



Request for Proposal

- **Produce (SY23-24PR)**

Southwestern Ohio Educational Purchasing Council (EPC)
Ohio Mid-Eastern Regional Education Service Agency (OMERESA)
Stark County Schools Council

Issue Date: Friday, April 14, 2023

RFP Response Due Date: Wednesday, May 17, 2023, by 4:00 PM

RFP responses are required to be submitted electronically:

- **Upload Documents** - Send an email to Robin.Houston@epcschools.org for your Customized Upload Folder Link to be sent to you.

OR

- **Email documents** directly to Robin.Houston@epcschools.org. If you do not receive confirmation emails back, please call us at 937.890.3725 Ext. 1001.

Contract Duration: July 1, 2023 – June 30, 2024

with the option to renew for up to four (4) additional terms of one (1) year each:

July 1, 2024 - June 30, 2025

July 1, 2025 - June 30, 2026

July 1, 2026 - June 30, 2027

July 1, 2027 - June 30, 2028

Bid Coordinator:

Robin Houston

Robin.Houston@epcschools.org

937.890.3725 Ext. 1001

Interim Director of Food Service Programs:

Bonnie Muckenthaler

Bonnie.Muckenthaler@epcschools.org

937.890.3725 Ext. 1006

Notice of R F P

Notice is hereby given that the Southwestern Ohio Educational Purchasing Council (EPC), Ohio Mid-Eastern Regional Educational Services Agency (OMERESA), Stark County Schools Council of Governments (Stark), hereafter referred to as AGENCIES, will receive Request for Proposal (RFP) for the procurement of the following:

- Produce

Responders may bid on all or on part of these products and are not required to be able to service every district represented by AGENCIES but are required to note which districts they can serve.

Proposals must be delivered electronically by Wednesday, May 17, 2023 by 4:00 pm to: Robin.Houston@epcschools.org or via their Customized Upload Folder Link (which can be requested by emailing us at Robin.Houston@epcschools.org).

Together, the AGENCIES represent Ohio K-12 students in approximately 435 school districts. AGENCIES' committees and/or member districts will review and evaluate the submitted proposals to determine the final Vendor selection. Only complete proposal responses, including acceptance of all RFP terms and completion of all appendices, will be reviewed. Final Vendor selection will take place after all necessary committee and membership meetings (see timeline).

AGENCIES reserve the right to reject any and all bids. No bidder may withdraw their bid for a period of ninety (90) days after the date set for the opening of bids. Refer to the formal proposal documents and specifications for additional information, terms, and conditions.



Bonnie Muckenthaler
On behalf of AGENCIES



RFP Timeline:

- **Produce (SY23-24PR)**

Southwestern Ohio Educational Purchasing Council (EPC)
 Ohio Mid-Eastern Regional Education Service Agency (OMERESA)
 Stark County Schools Council

A. Request for Proposal Issued	April 14, 2023
B. Deadline for Clarification Requests	May 1, 2023 by 4:00
C. Responses to any Clarification Requests	May 5, 2023 by 4:00
D. Response Due	May 17, 2023 by 4:00
E. Evaluation of Responses	May 17 - June 1, 2023
F. Notification of Contract Award on or before	June 2, 2023
G. Contract Start Date	July 1, 2023



Request for Proposal

- **Produce (SY23-24PR)**

Southwestern Ohio Educational Purchasing Council (EPC)
Ohio Mid-Eastern Regional Education Service Agency (OMERESA)
Stark County Schools Council

Goods & Services Agreement

Bidder hereby warrants and attests that the prices quoted, as a part of this bid response, are and will continue to be bidder's best price available in the markets and districts as defined in the bid package. This assurance of best pricing available is, by your bid response, made a condition of bid award and continued acceptable performance. For quotes for fixed-priced contracts, the pricing at the time of award is a condition of award but not a condition of continued acceptable performance.

Please bid your lowest prices for the items or services on the attached specification sheets. Before bidding, please read the RFP and thoroughly acquaint yourself with the project.

Submit an electronic copy of your proposal via email to: Robin.Houston@epcschools.org

All Excel files shall be submitted back to us in Excel format.

All questions must be submitted in writing to: Robin.Houston@epcschools.org by May 1, 2023 at 4:00 pm. Responses to questions will be emailed by the EPC no later than May 5, 2023.

The undersigned hereby proposes and agrees to furnish and deliver the goods or services as quoted in accordance with the terms, conditions, specifications, and prices herein quoted.

Respondent's Name: _____

Signed By: _____ (Must be written signature)

Company: _____

Title: _____ Date: _____

Complete Mailing Address: _____

City, State & Zip Code: _____

Phone Number: _____ Fax number: _____

E-Mail Address: _____

I. PRODUCE PROGRAM RFP PROCUREMENT REQUIREMENTS

By initialing in the blue boxes, Vendor agrees it has submitted documentation as necessary and shall make a good faith effort to work with AGENCIES to provide such information and to satisfy such requirements as may apply to an AGENCIES' Member District purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

1 Non-Collusion Affidavit

Each Respondent submitting a proposal shall execute and deliver a non-collusion affidavit in the form attached hereto. Failure to submit such non-collusion affidavit shall be grounds to reject a proposal as non-responsive.

2 Buy American Clause

7 CFR 210.21(d) and 220.16(d), which implement Section 104 (d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998, *require* SFAs to use their Nonprofit School Foodservice Account funds to purchase domestic commodities or products to the maximum extent practicable. "Domestic commodity or product" means an agricultural commodity produced in the United States or a food product that is processed in the United States substantially using agricultural commodities produced in the United States. There is a two-part test to determine the country of origin for a processed end product: (1) The article must be processed in the United States or its territories; and (2) the cost of domestic components must exceed 50 percent of the cost of all the components. The Buy American requirements apply to agricultural commodities and food products. AGENCIES' Member Districts participate in federal school meals programs and as such are required to purchase domestic products for school meals to the maximum extent practical. Federal regulations require that all foods purchased for Child Nutrition Programs be of domestic origin to the maximum extent practical. Two exceptions exist:

- 1.** The product is not produced or manufactured in the US in sufficient, reasonable, and available quantities of satisfactory quality and
- 2.** Competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.
 - a.** Vendor must affirm their willingness to assert their best and reasonable efforts to ensure compliance with this federal rule.
 - b.** Vendor must ensure that the country of origin is clearly stated on all product labels, invoices, online ordering platforms, receipts, AGENCIES' Bid Documents and/or other delivery documents so that the recipient SFA is able to verify the country of origin is the United States. If that is not feasible, Vendor shall provide documentation when requested. The Vendor must require its suppliers to certify the domestic origin and content of the suppliers' commodities and products. If Vendor is unable or unwilling to make such certification, AGENCIES will not purchase from the Vendor.
 - c.** 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.
 - d.** All products that are normally purchased by Vendor as non-domestic and proposed as part of this RFP must be identified with the country of origin. Vendor shall outline their procedures to notify AGENCIES when products are purchased as non-domestic. If Vendor bids a non-domestic product because of a significant price differential between the domestic product and the non-domestic product, if requested documentation shall be provided to AGENCIES to justify the exception.
 - e.** ***Vendor must notate on the Excel bid document as directed if the product meets the definition of Buy American.***

3 Certification Regarding Lobbying

Each Respondent submitting a proposal shall execute and deliver a Certification Regarding Lobbying affidavit in the form attached hereto. Failure to submit such lobbying certification shall be grounds to reject a proposal as non-responsive.

4 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. *Vendor must submit their food recall procedures and identify two points of contact for the AGENCIES.* In the event of a recall, AGENCIES' points of contact are:

Bonnie Muckenthaler

Bonnie.Muckenthaler@epcschools.org

Robin Houston

Robin.Houston@epcschools.org

5 Insurance

Vendor shall carry and maintain, during the entire term of this contract, insurance as is customarily maintained by Vendors and distributors of food products of the type, quality, and grade provided for under this contract. Vendor shall carry Workers' Compensation Insurance in such amounts as may be required by law.

a. Awarded Vendor shall furnish to the AGENCIES certificates of insurance signed by an authorized representative of the insurance carrier no later than thirty (30) days after the AGENCIES' approval of the contract or prior to the first delivery of products hereunder, whichever occurs first. Certificates shall be endorsed as follows: "This policy shall not be suspended, canceled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the AGENCIES. Date of suspension, cancellation, reduction, or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the AGENCIES with respect to the matters covered by such policy shall be excess and non-contributing."

b. The certificates of insurance and insurance policies required under this Contract shall name the AGENCIES and AGENCIES Member Districts as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the AGENCIES within the time period provided stated above, the AGENCIES may declare the Contract unexecuted and void. The AGENCIES reserve the right to require complete certified copies of the required insurance policies.

c. The insurance companies providing the insurance required under this Contract shall be subject to the AGENCIES' prior written approval, which shall not be unreasonably withheld.

d. If Vendor fails to purchase and maintain any insurance required under this Section 5, the AGENCIES may, but shall not be obligated to, upon five (5) days written notice to Vendor, purchase such insurance on behalf of Vendor and shall be entitled to be reimbursed by Vendor promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Vendor hereunder. Any amounts expended by the AGENCIES hereunder shall bear interest from the date expended until repaid to the AGENCIES at the rate of ten percent (10%) per annum.

6 Terms and Conditions

The AGENCIES Member Districts may receive federal funding to purchase the products and therefore may be subject to the federal rules governing the management of grant funds from the USDA, including without limitation 7 CFR Part 3016, 7 CFR Part 3019, and 7 CFR Part 210. To the extent the federal regulations are

applicable, the successful Vendor and AGENCIES Member Districts that enter into sales contract acknowledge that sales and purchases made pursuant to this contract are subject to the following terms and conditions:

a. Any AGENCIES Member district may terminate its sales contract with the successful Vendor, in whole or in part, for cause or convenience, 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 AGENCIES Member District, 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 AGENCIES Member District 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 AGENCIES Member District 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 AGENCIES Member District 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 AGENCIES Member District will pay these amounts after Vendor delivers to the AGENCIES Member District any completed goods. If the AGENCIES Member District made payments of the purchase price to Vendor that in the aggregate exceed the total amounts payable by the AGENCIES Member District to Vendor under the preceding provisions, then Vendor must promptly refund the excess to the AGENCIES Member District.

b. All parties must attempt to settle any dispute between them amicably in accordance with subsection 6a above. To this end, the parties must consult and negotiate to reach a solution. However, nothing in this subsection 6b will preclude any party from commencing a proceeding if the negotiations do not reach a resolution. All disputes arising out of a contract between an AGENCIES Member District and the Vendor 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 AGENCIES Member district 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. Pursuant to 7 CFR 210.21(f)(1), any AGENCIES Member District that is a SFA will pay for the allowable costs of Products from the SFA's nonprofit school food service account to the successful Vendor net of all discounts, rebates, and other applicable credits accruing to or received by the successful Vendor, 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 food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or (2) exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification. The successful Vendor's determination of its allowable costs must be made in compliance with the applicable USDA and 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. Upon request, the successful Vendor must provide the AGENCIES or AGENCIES' Member Districts, or any of their duly authorized representatives with access to books, documents, papers, and records that are directly pertinent to the contract for reporting, excerpts, transcriptions, or for the purpose of conducting a district audit, or examination.

e. The successful Vendor must retain all records with respect to an AGENCIES Member District required under the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (7 CFR § 3016), for at least three years after the AGENCIES Member District makes its final payments and all other pending matters are closed.

f. To the extent applicable, the successful Vendor must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42U.S.C. 7401 *et seq.* and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*) and mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871). Violations must be reported to the USDA and the Regional Office of the Environmental Protection Agency ("**EPA**").

g. To the extent applicable, the successful Vendor must comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 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 sales contract 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. No contract will be made with parties listed on the Excluded Parties List System maintained as part of the federal System for Awards Management.

i. In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, employees, and member districts participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex (including gender identity and sexual orientation), religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

j. Historically Underutilized Businesses (HUB'S) The AGENCIES is taking the following actions to assist Historically Underutilized Businesses (HUB's) in doing business with the AGENCIES. 1. Ensures that HUB's are given a fair and equal opportunity to participate in their contracts. 2. Will place qualified small and minority businesses and women's business enterprises on solicitation lists 3. Assure that small and minority business and women's business enterprises are solicited whenever they are potential sources.

k. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). 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 non-Federal entity 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 non-Federal entity 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 in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient 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 they are otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

l. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, 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 one and a half 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 that 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.

m. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub-recipient 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 sub-recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

n. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

o. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not 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.

p. Free and Open Competition: This RFP is intended to promote free and open competition. If the language, specifications, terms, and conditions, or any combination thereof, restricts or limits the requirements in this solicitation to a single source, it must be the responsibility of the interested Vendor to notify Robin Houston, in writing, at Robin.Houston@epcschools.org at least 5 days before the due

date for bids. The solicitation may or may not be changed but a review of such notification will be made prior to the award of the contract.

7 Provisions Required by Law

Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.

II. BID DESCRIPTION

A. Annual Bid Description

The Annual Contract is a commitment to purchase from designated Vendors products used by AGENCIES' Member Districts. The collective purchasing power of these AGENCIES represents Ohio K-12 students in approximately 435 school districts. In order for this program to achieve the highest degree of success, the Vendors must be committed to stocking required products on a competitive basis.

B. Partnership Goals

- Increased and improved levels of service.
- Improved uniform product quality.
- Competitive price structure and contained costs.
- Increased control of quality standards.
- Expedited deliveries.
- Streamlined paperwork.
- Reduced administrative costs.

C. Objectives

Through this RFP, AGENCIES will select experienced and qualified Vendor(s) who can provide the most efficient and effective combination of price, quality of product, delivery schedules, billing processes, and overall service standards that will meet our Member District's requirements.

It will also be necessary to maintain continuity of supply for its food service needs as changing brands could potentially introduce unnecessary hardships on our student customers thereby jeopardizing the integrity of our programs. Therefore, the successful RESPONDER must be both capable and willing to purchase the brands as specified, or equivalents, and from a third-party producer if requested by AGENCIES.

D. Length of Contract

Contract Duration: July 1, 2023 – June 30, 2024, with an option to renew for up to four (4) additional terms of one (1) year each: July 1, 2024 through June 30, 2025; July 1, 2025 through June 30, 2026; July 1, 2026 through June 30, 2027 and July 1, 2027 through June 30, 2028. Note: automatic extensions are prohibited; both parties must execute a contract extension in writing.

E. Administrative Fee

Awarded Vendor will pay the AGENCIES a **.75%** Administrative Fee on every item (bid and non-bid) sold. The administrative fee shall be paid to the EPC (EPC, SCS, and OMERESA) in one payment no later than August 31 of that contract year. Matching Reports must be emailed in Excel format to Robin.Houston@epcschools.org

III. BID PROCESS

Quotation Due Date: Quotations must be received by 4:00 pm on May 17, 2023.

Method of Submitting Quotation: An Excel spreadsheet is provided for proposal item information. Please enter all bid information in the **Blue** area of the worksheet. Responders must fully fill out all

Appendices and forms. **AGENCIES reserve the right to reject any bid with incomplete information and incomplete forms.**

It is the sole responsibility of the respondent to ensure proper and timely delivery of their Bid response. Bids must be received by the stated deadline. Bids received after the specified closing date and time will not be considered. Requests for an extension of the closing date and time will not be granted unless determined, at its sole discretion, that the original due date appears impractical. Any extension will be provided in writing to all RESPONDERS.

RESPONDERS ARE CAUTIONED THAT CHANGES IN THE FORMAT OF THE EXCEL SHEET (INCLUDING, BUT NOT NECESSARILY LIMITED TO, MOVING OR REARRANGING CELLS/ROWS/COLUMNS, CHANGING HEADINGS OF ROWS/COLUMNS, ADDING OR DELETING CELLS/ROWS/COLUMNS) WILL RENDER THE PROPOSAL NONRESPONSIVE AND THE BID WILL BE REMOVED FROM CONSIDERATION. Please note that there are multiple tabs within the workbook, including an Instructions tab.

A. Response Format and Submittal

All information requested in the RFP must be submitted on or before the closing date and time. Failure to provide required data to allow for evaluation of the Bid or failure to complete the online quotation and accompanying documents will be grounds for rejecting the Bid.

B. RFP Status and Submission

1. Bid Acceptance/Rejection

Acceptance - AGENCIES reserve the right to reject any or all bids submitted for consideration in whole or in part, and to waive minor technicalities, irregularities, or omissions if, in its judgment, the best interest of AGENCIES and AGENCIES' Member Districts will be served.

Non-acceptance of a Bid shall mean that another Bid was deemed more advantageous to AGENCIES and AGENCIES' Member Districts, or that all bids were rejected. Firms whose bids are not accepted will not automatically be notified. However, after a Contract has been awarded, or after all bids have been rejected, all bidding documents will be placed in the public domain and made available for inspection by interested parties.

AGENCIES reserves the right to reject any Proposal if evidence submitted by, or gained through investigation fails to satisfy AGENCIES that a Vendor is properly qualified to carry out the obligations of any ensuing Contract.

AGENCIES will reject any Bid and void any award resulting from this RFP to a Vendor who makes any material misrepresentation in their Bid.

2. Required Signatures

All signatures must be affixed on the forms provided.

3. Withdrawal of bids

Offers may be withdrawn at any time prior to the closing date, but no respondent may withdraw a Bid after that date.

C. Evaluation Criteria

In addition to the required criteria included within this RFP, the AGENCIES' advisory committees and/or member districts will evaluate all proposals based on Vendor responses to the criteria below. An award will be made to the responder(s) whose Proposal, in the sole opinion of AGENCIES, represents the best overall value to AGENCIES and AGENCIES' Member Districts, considering, but not limited to the following criteria:

Evaluation Criteria	Weight Factor
Pricing	41
Quality of Service	39
Ability to satisfy requirements stated in RFP, all required documents submitted	10
Additional Tools & Resources for members	10

Pricing includes but is not limited to the lowest case price and/or lowest unit price. Quick pay discounts and other price savings will also be considered.

Product quality and uniformity is a measure of Member District acceptance of the product and ability to provide a consistent product with minimal substitutions. Product substitutions present a burden to Member Districts.

Ability to satisfy requirements stated in RFP takes into consideration: service, items available and in stock in sufficient quantities to satisfy demand, availability of night deliveries or key stops, delivery time agreements with each Member District, handling of credits, incentives for early delivery, documentation of temperatures, building secured after delivery, a bonded driver for key drop delivery, communication, out of stock notifications, discontinuations, price changes, item number changes, invoicing, Vendor online invoice archival, invoice history available to the district, and Vendor's general responsibility as evidenced by past performance.

D. Contract Status

The response to this RFP will be considered as an offer to Contract. AGENCIES reserves the right to negotiate with any and/or all Vendors, in the best interests of AGENCIES and AGENCIES Member Districts. After final negotiations, AGENCIES will issue an acceptance of the best Bid.

E. Contract Format

The resulting Contract will incorporate the RFP, all additional Contracts and stipulations, and the results of any final negotiations. All of these documents will be included in the final Contract.

F. Contract Assignment or subcontract

The resulting Contract shall not be assigned, transferred, or sublet in whole or in part without the prior written approval of AGENCIES.

G. Bid Award

AGENCIES reserve the right to award multiple Vendor, however, each of AGENCIES' member districts is responsible for selecting its Vendor(s) and products; AGENCIES do not award items. AGENCIES' member districts will use the criteria within this RFP to choose Vendor(s) and products. AGENCIES will identify items that it believes offer the best value to the Member Districts, but the final decision as to which product works best is left up to Member Districts.

See the timeline on page 3 for notification of contract award and contract start date.

H. Contract Extension

This RFP allows for there to be up to four (4) extensions of one (1) year each. Automatic extensions are prohibited; both parties must execute a contract extension in writing. With each extension, a maximum price change equal to the change in the current local area Consumer Price Index (CPI) may be negotiated subject to existing market conditions. In the event of a general price decrease, AGENCIES reserve the right to revoke the contract award unless the decrease is passed on to AGENCIES and AGENCIES' Member Districts.

IV. VENDOR RESPONSES

1. Product Specifications

Vendor shall precisely state additional information for each item quoted in the bid Excel document on the line provided if the Vendor does not bid exactly the item listed. Unless specific exception is made, the assumption will be that you are bidding exactly as specified on this RFP. If the RFP, after completion by the Vendor, does not clearly specify what was bid, the Bid may be rejected. It is fundamental that all products quoted shall be furnished and properly labeled as to the contents according to all USDA requirements, regulations and guidelines.

Vendors shall describe with precision any products they intend to furnish that are not fully in conformance with specifications.

Vendors offering additional product flavors (ie types of apples) not listed in the specifications should submit in writing the products being offered along with packing information and price.

All grades refer to USDA Standards unless otherwise specified. All supplies shall comply with the US Pure Food and Drug Act, any pertinent Ohio Department of Agriculture requirements for product handling, processing, marking and labeling.

2. Pricing

Any bid item (awarded or not) may not be sold to any AGENCIES' Member district for less than quoted price unless approved by the AGENCIES. Any violation of this is subject to cancellation of the contract.

Check your Price Quotation carefully. Price Quotations may not be corrected after the closing date.

3. Indirect Cost Proposal

All Vendors shall offer a detailed pricing program for all non-bid items via a mark-up/margin schedule. The markup/margin shall be a firm, fixed distribution factor offered as a percentage of the product cost, which represents all elements of the delivered price. The markup/margin shall include, but is not limited to, the Vendor's projected general and administrative overhead, packaging costs, transportation costs from the Vendor's distribution center to the ordering institutions; any other projected expense associated with the Vendor's function, and anticipated profit. The distribution price shall be a fixed percentage markup for all items within a product category (see example below). The percentage markup shall not increase during the term of the contract. A decrease in the percentage of markup is permitted at any time during the contract.

Example:	Product Cost	= \$10.00
	Markup/margin	= 5%
	Delivered Price	= \$10.00 x 1.05 = \$10.50

4. Minimum Order

If there is a minimum (dollar) order for delivery, this minimum must be so stated. Please also state whether the minimum order is per building delivery or for all district deliveries on a particular day or if you can offer a minimum order cap for single-day deliveries to one district.

5. Force Majeure

It is the intent of AGENCIES to secure firm prices for the full contract year. It is recognized, but unlikely, that factors beyond the control of the Vendor could substantially increase product pricing. The term force majeure shall include but is not limited to governmental restraints or decrees provided they affect all companies in the vendor's industry equally and are not actions taken solely against the awarded vendor, acts of god (except natural phenomena, such as rain, wind, or flood, which are normally expected in the locale in which performance is to take place); work stoppages due to labor disputes or strikes; fires; explosions; epidemics; riots; war; rebellion; or sabotage. The burden of proving force majeure has occurred shall rest on the Vendor seeking relief. The Vendor seeking relief shall promptly notify AGENCIES in writing, via a report in Excel format of all items to be considered and the price increases requested with documentation justifying said increases. AGENCIES can, at their discretion, allow price

increases in whole or in part. It should be noted that products being submitted under this clause would be subject to a quotation from the other AGENCIES' food Vendor(s).

6. Delivery

Vendor will complete the list of member districts they are able to serve. The buyer can rescind or cancel any purchase orders resulting from this RFP if the Vendor fails to meet delivery schedules or to deliver within a reasonable time, as interpreted by the buyer. Failure to make replacement of rejected articles as directed by the buyer or nonperformance or violation of Contract provisions shall permit the buyer, at its discretion, to rescind or cancel the Contract and purchase in the open market articles or services of comparable grade to replace those rejected or not delivered.

7. Quick Pay Incentive

As another option to this proposal, Vendors can submit a narrative describing a Quick Pay Incentive. Vendors interested in submitting a Quick Pay Incentive proposal shall submit their narrative and all relevant terms and return along with any other required forms no later than the stated RFP deadline. Participation in a Quick Pay Incentive by an individual district is voluntary. The AGENCIES and the AGENCIES' Food Service Committee reserves the right to accept or reject any or all Quick Pay Incentive proposals. Awarded Quick Pay Vendors will communicate with AGENCIES concerning district participation.

8. Return Policy

Return policies must be in full compliance with all regulations cited in this document. Vendors must provide a copy of their return policy as an attachment to the Bid.

9. Service Interruption Plans

In the case of an emergency, severe weather, strike, an act of God, or other disruption, the Vendor will assist AGENCIES and AGENCIES Member Districts in procuring items in an effort to maintain normal delivery schedules. A telephone list of responsible individuals will be maintained in an addendum to the Contract for AGENCIES and AGENCIES Member Districts' use. Failure to maintain normal deliveries during these periods may result in cancellation of the Contract.

The Vendor must furnish AGENCIES and AGENCIES Member Districts with detailed contingency plans to deal with strikes, catastrophes, or natural disasters, outlining how the Vendor will service AGENCIES Member Districts under these adverse conditions. Submit a copy of your disaster plan, with the Bid.

AGENCIES and AGENCIES Member Districts do not view a labor dispute and/or picket lines as a legitimate reason for non-delivery of product. In the case of labor disputes, it is the responsibility of the Vendor to get the products to our delivery areas on schedule.

Whenever a Vendor's place of business, mode of delivery, or source of supply has been disrupted by strike, act of God, or any other disruption it shall be the Vendor's responsibility to promptly notify AGENCIES and AGENCIES Member Districts. AGENCIES and AGENCIES Member Districts may elect to cancel all orders on file with the Vendor and place said orders with another source.

V. VENDOR REQUIREMENTS

1. Packaging, Marking & Holding Quality of Product

All package labeling shall meet current ORC and Ohio Uniform Food Safety Code requirements.

Cases and packages shall be constructed as to insure safe and sanitary transportation to point of delivery. Damaged cases may be rejected and returned for credit or immediate replacement to the original site at no cost to the Member District for produce or freight.

Partial cases of produce are to be packed in appropriate containers to arrive in a firm unblemished state.

2. Holding Quality

Finished products will be well frozen and otherwise in prime condition when delivered. Produce delivered

must comply with the applicable requirements of the local and state departments of health, and the vendor will from time to time upon request furnish the boards of education with a statement from the local board of health that the products furnished pursuant to this agreement comply with all health requirements.

3. Storage Conditions

Storage conditions must comply with local health department regulations and/or be stored under the conditions specified in their labeling.

4. Delivery

The actual date and time of deliveries to the schools within each District are to be arranged by the Vendor with the Food Service Supervisor of each district. Deliveries are required during the delivery window of time as arranged by the Food Service Supervisor to all district locations. This includes key drop and night deliveries if approved and arranged with the Food Service Supervisor at the Member District.

Delivery must be completed in accordance with the terms of the quotation. Vendor is to notify District of any deviation in schedule.

If requested by Member Districts, Vendors shall make arrangements to meet health department guidelines regarding temperature logs.

Multiple copies of delivery slips shall be furnished with each order delivered. The district shall retain two copies; the other copy is to be signed by a district employee and returned to the Vendor at the time the delivery is accepted. All merchandise is to be delivered by a bonded delivery person.

Vendors must establish a Holiday order/delivery schedule at least two (2) weeks prior to the holiday and notify AGENCIES and AGENCIES Member Districts in writing.

5. Delivery and Delivery Vehicles

Vendors shall use only properly insulated, mechanical temperature-controlled refrigeration delivery equipment capable of maintaining continuous temperatures to protect the product and its integrity. In addition, AGENCIES reserves the right to reject the use of any vehicle utilized by a Vendor or carrier that is not clean and sanitary and suitable for hauling and maintaining products in a fresh, wholesome, and attractive condition. All delivery vehicles must meet the National Sanitation Foundation requirements. In the event of Vendors' failure to reliably deliver products and services, AGENCIES Member Districts retain the right to cancel this Contract and use another Vendor of their choice, upon approval by AGENCIES, following a showing of good cause.

6. Ordering

Awarded Vendor(s) shall allow Member Districts to order with orders built to a maximum as specified by the district (build to orders).

7. Receiving, Inspection & Testing

The receiving food service personnel at point of delivery will make final inspection of all products. All products shall be inspected for condition, wholesomeness, and compliance with the item description at the time of delivery. Products that deviate from specifications may be rejected and a replacement demanded, at no cost to AGENCIES Member Districts.

Any product received in dirty containers that have to be cleaned by food service employees and served, the Vendor will issue credit for that product. The Vendor must be in compliance with all federal, state and local health department regulations.

8. Fuel Surcharge

Product pricing is to be delivered price. Fuel surcharges will NOT be accepted and will be cause for a bid to be rejected.

9. Returned Materials

The Vendor shall accept returns for credit under the following circumstances:

- Items ordered or shipped in error may be returned within 10 days of original order.
- Items that do not conform to the terms.

The Vendor should:

- Expedite procedure for authorized returns.
- Provide return procedure for duplicate, unused, incorrect, etc., orders.
- Specify at what dollar value Vendor would authorize AGENCIES Member Districts to dispose of such items.

Items will be credited at AGENCIES Member Districts cost for items shipped in error.

10. Invoicing

Invoices shall be submitted on a monthly basis not later than the fifth working day of the month following the month for which payment is requested. The monthly statement, itemized by school, shall be sent to the food service director of each participating school district. Purchases listed on the statement shall correspond exactly with the purchases shown on the daily delivery slips. Invoices must be sent in duplicate. No item is to be invoiced if it has not been shipped. All invoices must show a purchase order number. Any errors in invoicing must be resolved by Vendor and school District.

11. Payments

Payment will be made when the order has been fully delivered and accepted to the satisfaction of the District. Payment may be withheld in whole or in part, to such extent as may be necessary to protect a Board of Education from loss due to incorrect or defective material.

AGENCIES Member Districts will not pay any finance or late charges unless they specifically agree to them in writing. Vendor invoice/delivery documents that stipulate finance or late charges will not be honored, as receiving personnel are not agents of the AGENCIES with this authority.

Vendor should obtain a signed copy of the invoice/delivery document. Open or unpaid invoices will not be honored for payment without the legible signature of an AGENCIES Member Districts' employee. This document is required as proof of delivery.

12. Credits

When a situation requiring credit is discovered at the time of delivery, (a shortage, or damaged product, etc.), and a food service staff member is available, the AGENCIES Member District receiving location will deduct the amount of credit and have the driver sign the adjusted invoice dollar amount. When situations requiring credit arise, AGENCIES Member Districts will contact their designated customer service representative to receive credit and arrange a pick up on the next scheduled delivery. The Vendor agrees to issue credit within five (5) working days in this type of situation.

13. Shortages or Substitutions

Any discontinued items must be reported to AGENCIES 30 days prior to any substitution or discontinuance of product delivery. AGENCIES may within 30 days after receipt of a Vendor's written notification of product change, cancel without liability to either party, any portion of the Contract affected by the requested notice of change and undelivered at time of cancellation. Should a Vendor substitute or discontinue items without good cause, AGENCIES may, at its option, cancel the Contract and permit member school Districts to independently purchase products for the remainder of the Contract period.

The Vendor must notify the AGENCIES Member Districts of out-of-stock situations no later than one hour after the order is placed (in some cases, out-of-stocks will be identified when the order is placed). Note: No products should be back ordered.

The Vendor can substitute products only if the designated District has granted consent. Requests for substitutions must be addressed in a timely manner by the Vendor to AGENCIES' Member Districts so delivery and production delays do not occur.

Substitutions must be of equal or superior quality and should be the same price as the out-of-stock product that was originally ordered. All substitutions must be provided by the time the original order is delivered.

14. Reports

All reports are to be submitted electronically in Excel format.

A report will be required for the contract year: July 1 to June 30 (and corresponding years if the RFP is extended). This report shall be broken down by Cooperative (EPC, OMERESA, and Stark) and by School District and shall include sales volume for bid and non-bid items by dollar amount. The Vendor shall also include a final report of aggregate quantities by product in case lots and dollar volume if requested. The final reports are to be delivered to AGENCIES no later than August 31 of that contract year. Throughout the year, additional reporting may be requested as desired by AGENCIES.

15. Additional bid items

At any time throughout the Contract period, upon AGENCIES' request, awarded Vendor(s) shall request bid item pricing from manufacturers and pass that pricing on to Member Districts.

16. Indemnification Requirements

The requirements listed below are mandatory for protecting the interests of AGENCIES and AGENCIES Member Districts.

a. Hold Harmless

The successful Bid shall indemnify and hold harmless AGENCIES and AGENCIES Member Districts from all providers' performance or failure of performance under the resulting Contract.

The Vendor agrees to jointly and severally indemnify and hold AGENCIES and AGENCIES Member Districts, its agents, successors, and assigns, harmless from and against all liability, loss, damage, or expense, including reasonable attorney's fees which may be incurred or sustained by reason of the failure of the Vendor to fully perform and comply with the terms and obligations of any Contract resulting from this RFP.

b. Liens

The successful Vendor(s) shall keep AGENCIES and AGENCIES Member Districts free and clear from all liens asserted by any person or firm for any reason arising out of the furnishing of services or materials to the Vendor.

c. Choice of Law and Venue

The resulting Contract shall be construed under the laws of the State of Ohio and venue in any action to enforce the Contract shall be in Montgomery County, Ohio.

d. Actions of Provider

The action of the successful Response with third parties is not binding upon AGENCIES and AGENCIES Member Districts.

17. Standard Terms and Conditions

a. Federal, State, and Local Taxes, Licenses, and Permits

The successful Vendor will comply with all applicable laws and regulations on taxes, licenses, and permits.

b. Waiver of Rights

No delay or failure to enforce any provision of this Contract shall constitute a waiver or limitation of AGENCIES or AGENCIES Member District's rights under any resulting Contract.

c. Provisions

If any provisions in the resultant Contract are held to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

d. Sales and Use Tax Exemption

AGENCIES certifies that it is exempt from Federal Excise Taxes and Ohio State Sales and Use Taxes.

e. Responsibility for those Performing the Work

The Vendor shall be responsible for the acts and omissions of all their employees. The Vendor shall at all times enforce strict discipline and good order among their employees and shall not employ any unfit person or anyone not skilled in the task assigned. The Vendor shall dismiss incompetent or incorrigible employees from the project when so determined by AGENCIES or AGENCIES Member District, and such persons shall be prohibited from returning to the work site without written consent from AGENCIES.

f. Safety

The successful RESPONDER shall provide all necessary safeguards for safety and protection as set forth by the State of Ohio, the United States Department of Labor Occupational Safety and Health Administration, and any other government body with jurisdiction pertaining to the performance of any Contract resulting from this RFP.

18. Health and Safety Issues

Hazardous Materials

The Vendor shall at all times retain title and/or ownership as well as responsibility for hazardous materials delivered by Vendor's error. The Vendor, within one (1) working day, must retrieve hazardous materials that are delivered in error after notification by AGENCIES or AGENCIES Member District. Vendor shall indemnify and hold harmless AGENCIES, its Executive Board, employees, agents, faculty, staff, and students from any claims, including claims of negligence, damages, or liabilities, and including any fines or civil penalties that arise or result from improper delivery of hazardous materials. Vendor must submit the guidelines and procedures used to return or dispose of these materials.

IMPORTANT:

The Vendor, by affixing their signature to this Bid, certifies that this Bid is made without previous understanding, contract, or collusion with any person or corporation making a Bid for the same items and the Bid is in all respects fair without outside control, collusion, and/or otherwise illegal action.
