



DATE PROPOSAL SUBMITTED: 3/31/2021  
or

NO PROPOSAL SUBMITTED: \_\_\_\_\_

PLEASE SUBMIT REASON FOR NO PROPOSAL: \_\_\_\_\_

**MILK & DAIRY/ RELATED PRODUCTS**  
**REQUEST FOR PROPOSAL (RFP)**  
**BY COMPETITIVE PROPOSAL PROCESS**

**PROPOSAL OF MATERIAL - SPECIFICATION LIST**

**Proposals are due: By 5:00 p.m. EDT on March 31, 2021**

**Virtual Bid Opening: April 1, 2021, 4:00 p.m. E.S.T.**

**Contract Duration: July 1, 2021, through June 30, 2022, with HPS option to renew for up to four additional terms of one year each, July 1, 2022, through June 30, 2023, July 1, 2023 through June 30, 2024, July 1, 2024 through June 30, 2025 and July 1, 2025 through June 30, 2026.**

**HPS  
3275 N. M-37 Highway  
P.O. Box 247  
MIDDLEVILLE MI 49333  
269-795-3308**

**Approximate Time Line:**

<b>A. Request For Proposal Issued</b>	<b>February 17<sup>th</sup>, 2021</b>
<b>B. Deadline for Clarification Requests</b>	<b>March 13<sup>th</sup>, 2021</b>
<b>C. Due Date for RFP Responses</b>	<b>March 31<sup>th</sup>, 2021</b>
<b>D. Virtual Public Bid Opening @ 4:00pm E.S.T.</b>	<b>April 1<sup>st</sup>, 2021</b>
<b>E. Evaluation of Responses</b>	<b>April 1<sup>st</sup>- May 30<sup>th</sup>, 2021</b>
<b>F. Notification of Contract Award on or before</b>	<b>June 1<sup>st</sup>, 2021</b>
<b>G. Contract Start Date</b>	<b>July 1<sup>st</sup>, 2021</b>

**\*Please see below for virtual GoToMeeting information:**

Virtual Public Bid Opening - Milk & Dairy/ Related Products  
Thu, Apr 1, 2021 4:00 PM - 5:00 PM (EDT)

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# REQUEST FOR PROPOSAL

## HPS MILK & DAIRY/RELATED PRODUCTS

### A. WHO IS HPS?

HPS is a nonprofit organization comprised of over 4,200 members and participants in Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, Texas, West Virginia, North & South Carolina, Wisconsin, Maryland, Delaware, New Jersey, Virginia, Washington D.C., New York, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island & Connecticut. 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 MILK & DAIRY/RELATED PRODUCTS Purchasing Program that is designed to allow eligible HPS members and participants to procure milk, dairy and related items at competitive prices in a manner that complies with current state and federal procurement laws, regulations, and guidelines, including for Child Nutrition Programs (“CN Programs”). More than 339 entities in the healthcare and education segments currently participate in the HPS MILK & DAIRY/RELATED PRODUCTS Program. Those entities make purchases averaging more than \$9,000,000.00 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, while 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.

### B. SCOPE OF REQUEST.

This RFP solicits proposals to sell the product(s) or service(s) in the HPS MILK & DAIRY/RELATED PRODUCTS Program, for any area in the HPS footprint noted above, 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 they can service, including without limitation the items listed on **Exhibit C (Bid List)**, (individually defined as “**Product**” and collectively defined as “**Products**”), directly to all HPS members and participants, both taxable and tax-exempt, located in the State (“**HPS Institutions**”). The HPS Institution breakdown, are set forth in the **Membership List** attached as **Exhibit A**. The Products include items covered by the National School Lunch Program and the other Child Nutrition Programs administered by the Food and Nutrition Service of the United States Department of Agriculture (“**USDA**”).

HPS makes this request on behalf of the HPS Institutions, Healthcare and non-healthcare members, including any School Food Authorities (“**SFAs**”) that operate USDA Child Nutrition Programs and that are or become HPS Institutions and enter into Individual Member/Participant Agreements (defined below) with the

successful vendor. If you are interested in submitting a proposal for consideration to HPS, please review and complete the requested information and submit your proposal in accordance with the terms and conditions of this Request for Proposal. If you would like the electronic versions of these documents, please contact Christina Costanza at [ccostanza@hpsgpo.com](mailto:ccostanza@hpsgpo.com)

Proposals, including the Excel version of Exhibit C in response to this RFP must be received at the HPS office, 3275 N. M-37 Highway, P.O. Box 247 Middleville, Michigan 49333 - Attention: Christina Costanza, no later than 5:00 PM EDT on March 31, 2021.

HPS anticipates making one award to a single organization 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.

The successful vendor and HPS will enter into a **Master Group Agreement** in substantially the form attached as **Exhibit B** ("**Master Group Agreement**"). (The Master Group Agreement will have an initial term of one year and will be renewable by HPS for up to two additional terms of one year each upon written notice given to the successful vendor before expiration of the then-current term).

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.

### C. INSTRUCTIONS AND INFORMATION FOR RESPONDING VENDORS.

1. 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. 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.
2. The sales aggregate volume figures shown above and collectively for **Exhibit C** 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 successful vendor will be required to honor its pricing if volumes vary.
3. Each responding vendor must furnish all data, technical literature and samples that the HPS Food Service Administrative Advisory Committee may request in connection with its evaluation of vendor's proposal. This includes, but is not limited to, the responding vendor's completion of the questionnaire (which is **Appendix I** that is attached to this RFP).

4. The HPS Food Service Advisory Committee(s) will evaluate proposals based upon the following factors, assigning to each factor the relative weight listed below:
  - a. Product List and Pricing Information ((Proposal of Material – (Bid List) , Exhibit C))..25
  - b. Financial Viability.....20
  - c. Regulatory Compliance.....20
  - d. Staffing Efficiency.....20
  - e. Client Participation (Engagement and Satisfaction).....15

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

$$\text{Price Score} = [25] \times \frac{\text{Exhibit C low bid}}{\text{Bid List Being Evaluated}}$$

HPS will award the contract, if at all, to the responsible vendor(s) 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 reserves the right to make multiple awards or to reject all proposals if it determines that would be in the best interest of the HPS institutions. HPS will notify the successful vendor 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.

5. 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.
6. 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 and the instructions set forth on **Exhibit C- Bid List** and provide any additional items to offer the HPS Membership and any tiers based on drop size or any criteria determined by vendor, attached as **Exhibit C**:
  - a. The responding vendor must be aware of the acceptable pricing mechanisms and comply with the following:  
 Generally, HPS accepts the following types of pricing mechanisms: (i) firm pricing, and (ii) Escalator/De-escalator. All prices shall be firm for 30 days, after which milk can increase to decrease in accord with changes in Class 1 raw milk prices based on monthly Federal Milk Order Announcements for the (applicable geographical zone (**in Exhibit D**)). Prices for milk delivered can be increased or decreased at the rate of \$0.001 per half pint for each full \$0.15 increase/decrease in raw milk per hundred weight.  
 HPS cannot accept any pricing mechanisms using "cost plus a percent of cost." Any proposals submitted using cost plus a percent of cost mechanism will not be accepted

- b. **Products and Price.** 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 in this Section. As a general matter, each proposal must include (i) Bid List, (Exhibit C) and for evaluation purposes please price the Products as of March 1, 2021 (“**Test Date**”). Upon awarding of a contract, Vendor will send the bid list to HPS before July 1, 2021 taking into account any applicable changes in the Federal Milk Order.

The Products listed on the **Bid List** as set forth as **Exhibit C** below, must be quoted firm as of March 1, 2021 (“**Test Date**”), F.O.B. HPS Institution’s place of business, please indicate the term of pricing. After the firm price period, all successive price increases must be submitted to the HPS office a minimum of 10 days before the effective month and can be increased or decreased at the rate of \$0.001 per half pint for each full \$0.15 increase/decrease in raw milk per hundred weight.

HPS cannot accept any pricing mechanisms using “cost plus a percent of cost.” Any proposals submitted using cost plus a percent of cost mechanism will not be accepted. If manufacturers’ price increases only pertain to a specified geographic area, the successful vendor will only submit the price changes for the specified geographic area. HPS reserves the right to bill the successful vendor 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 firm price period, either (1) the successful vendor 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.

- c. This RFP allows for tier pricing based on volume and/or class of trade.
- d. Each responding vendor may outline and describe any incentives that it will offer to the HPS Institutions, including but not limited to, the following:
- i. Any incentives offered for accelerated payment terms;
  - ii. Any incentive based on the HPS Institution’s average drop size;
  - iii. Any additional incentives that the vendor will offer the HPS Institutions.
- e. 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 Foodservice Account. HPS will not receive any discounts, rebates, or incentives in connection with this contract for those sales to those SFA’s
- f. Each responding vendor must provide a detailed map of its current service area for each geographic area your company can service, (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. Any changes to service area must be approved by The HPS Food Service Advisory Committee(s).

Responding to instructions a. through e. 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.

## D. GENERAL CONDITIONS.

1. **Master Group Agreement; Individual Member/Participant Agreements**. The successful vendor must enter into a Master Group Agreement with HPS in substantially the form attached as **Exhibit B**. After the contract has been awarded, the successful vendor 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 successful vendor 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 successful vendor. The individual HPS Institutions will place orders for Products directly with the successful vendor pursuant to the Individual Member/Participant Agreement at any time during the term of the Master Group Agreement, and the successful vendor will make delivery of Products to each HPS Institution at the address indicated on the individual order. The successful vendor 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 successful vendor 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 successful vendor, 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.

2. **Storage**. The successful vendor 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 successful vendor 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 successful vendor 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.
3. **Electronic Reports**. The successful vendor 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 successful vendor also must furnish HPS with annual Product usage reports, by item, in descending dollar order.
4. **Recording Fee**: The successful vendor must pay HPS a recording fee equal to one tenth of one percent (.1%) for total sales of Product to all non SFA accounts.
5. **Indemnification**: The successful vendor 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 successful vendor or any person for whom the successful vendor is responsible, or (b) any breach by the successful vendor of its obligations under the Master Group Agreement or any Individual Member/Participant Agreement.

6. **Insurance:** During the term of the Master Group Agreement, the successful vendor must maintain in full force and effect and at its sole cost and expense all necessary insurance, including but not limited to, the following:
  - a. Worker's Compensation insurance, meeting the requirements of state law, for all employees of the successful vendor performing any work attributable to its operations;
  - b. 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 of bodily injury, personal injury and property damage; and
  - c. Vehicle liability insurance covering all owned, hired and non-owned vehicles in use by successful vendor, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of One Million Dollars (\$1,000,000.00) as the combined single limit for each occurrence for bodily injury and property damage.
7. **USDA Requirements:** The HPS Institutions include many SFAs that will use funds from their Nonprofit School Foodservice 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 Part 200, and 7 CFR Parts 210, 215, 220, 225 and 226 including 2 CFR 200.318-326, Appendix to part 200, 7 CFR 250 and 7 CFR 210.21. Accordingly, the successful vendor 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:
  - a. **Termination.** Any HPS Institution may terminate its Individual Member/Participant Agreement with the successful vendor, in whole or in part, at any time by written notice to the successful vendor stating the extent and effective date of termination. When the successful vendor receives notice of termination under the preceding sentence, the vendor must, unless otherwise directed by the HPS Institution, stop work and acquisition of materials under the contract. No later than thirty (30) days after the effective date of termination, vendor may submit to the HPS Institution its claim, if any, for reasonable compensation for termination. If the parties cannot agree within a reasonable time upon the amount of fair compensation for the termination, then the HPS Institution will pay to the successful vendor, without duplication, (1) the contract price for conforming Products that were completed and delivered or performed (as applicable) in accordance with the provisions of the contract and (2) the actual costs that the successful vendor incurred and that are properly allocable or apportionable under recognized commercial accounting practices to the terminated portion of the contract, but not to exceed the contract price for the terminated portion of the contract, less (a) any payments that the HPS Institution made and (b) the value to vendor of any raw materials, work-in-process and finished goods that vendor retains and that are allocable to the terminated portion of the contract under such practices. The HPS Institution will pay these amounts after vendor delivers to the HPS Institution any completed goods. If the

HPS Institution made payments of the purchase price to vendor that in the aggregate exceed the total amounts payable by the HPS Institution to vendor under the preceding provisions, then vendor must promptly refund the excess to the HPS Institution.

b. **Dispute Resolution.** All parties must attempt to settle any dispute between them amicably in accordance with subsection 6.a above. To this end, the parties must consult and negotiate to reach a solution. However, nothing in this subsection 6.b will preclude any party from commencing a proceeding if the negotiations do not reach a resolution. All disputes arising out of a contract between a HPS Institution and the vendor under the HPS MILK & DAIRY/RELATED PRODUCTS 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).

c. **Allowable Costs, Discounts, Etc.** 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 Foodservice Account to the successful vendor net of all discounts, rebates and other applicable credits accruing to or received by the successful vendor 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 successful vendor 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 Foodservice Account) and the amount that is unallowable (cannot be paid from the Nonprofit School Foodservice 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 successful vendor's determination of its allowable costs must be made in compliance with the applicable USDA and Child Nutrition Program regulations and Office of Management and Budget cost circulars. The successful vendor 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 State Department of Education, the SFA may permit the successful vendor to report this information on a less frequent basis than monthly, but no less frequently than annually. The successful vendor 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 successful vendor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the SFA, the State Department of Education, or the USDA, as applicable.

d. **Access to Records.** Upon request, the successful vendor 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 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 successful vendor's personnel for the purpose of interview and discussion related to such documents.

e. **Record Retention.** The successful vendor 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 Part 200), for at least three years after the HPS Institution makes its final payments and all other pending matters are closed. Whenever practicable, the successful vendor should collect, transmit and store such records in open and machine readable formats rather than in closed formats or on paper.

f. **Environmental Protection; Recovered Materials.** To the extent applicable, the successful vendor 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, the successful vendor 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.

g. **Equal Employment Opportunity.** To the extent applicable, the successful vendor 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.”

h. **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 successful vendor to comply with Subpart C of 2 CFR Part 180, as supplemented by Subpart C of 2 CFR Part 417, and further requiring the successful vendor 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”).

i. **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**.

j. **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.**

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.

The successful vendor must certify the percentage of U.S. content in Products supplied to HPS Institutions. If a vendor is unable or unwilling to make such certification, HPS Institutions will not purchase from the vendor. **By signing and submitting a proposal, the responding vendor certifies that the Products it proposes to supply will be domestic commodities or products, as defined above, subject only to any exceptions approved pursuant to the next paragraph.**

Exceptions to the foregoing Buy American provision may be approved by HPS upon the responding vendor's request, but only in extraordinary circumstances where the vendor, in its request for an exception, demonstrates either of the following:

- (1) The Product is not produced or manufactured in the U.S. in sufficient and reasonably available quantities of a satisfactory quality; or
- (2) Competitive proposal pricing reveals the cost of a domestic Product is significantly higher than the non-domestic Product (price information must be included in the request).

**k. Contract Work Hours and Safety Standards Act.** Where applicable, 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 40U.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.

**l. Rights to Inventions Made Under a Contract or Agreement.** 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.

**m. Davis-Bacon Act, as amended.** When required by Federal program legislation, 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.

n. **Small/Minority/Women's/Labor Surplus Area Businesses.** 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

7. **Nondiscrimination:** The successful vendor 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 successful vendor 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.
8. **Historically Underutilized Businesses:** (HUB'S) HPS is taking the following actions to assist Historically Underutilized Businesses (HUB's) in doing business with the HPS members. A. HPS insures that HUB's are given a fair and equal opportunity to participate in their contracts. B. Placing qualified small and minority businesses and women's business enterprises on solicitation lists; C. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
9. **Failure to Fulfill Contract:** When any Vendor shall fail to deliver any article or service or shall deliver any article or service which does not conform to the specifications, HPS may, at its sole discretion, annul and set aside the contract entered into with said Vendor, either in whole or in part, and make and enter into a new contract for the same items in such manner as seems to be to the best advantage of the HPS membership. Any failure for furnishing such articles or services by reason of the failure of the Vendor, as above stated, shall be a liability against such Vendor and his sureties. The HPS member district reserves the right to cancel any articles or services which the successful Vendor may be unable to furnish because of economic conditions, governmental regulations, as a result of a recall, or other similar causes beyond the control of the Vendor provided satisfactory proof is furnished to the HPS member district, if requested.
10. **Food Recall Procedures:** Vendor must comply with all federal, state and local requirements relating to food safety and food recalls. Vendor must have procedures in place to respond effectively to a food recall. The procedures must include accurate and timely communications to SFAs as well as mechanisms to identify and remove recalled products from SFA sites in an

expedient, effective and efficient manner. Vendor must maintain all documentation required for immediate and proper recall notification with regard to full and split cases. Vendor 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.

11. **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 successful vendor must be addressed to successful vendor'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: Christina Costanza) or to ccostanza@hpsgpo.com. A party may specify a different address by notice given in accordance with the terms of this Section.
12. **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.
13. **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 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. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.
14. **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 successful vendor's proposal will be considered part of the Master Group Agreement entered into between HPS and the successful vendor, if any. 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 successful vendor's proposal, in descending order of priority.
15. **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 Michigan, without regard to conflict of law principles.
16. **No Assignment:** The Master Group Agreement may not be assigned by the successful vendor without the prior written consent of HPS.

**E. DIRECTIONS FOR SUBMISSION OF PROPOSAL.**

1. **General**

- a. Each responding vendor must completely fill out all requested information.
- b. Prices quoted must be F.O.B. delivered to the HPS Institution.
- c. Sign and return one copy of the Request For Proposal, including all attachments for each geographic area.
- d. Any additions must be on a separate attachment.
- e. Samples:  Requested  Not Requested

2. **Appeals.** Any appeal regarding the selection of the successful vendor 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 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.

3. **Signatures.** In making a proposal, each responding vendor must sign the RFP immediately below. 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 (Non Collusion Affidavit); Appendix E (E-Verify Affidavit); and for the Michigan contract only, Appendix F (Certificate of Compliance – Michigan Act 517 of 2012) Appendix G Ethical Standards Affidavit Appendix H Conflict of Interest Affidavit and Appendix I – HPS Value Component Questions and return them with the RFP.** If there are any questions, please contact Christina Costanza at (269) 795-3308

AUTHORIZED SIGNATURE: David A. Ross  
NAME: David Ross  
TITLE: District Sales Manager  
COMPANY: SmithFoods, Inc.  
ADDRESS: 1381 Dainy Ln. Orrville, OH 44667  
PHONE: 330-601-3964  
E-MAIL: davidross@Smithfoods.com  
DATE: 3/31/2021

## **APPENDICES**

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

## **EXHIBITS**

- Exhibit A – Membership List
- Exhibit B – Master Group Agreement
- Exhibit C – Proposal of Material – (Bid List)
- Exhibit D – Federal Milk Order Areas

# TERMS & CONDITIONS

3275 N. M-37 Hwy.,  
P.O. Box 247  
Middleville MI, 49333  
(800) 632-4572 |  
hpsnet.com

Date:

1. Company Name: Smithfoods 2. Website: smithfoods.com

3. Address: 1381 Dairy Ln, Orrville, OH 44667

4. Main Phone #: 800-776-7076 Fax: \_\_\_\_\_

5. Send orders to sales@smithfoods.com Via:  Email  Fax  Phone  Online  
(Name/Department)

6. Company business hours: 8am - 5pm Timezone: ET

7. Delivery Time: varies

8. Shipped via:  Common Carrier  Direct  Distributor

9. F.O.B. HPS institution facility (prepaid & absorbed)  Accepted (If freight not included please define freight terms separately.)

10. Payment terms: 7 days

11. Minimum order: \$125

12. Identify the states you service:

AL  AR  DE  FL  GA  IL  IN  IA  KS  KY  LA  MD  MI  MN  MO  NC  OH  OK  PA  SC  TN  TX  WI  WV  Entire US

13. Price protection for price will move with market years. NA

14. Please check all HPS member segments that your products and or services apply to:

Medical  Senior Living  Education  Medical Associates  Associates

15. Please complete the following where applicable:

a. Do you provide service to your equipment?  Yes  No At no charge?  Yes  No (~~at due to negligence~~)

Define service charge: \_\_\_\_\_

b. Do you offer emergency service?  Yes  No If yes indicate hours of emergency service: Fire, Theft, etc.

16. Relative to item #3 and #4 on the request for proposal, page seven, please indicate below the frequency with which your company will furnish electronic statistical reports (excel format) and recording fee to the HPS office, should you be awarded this bid:

Monthly  Quarterly

Signature: David A. Ross II

Printed Name: David A. Ross II

Title: District Sales Manager

Phone: 330-601-3964 Email: david.ross@Smithfoods.com

**Dollar Volume Contact - Required**

1. Name: David Ross 2. Title: DSM  
3. Email: davidross@smithfoods.com 4. Phone: 330-601-3964  
5. Address: 1381 Dairy Ln.  
City: Orrville State: OH Zip: 44667

6. Subscribe to HPS Bottom Line:

**Main Contact - Required**

1. Name: David Ross 2. Title: District Sales Manager  
3. Email: davidross@smithfoods.com 4. Phone: 330-601-3964  
5. Address: 1381 Dairy Ln. PO Box 87  
City: Orrville State: OH Zip: 44667

6. Subscribe to HPS Bottom Line:

**Bid Contact - Required**

1. Name: David Ross 2. Title: DSM  
3. Email: davidross@smithfoods.com 4. Phone: 330-601-3964  
5. Address: 1381 Dairy Ln. PO Box 87  
City: Orrville State: OH Zip: 44667

6. Subscribe to HPS Bottom Line:

**Marketing Contact - Required**

1. Name: Megan Gant 2. Title: Brand Manager  
3. Email: megan.gant@smithfoods.com 4. Phone: 330-683-8710  
5. Address: 1381 Dairy Ln.  
City: Orrville State: OH Zip: 44667

6. Subscribe to HPS Bottom Line:

**Additional Contacts -**

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APPENDIX A

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

The undersigned bidder makes this certification as part of its proposal in response to the RFP to which this Appendix is attached. The bidder 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 bidder is unable to certify to any of the above statements, the bidder must attach an explanation to this proposal.

Smith Foods Inc. Milk & Dairy/Ice cream products  
Bidder's Name PR/Award Number or Project Name

David Ross, District Sales Manager  
Name and Title of Authorized Representative

David O. Ross JR 3/31/2021  
Signature Date

APPENDIX B

CERTIFICATION REGARDING LOBBYING

The undersigned bidder makes this certification in the event the bidder'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 bidder 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 bidder 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 <i>Smith Foods Inc</i>		Agreement Number:
Address <i>1381 Dainy Ln. PO Box 87 Orrville, OH 44667</i>		
Printed Name and Title of Submitting Official: <i>David Ross District Sales Manager</i>	Signature: <i>David A. Ross</i>	Date: <i>3/31/2021</i>

# APPENDIX C

## DISCLOSURE OF LOBBYING ACTIVITIES

### DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB  
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

<b>1. Type of Federal Action</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material changes <b>For Material Change Only:</b> Year: _____ Quarter: _____ Date of last report: _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Sub-Awardee Tier _____, if known  Congressional District, if known _____		<b>5. If Reporting Entity in No. 4 Is Sub-awardee, Enter Name and Address of Prime:</b>  Congressional District, if known _____
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description</b>  CFDA Number, if applicable _____	
<b>8. Federal Action Number, if known</b>	<b>9. Award Amount, if known</b>	
<b>10. a. Name and Address of Lobbying Entity</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a) (last name, first name, MI):</i>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>		
<b>Federal Use Only</b>		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
<b>Authorized for Local Reproduction</b> Standard Form - LLL (Rev. 7/97)		Electronic Form Version Designed in Adobe 7.1 Version

**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 Smith Foods Inc.

By (signature): David Ross

Name (printed): David Ross

Title: DSM

Date: 3/31/2021

**APPENDIX F**  
**(MICHIGAN RFP ONLY)**

**CERTIFICATION OF COMPLIANCE – IRAN ECONOMIC SANCTIONS ACT**

**Michigan 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, Michigan 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 bid on a request for proposal for three (3) years from the date the it is determined that the person has submitted the false certification.

Smith Foods, Inc.  
Name of Company

David Ross, District Sales Manager  
Name and Title of Authorized Representative

David A. Ross  
Signature

3/31/2021  
Date

**APPENDIX G**

**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 or 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 bidder: \_\_\_\_\_ 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 H**

**CONFLICT OF INTEREST AFFIDAVIT**

This affidavit is required by state law and complies with the State of Michigan, 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 bids (and proposals) shall do all of the following:

State that the bid shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the bidder 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 bid 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 bidder: \_\_\_\_\_ 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 I

### HPS Value Components Questions

HPS strives to provide only contracts that offer great value to our Members, are relevant to their needs, and include differentiating factors that set them apart from all other similar contracts offered by other GPOs.

Our contracts must address the four general areas of concern that all of our Members, regardless of class of trade, deal with on a daily basis. These are what we call a contract's Value Components, which are:

1. Financial Viability: Our contracts must provide a positive financial impact to our Members.
2. Regulatory Compliance: Our contracts must help our Members become and maintain compliance with relevant laws, policies and regulations.
3. Staff Efficiency: Our contracts must help our Members optimize their staff through process improvement, training and education, and other assistance that makes their work easier and more accurate.
4. Client Participation/Engagement/Satisfaction: Our contracts must help our Members be more attractive to their client base, leading to greater participation in their services, and higher levels of satisfaction.

How you answer the following questions in light of the above description will help paint the picture of the level of true value you can bring to our Members. Please be as thorough as possible; we've incorporated additional pages after the questions if you want to expound on any of your answers. You are also welcome to attach other sheets.

### Value Component 1

#### Pricing Information – 25 Points

1. Max 25 Points  
Please complete Exhibit C

Financial Viability – 20 Points: Our contracts must provide a positive financial impact to our Members.

1. (Max 4 Points) Describe your pricing to HPS Members.  
Our pricing is based on competitive market analysis.
2. (Max 4 Points) What bench marketing did your company use to determine the HPS Member price?

SmithFoods uses IRI and competitive pricing we see in the market to determine our pricing for HPS members

3. (Max 2 Points) Outline rebates and/or incentives you would make available to the HPS membership, i.e. commitment-based, volume-based, drop-size based, EDI or quick payment discounts, etc.  
NA
4. (Max 2 Points) What is the price protection period for this contract?  
As the milk market changes monthly, our pricing moves with the market.
5. (Max 2 Points) Does your company charge fuel surcharges and/or other delivery charges? (yes no)  
If yes, explain the charges and fee schedule in detail.  
Our delivery charges are built into our price. We require a \$125 minimum on orders to cover those costs.
6. (Max 2 Points) Specifically describe how your offerings will have a positive financial impact on our Members' organizations.  
Our pricing is competitive in the market, there are no hidden fees or extra surcharges as the price you see is what you get.
7. (Max 2 Points) Financially speaking, is your offering to HPS Members stronger than to other groups?  
Explain either way.  
Our pricing is more competitive for HPS than it is to independent customers who ask for pricing. As HPS is a group, the rate is better.
8. (Max 2 Points) Explain your shipping terms.  
We deliver M-F. Depending on the location, there would be specific delivery days arranged with each individual based on fit with established routes.

## **Value Component #2**

Regulatory Compliance – 20 Points: Our contracts must help our Members become and maintain compliance with relevant laws, policies and regulations.

1. (Max 4 Points) Describe how your product/service provides solutions for relevant industry standards and laws?  
  
SmithFoods provides high quality dairy, culture, and ice cream products. We are able to service most any kind of food service entity with our product offerings
2. (Max 4 Points) How does your product or service adhere to industry standards?  
Our products are certified to meet industry standards.

3. (Max 4 Points) Describe how your company helps the HPS Member improve their policy or procedures in your product or service line.

We offer an assortment of fresh and extended shelf life products

4. (Max 4 Points) Describe any special programs that your organization offers that will improve HPS Members' ability to properly and efficiently use your products/services.

Customers are able to order online, fax, or by calling in to customer service.

5. (Max 4 Points) Describe how your product or service helps promote industry's best Practices in the HPS Members facility.

### **Value Component #3**

Staff Efficiency – 20 Points: Our contracts must help our Members optimize their staff through process improvement, training and education, and other assistance that makes their work easier and more accurate.

1. (Max 5 Points) How does your product or service help increase productivity and/or optimize staffing levels at the HPS Members facility.

NA

2. (Max 5 Points) Describe how your product or service optimizes organizational efficiency of the HPS Member.

NA

3. (Max 5 Points) Describe how HPS Members will place orders for your products/services.

Customers are able to order online, fax, or by calling in to customer service.

4. (Max 5 Points) Describe your organization's ongoing education and/or training opportunities to promote continuous improvement for your products/services.  
SmithFoods is dedicated to quality. We have an R&D department that is dedicated to creating new and better products for our customers.

#### **Value Component #4**

Client Participation/Engagement/Satisfaction – 15 Points: Our contracts must help our Members be more attractive to their client base, leading to greater participation in their services, and higher levels of satisfaction.

1. (Max 4 Points) Does your product or service has had proven outcomes? (yes no)  
If yes, explain and provide documentation of those outcomes.

Yes

2. (Max 4 Points) How does your product or service meet or exceed to industry quality standards?

We adhere to strict industry standards, we promise a minimum of 10 days code on all dairy products.

3. (Max 2 Points) Explain the strengths of your company's brand recognition.

Smith's is the #1 dairy in NE ohio. Only private label performs better than us. We are also in the top 3 for cottage cheese, sour cream, and dips. This is according to IRI data in the market.

4. (Max 2 Points) Outline your organizations plan for marketing to HPS Members.

SmithFoods services nearly 1000 schools and healthcare facilities. Our plan is to go through the member list and reach out to those customers if they fit on our existing routes and provide them with our product lists. Samples can also be sent if customers want to compare our product to our competitors.

5. (Max 3 Points) Describe how your product or service aligns with HPS Member Classes of Trade and which ones are eligible to utilize your contract:

Medical (acute care and non-acute facilities)

Medical Associate (doctor's offices, labs, etc.)

Senior Living (skilled nursing, assisted living, independent living facilities)

We have an assortment of single serve milks and ice creams. As well as Foodservice size sku's that are good for the kitchen area.

Education (public and private primary K-12 schools, colleges and universities)

We have an assortment of single serve milks and ice creams. As well as Foodservice size sku's that are good for the kitchen area.

Associate (camps, senior meal programs, municipalities, jails, etc.)

We have an assortment of single serve milks and ice creams. As well as Foodservice size sku's that are good for the kitchen area.