



DATE PROPOSAL SUBMITTED: April 15, 2022

or

NO PROPOSAL SUBMITTED: _____

PLEASE SUBMIT REASON FOR NO PROPOSAL: _____

HPS SCHOOL FOOD SERVICE PURCHASING PROGRAM
(Ohio HPS Contract #400)

REQUEST FOR PROPOSAL (RFP)

BY COMPETITIVE PROPOSAL PROCESS

**FOR BROADLINE DISTRIBUTION OF
FOOD AND NONFOOD SUPPLIES**

COMMERCIAL and COMMODITY PRODUCTS

PROPOSAL OF MATERIAL - SPECIFICATION LIST

Proposals are due: By 5:00 p.m. EDT on April 15, 2022

Public Opening: April 18, 2022, 4:00 p.m. EDT at the HPS office

Contract Duration: July 1, 2022, through June 30, 2023, with HPS option to renew for up to two additional terms of one year each: July 1, 2023, through June 30, 2024; and July 1, 2024, through June 30, 2025.

HPS

3275 N. M-37 Highway

P.O. Box 247

MIDDLEVILLE MI 49333

269-795-3308

**HPS SCHOOL FOOD PURCHASING PROGRAM
REQUEST FOR PROPOSAL
JULY 1, 2022 – JUNE 30, 2023
(Optional Renewal July 1, 2023 – June 30, 2024 and July 1, 2024 – June 30, 2025)**

TIME LINE

| | |
|---|-------------------------------|
| A. Pre-Proposal Announcement Issued | February 7, 2022 |
| B. Due Date for Pre-Proposal Announcement Responses | February 28, 2022 |
| C. Request for Proposal Issued | March 8, 2022 |
| D. Pre-RFP Vendor Meeting 3:00(EST) Virtual* | March 25, 2022 |
| E. Deadline for Clarification Requests | March 21, 2022 |
| F. Due Date for RFP Responses | April 15, 2022 |
| G. Public Proposal Opening @ 4:00 pm held at HPS office | April 18, 2022 |
| H. Evaluation of Responses | April 18, 2022 – May 31, 2022 |
| I. Notification of Contract Award on or before | June 1, 2022 |
| J. Contract Start Date | July 1, 2022 |

* Please call (269) 795-3308 for virtual meeting information.

REQUEST FOR PROPOSAL

HPS SCHOOL FOOD PURCHASING PROGRAM (Ohio) (“State”)

SECTION 1. BACKGROUND.

HPS is a nonprofit organization comprised of over 4,300 members and participants in the following states but not limited to: Ohio, Indiana, Ohio, Illinois, Wisconsin, Pennsylvania, West Virginia, Kentucky, Missouri, Iowa, Florida, Tennessee, Maine, New Hampshire, Massachusetts, Connecticut, Vermont, Rhode Island, New York, Georgia, North Carolina, South Carolina, District of Columbia, Virginia, Maryland and Texas. HPS is owned by its members, all of which are governmental entities or nonprofit, 501(c)(3) tax-exempt organizations. HPS members and participants include numerous public and nonprofit school systems, as well as nonprofit health care provider institutions, various instrumentalities of government, and for-profit participant health care providers and other institutions.

As part of its portfolio, HPS maintains a School Food Service Purchasing Program that is designed to allow eligible HPS members and participants to procure food and related items at competitive prices in a manner that complies with current state and federal procurement laws, regulations, and guidelines for Child Nutrition Programs (“**CN Programs**”). More than 1,800 entities in the listed states currently participate in the HPS School Food Service Purchasing Program. Those entities make purchases averaging more than \$655,070,000.00 in the aggregate through the HPS program each school year.

HPS carries on its activities through two separate, nonprofit entities. HPS, LLC, a Delaware nonprofit limited liability company, handles the recording and accounting related to purchasing activities of its tax-exempt, nonprofit and governmental member/owners. A subsidiary corporation, HPS MI, Inc., handles the recording and accounting related to purchasing activities of for-profit participants. As used in this RFP and any resulting Master Group Agreement, “**HPS**” includes both HPS, LLC, a Delaware nonprofit limited liability company, and HPS MI, Inc., a Delaware nonprofit corporation, as their interests may appear.

SECTION 2. SCOPE OF REQUEST.

HPS has been or expects to be awarded one or more contracts (“**HPS/SFA Contracts**”) to provide eligible School Food Authorities (“**SFAs**”) in the state of Ohio (“**State**”) with Broadline Distribution Services, as defined below, through a competitively procured distribution contract with a broadline distributor (“**Awarded Distributor**”). The HPS/SFA Contracts may also require HPS to provide certain administrative and information services to the SFAs; this RFP does not include those administrative and information services.

This RFP solicits proposals from qualified firms to provide Broadline Distribution Services by ordering, warehousing and delivering food (commercial and USDA Foods) and related supplies, including without

limitation the products in the HPS School Food Service Purchasing Program listed on **Exhibit C** (individually defined as “**Product**” and collectively defined as “**Products**”), directly for and to all HPS members and participants, (including without limitation entities in HPS’s non-K12 associate class of trade), both taxable and tax-exempt, that are located in the State and that elect to access HPS pricing for the Products under the Master Group Agreement and Individual Member/Participant Agreements (“**HPS Institutions**”). The forecasted quantity of purchases of Products by HPS Institutions in the State during the original, one-year term of the Master Group Agreement is anticipated to be \$85,000,000.00. HPS projects, but does not guarantee, that if the Master Group Agreement is renewed, such sales volume in the State will increase by 15% each year. The Products include items covered by the National School Lunch Program and the other CN Programs administered by the Food and Nutrition Service (“**FNS**”) of the United States Department of Agriculture (“**USDA**”). After the award of the contract for Broadline Distribution Services, HPS, on behalf of the HPS Institutions, will enter into processing agreements with all awarded USDA Commodity vendors listed in the Awarded Distributor’s proposal. The processing agreements will comply with 7 CFR Part 250. Each HPS Institution will have the right to enter into its own processing agreement(s).

HPS makes this request on behalf of the HPS Institutions, including any SFAs that operate CN Programs and that are or in the future become HPS members or group purchasing participants and enter into Individual Member/Participant Agreements (defined below) with the Awarded Distributor. Responding vendors should be aware that the names and number of HPS Institutions in the State may change during the term of the Master Group Agreement. The Products and pricing of the awarded Master Group Agreement may be available to other HPS Institutions in the State that are not listed on the attached **Exhibit A**, but that join HPS and sign Individual Member/Participant Agreements after the procurement and award of the Master Group Agreement. However, in no event will the number of HPS SFAs exceed the number of SFAs in the State. HPS Institutions are not required to participate, but the commercial and commodity pricing offered in this proposal will be open to any HPS Institution in the State that may join HPS at any time to take advantage of that pricing. By submitting a proposal, the responding vendor agrees to make the same contract terms and conditions, Products, and prices available to other such HPS Institutions.

This solicitation is intended to promote full and open competition. If the responding vendor believes the language, specifications, terms, and conditions restrict or limit the requirements in this solicitation to a single source, it is the responding vendor’s responsibility to notify Ms. Tori Mascho in writing, at tmascho@hpsnet.com so as to be received within five (5) business days after the date the solicitation is issued by HPS. The solicitation may or may not be changed, but a review of such notification will be made prior to the award of contract.

SECTION 3. QUALIFICATIONS AND RESPONSIBILITIES OF DISTRIBUTOR.

a. Broadline Distribution Services: The Awarded Distributor must provide the following “**Broadline Distribution Services**” as allowed by the State Department of Education or other State agency having jurisdiction:

1. Perform year-around distribution (including ordering, storage, delivery and electronic tracking) of food (commercial and USDA Commodities), supplies, materials, equipment, and all other Products related to a food service operation for all participating HPS Institutions in the State who elect to access HPS pricing. **Agreed**

2. Provide an acceptable electronic method for HPS on behalf of the HPS Institutions to analyze proposals as well as keep track of orders, rebates, deliveries, invoices, and quarterly reports. **Agreed**
3. Provide monthly market basket audits for items to confirm manufacturer prices as compared to the Consumer Price Index (CPI) as well as pass through of all applicable discounts, rebates, and credits. **See Tab 2 GFS Audit Procedure**
4. Provide HPS with appropriate purchasing documents for Products on a quarterly basis so that HPS may audit the pricing mechanisms used. **See Tab 2 GFS Audit Procedure**
5. Provide contracts, pricing and information, search information, technical information, etc. via a web site. **Agreed**
6. Provide field staff to assist the HPS Institutions. **Agreed**
7. Distribute USDA Food products, along with commercial products. (See Section 3b, “USDA Foods”, below). “USDA Foods” or “USDA Commodities” include value-added (brown box), processed or non-processed foods under any approved USDA delivery method, Department of Defense (“DoD”) program(s), Rebates or USDA pilot programs. **Agreed**
8. Upon request, provide copies of all procurement documents to the applicable State Department of Education or any HPS Institution, to demonstrate compliance with CN Program and government-wide regulations, including Buy American. **Agreed, to the extent such regulations or requirements are applicable to Distributor.**
9. Provide member-based input and evaluation of food items, supplies, and materials bid/proposal responses prior to award. **Agreed**
10. Provide HPS Institutions with information regarding any Buy American requirements, nutritional facts, CN label, or bid specification sheet(s) as requested. **Agreed**
11. At the request of any HPS Institution that wishes to develop or update a plan for responding as a CN Program operator to a “disaster” or “situation of distress,” as those terms are defined in 7 CFR 250.2, the Awarded Distributor will provide reasonable assistance, support and cooperation to any such HPS Institution in connection with developing or updating such response plan, consistent with all applicable laws and regulations, including without limitation 7 CFR 250.69 and 7 CFR 250.70 **Agreed**
12. Track and coordinate the volume discounts from participating manufacturers. The disbursement of volume discounts for each fiscal year (July 1 to June 30) shall occur no later than December 31st of each calendar year. **Agreed, provided GFS is awarded all K-12 RFP Contracts**
13. Make purchases of specified Products on behalf of HPS Institutions at the lowest price, including freight. **Agreed**

14. Communicate information regarding anticipated market price changes and availability. **Agreed**

15. Provide manufacturer information and tracking systems on specials and rebate information, including without limitation food show rebates. **Agreed**

16. Present or demonstrate new products or concepts in conjunction with brokers or manufacturers.

17. Upon HPS request, seek proposal pricing for new products as new products become available during the Master Group Agreement term. **Agreed**

18. Interface with the manufacturers about problems relating to product quality to the satisfaction of the HPS Institutions. In the case of quality disputes, the manufacturer may be required to provide an independent or third-party laboratory analysis. **Agreed, See Tab 3, U.S. Product Complaint Process Overview**

19. Provide quick, effective response to HPS Institutions' questions and issues with orders, deliveries, paper transactions, billings, or product performances. Communications may be in writing, e-mail, telephone, voice messaging, and/or in person in a timely manner. **Agreed**

20. Assign a regular account representative for each HPS Institution unless other arrangements are made with the HPS Institutions. **Agreed**

21. Provide accurate, reliable and timely reports, in terms of invoices, statements, credits and usage reports and other information as required by law or requested by HPS. Moreover, the Awarded Distributor must provide data spontaneously for periodic review of prices by HPS. **Agreed**

22. Provide electronic data as required for HPS to gather combined velocity and reporting information for all HPS Institutions individually, including without limitation the following data points: **Agreed, Nutritional Item Service for Schools, is dependent on the Award for all K-12 RFP Contracts**

- A. Daily Transactional Data
 - i. Daily electronic invoices data (810)
 - ii. Includes Distributor Part Number, Description, Manufacturer/Vendor, Vendor Part Number, Price, Unit, Qty Invoiced, Package String, and Distribution Center that Product was sold from
- B. Distributor Product Masterfile
 - i. Weekly update of all active and available items
 - ii. Includes Distributor Part Number, Description, Manufacturer/Vendor, Vendor Part Number, Package String, Category, Sub-Category
- C. Distributor Contract/Distribution Pricing Files
 - i. Weekly Update of all items available at a particular distribution center and priced by contract/agreement number
 - ii. Used for pricing evaluations
 - iii. Includes Distributor Part Number, Description, Manufacturer/Vendor, Vendor Part Number, Price, Unit, Package String, Category, Sub-Category

- D. Nutritional Item Service for Schools
 - i. Complete nutritional reference for schools
 - ii. RESTful Service on demand
 - iii. Includes all nutritional components, school lunch equivalencies, and links to the USDA child nutritional database
- E. Catalog Punchout for Menu Planner
 - i. Punchout link for items in Menu Planner to link to the online catalog from distributor and pre-populate a catalog cart.
- F. USDA Commodities landing service
 - i. Provides data for USDA entitlement drawdown for each school district participating in the managed consortiums
- G. USDA Account management communications service
 - i. Service that allows consortium to send diversion pounds by district, USDA Commodities item, and processor electronically to distributor.
 - ii. Allows for shut offs of each electronically
- H. Other electronic information HPS needs to conduct business with its members.

23. Provide required documentation on Products, such as nutrition analysis, meal components, allergens, CN Labels, food recalls, etc. **Agreed**

24. Provide emergency phone numbers and email addresses for ordering and delivery contacts outside of office hours (including weekends). **Agreed, all HPS members will be provided with inside and outside sales representative contact information.**

25. Supply equipment needed for use of house brand Product dispensing, such as coffee brewing systems, napkin dispensers, detergent dispensers, etc. Awarded Distributor must also include servicing options. **Agreed. Equipment is provided based on minimum volume requirements for products. Required velocity varies by product type. Please inquire for additional details.**

- **Coffee brewers for Mosaic and Gordon Choice coffee**
- **Juice dispensers for Harvest Valley 3.5 liter or 3 gallon concentrates**
- **Chemical dispensers for Array chemicals**
- **Folgers brand liquid roast equipment**

26. Meet each HPS Institution's need for technological/computer support. **Agreed, for systems and technology provided directly by Awarded Distributor**

27. Provide all products and services in accordance with applicable state and federal laws and regulations governing Federally-funded CN Programs and other applicable law, using sound, professional practices and in a competent and professional manner using knowledgeable, trained, and qualified personnel. **Agreed**

28. Provide opportunities to taste test products and menu options for staff and students. **Agreed**

29. Provide Professional Development opportunities for HPS Institutions' CN staff that count toward the USDA Professional Standards in School Nutrition Programs. This could include, but is not limited to webinars, back-to-school shows, USDA food shows, new product previews, preparation techniques, food safety, allergies, and menu development. **Agreed, See Tab 4 GFS Professional Standards Training Opportunities, Food Service Training Topics**

30. Intentionally Omitted

b. **USDA Foods:** Awarded Distributor must be able to provide USDA Foods year-round and without additional fees imposed on HPS Institutions for any special-order requirements. HPS Institutions must have access to commodity and commercial purchase history reports including balances and usage detail. USDA Commodity Products must be easily identified on the Awarded Distributor's ordering system, indicating if Products are available at a commodity price or commercial price as in when entitlement is depleted or if Product was not diverted. Awarded Distributor's failure to supply a specified USDA Commodity Product is subject to the "Substitutions" provision set forth in Section 4(l)(7), below. Commodity pricing must be either "net off invoice" ("NOI"), if permitted by the applicable State Department of Education or other State agency having jurisdiction, or "modified fee for service, Closed Sku NOI (CNOI), or Rebate." Awarded Distributor's programs must be able to integrate with K-12 and Processor Link verification systems. **Agreed (except as otherwise stated in GFS Cost Definition)**

The processing of donated USDA Foods must be performed in accordance with processing agreements that comply with the requirements of 7 CFR Part 250. Without limiting the foregoing, Awarded Distributor must enter into a written processing agreement with any manufacturer that provides Awarded Distributor with end products containing donated USDA Foods. The agreement between processor and Awarded Distributor must be acceptable to HPS and the HPS Institutions and must reference, at a minimum, the financial liability (i.e., who must pay) for the replacement value of donated foods; not less than monthly end product sales reporting frequency; requirements under 7 CFR 250.11; the applicable value pass through system to ensure the value of donated foods and finished end products is properly credited to the HPS Institutions; and any other requirements set by FNS, the applicable State Department of Education or other State agency having jurisdiction from time to time. **Agreed, Currently USDA Commodity items are not available through Gordon Food Service Stores, Store Van Delivery, non-stock and/or Expanded Product Offering (EPO). In the event USDA Commodities are enabled through these channels, additional fees may apply**

c. **Employee Conduct:** Awarded Distributor is responsible for its employees while on HPS Institutions' property:

1. Awarded Distributor's personnel are to present a professional appearance at all times. Awarded Distributor's personnel not in an identifiable uniform must provide Awarded Distributor photo identification upon request. **Agreed**
2. Personnel must be neat, clean, well groomed, and conduct themselves in a respectable and courteous manner while performing duties at any of the HPS Institutions' property. Each HPS Institution reserves the right to deny access to any of Awarded Distributor's employees deemed unacceptable and to request alternate employee. **Agreed**
3. Awarded Distributor will provide competent supervision of employees and be responsible for any and all damage or injury to existing facilities, equipment, property or persons caused by Awarded Distributor employee. **Agreed**
4. Awarded Distributor will furnish a complete list of all employees working on HPS Institutions' property upon request. Awarded Distributor will notify the applicable CN Director of any change prior to new personnel coming to any HPS Institution property. **Agreed**

5. Awarded Distributor will perform work without unnecessarily interfering with HPS Institution activities. Awarded Distributor employees must comply with all safety protocols of the HPS Institution while performing duties at any of the HPS Institutions' property. Awarded Distributor will take precautions necessary to protect persons or property against injury that may occur because of fault or negligence of its employee. Without limiting the foregoing, Awarded Distributor will use reasonable efforts to make deliveries to school buildings after student drop-off in the morning and before student pick-up in the afternoon. **See Tab 1 GFS Exceptions to RFP**

6. Awarded Distributor's personnel are forbidden to possess, consume, or be under the influence of alcohol or marijuana; use tobacco, e-cigarettes or vaping products; possess, use, or be under the influence of unauthorized controlled substances; or possess or use weapons or firearms when on HPS Institution's property. **Agreed**

7. Awarded Distributor must conduct background checks for its employees who will have regular contact with HPS Institutions, including but not limited to contract representatives and delivery personnel, in accordance with the individual HPS Institutions background standards. **Agreed**

8. It is the responsibility of Awarded Distributor to ensure that no persons who have failed to clear background checks in accordance with any HPS Institution standard will perform any work for the HPS Institution. Violation of this provision will be grounds for immediate termination of the Master Group Agreement. **Agreed**

9. Awarded Distributor acknowledges that it will not fulfill the Master Group Agreement in any part by use of a person who is barred by any state, local, or federal law from being on an HPS Institution's property at any time. **Agreed**

10. Awarded Distributor assures that no one employed by or representing Awarded Distributor will conduct himself or herself in a manner that discourages any party from joining HPS or that compromises the integrity of HPS. **Agreed**

SECTION 4. GENERAL CONDITIONS.

a. **Master Group Agreement; Individual Member/Participant Agreements.** The Awarded Distributor must enter into a Master Group Agreement with HPS in substantially the form attached as **Exhibit B**. After the contract has been awarded, the Awarded Distributor must return a signed copy of the Master Group Agreement to HPS. The Master Group Agreement will be effective as of the date HPS accepts it. HPS will give the Awarded Distributor written notice of the effective date of the Master Group Agreement. HPS will not be a purchaser of the Products. Rather, each HPS Institution that wishes to purchase Products will enter into an agreement ("**Individual Member/Participant Agreement**") with the Awarded Distributor. The individual HPS Institutions will place orders for Products directly with the Awarded Distributor pursuant to the Individual Member/Participant Agreement at any time during the term of the Master Group Agreement, and the Awarded Distributor will make delivery of Products to each HPS Institution at the address indicated on the individual order. The Awarded Distributor will directly invoice the individual HPS Institution for Products purchased, and each HPS Institution will be solely responsible for payment of invoices covering Products ordered by, delivered to, and accepted by it. Any Individual Member/Participant Agreements will be consistent with, subordinate to and controlled by the Master Group Agreement in all respects. Any Individual Member/Participant Agreements will be deemed to incorporate by reference all the terms and

conditions of the Master Group Agreement and this RFP, including all appendices and exhibits, and will be subject to and bound by any renegotiation, modification, or termination of the Master Group Agreement by HPS; provided, that if the Master Group Agreement is terminated by HPS, an individual HPS Institution may elect to continue its existing Individual Member/Participant Agreement with the Awarded Distributor pursuant to the existing terms and conditions of the Individual Member/Participant Agreement. If an individual HPS Institution elects to continue its Individual Member/Participant Agreement with the Awarded Distributor, the individual HPS Institution will notify the vendor in writing of this election within 30 days of the termination of the Master Group Agreement by HPS. **Understood**

b. **Storage.** The Awarded Distributor must have sufficient storage capacity and distribution systems to make timely delivery of Products in sufficient quantities to handle the HPS Institutions' needs. If the Awarded Distributor fails to comply with the preceding sentence, and if as a result of such failure HPS Institutions are forced to purchase Products elsewhere at higher prices for like Products, the Awarded Distributor must reimburse the individual HPS Institutions the difference in price, as long as the Master Group Agreement is in effect and reasonable proof of purchase is presented to the vendor. **Agreed**

c. **Electronic Reports.** The Awarded Distributor must furnish HPS monthly electronic statistical reports in .xls or .txt file format concerning the purchases of each HPS Institution made pursuant to the Master Group Agreement. Failure to do so will be grounds for HPS's immediate cancellation of the Master Group Agreement. The Awarded Distributor also must furnish HPS with annual Product usage reports, by item, in descending dollar order. **Agreed**

d. **Indemnification.** The Awarded Distributor must indemnify and hold harmless HPS and the HPS Institutions, their officers, directors, managers, agents and employees from any and all liability or damages, including reasonable attorneys' fees and costs, that HPS or the HPS Institutions or their respective officers, directors, managers, agents or employees may suffer arising out of (a) the negligent or intentional act or omission of the Awarded Distributor or any person for whom the Awarded Distributor is responsible, or (b) any breach by the Awarded Distributor of its obligations under the Master Group Agreement or any Individual Member/Participant Agreement. **Agreed**

e. **Insurance.** During the term of the Master Group Agreement, the Awarded Distributor must maintain in full force and effect and at its sole cost and expense all necessary insurance, including but not limited to, the following:

1. Worker's Compensation insurance, meeting the requirements of state law, for all employees of the Awarded Distributor performing any work attributable to its operations;
2. Commercial general liability insurance, including blanket contractual and completed operations coverage, with minimum limits of Five Million Dollars (\$5,000,000.00) as the combined single limit for each occurrence for bodily injury, personal injury and property damage; and
3. Vehicle liability insurance covering all owned, hired and non-owned vehicles in use by Awarded Distributor, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of Two Million Dollars (\$2,000,000.00) as the combined single limit for each occurrence for bodily injury and property damage.

Such insurance policies, except worker’s compensation insurance, must name HPS and the HPS Institutions as additional insureds. The Awarded Distributor will provide HPS with a copy of its liability insurance certificate, certified to HPS. The Awarded Distributor and the insurance carrier must give HPS sixty (60) days advance notice of any insurance policy cancellation, non-renewal or material modification. **Agreed, See Tab 5 Certificate of Liability Insurance**

f. **Governmental Requirements.** The HPS Institutions include many SFAs that will use funds from their Nonprofit School Food Service Accounts, including federal grant funding, to purchase the Products. SFAs are subject to the federal rules governing the management of grant funds from the USDA, including without limitation 2 CFR 200.318-.326; Appendix II to 2 CFR Part 200; 7 CFR Part 210, including 7 CFR 210.21; and 7 CFR Parts 215, 220, 225, 226, and 250. Accordingly, the Awarded Distributor and those SFAs that enter into Individual Member/Participant Agreements acknowledge that sales and purchases made pursuant to the HPS School Food Purchasing Program are subject to the following terms and conditions:

1. **Termination.** Any HPS Institution may terminate its Individual Member/Participant Agreement with the Awarded Distributor, in whole or in part, at any time by written notice to the Awarded Distributor stating the extent and effective date of termination. Upon the effective date of termination, the HPS Institution will pay to the Awarded Distributor, without duplication, the contract price for conforming Products that were completed and delivered or performed (as applicable) in accordance with the provisions of the contract before the effective date, less any payments that the HPS Institution has made previously for such Products. If the HPS Institution made payments of the purchase price to Awarded Distributor that in the aggregate exceed the total amounts payable by the HPS Institution to Awarded Distributor under the preceding provisions, then Awarded Distributor must promptly refund the excess to the HPS Institution. **Understood**

2. **Dispute Resolution.** All parties must attempt to settle any dispute between them amicably in accordance with this subsection f(2) and subsection f(1) above. To this end, the parties must consult and negotiate to reach a solution. However, nothing in this subsection f(2) will preclude any party from commencing a proceeding if the negotiations do not reach a resolution. All disputes arising out of a contract between an HPS Institution and the Awarded Distributor under the HPS School Food Purchasing Program may be submitted by either party to arbitration to be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules (including the Emergency Interim Relief Procedures). The parties agree that with respect to disputes submitted to arbitration, the arbitration award will be final and binding, and that a judgment by any court of competent jurisdiction may be rendered on the award. The place of arbitration must be in the state where the HPS Institution is located, at a place convenient to the parties unless the arbitrator(s) designate some other location. All costs and expenses of the arbitration, including actual professional fees, must be allocated among the parties at the discretion of the arbitrator(s). **Understood**

3. **Allowable Costs, Discounts, Etc.** This Subsection f.3 applies to the extent this RFP is considered a solicitation to procure a “Cost Reimbursable Contract,” as defined in 7 CFR 210.2. Pursuant to 7 CFR 210.21(f)(1), any HPS Institution that is a SFA will pay for the allowable costs of Products from the SFA’s Nonprofit School Food Service Account to the Awarded Distributor net of all discounts, rebates and other applicable credits accruing to or received by the Awarded Distributor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the SFA. The Awarded Distributor must either (1)

separately identify for each cost submitted for payment to the SFA 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); or (2) exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification. The Awarded Distributor's determination of its allowable costs must be made in compliance with the applicable USDA and CN Program regulations and Office of Management and Budget cost circulars. The Awarded Distributor must identify the amount of each discount, rebate and other applicable credit on 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. If approved by the applicable State Department of Education or other State agency having jurisdiction, the SFA may permit the Awarded Distributor to report this information on a less frequent basis than monthly, but no less frequently than annually. The Awarded Distributor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract. The Awarded Distributor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the SFA, the applicable State Department of Education or other State agency having jurisdiction, or the USDA, as applicable. **Understood**

4. **Access to Records.** Upon request, the Awarded Distributor must provide the HPS Institution, the USDA, the Inspectors General, the Comptroller General of the United States, and the applicable State Department of Education or other State agency having jurisdiction, or any of their duly authorized representatives, with (1) access to documents, papers, and records which are pertinent to the contract, in order to make audits, examinations, excerpts and transcripts, and (2) timely and reasonable access to the Awarded Distributor's personnel for the purpose of interview and discussion related to such documents (2 CFR §200.337). **Agreed**

5. **Record Retention.** The Awarded Distributor must retain all records with respect to a HPS Institution required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200.334), for at least three years after the HPS Institution makes its final payments and all other pending matters are closed. Whenever practicable, the Awarded Distributor should collect, transmit and store such records in open and machine-readable formats rather than in closed formats or on paper. **Agreed**

6. **Environmental Protection; Recovered Materials.** To the extent applicable and in accordance with Appendix II to 2 CFR Part 200 ¶ (G), the Awarded Distributor must comply with all standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), as amended, as well as any mandatory standards and policies relating to energy efficiency which are contained in any state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). Violations must be reported to the USDA and the Regional Office of the Environmental Protection Agency ("EPA"). Further, to the extent applicable and in accordance with 2 CFR § 200.322 and Appendix II to 2 CFR Part 200 ¶ (L), the Awarded Distributor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including without limitation the establishment of an affirmative procurement program for procurement of recovered materials identified in the EPA Guidelines at

40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. **Agreed**

7. Equal Employment Opportunity. To the extent applicable, the Awarded Distributor must comply with Executive Order 11246, “Equal Employment Opportunity,” as amended, including amendments by E.O. 11375 and E.O. 13672, and as supplemented by regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” **Understood**

8. Debarment and Suspension. If the Master Group Agreement or any Individual Member/Participant Agreement is considered a “covered transaction” under the federal rules implementing Executive Order 12549, “Debarment and Suspension,” including the OMB Guidance in 2 CFR Part 180 and the USDA implementing regulations in 2 CFR Part 417, then each such Agreement will be deemed to include a term or condition requiring the Awarded Distributor to comply with Subpart C of 2 CFR Part 180, as supplemented by Subpart C of 2 CFR Part 417, and further requiring the Awarded Distributor to include a similar term or condition in all lower tier covered transactions. In addition, all responding vendors must submit a signed Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion in the form of the attached **Appendix A**. No contract will be made with parties listed on the Excluded Parties List System maintained as part of the federal System for Awards Management (“**SAM**”). **See Appendix A**

9. Byrd Anti-Lobbying Amendment. All responding vendors must submit a signed Certification Regarding Lobbying in the form of the attached **Appendix B**. Each tier certifies to the tier above that it will not use and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. All responding vendors must disclose any such lobbying activities by submitting a signed Disclosure of Lobbying Activities (Standard Form – LLL) in the form attached as **Appendix C**. **See Appendix B and C**

10. Buy American. Each HPS Institution that is an SFA and participates in the CN Programs is required to use the Nonprofit School Foodservice Account funds, to the maximum extent practicable, to buy domestic commodities or products for CN Program meals. A “**domestic commodity or product**” is defined as an agricultural commodity produced in the United States and a food product processed in the United States substantially using agricultural commodities that are produced in the United States, as provided in 7 CFR 210.21(d). “**Substantially**” means over 51% of the food component, by weight or volume, must be of U.S. origin. The food component of the Product is the agricultural commodity, including meats/meat alternates, grains, vegetables, fruits and fluid milk.

The Awarded Distributor must cooperate with the HPS Institutions that are SFAs in order to facilitate their compliance, and their monitoring of compliance, with this Buy American provision. This includes certification by the Awarded Distributor as to the percentage of U.S. content in domestic commodities or products supplied to SFAs. If the Awarded Distributor is unable or unwilling to make such certification or otherwise fails to comply with this Buy American provision, the SFAs will not purchase from the Awarded Distributor and may terminate their Individual Member/Participant Agreements with the Awarded Distributor. **By signing and submitting a proposal, the responding vendor certifies that the agricultural commodities and food products it proposes to supply to each SFA will be domestic commodities or products. In addition, the Awarded Distributor must provide each SFA with ongoing certification, on food products delivered, on invoices submitted and by other means as appropriate, (i) that agricultural commodities supplied to the SFA were produced in the United States, (ii) that food products supplied to the SFA were processed in the United States, and (iii) that the percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to the SFA exceeds 51%. SFAs may also require the Awarded Distributor to certify the actual percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to the SFAs. See Tab 6 Buy American**

Exceptions to the foregoing Buy American provision are very limited; however, an alternative or exception may be approved by individual SFAs upon the vendor's request. To be considered for an alternative or exception, the request must be submitted in writing or by electronic transmission to the SFA, Attention: Food Service Director, a minimum of 1 day in advance of delivery. The request must include either:

- A. The alternative substitute(s) that are domestic and meet the required specifications, together with:
 - (i) Price of the domestic food alternative substitute(s); and
 - (ii) Availability of the domestic alternative substitute(s) in relation to the quantity ordered; or
- B. The reason for exception: limited/lack of availability or price (include price information):
 - (i) Price of the domestic food product; and
 - (ii) Price of the non-domestic product that meets the required specification of the domestic product.

11. Contract Work Hours and Safety Standards Act. Where applicable and in accordance with Appendix II to 2 CFR Part 200 ¶ (E), all contracts awarded by a non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C.3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. **Agreed**

12. Rights to Inventions Made Under a Contract or Agreement. In accordance with Appendix II to 2 CFR Part 200 ¶ (F), if a Federal award meets the definition of “funding agreement” under 37 CFR §401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements or 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 by the awarding agency. **Agreed**

13. Davis-Bacon Act, as amended. In accordance with Appendix II to 2 CFR Part 200 ¶ (D), all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”) In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The school district must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The school district must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work financed in Whole or Part by Loans or Grants from the United States”). The act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The school district must report all suspected or reported violations to the Federal awarding agency. **Agreed**

14. Small/Minority/Women’s/Labor Surplus Area Businesses. In accordance with 2 CFR § 200.321, the Awarded Distributor must take all necessary affirmative steps to assure that minority businesses, women’s businesses enterprises, and labor surplus area firms are used when possible. Affirmative steps must include: (a) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists; (b) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources; (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises; (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and (e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce. **Understood, See Tab 7, Diversity and Inclusion**

g. **Nondiscrimination**. The Awarded Distributor must not discriminate against any employee or applicant for employment relating to the Master Group Agreement or any Individual Member/Participant Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee’s or applicant’s race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law (“**Protected Characteristics**”). The Awarded Distributor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of Products or services. Breach of this paragraph may be regarded as a material breach of the Master Group Agreement. **Understood**

h. **Notices**. Any notices permitted or required to be given under the Master Group Agreement will be deemed given or made (a) upon personal delivery to the party to whom addressed, (b) on the day of delivery to a nationally recognized overnight courier service, (c) three days following deposit in the United States mail, certified, return receipt requested, or (d) upon sending by verifiable electronic mail. Notices permitted or required to be given under the Master Group Agreement to Awarded Distributor must be addressed to Awarded Distributor’s address or email address as set forth in its proposal, and to HPS must be addressed to HPS’s address as set forth in this RFP (attention: Tori Mascho) or to tmascho@hpsnet.com. A party may specify a different address by notice given in accordance with the terms of this Section. **Understood**

i. **Incorporation of Documents**. The provisions of this RFP (including without limitation these General Conditions and all appendices and exhibits, all of which are incorporated into this RFP by reference), the attached Terms and Conditions Informational Sheet, and the Awarded Distributor’s proposal will be considered part of the Master Group Agreement entered into between HPS and the Awarded Distributor. In case of any conflict or inconsistency among the foregoing, the Master Group Agreement will control, followed by the provisions of this RFP, the Terms and Conditions Informational Sheet, and then the Awarded Distributor’s proposal, in descending order of priority. **Understood**

j. **Governing Law**. This Request for Proposal, the Master Group Agreement, and any Individual Member/Participant Agreement will be construed and enforced in accordance with the laws of the state of Ohio, without regard to conflict of law principles. **Understood**

k. **No Assignment**. The Master Group Agreement may not be assigned by the Awarded Distributor without the prior written consent of HPS. **Agreed**

l. **Product Requirements**.

1. **General Requirements:** All Products must conform to the minimum requirements of federal and state regulations. These requirements include, but are not limited to cleanliness, safety, weights, fill of containers, drained weights, and contamination. **Understood**

A. All food Products supplied by Awarded Distributor will comply with standards of identity, quality, and fill and drained weights as described in relevant federal and state regulations.

B. All foods, especially temperature-controlled foods, will be handled according to the latest federal and state food codes that govern the Products.

C. With respect to any Products that are misrepresented, the supplier whose name and address appear on the package is the responsible party. Awarded Distributor is expected to take immediate action to correct any situation in which Product integrity is violated.

D. In the case of quality disputes, the manufacturer may be required to provide an independent or third-party laboratory analysis to justify the grade.

E. If Product origin is not listed on the case or broken cases, Awarded Distributor will be required to provide country of origin including where Product was grown and processed.

2. Nutrition Standards in the CN Programs: All Products must conform to CN Program regulations for all pre-k, Head Start, GRSP Programs and other federal and state regulated nutritional programs (including new meal patterns) in which the HPS Institutions participate. The Awarded Distributor will need to work with HPS to achieve compliance with changes to program standards as they relate to products and services provided by the Awarded Distributor to the HPS Institutions. **Understood. Gordon Food Service will continue to work with HPS on product availability in compliance with federal nutrition programs**

3. Child Nutrition (CN) Labels: HPS requires copies of signed CN Labels for Products that have CN Labeling. These must be made available to the SFA by September 1st of each school year. **Understood**

4. Product Formulation Sheets: HPS requires Product Formulation Sheets for all food Products that do not have a CN label. Product Formulation Sheets must be made available by September 1st of each school year. Failure to provide required CN and/or Product Formulation Sheets or approved equivalent may be grounds for termination of the Master Group Agreement. **Understood**

5. Safety Data Sheets (SDS): HPS requires SDS for all chemicals. SDS information must be compiled by Awarded Distributor in an electronic medium by September 1st of each school year. Failure to provide SDS may be grounds for termination of the Master Group Agreement. **Understood**

6. Ordering Procedures: Agreed, See Tab 8, Online Ordering

A. HPS requires an on-line ordering process.

B. Ordering will be in full-case quantities whenever possible. Broken case orders will be kept to the minimum.

C. Orders will be transmitted electronically as mutually agreed upon by Awarded Distributor and HPS.

D. The Awarded Distributor may be required to provide assistance and training to HPS Institutions to set up and utilize existing technology.

E. Every effort must be made to implement efficient use of current computer technology and Internet capabilities for purchasing.

F. The Awarded Distributor will train HPS Institutions on use of system at no additional cost to HPS or HPS Institutions.

7. **Substitutions:** All substitution requires the prior approval of the HPS Institution. HPS Institutions have the right to conduct student and staff taste tests before approving any substitution. If the Awarded Distributor is temporarily out of stock of a particular Product or otherwise fails to supply a specified Product, an equal or superior product may be delivered at the proposal price for the unavailable Product as long as prior approval of the HPS Institution has been received. Buy American Provisions apply to all substitutions. **See Tab 1 GFS Exceptions to RFP**

8. **Food Laws:** Awarded Distributor must operate in accordance with all applicable laws, ordinances, regulations, and rules of federal, state, and local authorities, including but not necessarily restricted to a Hazard Analysis and Critical Control Point (HACCP) plan. HPS may inspect the Awarded Distributor's facilities and vehicles. The Awarded Distributor must have documented its suppliers' compliance with Good Agricultural Practices (GAPs), Standard Operating Procedures (SOPs), Sanitary Standard Operating Procedures (SSOPs), and Good Management Practices (GMPs) for farm and field operations, packing facilities, cold storage operations, produce shippers, and their distribution facilities, if appropriate. **Understood**

9. **Food Recall:** Awarded Distributor will be expected to comply voluntarily with all federal, state and local mandates regarding the identification and recall of foods from the commercial and consumer marketplace. The Awarded Distributor must have a process in place to respond effectively to a food recall. The process must include accurate and timely communications to HPS and HPS Institutions and assurance that unsafe products will be identified and removed from HPS Institution site(s) in an expedient, effective, and efficient manner. The Awarded Distributor must maintain all documents and records required for immediate and proper notification of recalls for full and split cases. Awarded Distributor must also ensure that any storage facilities it uses are in compliance with all federal, state and local requirements relating to food safety and health (including obtaining any required health inspections) and to procedures for responding to a food recall, as applicable. Responding vendors must describe their policy and procedures for handling food recalls in their responses to this RFP, including without limitation the designation of a primary contact person who will represent Awarded Distributor in connection with food recalls. **Understood, See Tab 9, Recall Process Overview**

10. **Biosecurity:** The Awarded Distributor must have a written policy regarding biosecurity and the food supply, in accordance with the Bioterrorism Act 2002 under the U.S. Department of Health and Human Services, Food and Drug Administration, and under the USDA, Food Safety and Inspection Service. **Understood**

11. **Emergency Purchases:** Notwithstanding any other provision of this RFP, the HPS Institutions may make or authorize others to make emergency procurements if there exists a threat to public health, welfare, or safety or if an emergency exists, such as a supply chain disruption, that will not permit a delay resulting from competitive solicitation. Emergency procurements will be made with such level of competition as is practicable under the circumstances but may be done using a noncompetitive procurement method. Consistent with 2 CFR 200.318(i), a written determination of the basis for the emergency and for the selection of the awarded contractor shall be included in the contract file. **Understood**

Please See Tab 1 GFS Exceptions to RFP for additional legal exceptions

SECTION 5. INSTRUCTIONS AND INFORMATION FOR RESPONDING VENDORS.

a. Any firm interested in submitting a proposal to HPS must review and complete the requested information and submit its proposal in accordance with the terms and conditions of this Request for Proposal. Proposals in response to this RFP must be received at the HPS office, 3275 N. M-37 Highway, P.O. Box 247 Middleville, Ohio 49333 - Attention: Tori Mascho, no later than 5:00 PM EDT on April 15, 2022.

b. Pricing.

1. **Pricing Mechanisms, Methods.** Responding vendors must complete the Proposal of Material-Specifications List spreadsheet attached as **Exhibit C** with prices as of July 1, 2022. Responding vendors are required to use USDA recognized pricing mechanisms. That is, pricing for commercial Products must be based on either “firm price” or “cost plus a fixed fee.” Commodity Product pricing must be either NOI (if permitted by the applicable State Department of Education or other State agency having jurisdiction), modified fee for service, Closed Sku NOI (CNOI), or Rebate. “Cost plus a percentage of cost” is not permitted. Any proposal that is based on “cost plus a percentage of cost” will be rejected. HPS will be soliciting proposals from multiple distributors to determine the most responsive and responsible responding vendor of this solicitation.

“**Cost**” is defined as Awarded Distributor’s invoice amount from the supplier, plus overhead/storage, inbound freight, minus customer allowance and any other “off” invoice allowances. “**Fixed Fee**” is defined as the difference between Cost and the selling price to HPS SFAs. Fixed Fees shall remain firm for the duration of the Master Group Agreement. Pricing submitted for all Products will be net price, F.O.B. destination (HPS Institution), and stated as “firm price” or “cost plus a fixed fee.” The unit price offered should contain two points (.00) beyond the decimal. The extended price must be rounded to the nearest whole cent (5 or greater will be rounded up and 4.9 or less will be rounded down). The Awarded Distributor must assure only allowable costs are submitted for reimbursement and must also identify the amount of each discount, rebate, and other applicable credit on invoices presented for payment at least monthly. Awarded Distributor must maintain documentation of costs and discounts, rebates, and other applicable credits, and must furnish such documentation upon request of HPS, the applicable State Department of Education or other State agency having jurisdiction, or the USDA. Individual product rebates may be filed either by the SFA or by Awarded Distributor but will be paid only to the SFA for credit to its Nonprofit School Food Service Account. The Awarded Distributor will provide the tracking report on behalf of HPS, if requested. HPS expects firm fixed price for contracts secured by the Awarded Distributor on behalf of the HPS Institutions. **See Tab 10, Cost Definition**

2. Pre-Award Audit. HPS reserves the right to audit all pricing submissions prior to award of contract. **Understood**

A. Prices quoted must be the NET PRICE that HPS Institutions will pay, F.O.B. destination. USDA Foods discounts will only be applied on the approved manufacturers (listed on the instructions tab of the **Exhibit C** spreadsheet).

B. Each responding vendor must submit, with the proposal, a list of all Products that are a firm price for the entire school year, calendar year, or specified period of time.

c. Firm Pricing.

1. Firm Pricing; Adjustments. The Proposal of Material - Specification List attached as **Exhibit C** represents the high-volume Products purchased by HPS Institutions. The Products listed on the Proposal of Material – Specification List, must be quoted firm against any increase (firm priced) at minimum for each four month price protection period, (unless the responding vendor offers the price protection period for a longer period). The four month price protection periods are July 1 – October 31; November 1 – February 28/29; and March 1 – June 30, commencing on July 1, 2022. All prices must be quoted F.O.B. HPS Institution’s place of business, unless otherwise noted on item #13 of the Terms & Conditions informational sheet and accepted by HPS in writing. After the initial four month period, (unless otherwise stated) all successive price increase requests must be submitted to the HPS office a minimum of 15 days before the proposed effective date (i.e., the first day of the next four month price protection period) and are subject to the approval of HPS prior to implementation. The HPS School Food Purchasing Advisory Committee will evaluate any requested price increase by considering relevant factors such as any changes in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers: Food Away from Home in U.S. City Average (Series ID CUUR0000SEFV) (“**CPI**”). Allowable changes will be determined by the change in the published CPI verse the published CPI for the number of months in price protection period (example: for price protection period July 1 through October 31st if the most current published CPI is September, the acceptable change will be the difference between the June CPI and the September CPI). **The Committee will not approve any aggregate price increase it determines would constitute a material change to the contract.** If manufacturers’ price increases only pertain to a specified geographic area, the Awarded Distributor will only submit the price changes for the specified geographic area. HPS reserves the right to bill the Awarded Distributor for costs incurred to notify HPS Institutions of any price increase that was not part of the originally agreed upon pricing term. In the event of a general market decline for any Product after the initial four (4) month period, either (1) the Awarded Distributor may reduce the price(s) to HPS Institutions to a level reflecting such general decline, or (2) HPS may renegotiate or terminate the Master Group Agreement. **Understood**

2. Other Group Purchasing Contracts. Responding vendors should note that HPS already has entered into group purchasing contracts for certain items included in the “Separate Contracts” tab of the Proposal of Material – Specification List attached as **Exhibit C**. Those items are also covered by this RFP, and the Awarded Distributor will be required to stock those items or the manufacturer equivalent in the case of private label. Please provide your fixed fee to deliver the items to the HPS institutions. The items in **Exhibit C** will be included in the overall HPS bid and not be considered off bid items. **Understood**

d. **Market Sensitive.** All Products listed on the Proposal of Material – Specification List attached as **Exhibit C**, that are “market sensitive” high volume items (e.g., produce and dairy) may be priced using the “cost plus a Fixed Fee” mechanism. **Understood**

e. **Other Product Pricing.** For all other Products that the responding vendor may provide, the vendor must provide a detailed description of the pricing mechanism used to determine the "non-firm priced items" net pricing. The mechanism must provide net pricing that reflects the competitive market and is available to all HPS Institutions. The responding vendor's response must include a Fixed Fee per case schedule for all items not listed on the Proposal of Material. **See Tab 11, Off Bid Pricing Structure**

f. **Cost Reimbursable Contract Requirements.** The contract will include the provisions required by 7 CFR 210.21(f)(1), as more specifically described in Section 4.f.3 of the General Conditions, above. **Understood**

g. **USDA** described above that are included in the firm Commodity price. If applicable, each responding vendor must provide the distribution cost (i.e., Fixed Fee per case) for the Closed Sku NOI (CNOI) USDA Foods Products described above that are included in the firm Commodity price. If applicable, each responding vendor must provide the distribution cost (i.e., Fixed Fee per case) for the distribution of DoD products to the HPS Institutions. If applicable, **Foods Pricing.** Each responding vendor must outline its capabilities to distribute USDA Foods Products, including Processed, Non-Processed, DoD, and any USDA approved pilot programs to the HPS Institutions, and must quote on **Exhibit C** either the NOI Price (if permitted by the applicable State Department of Education or other State agency having jurisdiction), modified fee for service, or Closed Sku NOI (CNOI) for each USDA Foods Product. If applicable, each responding vendor must provide the cost structure (i.e., Fixed Fee per case) for the delivered distribution cost for any non-processed USDA Foods Products. If applicable, each responding vendor must provide the distribution cost (i.e., Fixed Fee per case) for the modified fee-for-service USDA Foods Products each responding vendor must provide the distribution cost (i.e., fixed fee per case) for any USDA approved pilot programs to the HPS Institutions. If applicable, each responding vendor must provide the distribution cost (i.e., Fixed Fee per case) for the Closed SKU NOI USDA Foods Products. Each responding vendor must provide a sample USDA Foods Manufacturer Tracking Report. **Understood, See Tab 12, USDA Foods Capabilities, USDA Tracking Report, USDA Foods Pricing Structure**

h. **Firm Offers.** All proposals will be considered firm offers to sell the Products to HPS Institutions that will remain open to acceptance or rejection for a period of ninety (90) days from the closing time and date shown above for submittal of proposals. Any responding vendor may withdraw its proposal at any time before the stated closing time and date. Given the uncertainty of the agriculture industry HPS proposes that all proposals will be given the opportunity to make an one-time adjustment effective 8-1-22. After that date all subsequent price adjustment dates will follow the schedule in Section 5c of this RFP document. Due to FOIA and other disclosure laws and regulations that apply to certain SFAs and other HPS Institutions, proposals that are submitted in response to this RFP may be subject to disclosure as matters of public record. **Agreed**

i. **Sales Volume; Separate Contract Items.** The sales volume figures shown on **Exhibit C** and volume projections stated elsewhere in this RFP are intended for the responding vendor’s own use as an aid in determining approximate quantities. HPS makes no guarantee, express or implied, as to the exact quantities of Products that will be purchased by HPS Institutions, and the Awarded Distributor will be required to honor its pricing if quantities vary from **Exhibit C** or from projections stated elsewhere in this RFP. Responding vendors should note that HPS already has entered into group purchasing contracts for certain items included in the Proposal of Material – Specification List attached as **Exhibit C** (see Section 5.c.2 above). **Understood**

j. **Data Requests.** Each responding vendor must furnish all data, technical literature and samples that HPS requests in connection with its evaluation of the vendor’s proposal. **Understood**

k. **Evaluation Criteria.** The HPS School Food Purchasing Advisory Committee will evaluate proposals based upon the following factors, assigning to each factor the relative weight listed below:

| | | |
|----|---|----|
| a. | Price..... | 20 |
| b. | Completeness of the RFP..... | 15 |
| c. | Program Support..... | 15 |
| d. | Ability of vendor to comply with product specifications..... | 15 |
| e. | Ability of vendor to deliver commercial and commodity items | 15 |
| f. | System Support..... | 15 |
| g. | Value added programs offered by vendor | 5 |

Each responding vendor’s score for Price will be calculated by applying the following formula:

$$\text{Price Score} = [20] \times \frac{\text{Low Commercial Proposal}}{\text{Commercial Proposal Being Evaluated}}$$

HPS will award the contract, if at all, to the responsive and responsible vendor whose proposal is considered most advantageous to the SFAs and other HPS Institutions. HPS will not necessarily award the contract to the lowest-price vendor. HPS will notify the Awarded Distributor by electronic mail to the email address set forth in the vendor’s proposal, with a duplicate copy deposited in the United States mail, certified, return receipt requested.

l. **Accept or Reject.** HPS reserves the right to accept or reject any and all proposals, in whole or in part (provided, that any rejection of all proposals must be for a sound, documented reason); to request additional information or prices from one or more responding vendors; to waive any irregularities in any proposal; or to allow responding vendors to update or correct any errors in any proposal. HPS also reserves the right to award the contract without discussion with any responding vendor. **Understood**

m. **Single or Multiple Award.** HPS anticipates making one award to a single responsive and responsible firm that offers the most advantageous proposal best meeting the requirements of the HPS Institutions. However, HPS reserves the right to make multiple awards if it determines that would be in the best interest of the HPS Institutions. **Understood**

n. **Geographic Area.** HPS evaluates all proposals regardless of geographic coverage. Geographic service area is not an exclusion from the RFP process. HPS will evaluate all proposals by geographic service area allowing each vendor to submit competitive proposals according to market conditions in each geographic service area. **Understood, See Tab 13 Service Area**

o. **Master Group Agreement; Renewal Option.** The Awarded Distributor must enter into a **Master Group Agreement** with HPS in substantially the form attached as **Exhibit B** (“**Master Group Agreement**”). The Master Group Agreement will have an initial term of one year (July 1, 2022 – June 30, 2023) and will be renewable by HPS, at its option, for up to two additional terms of one year each upon written notice given to the Awarded Distributor before expiration of the then-current term. Any price adjustments that apply to a renewal term must be approved by the HPS School Food Purchasing Advisory Committee as provided in Section 5.c.1 of this RFP. The Committee will not approve any renewal that it determines would constitute a material change to the contract, including any renewal for which the forecasted total purchasing volumes exceed the actual volumes achieved during the previous contract term by a material amount. Additional factors to renew will be based on customer satisfaction with Products, service, and price. Renewal will be documented by mutual execution of a written amendment to the Master Group Agreement. **Understood**

p. **Proposal Requirements.** To provide HPS with a standard format to analyze and evaluate each proposal, each responding vendor must complete its proposal in accordance with the instructions set forth below:

1. Each responding vendor must outline and describe the incentives that it will offer to the HPS Institutions, including but not limited to, the following: **Understood, See Tab 14, HPS Rebates and Incentives**

A. Any incentives offered based on the HPS Institution’s level of commitment to the Awarded Distributor;

B. Any incentives offered for accelerated payment terms;

C. Any incentive based on the HPS Institution’s average drop size; and

D. Any transitional rebates

E. Any additional incentives that the vendor will offer the HPS Institutions.

Consistent with 7 CFR 210.21(f), 215.14a(d) and 220.16(e), any such incentives must be offered directly to the appropriate HPS Institutions, and in the case of an SFA, credited to the appropriate Nonprofit School Food Service Account. HPS will not receive any discounts, rebates, or incentives in connection with this contract.

2. Each responding vendor must provide a detailed description of its internet based direct order entry system available to HPS Institutions and define the requirements to access such system. Additionally, each responding vendor must describe how HPS Institutions can identify the “locked-in” fixed pricing for each semester and the Products in the vendor’s electronic direct order entry system. **See Tab 8, Online Ordering. HPS School Bid Contract Icon. This “Padlock” icon in Online Ordering or “FP” Icon in Gordon Ordering designates items specific to an HPS School Bid. It can denote either a “Firm Priced Bid Locked in” Item or a “Fixed Fee Bid Locked in” item. This icon can be used to denote any item covered under the HPS School Bid Pricing Program.**
3. Each responding vendor must provide a detailed map of its current service area (defined as a customer receiving at least weekly delivery on the vendor’s distribution truck). Each responding vendor must also provide a separate list of HPS Institutions (specifically the member school districts) not eligible to participate in the Master Group Agreement. **See Tab 13, Service Area**
4. Each responding vendor must provide a breakdown of order ship cycles (for example, order in by 3:00 p.m. Tuesday, shipped and delivered on Thursday). Each responding vendor must also provide minimum order requirements or average dollars per delivery required for weekly deliveries. **See Tab 15, Service Profile**
5. Each responding vendor must provide an explanation of its labeling break down (i.e., Blue Label - Fancy, Green Label - Extra Standard, Red Label - Standard, etc.). **See Tab 16, GFS Private Brand guidelines**
6. Each responding vendor must describe how it will notify HPS of discontinued items and replacements potentially offered to HPS Institutions, including vendor names. **Gordon Food Service has a centralized Discontinuation Process that is managed by an individual in the Home Office Marketing department. It gathers items that are marked for discontinuation, both GFS driven and Vendor driven, and coordinates a review of the current customers, usage, recommended substitutions, and final disposition of the item. All relevant information on usage and substitutes is shared with over 140 stakeholders to be sure that customer needs are met and to prevent business interruption. The Supply Chain team works with Stakeholders to work through the final disposition of in-house inventory.**

7. Each responding vendor must complete the Nutritional Information columns on the Proposal of Material – Specification List, attached to the RFP as **Exhibit C**, for all food Products. The Healthy Hunger-Free Kids Act of 2010 (HHFK Act) requires that food Products and ingredients must contain zero grams of trans fat per serving. Before awarding any contract, HPS will require the applicable vendor to provide acceptable documentation of nutrition information for each food Product in order to ensure that no products containing trans fat are awarded. The documentation must indicate zero trans fat. If the Product is a meat item and includes a minimal amount of naturally occurring trans fat, the nutritional specifications must document the source of that trans fat. For mixed dishes that may contain both naturally occurring trans fat (e.g., beef) and added/synthetic trans fat (partially hydrogenated oil), the applicable vendor must supply additional manufacturer’s documentation to specify the trans fat source. **This will be captured in the ingredient statement and will help identify the components of the item. For mixed dishes that contain both naturally occurring trans fat and synthetic trans fat or when ingredient statement is not available, we will provide the manufacturer’s contact information to help identify the trans fat source.**

In addition to the above, for frozen fruit Products, each responding vendor must submit ingredient labels indicating that sugar has not been added. Documentation of nutrition information must include a Nutrition Facts Label, an ingredient statement and/or a CN label or Product Formulation Statement on manufacturer’s letterhead in PDF format, using the responding vendor’s distributor item code as the file name for each item. For example, if the vendor’s distributor item code for ketchup is 1234567, the nutrition information file for ketchup would be named 1234567.pdf. This documentation **MUST** demonstrate how the Product contributes to the meal pattern requirements of the HHFK Act and provide details as to calories, saturated fat, and trans fat, and sodium contribution per serving. **Understood, See Exhibit C Nutritional Spreadsheet**

8. Each responding vendor must submit a sample report documenting actual usage by manufacturer, Product and dollar/case volume. **See Tab 12, Velocity Report**

9. To the extent possible the Awarded Distributor must make available the Products it sells that are being sourced locally. Each responding vendor must provide information describing the Products that are sourced locally. **See Tab 17 Near Buy, Markon Farm Logix, Square Roots Brochure(s)**

10. Each responding vendor must describe its ability to provide specific foods that may need to be procured by HPS Institutions such as Kosher, Halal, Vegetarian, Gluten Free, Nut Free, Lactose Free and Egg Free. **See Tab 18 Clear Choice Brochure**

Responding to instructions **1 through 10** in the order requested is imperative for the successful review of a responding vendor’s proposal. Any omission or partial completion could result in rejection of the vendor’s proposal. **Understood**

q. **Post-Award Audits.** The Awarded Distributor must make available to HPS appropriate purchasing documents for the Products so that HPS may audit the pricing mechanisms used, on a quarterly basis, or more frequently upon the request of an HPS Institution from time to time. **Understood**

r. **Appeals.** Any appeal regarding the selection of the Awarded Distributor must be made to HPS in writing and must fully identify any contested issues. If a responding vendor desires to appeal such award, it must first provide a written notice of intent to appeal to HPS, at the HPS address, no later than five (5) working days after HPS issues its notice of intent to award. The actual appeal is due at the same address no later than five (5) working days after the date the notice of intent to appeal is received by the HPS. The HPS Food Purchasing Advisory Committee will receive the appeal and render a final decision. **Understood**

s. **Force Majeure.** Any delay or failure of either the Awarded Distributor or HPS to perform its obligations will be excused if it is caused by an extraordinary and unforeseeable event beyond the control of the nonperforming party and without the nonperforming party's fault or negligence, such as acts of God, fires, flood, windstorms, explosions, riots, natural disasters, wars, sabotage, pandemic and government enforced stay at home orders and quarantines. However, change in cost or availability of (1) Products or (2) delivery of Products FOB HPS Institution's place of business, including without limitation changes in fuel costs, will not excuse a party's performance under theories of *force majeure*, commercial impracticability or otherwise. Awarded Distributor expressly assumes the risk of such changes, provided, however, this Section 5.s will not limit the price adjustment provisions of subsection 5.c.1, above. **See Tab 1 GFS Exceptions to RFP**

SECTION 6. DIRECTIONS FOR SUBMISSION OF PROPOSAL.

a. **General.**

1. Each responding vendor must completely fill out all requested information.
2. Prices quoted must be F.O.B. delivered to the HPS Institution.
3. Sign and return one hard copy of the Request for Proposal, with package labeled with the enclosed sticker, and one electronic copy, including all attachments for each geographic area, and one electronic copy of all documents including proposal of materials in Excel format.
4. Each Proposal submitted in response to this RFP shall list on separate attachment any deviation(s), exception(s), or variation(s) to or from: the terms and conditions of this RFP, the terms and conditions of any attachment(s) to this RFP, the terms and conditions of any addendum to this RFP, and the terms and conditions of the proposed contract. The section of a Proposal containing any such deviation(s), exception(s), or variation(s) shall be clearly labeled “Exceptions to RFP”. The failure of a responding vendor to note a deviation, make an exception, or list a variation to the terms and conditions of this RFP, any attachment(s) or addenda to this RFP, or the terms and conditions of the proposed contract shall be deemed an express waiver by that responding vendor of such deviation, exception, or variation.
5. Samples: ____Requested x Not Requested

b. **Signatures.** In making a proposal, each responding vendor must (i) sign the RFP immediately below; (ii) complete and sign the Terms & Conditions on the following pages; (iii) complete all appropriate fields in the Proposal of Material – Specification List attached as **Exhibit C**; and (iv) provide written responses to the Questions and Responses form attached as **Exhibit E**. By signing the RFP, the responding vendor acknowledges having read the RFP and all its attachments, exhibits and appendices and agrees to be bound by their terms. Responding vendors may also need to provide and submit supplementary material as requested by HPS. In addition to the foregoing, each responding vendor must **complete and sign all forms attached as Appendix A (Certification Regarding Debarment, etc.); Appendix B (Certification Regarding Lobbying); if applicable, Appendix C (Disclosure of Lobbying Activities); Appendix D (Noncollusion Affidavit); Appendix E (E-Verify Affidavit); Appendix F (Ethical Standards Affidavit); Appendix G (Conflict of Interest Affidavit); and for the Michigan contract only, Appendix H (Certificate of Compliance – Ohio Act 517 of 2012) and return them with the RFP.** If there are any questions, please contact Tori Mascho at (269) 795-3308.

AUTHORIZED SIGNATURE: _____
NAME: **Derrick Haight**
TITLE: **National Account Manager, Education**
COMPANY: **Gordon Food Service**
ADDRESS: **1300 Gezon Parkway SW Wyoming, MI 49509**
PHONE: **(616) 717 - 7003**
E-MAIL: **derrick.haight@gfs.com**
DATE: **April 15, 2022**

COMPLETE AND SIGN TERMS & CONDITIONS ON FOLLOWING PAGES.

APPENDICES

- Appendix A – Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
- Appendix B – Certification Regarding Lobbying
- Appendix C – Disclosure of Lobbying Activities
- Appendix D – Noncollusion Affidavit
- Appendix E – E-Verify Affidavit
- Appendix F – Ethical Standards Affidavit
- Appendix G – Conflict of Interest Affidavit
- Appendix H – Certification of Compliance - Iran Sanctions (MI only)

EXHIBITS

- Exhibit A – Membership List
- Exhibit B – Master Group Agreement
- Exhibit C – Proposal of Material – Specification List
- Exhibit D – Intentionally Omitted
- Exhibit E - Questions

Signature: _____

Printed Name: Derrick Haight

Title: National Account Manager, Education

Phone: (616) 717 - 7003 Email: derrick.haight@gfs.com

Dollar Volume Contact - Required

1. Name: Janet Dykstra 2. Title: NC Account Coordinator

3. Email: janet.dykstra@gfs.com 4. Phone: (616) 717 - 6728

5. Address: 1300 Gezon Parkway SW

City: Wyoming State: MI Zip: 49509

6. Subscribe to HPS Bottom Line:

Main Contact - Required

1. Name: Derrick Haight 2. Title: National Account Manager, Education

3. Email: derrick.haight@gfs.com 4. Phone: (616) 717 - 7003

5. Address: 1300 Gezon Parkway SW

City: Wyoming State: MI Zip: 49509

6. Subscribe to HPS Bottom Line:

Bid Contact - Required

1. Name: Brad King 2. Title: Bid Department Supervisor

3. Email: brad.king@gfs.com 4. Phone: (616) 717 - 6657

5. Address: 1300 Gezon Parkway SW

City: Wyoming State: MI Zip: 49509

6. Subscribe to HPS Bottom:

Marketing Contact - Required

1. Name: Dorothy Cole 2. Title: Strategic Account Manager, Education

3. Email: dorothy.cole@gfs.com 4. Phone: (616) 717 - 7906

5. Address: 1300 Gezon Parkway SW

City: Wyoming State: MI Zip: 49509

6. Subscribe to HPS Bottom Line:

Additional Contacts -

Nutrition Resource Center (800) 968 – 4426, nrc@gfs.com

Customer Technology Support (800) 968 – 6437, cts@gfs.com

HPS Proposal RESPONSE CHECKLIST
Return to HPS by April 15, 2022
Proposal Opening Date: April 18, 2022
Time: 4:00 p.m. EDT
Location: HPS Office
3275 N. M-37 Highway
Middleville, MI 49333

Please use this sheet as a tool to complete your proposal. The proposal should be complete and contain all of the information below. If you do not fully understand any part of this proposal, please call Tori Mascho at (269)795-3308.

RESPONDING VENDOR NAME: **Gordon Food Service** _____

- Signature of Submission (page 24)
- Acceptance of Terms and Conditions (pages 26)
- Copy of your company's Insurance certificates (page 10, Sec. 4.e)
- Product Formulation Sheets for non CN label items you're offering on (page 16, Sec. 4.1.4)
- USDA Foods Capabilities, Pricing, Tracking Report (page 20, Sec. 5.g)
- List of Incentives offered and other Proposal Requirements 1-10 (page 22, Sec. 5.p)
- Buy American Certification (page 13, Sec. 4.f.10)
- Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (Appendix A)
- Certification Regarding Lobbying (Appendix B)
- Disclosure of Lobbying Activities. If not applicable mark the page as NA (Appendix C)
- Noncollusion Affidavit (Appendix D)
- E-Verify Affidavit (Appendix E)
- Ethical Standards Affidavit (Appendix F)
- Conflict of Interest Affidavit (Appendix G)
- Certification of Compliance – Iran Sanctions (MI only) (Appendix H)
- Proposal of Material – Specification List (Exhibit C)
- Questions + Responses (Exhibit E)

APPENDIX A

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

The undersigned responding vendor makes this certification as part of its proposal in response to the RFP to which this Appendix is attached. The responding vendor certifies to the best of its knowledge and belief that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
- 2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 2) above; and
- 4) Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Where the Responding vendor is unable to certify to any of the above statements, the responding vendor must attach an explanation to this proposal.

Responding vendor's Name

PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature

Date

APPENDIX B

CERTIFICATION REGARDING LOBBYING

The undersigned responding vendor makes this certification in the event the responding vendor's proposal in response to the RFP to which this Appendix B is attached results in a contract or subcontract that exceeds \$100,000 in federal fund expenditures:

The responding vendor certifies by signing and submitting this proposal, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any Federal 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 any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any 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 employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned must complete and submit **Standard Form-LLL**, "Disclosure of Lobbying Activities," in accordance with its instructions.

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 will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

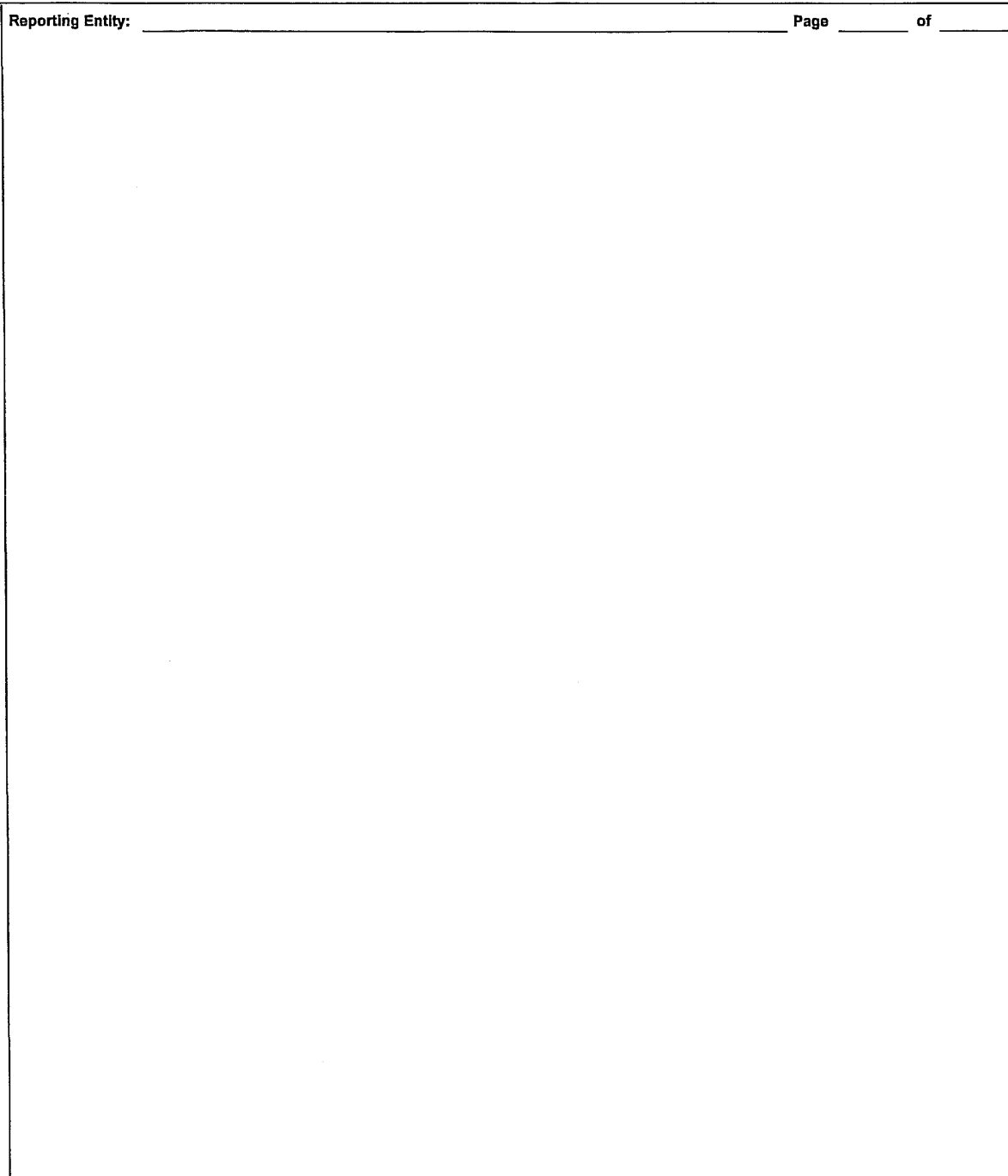
The undersigned also agrees by submitting its proposal that the responding vendor will require that the language of this certification be included in all lower tier subcontracts exceeding \$100,000 in Federal funds and that all subcontractors must certify and disclose accordingly.

| | | | |
|--|--|-------------------|-------|
| Name | | Agreement Number: | |
| Address | | | |
| Printed Name and Title of Submitting Official: | | Signature: | Date: |

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____



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

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the invitation 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 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance 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 is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change 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 sub-awardee recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 check "sub-awardee", 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 4 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.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a Collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0348-0046. The time required to complete this information is estimated to average 10 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

APPENDIX E

E-VERIFY AFFIDAVIT

This Affidavit is made in connection with the Request for Proposals to which it is attached, for the benefit of HPS and HPS Institutions. The undersigned states that:

1. He/she is authorized to sign this Affidavit on behalf of the Responding Vendor identified below.

2. The Responding Vendor does not knowingly employ an “unauthorized alien” within the meaning set forth in 8 U.S.C. 1324a(h).

I swear or affirm, under the penalties for perjury, that the foregoing statement is true.

Responding Vendor’s Name _____

By (signature): _____

Name (printed): _____

Title: _____

Date: _____

APPENDIX F

ETHICAL STANDARDS AFFIDAVIT

Contractor, after being first duly sworn, affirms that by its employment policy, standards and practices it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age or sex and that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

Contractor understands that it shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore.

Contractor also understands that it shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

Contractor also understands that it shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a metropolitan government contract upon the agreement or understanding for a contingent commission, percentage or brokerage fee, except for the retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

Contractor represents that it has not retained anyone in violation of the foregoing.

Contractor also understands that a breach of ethical standards could result in civil or criminal sanctions and/or debarment or suspension from being a seller, contractor or subcontractor under metropolitan government contracts.

Print name of responding vendor: _____ Signature: _____

Name of Company: _____ City: _____ State: _____

Sworn to and subscribed before me, a notary public in and for the above state and county, on this

_____ Day of _____, 20_____.

Notary Public _____

My commission expires: _____

Seal

APPENDIX G

CONFLICT OF INTEREST AFFIDAVIT

This affidavit is required by state law and complies with the State of Ohio, Act No. 232 of Public Acts of 2004, Enrolled House Bill No. 5376, Sec. 1267, paragraph 3, and sub-paragraph (d), as listed below:

(3) The advertisement for proposals (and proposals) shall do all of the following:

State that the proposal shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the responding vendor and any member of the board, intermediate school board, or board of directors or the superintendent of the school district, intermediate superintendent of the intermediate school district, or chief executive of the public-school academy. A board, intermediate school board, or board of directors shall not accept a proposal that does not include this sworn and notarized disclosure statement.

CHECK ONE OF THE TWO BOXES BELOW.

List and describe all existing Conflicts of Interest. *(Attach an additional page if necessary.)*

To the best of my knowledge, no conflict of interest exists.

Print name of responding vendor: _____ Signature: _____

Name of Company: _____ City: _____ State: _____

NOTARY: State of _____

County of _____

Sworn to and subscribed before me, a notary public in and for the above state and county, on this

_____ Day of _____, 20____.

Notary Public _____

My commission expires: _____

Seal

APPENDIX H
(OHIO RFP ONLY)

CERTIFICATION OF COMPLIANCE – IRAN ECONOMIC SANCTIONS ACT

Ohio Public Act No. 517 of 2012

The undersigned, the owner, or authorized officer of the below-named company (the “Company”), pursuant to the compliance certification requirement provided in the HPS Request For Proposal to which this Certification is attached, (the “RFP”), hereby certifies, represents, and warrants that the Company (which includes its officers, directors and employees) is not an “Iran Linked Business” within the meaning of the Iran Economic Sanctions Act, Ohio Public Act No. 517 of 2012 (the “Act”), and that in the event the Company is awarded a contract by HPS as a result of the aforementioned RFP, the Company is not and will not become an “Iran Linked Business” at any time during the course of performing any services under the contract.

The Company further acknowledges that any person who is found to have submitted a false certification is responsible for a civil penalty of not more than \$250,000.00 or two (2) times the amount of the contract or proposed contract for which the false certification was made, whichever is greater, the cost of HPS’s investigation, and reasonable attorney fees, in addition to the fine. Moreover, any person who submitted a false certification shall be ineligible to offer on a request for proposal for three (3) years from the date it is determined that the person has submitted the false certification.

Name of Company

Name and Title of Authorized Representative

Signature

Date

EXHIBIT A

MEMBERSHIP LIST

EXHIBIT B
(For Sample Purposes only)

September 1, 2022

«FirstLastName»
«JobTitle»
«Company»
«Address1»
«Address2»

RE: HPS MASTER GROUP AGREEMENT #«Agreeno» (REV. #«Rev») - «Proddesc»

Dear «Salutation»:

This is to advise you that your Company's proposal on «Proddesc» for HPS's member/participant institutions, was accepted as best proposal by the HPS «Committee». As used in this Master Group Agreement, "HPS," "we," "us," and "our" refer to HPS LLC, a Delaware nonprofit limited liability company, and its subsidiary, HPS MI, Inc., a Delaware nonprofit corporation, as their interests may appear. We accept this proposal under the terms and conditions as set forth in the HPS Request for Proposals, including all its Appendices and Exhibits, and your proposal dated «QuoteDate». As the Awarded Distributor, you are expected to follow up with planned visits to each eligible HPS member/participant to explain the program and pass along literature. Furthermore, if prices are available through distributors, it will be your responsibility to inform all distributors of the HPS pricing prior to the effective date of this Master Group Agreement. It will also be your responsibility to notify distributors of any future price changes in a like manner.

REPORTS TO HPS:

As per your response to item #17 on the Terms and Conditions sheet on your proposal, we will expect to receive your first dollar volume electronic report by participating institution to the HPS Office on or before «DVDueDate», via XLS or TXT file format. Also, you are responsible for dollar volume reports whether purchases are made via a distributor or direct.

Please provide HPS with an electronic version of all applicable agreement information including price list, commitment form, etc. in either Microsoft Word or Microsoft Excel.

AVAILABILITY: You guarantee availability of «Proddesc» for duration of this Master Group Agreement.

The initial term of this Master Group Agreement is one year, beginning July 1, 2022, and expiring at 11:59 p.m. EDT on June 30, 2023, unless extended. HPS has the option to extend the term for up to two renewal terms of one year each (July 1, 2023 – June 30, 2024 and July 1, 2024 – June 30, 2025) upon giving you written notice of renewal before expiration of the then-current term. All other terms of your agreement with HPS will remain in effect during any renewal term, subject only to changes permitted by the Request for Proposals.

You acknowledge that sales and purchases made pursuant to the HPS School Food Purchasing Program are subject to the federal rules governing the management of grant funds from the USDA, including without limitation 2 CFR 200.318-.326; Appendix II to 2 CFR Part 200; 7 CFR Part 210, including 7 CFR 210.21; and 7 CFR Parts 215, 220, 225, 226, and 250.

Any current or future HPS Institution (as defined in the Request for Proposals) may make purchases under this Master Group Agreement upon entering into an Individual Member/Participant Agreement with you referencing this Master Group Agreement, as more fully described in the Request for Proposals. This Master Group Agreement may be terminated by us by giving 60 days written notice of such termination to you. Except as otherwise provided below,

termination of this Master Group Agreement will constitute termination of all Individual Member/Participant Agreements executed by and between you and any participating HPS Institution pursuant to this Master Group Agreement. Any participating HPS Institution also may terminate its participation under this Master Group Agreement and any Individual Member/Participant Agreement by giving you 60 days written notice of such termination. If this Master Group Agreement is terminated by HPS, a participating HPS Institution may elect to continue its existing Individual Agreement with you pursuant to the existing terms and conditions of the Individual Agreement. If a participating HPS Institution elects to continue its Individual Agreement with you, the participating HPS Institution will notify you in writing of this election within 30 days of the termination of this Master Group Agreement and the Individual Member/Participant Agreements by HPS.

Your agreement with HPS includes this Master Group Agreement, the Request for Proposals, the Appendices, Exhibits, and other documents identified in the Request for Proposals, and your proposal, all of which are incorporated into this Master Group Agreement in the order of priority set forth in the Request for Proposals. Your agreement with the foregoing will be indicated by your signing and returning to us a copy of this Master Group Agreement. Please be advised that HPS will not send notice of this Master Group Agreement to our member/participant institutions until a signed copy of this Master Group Agreement copy has been received in our office. Therefore, it is imperative that this document be signed and returned to my attention at your earliest convenience. You may not assign this Master Group Agreement, by operation of law or otherwise, without the prior written consent of HPS.

We look forward to a mutually beneficial relationship between your company and our member/participant institutions.

HPS
SIGNATURE: _____
«Analyst»
DATE: _____

AGREED: «Company»
SIGNATURE: _____
NAME & TITLE: _____
DATE: _____

EXHIBIT C
(30 Points Possible)

PROPOSAL OF MATERIAL – SPECIFICATION LIST

See attached sheets

EXHIBIT D

ADMINISTRATIVE FEES

Intentionally Omitted.

EXHIBIT E

QUESTIONS AND RESPONSES

Request for Proposal

HPS SCHOOL FOOD PURCHASING PROGRAM

For Distribution of Food and Non Food Supplies

March 4, 2022

Program Support (Max Points 15)

1. **(Max Points 5)** Will you provide in pdf format the following: Documentation of nutrition information to include Nutrition Facts Label, an ingredient statement and/or a CN label or Product Formulation Statement on manufacturer's letterhead in pdf format, using your distribution item code as the file name for each item (e.g., if 1234567 is your distributor item code for ketchup, the nutrition information file name for ketchup would be 1234567.pdf). This documentation MUST demonstrate how the Product contributes to the meal pattern requirements of the HHFK Act and provide details as to calories, saturated fat, and trans fat, and sodium contribution per serving. YES X
NO _____

2. **(Max Points 4)** Explain how your company would assist the HPS Members be compliant with the Buy American regulations

Buy American: Gordon Food Service has asked vendors of all stocked items to provide a response to determine if their products comply with the Buy American regulation. This information is available in Online Ordering and can be shared with members. Additionally, any documentation or letters received regarding Buy American will be shared with HPS leadership for access to their members.

3. **(Max Points 2)** Explain what Registered Dietitian resources your company has to support the HPS Institutions.

Gordon Food Service has over 30 Registered Dietitian in various roles including Sales, Customer Marketing and Non-Commercial leadership. In the sales role, RDs bring a unique background and experiences that may bring an increased understanding of the customer's needs. RDs in customer marketing roles have a higher acuity of operational expertise and can help strategize with the customer to meet their operational goals and comply with federal and state regulations.

Gordon Food Service has a Nutrition Resource Center team with a dedicated member focusing on the Education Segment to focus on regulation changes and industry trends that impact foodservice directors or the business

4. **(Max Points 2)** Explain your Sales strategy as it would pertain to the HPS School Food Contract.

Gordon Food Service and HPS have partnered together for 40+ years in the Education Segment. Gordon Food Service intends to continue to work strategically with HPS on Education contract opportunities and will continue to support growth of membership within our existing distribution footprint and in the new and emerging markets that HPS is entering. Gordon Food Service intends to continue to collaborate, innovate and strategically pursue new business opportunities (for both GFS and HPS) while providing high quality customer service to the existing HPS membership.

5. **(Max Points 2)** In addition to the Contract identifying icon on your electronic ordering system, what additional icons would your system provide to the HPS Institutions?

Currently Online Ordering offers HPS members a contract icon along with a bid icon as referenced in the RFP response. Gordon Food Service also has the ability to utilize icons for MWBE Vendors, Preferred Items, and Committed Manufacturer Allowance situations if desired by HPS. This information continues to evolve in Gordon Ordering as well.

Ability of vendor to comply with product specifications (Max Points 15)

6. **(Max Points 15)** What percentage of items were you able to provide an exact match or equal to in the Proposal List in Exhibit C?

100%

Ability of vendor to deliver commercial and commodity items (Max Points 15)

7. **(Max Points 8)** Explain your experience with distributing Non Processed, NOI, including rebate, and Modified Fee for Service commodities, including a list of States in which you currently distribute USDA Foods.

Gordon Food Service has extensive experience distributing processed USDA commodity items including net off invoice (NOI), rebate, and modified fee for service (MFFS). So far for the 2021/2022 school year Gordon Food Service provided over 7.3 million cases to 22 states including (CT, DC, FL, GA, IL, IN, KY, MA, ME, MI, MO, NC, NJ, NY, OH, PA, RI, SC, TN, TX, WI, WV)

8. **(Max Points 7)** What was the total number of USDA Foods cases your company distributed in the 2020-2021 school year?

7,013,084

System Support (Max Points 15)

9. **(Max Points 2)** Will you enter and store the HPS member number in your customer information system for every account an HPS Institution has with your company? YES X _____
NO _____

10. **(Max Points 2)** Explain how you will identify all HPS membership account numbers to be able to trace those purchases under the assigned HPS member number

Each individual customer location is given a unique 9 digit GFS customer number. HPS member number(s) are stored within our Product Acquisition system and assigned at the 9 digit customer number level. All HPS pricing is managed at Price Management Group (PMG). Gordon Food Service regularly provides reporting to HPS via a Dollar Volume Report, and/or Rebate Summaries. HPS Member ID is listed on this reporting. Gordon Food Service will work directly with the HPS Contracting Team to ensure that all HPS member numbers are populated as needed and will work to update numbers as needed through the existing audit process that takes place.

11. **(Max Points 5)** Will you provide daily, an electronic data interface (810 electronic invoice) for daily invoice transmission for all HPS Institution purchases? YES X _____ NO _____

If "Yes," explain how those EDI transactions will be sent to HPS or its designated technology partner.

Gordon Food Service will continue to provide daily EDI files in the same manner that we do today.

12. **(Max Points 4)** Will you provide the entire electronic pricing file for each awarded contract to HPS or its designated technology partner on a weekly basis? YES X _____ NO _____

If "Yes," explain how you would do this.

Gordon Food Service has set up "dummy" customer numbers for each HPS contract and will send an electronic file weekly with item pricing for that contract (by distribution center) for that week.

13. **(Max Points 2)** Will you furnish HPS monthly electronic statistical reports in .xls or .txt file format concerning the purchases of each HPS Institution made pursuant to the Master Group Agreement? YES X NO _____

If "Yes," explain how you would do this.

Gordon Food Service will continue to work with HPS to provide reporting and data as needed in addition to the electronic data that is currently provided.

Value added programs offered by vendor (Max Points 5)

14. **(Max Points 5)** Explain any additional value added programs or services you would like to offer the HPS Institutions not described in this RFP.

Please see Tab 19 Additional Value Adds