

# **Invitation to Bid and Contract**

## **Kitchen Equipment**

---

**Lake Wales Charter Schools**

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

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the state or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, [AD-3027](#), found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

1. **Mail:** U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410;
2. **Fax:** (202) 690-7442; or
3. **Email:** [program.intake@usda.gov](mailto:program.intake@usda.gov).

*USDA is an equal opportunity provider, employer, and lender.*

## SECTION 1

### INSTRUCTIONS TO BIDDERS

#### 1.1 Notice of Bid

This Invitation to Bid (ITB) is for obtaining vendor responses to provide kitchen equipment for Lake Wales Charter Schools. Child Nutrition Programs operated will include the United States Department of Agriculture's (USDA) National School Lunch Program (NSLP) and the following programs listed below:

- School Breakfast Program (SBP)
- Afterschool Snack Program (ASP)
- Seamless Summer Option (SSO)
- Summer Food Service Program (SFSP)

Lake Wales Charter Schools is a Charter school located in Lake Wales, Florida. The goal of the Food Service Program is to provide healthy, compliant meals that each student can enjoy and look forward to.

#### 1.2 Bid Submission

Responses should address each requirement set forth in this ITB. Please provide the requested information no later than 5 pm EST on June 26, 2026, to the address below. Responses will be publicly opened at 11 am EST on June 30, 2026, and evaluated per the criteria specified in subsection 1.4 below.

Lake Wales Charter Schools  
Food Service  
Terrance Burroughs  
130 E Central Ave  
Lake Wales, FL 33853

#### 1.3 Timeline

June 1, 2026, Solicitation available to the public

June 8, 2026, Bid questions due

June 12, 2026, Bid questions answered by publishing Addendum 1, if applicable

June 17, 2026, Bid submissions due by 5 pm EST

June 19, 2026, Bid submissions publicly opened

June 22, 2026, SFA review of Bids

June 23, 2026, SFA recommendation to FDACS and FDACS review

June 26, 2026, Contract Awarded

July 1, 2026, Vendor begins service

#### 1.4 Evaluation Criteria

Bids received will be reviewed to ensure all materials have been submitted as specified in this ITB. Contract award decision will be made based on the most responsive and responsible Vendor that provides the bid.

#### 1.5 Bid Attachments

##### 1. Bid Summary

2. Certification Regarding Lobbying
3. Disclosure of Lobbying Activities
4. Exhibit A – Location of school(s)
5. Exhibit B – Approved 15-day cycle menu
6. Exhibit C – Menu Planning Approach Guidelines
7. Exhibit D – Current Year School Calendar
8. Certification Regarding Drug-Free Workplace Requirements
9. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
10. Certificate of Independent Price Determination

#### 1.6 Questions and Site Visits

Questions concerning this ITB and requests for a site visit can be submitted in writing via email to [terrance.burroughs@lwcharterschools.com](mailto:terrance.burroughs@lwcharterschools.com) or via phone at (863)679-6560. All responses to questions received will be made in writing on June 12, 2026, and sent to all potential vendors.

#### 1.7 Addenda

Revisions that modify the ITB documents, by addition, deletion, clarification, or correction, will be issued in writing prior to the opening of bids.

## SECTION 2 GENERAL CONDITIONS

2.1 Bids shall be submitted on the forms provided with these specifications. Bids shall be in a sealed envelope properly marked with the title of the bid, date, and time of opening, and delivered to the address provided in subsection 1.2 no later than the time and date specified. All certifications contained herein must be signed and submitted with the bid.

#### 2.2 Bid Deadline

The original copy of a vendor's bid must be received at the address provided in subsection 1.2 no later than the time and date specified. The original will be date and time-stamped upon receipt. Bids received after the time and date specified in subsection 1.2 will result in rejection of the bid.

#### 2.3 Rejection of Bid

Bids that do not conform to the requirements of this ITB shall be rejected.  
Bids may be rejected for reasons that include, but are not limited to, the following:

- a. The bid was received after the submission deadline.
- b. The bid was not signed by an authorized representative of the vendor;
- c. The bid contained unauthorized amendments, deletions, or contingencies to the requirements of the ITB;
- d. The bid was incomplete or contained significant inconsistencies or inaccuracies.

#### 2.4 Errors or Omissions

If SFA determines that a bid contains a minor irregularity or an error, such as a transposition, extension or footing error in figures that are presented, SFA may provide the vendor an opportunity to correct the error. Information that is required to be included in the bid and is inadvertently omitted shall not be accepted under this error correction provision. All information required to be included in a bid must be received by the date and time that bids are due. SFA reserves the right to seek clarification from a vendor of any information contained in the bid.

#### 2.5 Deviations or Exceptions

Deviations or exceptions to the specifications provided in this ITB will not be considered.

#### 2.6 Specifications and Conditions

By submitting a response to this ITB vendors are acknowledging that they have read the specifications and conditions provided in the ITB and that their bid is made in accordance with the provisions of such specifications.

Vendors further agree to deliver services that meet or exceed specifications provided in the ITB should they be awarded a contract for services.

#### 2.7 Withdrawal of Bid

Requests for withdrawal of a bid may be considered if such request is received in writing within 72 hours after the bid opening time and date. Requests received in accordance with this provision may be granted upon proof of the impossibility to perform based upon an obvious error on the part of the vendor. If a request for withdrawal is not received, a vendor shall be legally responsible for fulfilling all requirements of its bid if it is accepted.

#### 2.8 Bid Bonds *Required for SFSP*

Bids over \$250,000 shall include a bid bond in the amount of 5% of the estimated contract value. Only those bonding and surety companies contained in the current Treasury Circular 570 may be used to obtain the required bonding. The Treasury Circular is published annually, for the information of Federal bond-approving officers and persons required to give bonds to the United States. All certificates of Authority expire June 30, and are renewable July 1, annually.

Bid bonds will be returned (a) to unsuccessful proposers as soon as practicable after the opening of bids and (b) to the successful proposer upon execution of such further contractual documents and bonds as may be required by the proposal as accepted.

#### 2.9 Performance Bonds *Required for SFSP*

The successful proposer shall provide the SFA with a performance bond in the amount of 10% of the contract price. The bond shall be executed by the FSMC and a licensed surety company listed in the current Department of Treasury Circular 570. Only those bonding and surety companies contained in the current Treasury Circular 570 may be used to obtain the required bonding. The Treasury Circular is published annually, for the information of Federal bond-approving officers and persons required to give bonds to the United States. All certificates of Authority expire June 30, and are renewable July 1, annually.

The performance bond shall be furnished not later than ten days following award of the contract, but in all cases prior to commencement of performance.

#### 2.10 Bid Modifications

Requests for modifications of a bid may be considered if such request is received in writing within 72 hours after the bid opening time and date. Requests received in accordance with this provision may be granted upon proof of the impossibility to perform based upon an obvious error on the part of the vendor. If a request for modification is not received, a vendor shall be legally responsible for fulfilling all requirements of its bid if it is accepted.

#### 2.11 Competition

Per 2 CFR 200.319(b) and to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

#### 2.12 Prohibition of Gratuities

By submission of a bid, a vendor certifies that no employee of SFA has or shall benefit financially or materially from such bid or subsequent contract. Any contract issued as a result of this ITB may be terminated at such time as it is determined that gratuities of any kind were either offered or received by any of the aforementioned persons.

#### 2.13 Vendor Research

SFA reserves the right to research any vendor submitting a bid in response to this ITB to ensure the vendor's ability to perform the services as specified.

#### 2.14 Conditions for Acceptance

Vendors must submit a bid meeting the requirements of the ITB to include the required attachments and certifications signed by the authorized official

2.15 Bid computation method

Estimated totals must be carried out to the second decimal place and must not be rounded.

2.16 Protest of the ITB

Any adversely affected person who desires to file a formal protest to this ITB must do so in accordance with chapter 120, Florida Statutes. Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

2.17 Copyrights

The SFA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize other to use, for SFA purposes: (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) Any rights of copyright to which a grantee, sub grantee or contractor purchases ownership with grant support. 2 C.F.R. Appendix II to Part 200(F)

2.18 Patents

The SFA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize other to use, for SFA purposes patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract. 2 C.F.R. Appendix II to Part 200(F)

2.19 Jessica Lunsford Act

The Vendor shall ensure, at its own expense, required fingerprint-based criminal history record checks are conducted on all vendor employees assigned to the SFA and results are provided to the SFA per the Jessica Lunsford Act, section 1012.32, Florida Statutes.

2.20 Federal Debarment Certification

The prospective bidder certifies, by submission and signature of this bid, that the bidder complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion. As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR, part 85, as defined at the 34 CFR part 85, sections 85.105 and 85.110-(ed80-0013).

- (1) The prospective lower tier (\$25,000) participant certifies, by submission and of this bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this bid.

2.21 Public Entity Crimes Certification

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entities, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

### **SECTION 3 SCOPE**

- 3.1 The VENDOR shall provide quotes for 2 hot box warmers, 1 cold box cooler, 3 double steamers, 5 ice machines, 3 heater proofers, 6 pizza ovens, 2 tilt skillets, 1 milk cooler, 1 mixer stand, and 4 complete serving lines. The VENDOR must visit each location to speak with the food service coordinator and design each serving line to their needs.
- 3.2 The SFA reserves the right to maintain, add to, and/or remove present food and beverage vending machines in its facilities.
- 3.3 The VENDOR shall be an independent contractor and not an employee of the SFA. The employees of the vendor shall be considered solely employees of the vendor and shall not be considered employees or agents of the SFA in any fashion.
- 3.4 The VENDOR shall provide equipment in compliance with the rules and regulations of the Florida Department of Agriculture and Consumer Services ("FDACS") and the USDA regarding Child Nutrition Programs.

### **SECTION 5 VENDOR RESPONSIBILITIES**

- 5.1 The VENDOR shall provide its services hereunder at all times in accordance with generally accepted standards of care and best practices in the industry.
- 5.2 The VENDOR shall deliver equipment as requested by the SFA to sites at the specified locations at the times listed on Exhibit A or as designated by the SFA.

### **SECTION 6 INVOICING AND PAYMENT**

- 6.1 The Vendor shall submit itemized invoices to the SFA.
- 6.2 The SFA shall pay the Vendor the unit price specified in the Bid Summary. The SFA shall pay:
  - 6.2.1 According to the time frame as stated on the Vendor's invoice; or
  - 6.2.2 No later than 30 days (30) calendar days of its receipt of the invoice from the Vendor.
- 6.3 The Vendor shall use the following delinquent payment notification procedures in order to exercise its right to demand payment from the SFA:
  - 6.3.1 For invoices not paid within forty-two (30) calendar days after the SFA received the invoice, the Vendor shall send the SFA a notice letter with a copy of the original invoice attached. The Vendor shall also provide a copy of the notice letter to the FDACS.
  - 6.3.2 When an invoice previously noticed when delinquent thirty (30) calendar days is still delinquent and not paid in full within sixty-three (60) calendar days after the SFA received the invoice, the Vendor must provide a second letter to the SFA with a copy of the original invoice attached and provide a copy to the FDACS.
  - 6.3.3 The Vendor may suspend service or terminate its contract with the SFA if the SFA has failed to make full and complete payment for any invoice sixty-three (63) or more calendar days after the invoice was received. The Vendor's failure to terminate its contract shall not waive its right to seek payment under appropriate Florida Law and procedures.

### **SECTION 7 USDA FOODS**

- 7.1 Any USDA Foods received for use by the SFA and made available to the VENDOR shall be utilized within the specified Term of this Contract in the SFA's food service operation for the preparation and service of meals and for other allowable uses in accordance with the Code of Federal Regulations, 7 C.F.R. Part 250.
- 7.2 The VENDOR shall accept and use USDA Foods in as large a quantity as may be efficiently utilized in the nonprofit food service subject to approval of the SFA.
- 7.3 The VENDOR shall manage all USDA Foods to ensure the foods are utilized in the SFA's food service.
- 7.4 The VENDOR shall utilize all USDA ground beef, ground pork, and processed end products received in the SFA's food service. Commercially-purchased foods shall not be substituted for these foods.
- 7.5 The VENDOR shall utilize all other USDA Foods or substitute commercially-purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods as determined by the SFA, in the SFA's food service.
- 7.6 The VENDOR shall credit the SFA's monthly bill/invoice the current market value of all USDA foods received during each Contract Term as the foods are used in the SFA's food service. The VENDOR must credit the SFA for all USDA Foods received for use in the SFA's food service each Contract Term whether the USDA Foods have been used or not. Such credit shall be issued in full prior to the expiration of each Contract Term.
- 7.7 Credit issued by the VENDOR to the SFA for USDA foods received during each Contract Term and used in the SFA's food service shall be recorded on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled. Attached to the invoice shall be a detailed list identifying each received USDA Foods item used in the SFA's food service and each USDA Foods item credit issued for unused USDA Foods, along with the current market value as issued by the FDACS.
- 7.8 The current value of USDA Foods is based on the information listed on the SFA's Web-Based Supply Chain Management (WBSCM) Requisition and by the Requisition Status Report. If not listed, the current market value of USDA Foods will be based on the prices issued by the FDACS.
- 7.9 The SFA shall ensure the method and timing of crediting does not cause its cash resources to exceed limits established in 7 C.F.R. § 210.9(b)(2).
- 7.10 At the end of each Contract Term and upon expiration or termination of the Contract, a reconciliation shall be conducted by the SFA to ensure and verify correct and proper credit has been received for the full value of all USDA Foods received by the VENDOR during each Contract Term for use in the SFA's food service.
- 7.11 The SFA shall verify receipt of USDA Foods shipments through its electronic records or by contacting the FDACS or processor as applicable.
- 7.12 The SFA reserves the right to conduct commodity credit audits throughout each Contract Term to ensure compliance with federal regulations 7 C.F.R. Part 210 and Part 250.
- 7.13 The VENDOR must accept liability for any negligence on their part that results in any loss, damage, out-of-condition, or improper use of equipment.
- 7.14 The VENDOR shall not enter into any processing agreements with a processor as required in subpart C of 7 C.F.R. Part 250. The VENDOR shall also not enter into any subcontracts for further purchasing equipment.
- 7.15 The SFA, the FDACS, the Auditor General, and the USDA, or their duly authorized representatives, may perform on-site reviews of the VENDOR's food service operation, including the review of records, to ensure compliance with the requirements of this Contract and federal regulations 7 C.F.R. Part 210 and Part 250.

## **SECTION 8 PURCHASES/BUY AMERICAN**

- 8.1 The VENDOR shall retain title of all purchased equipment.
- 8.2 The VENDOR shall purchase, to the maximum extent practicable, domestic commodities or equipment that are either an agricultural commodity produced in the United States or a equipment manufacturer in the United States.

- 8.3 The VENDOR shall certify the percentage of U.S. content in the products supplied to the SFA.
- 8.4 The SFA reserves the right to review VENDOR purchase records to ensure compliance with the *Buy American* provision in 7 C.F.R. Part 250.
- 8.5 The VENDOR must request approval for exceptions to Buy American Provision from SFA prior to delivery. Requests should include documentation such as cost or availability data. SFA must document when an exception is approved, including all Buy American Provision requirements as stated in 7 CFR Part 210.21(d) and FNS Policy Memo SP 38-2017. The following must be documented for each approval:
  - 8.5.1 Consideration made for the use of domestic alternative equipment before approving an exception.
  - 8.5.2 The use of a non-domestic food exception when competition reveals the cost of domestic is significantly higher than non-domestic equipment.
  - 8.5.3 The use of a non-domestic alternative equipment due to the domestic equipment not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality.

**SECTION 9  
EQUIPMENT**

- 9.1 The VENDOR shall provide all equipment.
- 9.2 The SFA shall repair and service SFA-owned equipment except when damages result from the use of less-than-reasonable care by VENDOR employees as determined by the SFA.
- 9.3 The SFA is responsible for repairs that aren't under warranty, complete maintenance, repair, and replacement services for all equipment.
- 9.4 The SFA shall be legally responsible for any losses of USDA Foods which may arise due to equipment malfunction or loss of electrical power not within the control of the VENDOR.
- 9.5 The SFA must give prior approval and have final authority for the purchase of equipment used for storage, preparation, serving, or delivery of school meals.

**SECTION 10  
DELIVERY REQUIREMENTS AND NONCOMPLIANCE**

- 11.1 Equipment must be delivered in accordance with the approved delivery dates by the SFA.
- 11.2 The VENDOR shall provide a delivery slip with the date and the number of items delivered. The SFA authorized representative, or his/her designee must sign the delivery slip and verify the condition of the equipment was received.

**SECTION 11  
REVENUE**

- 14.1 The SFA shall receive all revenue from the food service.
- 14.2 All goods, services, or monies received as the result of any equipment or USDA Foods rebate shall be credited to the SFA's nonprofit food service account.
- 14.3 If reimbursement is denied as a direct result of the failure of the VENDOR to comply with the provisions of this Contract, the VENDOR shall assume responsibility for the amount denied.

**SECTION 12  
LICENSES, CERTIFICATIONS, AND TAXES**

- 15.1 Throughout the Term of the Contract and each renewal Term, the VENDOR shall obtain and maintain all applicable licenses and permits required by federal, state, and local law.
- 15.2 The VENDOR shall have state or local health certification for any facility outside the SFA in which it proposes to prepare meals, if applicable, and must maintain this health certification for each Contract Term.

### **SECTION 13 RECORD KEEPING**

- 16.1 The SFA shall retain all records relating to food service production and delivery for the initial contract and all subsequent renewals for a period of five years either from the date the final contract renewal period has expired, receipt of final payment under the contract is recorded, or after the SFA submits the final Claim for Reimbursement for the final fiscal year of the contract, whichever occurs last.
- 16.2 All records must be available for the period of time specified above for the purpose of making audits, examinations, excerpts, and transcriptions by representatives of the SFA, the FDACS, the USDA, and the Auditor General, and other governmental entities with monitoring authority at any reasonable time and place. If audit findings have not been resolved, the records shall be retained beyond the specified period as long as required for the resolution of the issues raised by the audit.
- 16.3 All records relating to the Contract, including subsequent Renewal Terms, if applicable, are property of the SFA and shall be maintained in original form on SFA premises for the duration of the Contract. At any time during the Contract, the SFA reserves the right to require the VENDOR to surrender all records relating to the Contract to the SFA within 30 days of such request. Such records shall include, but are not limited to:
- All data, materials, and products created by the VENDOR on behalf of the SFA and in furtherance of the Services
  - Production records, including quantities and amounts of food used in preparation of each meal and food component of menus
  - Standardized recipes and yield from recipes as deemed necessary per the requirements of paragraph 15.8
  - Processed product nutritional analysis
  - Dates of preparation of meals
  - Number of meals and locations where meals were delivered
  - Signed delivery slips
  - Nutritional content of individual food items and meals as delivered
  - Bills charged to SFA for meals delivered under this contract including the credit of USDA foods where applicable
  - Inventory records
  - Food and bid specifications
  - All documents and records as noted in this *Invitation to Bid and Contract*
- 16.4 Upon expiration or termination of the Contract, the VENDOR shall surrender all records as noted above, relating to the initial Contract and all subsequent renewal Terms, if applicable, to the SFA within 30 days of the Contract expiration or termination.
- 16.5 The SFA shall retain all records relating to the initial contract and all subsequent renewals for the longer of the retention periods required by federal, state or local laws and regulations that govern the SFA regarding recordkeeping and records retention.
- 16.6 All records must be available for the period of time specified above for the purpose of making audits, examinations, excerpts, and transcriptions by representatives of the SFA, the FDACS, the USDA, and the Auditor General, and other governmental entities with monitoring authority at any reasonable time and place. If audit findings have not been resolved, the records shall be retained beyond the specified period as long as required for the resolution of the issues raised by the audit.

### **SECTION 14 TERMS AND TERMINATION**

- 17.1 This Contract is effective for the time needed to order the equipment and install the equipment.").

- 17.2 Either the SFA or VENDOR can terminate this Contract for cause or for convenience with a sixty- (60) day written notification. Following sixty- (60) day written notification, the SFA can terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the VENDOR.
- 17.3 Following any termination for convenience, the VENDOR shall be entitled to compensation for services completed upon submission of invoices and proof of claim for services provided under this Contract up to and including the date of termination. The SFA shall have the right to receive services from the Contractor through the effective date of the notice of termination, and may, at its election, procure such work from other contractors as may be necessary to complete the services.
- 17.4 Notwithstanding the notice period in paragraph 17.3, the SFA may immediately terminate the Contract, in whole or in part, upon notice to the VENDOR if the SFA determines that the actions, or failure to act, of the VENDOR, its agents, employees or subcontractors have caused, or reasonably could cause jeopardy to health, safety, or property; or if the SFA determines that the VENDOR lacks the financial resources to perform under the Contract.
- 17.5 If the VENDOR fails to perform to the SFA's satisfaction any material requirement of this Contract or is in violation of a material provision of this Contract, the SFA shall provide written notice to the VENDOR requesting that the breach or noncompliance be remedied within sixty- (60) days. If the breach or noncompliance is not remedied by the specified period of time, the SFA may either: (a) immediately terminate the Contract without additional written notice or, (b) enforce the terms and conditions of the Contract, and in either event seek any available legal or equitable remedies and damages. The SFA may finish the services by whatever method the SFA may deem expedient. Any damages incurred by the SFA as a result of any VENDOR default shall be borne by the VENDOR at its sole cost and expense, shall not be payable as part of the Contract amount, and shall be reimbursed to the SFA by the VENDOR upon demand.
- 17.6 Neither the VENDOR nor SFA shall be responsible for any losses resulting if the fulfillment of the terms of the Contract is delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or any other acts which could not have been prevented by the exercise of due diligence ("Act of God"). The SFA may cancel the Contract without penalty if the VENDOR's performance does not resume within 30 days of the VENDOR's interruption of services due to an Act of God.
- 17.7 The only rates and fees that may be adjusted in subsequent Contract Terms are the fixed rates contained herein. Before any fixed rate adjustments can be implemented as part of a Contract renewal agreement, the VENDOR shall document to the SFA, through a written financial analysis, the need for such adjustments. Adjustment of all individual per meal fixed rates and applicable fees in subsequent Contract Terms must not exceed the *Consumer Price Index for Urban Consumers—Food Away From Home* annualized rate for December of the current school year. Individual per meal fixed rate and applicable fixed fee increases cannot exceed the CPI as stated above. Percentage increases cannot be applied to any previous year's total estimated or actual contract cost.

## **SECTION 18 GENERAL CONTRACT TERMS**

- 18.1 No provision of this Contract shall be assigned or subcontracted without prior written consent of the SFA.
- 18.2 This solicitation/Contract, exhibits, and attachments constitute the entire agreement between the SFA and VENDOR and may not be changed, extended orally, or altered by course of conduct. No other contracts will be signed by the SFA.
- 18.3 Each party to this Contract represents and warrants to the other that: (a) it has the right, power and authority to enter into and perform its obligations under this Contract and (b) it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and (c) this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 18.4 Any silence, absence, or omission from the Contract specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and all materials, workmanship, and services rendered shall be of a quality that would normally be specified by the SFA.
- 18.5 No course of dealing or failure of the SFA to enforce strictly any term, right, or condition of this Contract shall be construed as a waiver of such term, right, or condition. No express waiver of any term, right, or condition of this Contract shall operate as a waiver of any other term, right, or condition.

- 18.6 Payments on any claim shall not prevent the SFA from making claim for adjustment on any item found not to have been in accordance with the provisions of this Contract.
- 18.7 It is further agreed between the SFA and VENDOR that the exhibits, attachments, and clauses attached and designated are hereby in all respects made a part of this Contract.

18.8 Minority-Owned Business Enterprise.

Both parties agree to take affirmative steps to ensure that small businesses, minority-owned businesses and women's business enterprises are used whenever possible:

- 18.8.1 Affirmative steps shall include the following: Include qualified small businesses, minority-owned businesses and women's business enterprises on solicitation lists;
- 18.8.2 Assuring that small businesses, minority-owned businesses and women's businesses are solicited whenever they are potential sources;
- 18.8.3 When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small businesses, minority-owned businesses and women's business participation;
- 18.8.4 Where the requirement permits, establishing delivery schedules which will encourage participation by small businesses, minority-owned businesses and women's businesses;
- 18.8.5 Using the services and assistance of the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned businesses and women's business enterprises.

18.9 The Vendor hereby agrees that it will comply with:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
- ii. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- iii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
- iv. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- v. Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
- vi. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- vii. All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
- viii. Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3);
- ix. Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA; and hereby gives assurance that it will immediately take measures necessary to effectuate this Agreement.
- x. The USDA non-discrimination statement that in accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

18.10 If this Contract is in excess of \$100,000, the SFA and VENDOR shall comply with all applicable standards, orders, and regulations, including but not limited to:

- The Clean Air Act (42 U.S.C. § 7401 et seq.), the Clean Water Act (33 U.S.C. § 1311–1330, § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. § 1.1 et seq.);
- *Certification Regarding Lobbying* pursuant to 31 U.S.C. 1352 (2 C.F.R. Appendix II to Part 200); and
- *Disclosure of Lobbying Activities* pursuant to 31 U.S.C. 1352 (2 C.F.R. Appendix II to Part 200).
- *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions* pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension (2 C.F.R. Appendix II to Part 200). The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733).

18.11 The VENDOR certifies compliance with:

- Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871);

- Contract Work Hours and Safety Standards Act (29 C.F.R. Part 5);
- Executive Order 11246, entitled *Equal Employment Opportunity*, as amended by Executive Order 11375 and Department of Labor Regulation (41 C.F.R. Chapter 60);
- Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3); and
- Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).
- Procurement of Recovered Materials. (2 C.F.R. 200.323 Solid Waste Disposal Act)

18.12 The VENDOR is subject to the provisions of Section 2209d of Title 7 of the United States Code due to the use of federal funds for the food service program. All announcements and other materials publicizing this program must include statements as to the amount and proportion of federal funding involved.

18.13 The FDACS and the USDA are not parties to this Contract and are not obligated, liable, or responsible for any action or inaction by the SFA or the VENDOR. The SFA has full responsibility for ensuring the terms of the Contract are fulfilled.

18.14 To the fullest extent permitted by law, the VENDOR agrees to indemnify, defend, and hold harmless the SFA and its respective agents, officers and employees from and against any and all claims, demands, suits, liabilities, injuries (personal or bodily), property damage, causes of action, losses, costs, expenses, damages, or penalties, including, without limitation, reasonable defense costs, and reasonable legal fees, arising or resulting from, or occasioned by or in connection with (i) any bodily injury or property damage resulting or arising from any act or omission to act (whether negligent, willful, wrongful, or otherwise) by the VENDOR, its subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable; (ii) failure by the VENDOR or its subcontractors to comply with any Laws applicable to the performance of the Services; (iii) any breach of this Contract, including, without limitation, any representation or warranty provided by the VENDOR herein; (iv) any employment actions of any nature or kind including but not limited to, workers compensation, or labor action brought by the VENDOR's employees; or (v) any identity breach or infringement of any copyright, trademark, patent, or other intellectual property right.

SFA:

Agreement Number

Total Estimated Amount of Contract<sup>2</sup> \$ \_\_\_\_\_

<sup>1</sup> "Units" equals the number of estimated students participating daily in NSLP, multiplied by the number of days meals will be served during the Contract Term.

<sup>2</sup>All totals must be carried out to the second decimal place and must not be rounded.

By submission of this bid, the bidder certifies that in the event the bidder receives an award under this solicitation, the bidder shall operate in accordance with all applicable current program regulations. This agreement shall be in effect for one year and may be renewed by mutual agreement for four additional one-year Renewal Terms.

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Signature of Authorized Bidder Title Date

**ACCEPTANCE OF CONTRACT**

\_\_\_\_\_  
Name of SFA Representative Title

---

**Signature of Authorized SFA Representative**

**Date**



**CERTIFICATION REGARDING LOBBYING**

**CERTIFICATION FOR CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS**

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

1. No Federal appropriated-funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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 or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

By \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Official (Executive Director) Authorized to Sign Application)

By \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Official (Chief Financial Officer) Authorized to Sign Application)

For \_\_\_\_\_  
Name of Grantee

\_\_\_\_\_  
Title of Grant Program

### Disclosure of Lobbying Activities

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 change  <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"/> Subawardee Tier _____, if Known:   <b>Congressional District, if known:</b>		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>     <b>Congressional District, if known:</b>
<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 Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(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>Signature:</b> _____  <b>Print Name:</b> _____  <b>Title:</b> _____  <b>Telephone No.:</b> _____ <b>Date:</b> _____	

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

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or 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. 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 followup 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 subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," 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; Invitations to Bid (ITB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included 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 registrant under the Lobbying Disclosure Act of 1995 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. The certifying official shall sign and date the form; print his/her name, title, and telephone number.

## Certificate of Independent Price Determination

*Both the Sponsor and the Vendor shall execute this Certificate of Independent Price Determination.*

\_\_\_\_\_  
Sponsor Name

\_\_\_\_\_  
Vendor Name

- A. By submission of this offer, the vendor certifies as to its own organization, that in connection with this solicitation:
- 1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other vendor or competitor;
  - 2) Unless otherwise required by law, the prices provided in this offer have not been knowingly disclosed by the vendor and will not knowingly be disclosed by the vendor prior to the public opening either directly or indirectly to any other vendor or competitor; and
  - 3) No attempt has been made or will be made by the vendor to induce any person or firm to submit or not to submit, an offer for the purpose of restricting competition.
- B. The person signing this offer on behalf of the vendor certifies that:
- 1) He or she is the person in the vendor's organization responsible for the decision as to the prices being offered herein and has not participated, and will not participate, in any action contrary to A.1 through A.3 above; or
  - 2) He or she is not the person in the vendor's organization responsible for the decision as to the prices being offered herein, but that he or she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to A.1 through A.3 above, and as their agent does hereby so certify; and he or she has not participated, and will not participate, in any action contrary to A.1 through A.3 above.

To the best of my knowledge, this vendor, its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

\_\_\_\_\_  
**Signature of Authorized Vendor Representative**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
**Signature of Authorized Sponsor Representative**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**Certification Regarding Drug-Free Workplace Requirements (Grants)  
Alternative I – For Grantees Other Than Individuals**

*The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing §§ 5151-5160 of the Drug-Free Workplace Act of 1998 (Pub. L. 100-690, Title V, Subtitle D: 41 U.S.C. § 8101 et seq.), and 2 CFR Parts 182 and 421. The regulations were amended and published on June 15, 2009, in 74 Fed. Reg. 28150-28154 and on December 8, 2011, in 76 Fed. Reg. 76610-76611. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the grant.*

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal or civil fraud, privacy, and other statutes may be applicable to the information provided.*

*(Read instructions on page three before completing certification.)*

- A. The grantee certifies that it will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  2. Establishing an ongoing drug-free awareness program to inform employees about –
    - a. The dangers of drug abuse in the workplace;
    - b. The grantee's policy of maintaining a drug-free workplace;
    - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
    - d. The penalties that may be imposed upon employees for drug-abuse violations occurring in the workplace.
  3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph A.1.
  4. Notifying the employee in the statement required by paragraph A.1 that, as a condition of employment under the grant, the employee will --
    - a. Abide by the terms of the statement; and
    - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than 5 calendar days after such conviction;
  5. Notifying the agency in writing, within 10 calendar days after receiving notice under subparagraph A.4.b from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
  6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph A.4.b, with respect to any employee who is so convicted –
    - a. Taking appropriate personnel action against such an employee, up to and including termination,

consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

- b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or, local health, law enforcement, or other appropriate agency;

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

PLACE OF PERFORMANCE <i>(Street Address, City, County, State, Zip Code)</i>	
Check <input type="checkbox"/> if there are workplaces on file that are not identified here.	
ORGANIZATION NAME	PR/AWARD NUMBER OR PROJECT NAME
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S)	
SIGNATURE(S)	DATE

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

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the state or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, [AD-3027](#), found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

1. **Mail:** U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410;
2. **Fax:** (202) 690-7442; or
3. **Email:** [program.intake@usda.gov](mailto:program.intake@usda.gov).

*USDA is an equal opportunity provider, employer, and lender.*

### *Instructions for Certification*

- (1) By signing and submitting this form, the grantee is providing the certification set out on pages one and two in accordance with these instructions.
- (2) The certification set out on pages one and two is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
- (3) Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
- (4) Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
- (5) If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s). If it previously identified the workplaces in question, see paragraph (3) above.
- (6) Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:
  - "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act, 21 U.S.C. § 812, and as further defined by 21 C.F.R. §§ 1308.11-1308.15.
  - "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
  - "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.
  - "Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all "direct charge" employees (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement, consultants or independent contractors not on the grantee's payroll, or employees of subrecipients or subcontractors in covered workplaces).



## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 CFR §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal or civil fraud, privacy, and other statutes may be applicable to the information provided.

*(Read instructions on page two before completing certification.)*

A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;

B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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

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

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the state or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, [AD-3027](#), found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

1. **Mail:** U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410;
2. **Fax:** (202) 690-7442; or
3. **Email:** [program.intake@usda.gov](mailto:program.intake@usda.gov).

*USDA is an equal opportunity provider, employer, and lender.*

### *Instructions for Certification*

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