Right to Assurance. If the SFA in good faith has reason to believe that the Contractor does not intend to or is unable to perform or continue performing the Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent or ability to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the SFA option, be the basis for terminating the Contract under the Uniform General Terms and Conditions.

B. Stop Work Order.

(1) The SFA may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for a period of up to ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

(2) If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

C. Non-exclusive Remedies. The rights and the remedies of the SFA under this Contract are not exclusive.

D. Nonconforming Tender. Materials supplied under this Contract shall fully comply with the Contract. The delivery of materials or a portion of the materials in an installment that do not fully comply constitutes a breach of Contract. On delivery of nonconforming materials, the SFA may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its remedies under the Uniform Commercial Code or pursue any other right or remedy available to it.

E. Right to Offset. The SFA shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the SFA, or damages assessed by the SFA concerning the Contractor's nonconforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform General Terms and Conditions.

19. Terrorism Country Divestments. Per A.R.S. §35-392, the SFA is prohibited from purchasing from a company that is in violation of the Export Administration Act.

20. Warranties.

A. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens.

B. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that for one year after acceptance by the SFA of the materials or services, they shall be:

(1) Of a quality to pass without objection in the trade under the Contract description.

(2) Fit for the intended purposes for which the materials or services are used.

(3) Within the variations permitted by the Contract and are of even kind, quality, and quality within each unit and among all units.

(4) Adequately contained, packaged, and marked as the Contract may require; and

(5) Conform to the written promises or affirmations of fact made by the Contractor.

C. Fitness. The Contractor warrants that any material or service supplied to the SFA shall fully conform to all requirements of the Solicitation and all representations of the Contractor and shall be fit for all purposes and uses required by the Contract.

D. Inspection/Testing. The warranties set forth in subparagraphs A through C of this paragraph are not affected by inspection testing of or payment for the materials or services by the SFA.

E. Exclusions. Except as otherwise set forth in this Contract, there are no express or implied warranties or merchant ability fitness.

F. Compliance with Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, State and local laws, and the Contract shall maintain all applicable licenses and permits.

G. Survival of Rights and Obligations after Contract Expiration or Termination.

(1) Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration of termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. §12-510, except as provided in A.R.S. §12-529, the SFA is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

(2) Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Offices, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

Section 4
Special Instructions to Offeror

1. Definition of Terms.

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- A. "ADE" means the Arizona Department of Education.
- B. "Department" means the Arizona Department of Education.
- C. "FSMC" means Food Service Management Company.
- D. "SFA" means School Food Authority.
- E. "Offeror" means a vendor who responds to a Solicitation.
- F. "Solicitation" means a Request for Proposal (RFP).

2. Authorized Signature.

A. For any document that requires the Offeror's signature, the signature provided must be that of the Owner, Partner or Corporate Officer duly authorized to sign contractual Agreements. Additionally, if requested by the SFA, disclosure of ownership information shall be submitted.

- (1) Privately Owned: The Owner must sign the contract.
- (2) Partnership: A Partner must sign the contract.
- (3) Corporation: A Corporate Officer must sign the contract.

B. If a person other than these specified individuals signs the contract, a Power of Attorney indicating the employee's authority must accompany the contract.

3. Pre-Offer Conference.

A. A Pre-Offer Conference will be held in conjunction with this solicitation. The Pre-Offer conference will be held at a minimum seven (7) days after the RFP is issued and fourteen (14) days prior to the Proposal due date. Please refer to the cover page of this solicitation for details concerning this meeting. Attendance at this meeting is **STRONGLY ENCOURAGED**.

B. You may submit your comments or questions to the attention of the Procurement Officer **Andrea Despain** by e-mail at **andrea.despain@h-oschools.org** referencing the solicitation number. It is the responsibility of the Offeror to submit questions or comments with enough time to permit a response prior to the submission date specified. Unless the Procurement Officer issues a solicitation amendment, the requirements stated in this solicitation stand and are to be provided by the resultant FSMC. Follow-up information shared in the meeting will be sent in writing to all prospective offerors.

C. Prospective companies will be permitted to completely inspect the SFA facilities and equipment prior to submitting an offer in order to determine all requirements associated with the proposed contract. This will occur at the Pre-Offer Conference.

4. Offer Opening. As this is a Request for Proposals, offers shall be opened publicly at the time and place designated on the cover page of this document. The name of each offeror shall be read publicly and recorded. Prices will not be read. Offers will not be subject to public inspection until after contract award.

5. Award of Contract. Award of a contract will be made to the most responsible Offeror whose proposal is determined to be the most advantageous to the SFA, with price and other factors considered, based on the evaluation criteria set forth in the Solicitation. 2CFR§200.320(d)(4)

6. Offer Format and Content.

A. One (1) clearly marked original and copies of the Offer shall be submitted. Also, a digital copy shall be submitted for the ADE Contracts Management Officer to review. Subcategories of information in each of the volumes should be highlighted for ease of evaluating the information contained therein.

B. If the Offeror finds it necessary to take exception to any of the requirements specified in this Solicitation, such exceptions shall be clearly indicated on Attachment 7.18 of the offer along with a complete explanation of why the exception was taken and what benefit accrues to the SFA thereby. All substantive exceptions and supporting rationale shall be identified as such and consolidated on the attachment.

C. To facilitate evaluation, the Offer must be specific and complete, to clearly and fully demonstrate the Offeror has a thorough understanding of the requirement, can provide detailed information, and relate experience concerning previous performance of similar services. Statements that the Offeror understands, can or will comply with the Scope of Work, statements paraphrasing the Scope of Work or parts thereof, and phrases such as “standard procedures will be employed” or “well-known techniques will be used”, etc., will be considered unacceptable. Offerors should note that data previously submitted shall not be relied upon nor incorporated in the Offer by reference.

D. Binding and Labeling. Each copy of the Offer shall be presented in three ring binders with the cover indicating the Solicitation number, the Offeror’s name and address, and copy number (i.e. Copy 2 of 4). To be considered, each offeror must submit a complete response to this solicitation using the forms provided. No other documents submitted with the RFP and Contract will affect the Contract provisions, and there may be no modifications to the RFP and Contract language. In the event that the Offeror modifies, revises, or changes the RFP and/or Contract in any manner, the SFA may reject the offer as non-responsive.

E. Indexing. The sections of each copy of the Offer shall be indexed to indicate the applicable parts and elements. Orderliness of the Offer, readability, and similar factors should be considered in Offer preparation.

F. Required Information. Attachments 7.1 through 7.21 shall be submitted concurrent with and as part of the Offer.

G. Format. The mandatory information to be placed in each copy of the Offer is listed below. Each copy shall furnish sections for information discussed in the Scope of Work. Lack of these submissions may cause the Offer to be declared unacceptable.

(1) **Section One** of the Offer shall be titled **Executive Summary**. This section shall include a signed copy of the Offer and Award Form (RFP, page 2) and a signed Certificate of Independent Price Determination (Attachment 7.17).

(2) **Section Two** of the Offer shall be titled **Pricing**. This section shall include the information described in the Pricing Section of the RFP and a complete Attachment 7.1, Contract Pricing Summary. The guarantee should not be included in this section.

(3) **Section Three** of the Offer shall be titled **Method of Approach and Implementation Plan**. This section shall provide a narrative on the methodology to be used to accomplish the Scope of Work responsibilities to the extent possible for evaluation purposes. The language of the narrative should be straightforward and limited to facts, solutions to problems, and proposed plans of action.

(a) Provide the information requested on Attachment 7.2, Labor Costs.

(b) Provide the information requested on Attachment 7.3, Financial Projected Worksheet.

(c) Provide the information requested on Attachment 7.4, Schedule of Terms for the FSMC Guarantee.

(d) Provide a comprehensive plan on how the FSMC will provide input to purchase food for the menus that will keep costs low and quality high. In the plan, the FSMC must describe the methodology it will use to document the market value of the USDA Foods or commodities *used/received* on the invoice. The FSMC shall provide a sample invoice in the proposal that will meet all the information listed in the Special Terms and Conditions that pertain to USDA requirements.

(e) Provide 21-day cycle menus that will meet the USDA requirements for the programs listed in the Scope of Work as requested on Attachment 7.5, 21-Day Cycle Menus.

(f) Provide detailed information about the FSMC’s philosophy regarding promotion (increasing awareness and participation) of the school food service program.

(g) Provide a comprehensive plan on how the Offeror shall implement Hazard Analysis and Critical Control Point (HACCP) principles to meet the USDA guidance effective July 1, 2006. Public Law 108-265.

(h) Provide detailed information about the FSMC’s internal accounting process requested on Attachment 7.6, Offeror’s Internal Accounting Process.

(i) Provide detailed information about the FSMC’s Local Grown Purchasing in relation to the SFA’s Geographical Preference Option requested on Attachment 7.7, Offeror’s Farm to School/Local Grown Purchasing Information. **N/A**

(4) **Section Four** of the Offer shall be titled **Experience, Expertise, and Reliability**. This section shall provide information which reflects the Offeror's experience and reliability.

(a) Provide the information requested on Attachment 7.8, Offeror’s Food Services Program List/Qualifications.

(b) Provide at least three (3) verifiable professional references regarding services provided by the Offeror similar to those required under this Solicitation. This information should be provided on Attachment 7.9, Offeror’s References.

(c) Provide a list of SFAs where food service contracts have been terminated or not renewed in the past five (5) years. This information should be provided on Attachment 7.10, Offeror’s Discontinued or Terminated Services.

(d) Provide the information requested on Attachment 7.11, Offeror’s Organization Chart.

(e) Provide résumés of all FSMC management staff as stated in Attachment 7.12, Offeror’s Personnel Information.

(f) Provide a description on how the Offeror shall implement a drug free workplace. This information should be provided on Attachment 7.13, Offeror’s Drug Free Workplace Policy.

(g) Provide a proposed daily staffing schedule of food service employees. The staffing schedule will include a daily listing of employees by school and by position description, the daily hours scheduled to work for each employee and the corresponding wage rate for each employee. Each school-staffing schedule describe the total daily hours and daily cost. This information should be provided on Attachment 7.14, Offeror's Staffing Schedule.

(h) Provide a description of the training plan that the FSMC will give to employees. This information should be provided on Attachment 7.15, Offeror's Training Program.

(5) **Section Five** of the Offer shall be titled **Required Documents**. This section shall contain the following required documents, as applicable.

(a) Attachment 7.16, Certification Regarding Lobbying and Disclosure of Lobbying Activities.

(b) Attachment 7.18, Deviations and Exceptions.

(c) Attachment 7.19, Confidential/Proprietary Form.

(d) Attachment 7.20, Non-Collusion Affidavit.

(e) Attachment 7.21, W-9 Form.

7. Evaluation and Selection. Evaluation of Offers will be accomplished in four steps.

A. Step One. The SFA will conduct an initial review of the offer to determine basic responsiveness to the Solicitation and ensure the offer includes all required information.

B. Step Two. The SFA will evaluate the offer to assess the Offeror's capability to deliver the required services in accordance with the terms and conditions set forth in the Solicitation and requirements of the Scope of Work using the RFP Evaluation Rubric.

C. Step Three. The SFA will hold optional discussions with Offerors concerning their offers. This step includes requests for Final Proposal Revisions and Best and Final Offers from Offerors still considered susceptible of winning contract award(s).

D. Step Four. The Contract award(s) will be made to the responsible Offeror(s) whose offer is determined to be the most advantageous to the SFA, based on the following criteria (in bold print below), which are listed in order of importance.

(1) **Pricing:** Demonstrated capability to meet the needs of the SFA food operations using the best cost-effective method. Also, the Offeror must meet the pricing information as described in the Pricing Section. Note: The FSMC Guarantee is not evaluated in this section. (Weight – 37%)

(2) **Method of Approach and Implementation Plan:** Demonstrated capability to meet the needs of the SFA food operation service as described in the Method of Approach and Implementation Plan section of the Scope of Work. This shall include information on how Offeror plans on conducting business in the SFA. (Weight – 35%)

(3) **Experience, Expertise, and Reliability:** Demonstrated experience in operating a food service operation in schools. This can be Arizona experience, or another food service program, and may include evaluation of references submitted. (Weight – 28%)

8. Discussions. The SFA reserves the option to conduct discussions with those Offerors who submit Offers determined by the SFA to be reasonably susceptible of being selected for award.

9. Oral Presentation. N/A

10. Final Proposal Revisions.

A. In the event the Procurement Officer determines discussions are required, discussions on the areas, items, and factors specified in this Solicitation will be held with all Offerors determined to be in the competitive range.

B. The Offeror is permitted to make revisions during negotiations. Offerors should be aware that a complete understanding as to pricing, technical, and all other terms and conditions of the proposed contract must exist between the Offeror and the SFA at the conclusion of negotiations.

C. Discussions will be concluded when a mutual understanding has been reached with each Offeror remaining in the competitive range. This mutual understanding will become the basis for the Offeror's Final Proposal Revision (Best and Final Offer).

D. The Final Proposal Revision (Best and Final Offer) must be returned, signed, and dated by the Offeror within the time and date specified to be eligible for award.

Section 5
Uniform Instructions to Offeror

1. Definition of Terms.

As used in these instructions, the terms listed below are defined as follows:

- A. "Attachment" means any item the Solicitation requires an Offeror to submit as part of the Offer.
- B. "Contract" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; any Solicitation Amendments (Addenda) or Contract Amendments; and any terms applied by law.
- C. "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- D. "Contractor" means any person who has a contract with the SFA.
- E. "Days" means calendar days unless otherwise specified.
- F. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the solicitation.
- G. "FSMC" means Food Service Management Company.
- H. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value present or promised, unless consideration of substantially equal or greater value is received.
- I. "Offer" means the bid or proposal.
- J. "Offeror" means a vendor who responds to a Solicitation.
- K. "Procurement Officer" means the person duly authorized to enter into and administer Contracts and make written determinations with respect to the Contract or his or her designee.
- L. "Responsible Offeror" means the Offeror who has the capability to perform the contract requirements and the integrity and reliability to assure complete and good faith performance and who submits the lowest Proposal.
- M. "Responsive Offeror" means the Offeror who submits a Proposal that conforms in all material respects to this Request for Proposal, Instruction to Offerors and the Plans and Specifications which are incorporated herein by this reference.
- N. "SFA" means School Food Authority.
- O. "Solicitation" means a Request for Proposal (RFP).
- P. "Solicitation Amendment (or Addendum)" means a written document that is authorized by the Procurement Officer and issued for the purpose of making changes to the Solicitation.
- Q. "Subcontract" means any Contract, express or implied, between the Contractor and another other party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishings of any material or any service required for the performance of the Contract.

2. Inquiries.

- A. **Duty to Examine.** It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing, and check its Offer for accuracy before submitting. Lack of care in preparing an Offer shall not be grounds for withdrawing the Offer after the offer due date and time nor shall it give rise to any Contract claim.
- B. **Solicitation Contact Person.** Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

C. Submission of Inquiries. The Procurement Officer or the person identified in the Solicitation as the contact for inquiries may require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page, and paragraph. Do not place the solicitation number on the outside of the envelope containing the inquiry as it may then be identified as an Offer and not be opened until after the offer due date and time.

D. Timeliness. Any inquiry shall be submitted, in writing, as soon as possible and at least seven (7) days before the offer due date and time. Failure to do so may result in the inquiry not being answered.

E. No Right to Rely on Verbal Responses. Any inquiry that results in changes to the Solicitation shall be answered solely through a written Solicitation Amendment or Addendum. An Offeror may not rely on verbal responses to its inquiries.

F. Pre-Offer Conference. If a Pre-Offer Conference has been scheduled under this Solicitation, the date, time, and location must appear on the Solicitation cover sheet or elsewhere in the Solicitation. An Offeror should raise any questions about the Solicitation, the procurement process, or the operation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment or Addendums.

G. Persons with Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3. Offer Preparation.

A. Forms. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation will be legible and contain the same information requested on the form. A facsimile, telegraphic or mailgram offer shall be rejected.

B. Typed or Ink / Corrections. The Offer, and all other correspondence must be typed or in ink. Erasures, interlineations, or other modifications in the Offer must be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law. A.A.C R7-2-1030

C. Evidence of Intent to be Bound. The Offer and Award form within the Solicitation must be submitted with the Offer and must include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate, and complete. Failure to submit verifiable evidence of intent to be bound, such as an original signature, may result in rejection of the Offer.

D. Exceptions to Terms and Conditions. All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer (Attachment 7.18) in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically referenced by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered as a part of any resulting Contract. All exceptions that are contained in the Offer may negatively affect the proposal evaluation based on the evaluation criteria as stated in the Solicitation or result in rejection of the Offer.

E. Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer. Per 2 CFR 200.213 and Appendix II to 2 CFR 200(H) debarment verification shall be completed on subcontracts/subcontractors. This will be completed by the subcontractor prior to contract approval. (2 CFR 180)

F. Cost of Offer Preparation. The SFA will not reimburse any Offeror for the cost of responding to a Solicitation.

G. Solicitation Amendments/Addenda. The Solicitation shall only be modified by a Solicitation Amendment or Addendum. Unless otherwise stated in the Solicitation, each Solicitation Amendment or Addendum shall be signed with an original signature by the person signing the Offer and shall be submitted no later than the offer due date and time. Failure to acknowledge a material Solicitation Amendment or to follow the instructions for acknowledgement of the Solicitation Amendment may result in rejection of the Offer.

H. Federal Excise Tax. School Districts/Public Entities are exempt from Federal Excise Tax on manufactured goods. Exemption Certificates will be prepared upon request.

I. Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax number and/or Federal Tax Identification number, if applicable, in the space provided on the Offer and Award Form and provide the tax rate and amount, if applicable, on the Price Sheet.

J. Identification of Taxes in Offer. School Districts/Public Entities are subject to all applicable State and local transaction privilege taxes. If Arizona resident Offerors do not indicate taxes on a separate item in the Offer, the SFA will conclude that the price(s) offered includes all applicable taxes. At all times, payment of taxes and the determination of applicable taxes and rates are the sole responsibility of the Offeror.

K. Disclosure. If the Firm, business, or person submitting this Offer has been debarred, suspended, or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, State, or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror must fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above must be provided.

L. Solicitation Order of Precedence. In the event of a conflict in the provisions of this Solicitation, and any subsequent contracts, the following shall prevail in the order set forth below:

- (1) Renewals and Amendments.
- (2) Special Terms and Conditions.
- (3) Uniform Terms and Conditions.
- (4) Statement of Scope of Work.
- (5) Specifications.
- (6) Attachments.
- (7) Exhibits.
- (8) Special Instructions to Offerors; and
- (9) Uniform Instructions to Offerors

M. Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. (Free on Board) Destination and shall include all delivery and unloading at the destination(s).

4. Submission of Offer.

A. Sealed Envelope or Package. Each Offer shall be submitted to the submittal location identified in this Solicitation, in a sealed envelope or package that identifies its contents as an Offer and the Solicitation number to which it responds. The appropriate Solicitation number shall be plainly marked on the outside of the envelope or package.

B. Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the offer due date and time except as otherwise provided under applicable law.

C. Public Record. Under applicable law, all Offers submitted and opened are public records and must be retained by the SFA. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the SFA. If an Offeror believes that information in its Offer should remain confidential, it shall complete and submit Attachment 7.19 with the Offer detailing the confidential and proprietary information and the reasons the information should not be disclosed. The SFA and ADE shall make a determination on whether the information on Attachment 7.19 is confidential pursuant to the Procurement Code.

D. Non-collusion, Employment, and Services. By signing the Offer and Award form, or another official contract form, the Offeror certifies that:

- (1) The prices have been arrived at independently, without consultation, communication or Agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor; the prices which have been quoted have not been, nor will not be, disclosed directly or indirectly to any other Offeror or to any competitor; no attempt has been made or will be made to induce any person or firm to submit or not to submit, an Offer for the purpose of restricting competition. It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
- (2) It does not discriminate against any employee, applicant for employment, or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, State, and local laws and executive orders regarding employment; and
- (3) By submission of this offer, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded from participation in this transaction by any Federal department or agency, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body; and

- (4) By submission of this offer, that 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 a Cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

5. Additional Offer Information.

A. Unit Price Prevails. Where applicable, in the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

B. Taxes. All applicable taxes in the Offer will be considered by the SFA when determining the lowest bid or evaluating solicitations; except when a responsive Offeror which is otherwise reasonably susceptible for award is located outside of Arizona and is not subject to a transaction privilege or use tax of a political subdivision of this state. In that event, all applicable taxes, which are obligations of Offerors in state and out of state, shall be disregarded in the contract Award. At all times, payment of taxes and the determination of applicable taxes and rates are the sole responsibility of the Contractor. Arizona Transaction privilege and use taxes shall not be considered when evaluating Offers.

C. Late Offers. A submitted Offer received after the exact offer due date and exact time shall be rejected except under the circumstances set forth in A.A.C R7-2-1044. The time clock in the SFA's office is the official time, without exception.

D. Disqualification. The Offer of an Offeror who is currently debarred, suspended, or otherwise lawfully prohibited from any public procurement activity may be rejected.

E. Offer Acceptance Period. An Offeror submitting an Offer under this Solicitation shall hold its Offer open for Sixty (60) **days**. If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for ninety (90) days from the Best and Final due date.

F. Waiver and Rejection Rights. Notwithstanding any other provision of the solicitation, the SFA reserves the right to:

- (1) Waive any minor informality.
- (2) Reject any and all offers or portions thereof; or
- (3) Cancel a solicitation.

6. Award.

A. Contract Commencement. An Offer does not constitute a contract, nor does it confer any rights on the Offeror to the award of a contract. A contract is not created until the Offer is accepted in writing by the SFA with an authorized signature on the Offer and Award Form. A letter or other notice of award or of the intent to award shall not constitute acceptance of the Offer.

B. Effective Date. The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Award Form or other official contract form unless another date is specifically stated in the Contract.

C. Governing Board Approval. Final acceptance for the SFA will be contingent upon the approval of their Governing Board, if applicable.

7. Protests.

A. Protests shall be filed, and shall be resolved, in accordance with the Arizona Administrative Code A.A.C. R7-2-1141 through A.A.C R7-2-1153.

B. A protest must be in writing and must be filed Heber-Overgaard Unified School District No. 6. A protest of a solicitation must be received at the contract administrator before the offer due date. A protest of a proposed award or of an award must be filed within ten (10) days after the protester knows or should have known the basis of the protest.

C. A written request for an extension of the time limit for protest filing may be filed. The written request shall be filed with the Contract Administrator before the expiration of the time limit and shall set forth good cause as to the specific action or inaction of the SFA that resulted in the inability to be able to file the request within the ten (10) days. The Contract Administrator shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.

D. A protest must include:

- (1) The name, address and telephone number of the interested party;
- (2) The signature of the interested party or the interested party's representative;
- (3) Identification of the solicitation or contract number;
- (4) A detailed statement of the legal and factual grounds of the protest including copies of relevant documents;
- (5) The form of relief requested; and
- (6) Any other information requested by the Contract Administrator.

Section 6
Specific Purchasing Option Contract Pricing, Payment, and Invoicing
Cost Reimbursable

1. Cost-Reimbursable Contract Payment/Invoices.

A. In cost-reimbursable contracts, the FSMC will be paid on the direct cost incurred plus a fixed fee (flat monthly rate or per meal/lunch equivalent) for general administrative and management fees.

B. In cost-reimbursable contracts, the prices charged to the SFA must be reasonable and necessary.

C. All cost-reimbursable contracts must have a breakdown of administrative and management fees, as stated on Attachment 7.1, to prevent double billing. Administrative Overhead and Annual Management Fee are:

(1) *Administrative Overhead*: All program expenses not otherwise defined in the RFP will be assumed by the FSMC under the administrative fee. **All indirect and overhead costs must be included in the administrative fee.** This charge will be reflected as either a cost per meal/lunch equivalent or flat monthly rate and must be clearly identified on Attachments 7.1 and 7.3 of the FSMC offer.

(a) The following must be included in the administrative fee and may not be charged to any other expenses. Any travel relating to the following must be covered by the administrative fee.

- Accounting and Accounting Procedures
- Cost Incurred in Hiring and Relocating FSMC Management Personnel
- Design Services
- Dietetic Services; (Administrative and Nutritional)
- Franchise Charges
- General National Headquarters Support
- General Regional Support
- Information Technology and Support
- Insurance Allocated Costs
- Legal Department Services
- Menu Development
- Payroll Documentation and Administrative Cost
- Personnel Advice
- Personnel and Labor Relations Services and Visitation
- Purchasing and Quality Control
- Sanitation
- Supervisory Personnel and Regular Inspections or Audit Personnel
- Tax Administration
- Teaching and Training Programs
- Technical Research
- Technical Supervision
- Test Kitchens
- Trademark Charges
- Worker's Compensation

(2) *Annual Management Fee*: The management fee represents a profit to the FSMC and will be reflected as a cost per meal or monthly flat rate, as stated on Attachments 7.1 and 7.3 of the FSMC offer. All bonuses must be paid from the management fee charged by the FSMC. Bonuses cannot be billed to the SFA, as part of the direct cost for labor.

D. When submitting the invoice for a cost-reimbursable contract, the FSMC shall provide back-up documentation that supports the following costs:

(1) Direct FSMC operating costs are defined as:

- Advertising and promotions within the SFA
- Employee training and development costs
- Food and supply purchases necessary to perform the food service program
- Food service program travel and mileage costs incurred
- Laundry, linen, and uniforms
- Licenses and permits for performance of this Agreement
- Service business and occupation tax
- The FSMC's insurance necessary for performance of this Agreement
- USDA Foods delivery charges and storage rental

(2) The following functions are the FSMC’s responsibility, and will be included in such fees:

- Corporate supervision
- Field auditing
- Financial reporting and analysis
- Marketing Assistance
- Purchasing administration

E. In cost-reimbursable contracts, the SFA shall ensure that the FSMC fully disclose all discounts, rebates, allowances and incentives received by the FSMC from its suppliers. If the FSMC receives a discount, rebate, allowance, or incentive from any supplier, the FSMC must disclose and return to the SFA the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the SFA. The FSMC must identify the amount of each discount, rebate and other applicable credit on monthly bills and invoices presented to the SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. 7CFR§210.21(f)(1)(iv), 7CFR§220.16(e)(1)(iv), and 7CFR§210.21(f)(1)(v)

F. For cost-reimbursable contracts, the FSMC shall maintain documentation of costs and discounts, rebates and other applicable credits, and must make all documentation available for inspection upon request to the SFA, the State agency, or the Department. 7CFR§210.21(f)(vi)

G. In cost-reimbursable contracts, allowable costs will be paid from the nonprofit school food service account to the FSMC net of all discounts, rebates and other applicable credits accruing to or received by the FSMC or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the SFA. 7CFR§210.21(f)(1)(i)

H. In cost-reimbursable contracts, the FSMC must separately identify, for each cost submitted for payment to the school food authority, the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); 7CFR§210.21(f)(1)(ii)(A). All allowable costs must be made in compliance with the applicable Departmental and Program regulations and the Office of Management and Budget cost circulars. 7CFR§210.21(f)(1)(iii) and 7CFR§220.16(e)(1)(ii)(A)

I. Audit Provision: For cost-reimbursable contracts, the SFA may periodically request supplier invoices to check prices to ensure the costs charged to the SFA are the costs paid by the FSMC for products and services. Invoice audits may be announced or unannounced and may be performed weekly, monthly, quarterly, or as often as needed by the SFA.

When discrepancies in pricing are identified between what the FSMC billed on invoices compared to what the supplier charged, and the nonprofit food service account has been over-charged, this difference must be returned to the nonprofit food service account as a credit delineated on the next billing cycle. When the audit identifies the SFA was charged for less than the cost paid by the FSMC, this difference may be paid by invoice to the SFA

J. Prohibited Expenditures: No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost-reimbursable contract that fails to include the requirements of 7CFR§210.21, nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs. 7CFR§210.21(f)(2) and 7CFR§220.16(e)(2)

2. Meal Definitions.

A. Reimbursable Meals: For cost-reimbursable contracts, the following are the minimum allowable definitions for a pattern meal eligible for reimbursement.

1 Reimbursable Lunch	=	1 Pattern Meal
2 Reimbursable Breakfasts	=	1 Pattern Meal
3 Reimbursable Snacks	=	1 Pattern Meal

B. Non-Reimbursable Meals: Interested FSMCs are requested to include, in the proposal, alternatives to the reimbursable lunch, such as a la carte program, which can be provided along, and in conjunction with, the required reimbursable lunch programs.

(1) For non-reimbursable meals, the number of meal equivalents shall be determined by dividing the total of all non-reimbursable meal sales (including cash for adult meals, a la carte meals and special functions or catering) by the approved meal equivalency factor.

(2) The meal equivalency factor is defined as the approved free lunch reimbursement rate plus the per meal value of commodities for 2022-2023. **List the meal equivalency factor to be used for the term of the contract on Attachment 7.1.**

(3) The meal equivalency factor shall remain fixed for the term of the Contract and all renewals.

3. USDA Foods.

A. For cost-reimbursable contracts, the FSMC must document monthly for the value of all USDA Foods **used** for use in the school year (including both entitlement and bonus food), including the value of USDA Foods contained in processed end products. Savings documented by the FSMC to the SFA for USDA Foods used shall be recorded on the monthly bill/invoice and shall be clearly identified and labeled. 7CFR§250.51(b)

B. The value of USDA Foods **used** must be itemized (monthly and year to date) in the regular monthly billing to the SFA to document savings resulting from USDA Foods usage.

Section 7
Attachments

Attachment 7.1 – Cost-Reimbursable Contract Pricing Summary

The FSMC will be paid on the direct cost incurred plus a flat monthly rate or fixed per meal/ lunch equivalent for general Administrative and Management Fees. **All indirect and overhead costs must be included in the Administrative Fee.** All program expenses not otherwise defined in the contract will be assumed to be covered by the FSMC under the Administrative Fee.

The offer amount should be based on assumption that no USDA Foods will be available for use. The SFA will not permit the FSMC to pre-credit for USDA Foods. The FSMC must complete all boxes.

Note: The FSMC must respond to pricing methodology requested in the box by the SFA. If the FSMC changes the pricing methodology, then ADE will not approve the Contract. For example, if the SFA requests flat monthly rate then the FSMC cannot respond using a per meal rate.

FSMC Administrative Fee Proposal for the Programs listed in the Scope of Work	
To be completed by the FSMC:	
Per Meal/Lunch Equivalent	\$ _____

FSMC Management Fee Proposal for the Programs listed in the Scope of Work	
To be completed by the FSMC:	
Per Meal/Lunch Equivalent	\$ _____

Attachment 7.2 - Labor Costs

Management Employees

All management food service employees shall be employees of the FSMC.

Non-Management Employees Labor Option

1. **FSMC ONLY:** All non-management food service employees shall be employees of the FSMC.

The FSMC shall maintain its own personnel and fringe benefits policies for its employees, subject to review by the SFA.

FSMC Salaried Employees	FSMC Budget Year One (2024-2025)	FSMC Budget Year Two (2025-2026)	FSMC Budget Year Three (2026-2027)	FSMC Budget Year Four (2027-2028)	FSMC Budget Year Five (2028-2029)
FTE _____					
PTE _____					
Base Gross Salary					
Educational Assistance					
Incentive Payments					
Merit Increase					
Retirement / IRA					
401K, 403(b)(7)					
Fringe Benefits					
Payroll Taxes					
SFA/FSMC Hourly Staff					
Gross Salaries					
Fringe Benefits					
Payroll Taxes					
Other Payroll Costs					
*Total Labor Costs					

*The Total Labor amount should be the same number documented on Financial Projected Worksheet, Attachment 7.3

Attachment 7.3 – Cost-Reimbursable Financial Projected Worksheet

The budget must address all line items. All indirect and overhead costs must be included in the Administrative Fee. If using a per meal/meal equivalent, the projections below are based on **39,000** meals/meal equivalents.

REVENUES	Year One (2024-2025)	Year Two (2025-2026)	Year Three (2026-2027)	Year Four (2027-2028)	Year Five (2028-2029)
Cash Sales					
Student Breakfast Sales					
Student Lunch Sales					
A La Carte Sales					
Adult Sales					
Special Event Sales					
Total Cash					
Federal Reimbursement (Based on Current Rates)					
Breakfast					
Lunch					
Snacks					
Summer Food Service Program					
USDA Foods Credit					
Total Reimbursements					
*Total Revenue (Total Cash + Total Reimbursements) =					
EXPENSES	Year One (2024-2025)	Year Two (2025-2026)	Year Three (2026-2027)	Year Four (2027-2028)	Year Five (2028-2029)
SFA Food Costs					
Gross Food Cost					
Food Deposit Cost					
Food Delivery Cost					
USDA Foods Used					
USDA Foods Delivery					
USDA Foods Processing					
Total Food Cost					
Labor Costs					
Total Labor Costs (same as Attachment 7.2)					

EXPENSES (Continued)	Year One (2024-2025)	Year Two (2025-2026)	Year Three (2026-2027)	Year Four (2027-2028)	Year Five (2028-2029)
FSMC Fees					
Administrative Fee					
Management Fee					
Total Administrative and Management Fees					
Direct Costs					
Paper & Disposable Goods					
Replacement/Small Wares					
Auto Expenses					
Insurance Expense					
Telephone					
Office Supplies					
Postage					
Bank Deposit Services					
Uniforms & Laundry					
Other Delivery & Freight/Non-Food					
Advertising, Promotions & Menus					
Marketing/Franchise & Décor					
Equipment Financing					
Equipment Repair					
Licenses					
Employee Travel					
Security Background Check					
Miscellaneous – Specify					
Total Direct Costs					
Total Discounts, Rebates, Applicable Credits, Allowances or incentives from FSMC Suppliers credited to SFA					
*Total Expenses					
Food Service Surplus (Total Revenues – Total Expenses)					

*Total Expenses= All Food Costs + All Labor Costs + All Fees + All Direct Costs – Total Discounts, Rebates, Applicable Credits, Allowances or Incentives from FSMC Suppliers credited to SFA

Attachment 7.4 - Schedule of Terms for the FSMC Guarantee

The FMSC must describe in detail the guaranteed conditions, forecasting of cost, and settlement of losses and/or surpluses.

The FSMC must select one.

_____ **Guaranteed No Loss:** The FSMC guarantees the SFA no loss for the operation of the food service program.

_____ **Guaranteed Minimum Return:** The FSMC guarantees the SFA a return no less than a certain dollar amount for the operation of the food service program.

The year 1 FSMC Guarantee amount below is based on the following conditions and assumptions remaining in effect for the School Year. The guarantee amounts for years 2-5 are estimated.

<FSMC inserts conditions and assumptions for guarantee>

Guarantee Year	Amount
FSMC guarantee minimum return to the SFA for year 1 (2024-2025)	
<i>Estimated</i> FSMC guarantee minimum return to the SFA for year 2 (2025-2026)	
<i>Estimated</i> FSMC guarantee minimum return to the SFA for year 3 (2026-2027)	
<i>Estimated</i> FSMC guarantee minimum return to the SFA for year (2027-2028)	
<i>Estimated</i> FSMC guarantee minimum return to the SFA for year 5 (2028-2029)	

Attachment 7.5 - 21-Day Cycle Menus

The SFA follows the **4- during the school year & 7 if we operate Summer Feed** day meal pattern.

Breakfast menus must follow the meal pattern requirements in 7CFR§220.8. *See Exhibit B*

Lunch menus must follow the meal pattern requirements in 7CFR§210.10. *See Exhibit C*

N/A - After School Care Snack menus must follow the meal pattern requirements in 7CFR§210.10. *See Exhibit D*

SFSP menus must follow the meal pattern requirements in 7CFR§225.16. *See Exhibit E*

N/A - At-Risk Afterschool Meals Component menus must follow the meal pattern requirements in 7CFR§210.10, 7CFR§220.8 or 7CFR§226.20. *See Exhibit C, D, E, or F*

N/A - CACFP menus must follow the meal pattern requirements in 7CFR§226.20. *See Exhibit F*

Monday	Tuesday	Wednesday	Thursday	Friday

Attachment 7.6 - Offeror's Internal Accounting Process

Give detailed information regarding your internal accounting process. You must, at minimum, give the following information:

1. Detailed inventory control for storage areas, including USDA Foods;
2. Accounting controls;
3. Method of recording, checking and reporting sales;
4. Internal control of cash handling;
5. Internal audit system;
6. All regular accounting forms used, with detailed explanation of their operation and importance;
7. Account periods;
8. Detailed description of showing credits and rebates on invoices and the method used to reach those amounts.
9. Sample invoice; and
10. Data collection for purposes of evaluating the effectiveness of new and current programs.

Attachment 7.7 - Offeror's Farm to School/Local Grown Purchasing Information
(Geographical Preference Option)

Describe, in detail, your practice in purchasing locally grown products for the SFA's school meal service, according to the specifications listed in the Scope of Work.

1. Pricing:
Will you be able to purchase locally grown items in bulk or are there any other price savings (seasonal purchasing/decreased transit time of product) that can be applied because of your prowess or ability to access locally grown products?
2. Product Labeling:
How will you meet the labeling requirement?
3. Quality:
What are your quality standards for locally grown items?
What areas will require flexibility?
What is the time frame necessary to acquire local items based upon agreed-to menu planning?
What special activities around agricultural nutrition education can you provide?
4. Food Safety:
What certifications/requirements do you have for your direct-market producers, broad line/regional processors, and/or broad line/regional distributors of product?

Attachment 7.8 - Offeror's Food Services Program List/Qualifications

Any interested FSMC must be presently operating a comparable, successful school food service program or be able to effectively demonstrate sufficient experience and knowledge in operating a school food service program. The qualification data below must be submitted with the offer.

1. Annual reports or financial statements for the past year. These reports and financial statements must be certified by a licensed public accountant and must be included in the pre-qualification data.

2. An authorized representative of the interested company must certify acceptance of the basis for criteria and the basis for selection of an interested FSMC.

Offers must also present the following information:

The FSMC must have extensive experience as food service operators and consultants of food service programs in general, and in public/charter schools. The FSMC shall have specific strategies for increasing both student and adult participation, while at the same time providing high quality, nutritional food. The FSMC shall have experience with this in other schools.

List all Arizona operations, as well as, other nationwide operations, where you are operating food service programs.

SFA Name	Population/Size	Location	Number of Sites	Contract Start Date	Participating Programs	% of Participation (ADP)	% of Free and Reduce Lunch

Attachment 7.9 - Offeror's References

At least three (3) verifiable professional references must be provided regarding services provided by the Offeror, similar to those required under this Solicitation.

1. SFA Name _____
Address _____
Point of Contact Name and Phone # _____
Participating Programs _____
Number of Sites Served _____
Length of Relationship _____
Description of Services _____

2. SFA Name _____
Address _____
Point of Contact Name and Phone # _____
Participating Programs _____
Number of Sites Served _____
Length of Relationship _____
Description of Services _____

3. SFA Name _____
Address _____
Point of Contact Name and Phone # _____
Participating Programs _____
Number of Sites Served _____
Length of Relationship _____
Description of Services _____

Attachment 7.10 - Offeror's Discontinued or Terminated Services

List the SFAs where your services have been discontinued, terminated, or lost to re-bid in the past five (5) years.

1. SFA Name _____
Address _____
Point of Contact Name and Phone # _____
Participating Programs _____
Number of Sites Served _____
Length of Relationship _____
Reason for Termination _____

2. SFA Name _____
Address _____
Point of Contact Name and Phone # _____
Participating Programs _____
Number of Sites Served _____
Length of Relationship _____
Reason for Termination _____

3. SFA Name _____
Address _____
Point of Contact Name and Phone # _____
Participating Programs _____
Number of Sites Served _____
Length of Relationship _____
Reason for Termination _____

Attachment 7.11 - Offeror's Organization Chart

Each FSMC will place a Company Organization Chart on this Attachment. Identify the Project Personnel who will be working with the SFA and include what the FSMC's plan is for the administrative, management, and the supervision proposed under the specifications of this contract.

Attachment 7.12 - Offeror's Personnel Information

Describe the FSMC's experience as managers and consultants of food service operations in general and in schools in particular.

Please submit Résumés of all personnel who will be working with the SFA. The Résumés shall include the following:

- (1) Education.
- (2) Number of years of experience, number of years with the company.
- (3) Specific related experience.
- (4) Availability of the person to work with the SFA.
- (5) Current and proposed time commitments of this person.
- (6) Associates or outside consultants, and previous work experience with proposed outside sources, if any; and
- (7) Depth of management and support resources.

Attachment 7.13 - Offeror's Drug Free Workplace Policy

The FSMC will abide by the Drug Free, Alcohol Free rules and regulations of **Heber-Overgaard Unified School District No. 6** and all local policies. Preference will be given to vendors submitting a certification with their proposal certifying they have a drug free workplace. The special condition is as follows:

IDENTICAL TIE PROPOSALS – Where two or more proposals, which are equal with respect to pricing, menu planning, method of approach and implementation plan, Offeror's experience, expertise & reliability, and USDA Foods. An offer received from a business that certified that it has implemented a drug free workplace program shall be given preference in the award process. Established procedures for processing tie offers will be followed if none of the tied vendors have a drug-free workplace program a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of controlled substance is prohibited in the workplace and specifies the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business policy of maintain a drug free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement in subsection (1).
4. In the statement specified in the subsection (1) notify the employees that as a condition of working on the commodities or contractual services that are under proposal, the employee will abide by the terms of the violation of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As a person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Company Name: _____

Vendors Signature: _____

Must be executed and returned with attached offer at time of solicitation

Attachment 7.14 - Offeror's Staffing Schedule

1. Describe the FSMC's daily food service employees staffing schedule. In the staffing schedule include the following:
 - a. whether each position is SFA or FSMC personnel.
 - b. the daily listing of FSMC employees by school and position description.
 - c. the daily hours scheduled for each employee working; and
 - d. the corresponding wage rate for each employee.
2. Provide a school staffing schedule which describes the total daily hours and daily costs.
3. If applicable, describe the FSMC's plan for employment of the existing food service staff.
4. Describe how the FSMC will ensure that the level of service meets the needs of each school.
5. Describe what the FSMC's policy is for the removal or suspension of an employee, and the procedures to immediately restructure its staff without disruption in service to the SFA.

Attachment 7.15 - Offeror's Training Program

1. Describe the detailed training program for employees, Directors, managers, and support at all levels.
2. Describe how the FSMC's training program will train its employees to abide by all policies, rules, and regulations with respect to its use of the SFA's premises.
3. How does the FSMC attempt to improve employee morale and reduce turnover?
4. Describe how the FSMC's training program will help the SFA meet the established professional standards requirements.

Attachment 7.16 – Page 1



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 behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and 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 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 Standards Form-LLL, "Disclosure Form Report Lobbying", in accordance with instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub recipients shall certify and disclose accordingly.

Name/Address of Organization

Name/Title of submitting Official

Signature

Date



**DISCLOSURE OF LOBBYING ACTIVITIES
INSTRUCTIONS FOR COMPLETION OF SF-LLL**

This disclosure form shall be completed by the reporting entity, whether subawardees or prime Federal recipient at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or Agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the changed occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g. the first subawardee of the prime is the 1st tier. Sub awards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subwardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative Agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employees(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other, aspect of this collection of information, including suggestions for reducing this burden, to the office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington D.C. 20503.

Attachment 7.17 - Certificate of Independent Price Determination

Both the School Food Authority and the Food Service Management Company (Offeror) shall execute this Certificate of Independent Price Determination.

Heber-Overgaard Unified School District No. 6

Name of Food Service Management Company

Name of School Food Authority (SFA)

- (A) By submission of this Offer, the Offeror certifies and in the case of a joint Offer, each party thereto certifies as to its own organization, that in connection with this procurement:
- (1) The prices in this Offer have been arrived at independently, without consultation, communication or Agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or with any competitor;
 - (2) Unless otherwise required by law, the prices which have been quoted in this Offer have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening in the case of an advertised procurement, or prior to award in the case of a negotiated procurement, directly or indirectly to any other Offeror or to any competitor; and
 - (3) No attempt has been made or will be made by the Offeror to induce any person or firm to submit or not to submit, an Offer for the purpose of restricting competition.
- (B) Each person signing this Offer on behalf of the Food Service Management Company (FSMC) certifies that:
- (1) He or she is the person in the Offerors organization responsible within the organization for the decision as to the prices being Offered herein and has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above; or
 - (2) He or she is not the person in the Offeror's organization responsible for the decision as to the prices being Offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to (A)(1) through (A)(3) above, and as their agent does hereby so certify; and he or she has not participated, and will not participate, in any action contrary to (A)(1) through (A)(3) above.

To the best of my knowledge, this Food Service Management Company, its affiliates, subsidiaries, officers, directors and 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:

Signature of Food Service Management Company's Authorized Representative	Title	Date
--	-------	------

In accepting this Offer, the SFA certifies that no representative of the SFA has taken any action which may have jeopardized the independence of the Offer referred to above.

Signature of School Food Authority's Authorized Representative	Title	Date
--	-------	------

Note: Accepting a bidder's Offer does not constitute award of the contract.

Attachment 7.18 - Deviations and Exceptions

All deviations and exceptions included with the Offer shall be submitted on this attachment. Any exceptions not included shall be without force and effect in any resulting Contract unless such exception is specifically referenced by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered as a part of any resulting Contract. All exceptions that are contained in the Offer may negatively affect the proposal evaluation based on the evaluation criteria as stated in the Solicitation or result in rejection of the Offer.

Offerors shall clearly indicate all exceptions taken to the provisions or specification in this solicitation document. Any deviation or exception must be clearly stated along with a complete explanation of why the exception was taken and what benefit accrues to the SFA thereby. All exceptions will be reviewed and approved by the SFA and ADE.

Exceptions (mark one):

_____ No exceptions

_____ Deviations/Exceptions taken (List page number, section, item number, and reason)

Page Number: _____

Section: _____

Item Number: _____

Reason: _____

Page Number: _____

Section: _____

Item Number: _____

Reason: _____

Page Number: _____

Section: _____

Item Number: _____

Reason: _____

Signature: _____ Date: _____

Attachment 7.19 - Confidential/Proprietary Form

Under applicable law, all Offers submitted and opened are public records and must be retained by the SFA. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the SFA.

Confidential/Proprietary Submittals (mark one):

_____ No confidential/proprietary materials have been included with this offer.

_____ Confidential/Proprietary materials included and listed below. Offerors should identify below any portion of their offer deemed confidential or proprietary (see Uniform Terms and Conditions, paragraph 4C). Identification in this section does not guarantee that disclosure will be prevented but that the item will be subject to review by the SFA and the ADE prior to any public disclosure. Requests to deem the entire offer or price as confidential will not be considered.

Page Number(s): _____

Section: _____

Reason: _____

Page Number(s): _____

Section: _____

Reason: _____

Page Number(s): _____

Section: _____

Reason: _____

Signature: _____ Date: _____

Attachment 7.21 - W-9 Form

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

Give Form to the
requester. Do not
send to the IRS.

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See specific instructions on page 3.	<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> <p>2 Business name/disregarded entity name, if different from above</p> <p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p>	<p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) _____</p> <p>Exemption from FATCA reporting code (if any) _____</p> <p><small>(Applies to accounts maintained outside the U.S.)</small></p>
	<p>5 Address (number, street, and apt. or suite no.) See instructions.</p> <p>6 City, state, and ZIP code</p> <p>7 List account number(s) here (optional)</p>	<p>Requester's name and address (optional)</p>

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	Employer identification number																																								
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Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

Attachment 7.22 - Statement of No Bid

If you are not responding to this RFP, please complete and return *only* this form to:

SFA: Heber-Overgaard Unified School District No. 6
Procurement Officer: Andrea Despain
Procurement Officer Address: 3375 Buckskin Canyon Road - PO Box 547 Heber, AZ 85928
Procurement Officer Phone Number: (928)535-4622 ext. 5003
Procurement Officer Fax Number: (928)535-5146
Procurement Officer Email Address: andrea.despain@h-oschools.org

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Contact Name: _____ Contact Phone Number: _____

We, the undersigned, have declined to respond to your Child Nutrition Programs RFP for the following reasons:

- _____ We do not offer this product or the equivalent.
- _____ Insufficient time to respond to this solicitation.
- _____ Our product schedule would not permit us to perform.
- _____ Unable to meet all insurance requirements.
- _____ Other. (Specify below)

Remarks:

Signature: _____ Date: _____

**Section 8
Exhibits**

Exhibit A – Heber-Overgaard Unified School District No. 6 Detailed Information

Student Population and School Information

Mountain Meadow Primary Pre-K to 3rd grade currently 166 students projecting about the same for FY2425
2181 W. Country Club Dr
Overgaard, AZ 85933

Capps Elementary 4th to 6th Grades currently 110 students projecting about the same for FY2425
3375 Buckskin Canyon Rd.
Heber, AZ 85928

Mogollon Junior/Senior High School 7th – 12th Grades currently 253 students projecting about the same for FY2425
3450 Mustang Ave.
Heber, AZ 85928

See Attached: the SFA Calendar for FY2223 and FY2324 *school years*- we run a 150 instructional day calendar. Lunch is not served at Mogollon Junior/Senior High School day before Christmas Break. No Meals are served the last two days of school at any site. When approved through ADE we run a Summer feed program 7 days a week starting the second week in June and ending the last full week in July- with pick up bagged meals out of 1 campus for all students.

The number of meal service days per week **4**_for 148 days during the school year_ **7**_Bagged meal pick up when approved through ADE for Summer Feed_

See Attached: the breakfast and lunch times for each school

List the number of students eligible for free and reduced meals served at each school and the percentage. For CEP, list the percentages.

School	#Free	#Reduced	Total Free & Reduced	Total Enrollment	Percentage (Total F & R/Total Enrollment)
Mountain Meadow Primary	102	12	114	166	68.75%
Capps Middle School	63	7	70	110	64%
Mogollon Junior/Senior High School	129	8	137	253	54.1%

The staffing levels and hours of all food service employees/workers for each school. Include the following information.

Employee	Hrs Worked	Days	Wage
District Level			
Food Service Director	Salary	Monday-Friday	Unknown
Mountain Meadows			
Lead Kitchen	7am-1pm	Monday-Thursday	Unknown
Kitchen Helper	9am-1pm	Monday-Thursday	Unknown
Capps			
Lead Kitchen	7am-1pm	Monday-Thursday	Unknown
Kitchen Helper	8:30am-1pm	Monday-Thursday	Unknown
MHS			
Lead Kitchen	6:30am-1pm	Monday-Thursday	Unknown
Kitchen Helper	9am-1pm	Monday-Thursday	Unknown

Financial Information

The SFA’s paid meal prices are as follows:

<i>2022-2023</i>		<i>2023-2024</i>	
Breakfast	\$2.00	Breakfast	\$2.00
Lunch	\$3.05	Lunch	\$3.30

The SFA’s income/revenue

<i>2022-2023</i>		<i>2023-2024</i>	
Total Cash Sales	\$ 57,159.00	Total Cash Sales <i>to date</i>	\$47,739.36
Total Reimbursements	\$174,716.00	Total Reimbursements <i>to date</i>	\$91,111.17

The SFA’s USDA Allocation and Usage

2022-2023 USDA Foods Allocation	\$ 6,132.00	2022-2023 USDA Foods Usage	\$16,723.61
2022-2023 DoD Fresh Allocation	\$15,907.15	2022-2023 DoD Fresh Usage	\$10,896.80
2023-2024 USDA Foods Allocation	\$ 6,132.00	2023-2024 USDA Foods Usage <i>to date</i>	\$9,174.86
2023-2024 DoD Fresh Allocation	\$14,158.72	2023-2024 DoD Fresh Usage <i>to date</i>	\$6,725.65

If Cost-Reimbursable Contract where the SFA purchases the food, **indicate** the dollar amount of food purchased:

2022-2023	\$ <u>66,082.00</u>
2023-2024 to date	\$ <u>66,829.00</u>

The number of entrees (choices) served per school: MMP – 2; CMS – 2; MJHS/MHS - 5

See attached Report the number of a la carte meals served.

The number of adult meals served:

2022-2023	<u>7</u> Breakfast & 140 Lunch
2023-2024	<u>0</u> Breakfast & 56 Lunch to date

The Point-of-Sale software and version used:

Software	<u>Nutrikids</u>
Version	<u>18.01</u>

See Attached the sponsor and school claims information for **2022-2023** and the **2023-2024 to date**. The information should include the claim numbers by month and by district.

See Attached the two most recent Food Service Annual Financial Reports (AFR) available.

Exhibit B - Meal Pattern – School Breakfast (SBP)

5-Day Meal Pattern for SBP

School Breakfast Program

Serve Only		Offer vs. Serve (OVS)				
<ul style="list-style-type: none"> Minimum 3 items daily Must prepare each of the 3 required items in required amounts: Milk, Fruit/Juice/Vegetable, Grain Students must have all items at POS 		<ul style="list-style-type: none"> Minimum 4 items daily Must prepare each of the 3 required items in required amounts along with 1 additional item (Fruit, Juice, Vegetable, Grain, or Meat/Meat Alternate) Students must have at least 3 items at POS, 1 item must be a ½ cup Fruit/Juice/Vegetable 				
<i>Required</i>		Grades K-5	Grades 6-8	Grades K-8	Grades 9-12	Grades K-12
Fluid Milk All fluid milk must be fat-free (skim) or low-fat (1% or less). Milk may be flavored or unflavored, provided that unflavored milk is offered at each meal service.		1 cup daily	1 cup daily	1 cup daily	1 cup daily	1 cup daily
Fruit/Juice/Vegetable All juice must be 100% full-strength, and no more than half of the weekly offerings may be in the form of juice.		1 cup daily	1 cup daily	1 cup daily	1 cup daily	1 cup daily
Whole Grain-Rich Grains Daily and weekly minimums must be met. Not required to meet weekly maximum. At least 80% of the grains offered weekly must be whole grain-rich.		1 oz eq (daily) 7-10 oz eq (weekly)	1 oz eq (daily) 8-10 oz eq (weekly)	1 oz eq (daily) 8-10 oz eq (weekly)	1 oz eq (daily) 9-10 oz eq (weekly)	1 oz eq (daily) 9-10 oz eq (weekly)
<i>Optional</i>						
Meat/Meat Alternate No daily or weekly requirement. Item counts toward weekly grain requirement when at least 1 oz eq grain is served.		0	0	0	0	0
Calories Weekly Average		350-500	400-550	400-500	450-600	450-500
Sodium (mg) Weekly Average		≤ 540	≤ 600	≤ 540	≤ 640	≤ 540
Saturated Fat (% of total calories) Weekly Average		≤ 10				
Trans Fat (g) Daily		0 per serving				

November 2022 | Arizona Department of Education | This institution is an equal opportunity provider.

Exhibit C - Meal Pattern – School Lunch (NSLP)

5-Day Meal Pattern for NSLP

National School Lunch Program

Serve Only:				Offer versus Serve (OVS):			
<ul style="list-style-type: none"> Must prepare all 5 components in required amounts At POS: Students must take all 5 components in minimum required amounts 				<ul style="list-style-type: none"> Must prepare all 5 components in required amounts At POS: Students must take at least 3 components in minimum required amounts, one of which must be at least ½ cup fruit or vegetable 			
Component Specifications: Daily and Weekly Amount Based on the Average for a 5-Day Week							
		Grades	K-5	6-8	K-8	9-12	Additional Information
Fruit (cups)	Weekly (daily)		2½ (½)			5 (1)	All fruit juice must be 100% full-strength, and no more than half of the weekly fruit offerings may be in the form of juice. Dried fruit credits as double its volume (e.g., ¼ cup dried fruit credits as ½ cup fruit).
	Serve Only: minimum amount required at POS		½			1	
	OVS: minimum amount to count at POS		½			½	
Total Vegetable (cups)	Weekly (daily)		3¾ (¾)			5 (1)	All vegetable juice must be 100% full-strength, and no more than half of the weekly vegetable offerings may be in the form of juice.
	Serve Only: minimum amount required at POS		¾			1	
	OVS: minimum amount to count at POS		½			½	
Vegetable Subgroups (cups)			Minimum Weekly Amounts				Minimum creditable amount to count towards a subgroup is 1/8 cup. Leafy greens credit as half their volume (e.g., 1 cup leafy greens credits as ½ cup vegetable).
Dark green				½		½	
Red/Orange				¾		1¼	
Beans/Peas (legumes)				½		½	
Starchy				½		½	
Other				½		¾	
To meet weekly requirement, vegetables from ANY subgroup				1		1½	
Whole Grain-Rich Grains (oz eq)	Weekly (daily) amounts <i>*Not required to meet weekly maximum</i>	8-9*	8-10*	8-9*	10-12*	At least 80% of the weekly grains offered must be whole grain-rich. No more than 2 oz eq of the weekly grain offerings may be grain-based desserts.	
	Serve Only and OVS: Minimum amount to count as a component at POS	1	1	1	2		
Meat/ Meat Alternate (oz eq)	Weekly (daily) amounts <i>*Not required to meet weekly maximum</i>	8-10*	9-10*	9-10*	10-12*		
	Serve Only and OVS: Minimum amount to count as a component at POS	1	1	1	2		
Fluid milk (cups)	Weekly (daily)		5 (1)			All fluid milk must be fat-free (skim) or low-fat (1% or less). Milk may be flavored or unflavored, provided that unflavored milk is offered at each meal service.	

August 2023 | Arizona Department of Education | This institution is an equal opportunity provider.

Exhibit C - Meal Pattern – School Lunch (NSLP)

5-Day Meal Pattern for NSLP

National School Lunch Program

Dietary Specifications: Weekly Average Requirement for a 5-Day Week					
Grades	K-5	6-8	K-8	9-12	Additional Information
Minimum - Maximum calories (kcal)	550-650	600-700	600-650	750-850	
Sodium Interim Target 1 (mg)	≤ 1,110	≤ 1,225	≤ 1,110	≤ 1,280	Sodium Interim Target 1A must be met no later than July 1, 2023 (SY 2023-2024)
Saturated fat (% of calories)	≤ 10				
Dietary Specifications: Daily Requirement for a 5-Day Week					
Grades	K-5	6-8	K-8	9-12	
Trans fat	Nutrition label or manufacturer spec must indicate zero grams of <u>trans fat</u> per serving				

Exhibit E - Meal Pattern – Summer Food Service Program (SFSP)

Meal Pattern for SFSP (Simplified)

Summer Food Service Program

Simplified SFSP Meal Pattern for Breakfast, Lunch, Supper, & Snack:
For the purpose of this table, a cup means a standard measuring cup.

Components	Breakfast	Lunch & Supper	Snack ¹
Fluid Milk (cups)	1 cup (8 fl. oz.)²	1 cup (8 fl. oz.)³	1 cup (8 fl. oz.)²
Vegetable and/or Fruits Including: <ul style="list-style-type: none"> • Vegetable(s) and/or fruit(s) • 100% Full-Strength Juice • Any combination of vegetable(s), fruit(s), and juice 	½ cup (4 fl. oz.)	¾ cup total⁴	¾ cup (6 fl. oz.)
Grains/Breads⁵ Including: <ul style="list-style-type: none"> • Bread • Cornbread, rolls, muffins, or biscuits, etc. • Cold dry cereal • Cooked pasta or noodle product • Cooked cereal or cereal grains or an equivalent quantity of any combination of grains/breads 	1 slice 1 serving ¾ cup or 1 oz⁶ ½ cup ½ cup	1 slice 1 serving ½ cup ½ cup	1 slice 1 serving ¾ cup or 1 oz⁶ ½ cup ½ cup
Meat or Meat Alternates Including: <ul style="list-style-type: none"> • Lean meat, poultry, fish or alternate protein product⁷ • Cheese • Egg • Cooked dry beans or peas • Peanut butter, soy nut butter or other nut or seed butters • Peanuts, soy nuts, tree nuts or seeds • Yogurt, plain or flavored, unsweetened or sweetened • Any equivalent quantities of any combination of the above meat/meat alternates 	Optional 1 oz 1 oz ½ large egg ¼ cup 2 Tbsp 1 oz 4 oz or ½ cup 4 oz or ½ cup	2 oz 2 oz 1 large egg ½ cup 4 Tbsp 1 oz = 50%⁸ 8 oz or 1 cup 8 oz or 1 cup	1 oz 1 oz ½ large egg ¼ cup 2 Tbsp 1 oz 4 oz or ½ cup 4 oz or ½ cup

¹ Serve two food items. Each food item must be from a different food component. Juice may not be served when milk is served as the only other component.

² Milk should be served as a beverage or on cereal or used in part for each purpose.

³ Must be served as a beverage.

⁴ Serve two or more kinds of vegetable(s) and/or fruit(s) or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

⁵ All grain/bread items must be whole-grain or made with enriched or whole-grain meal or flour; cereal must be whole-grain, enriched or fortified.

⁶ Either volume (cup) or weight (oz) whichever is less.

⁷ Must meet the requirements in Appendix A of CFR Part 225.

⁸ No more than 50% percent of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. When determining combinations, 1 oz of nuts or seeds is equal to 1 oz of cooked lean meat, poultry, or fish.