


Vance County Schools

VENDOR IFB/CONTRACT - MILK



Terms and Conditions

August 1, 2025 – July 31, 2026

USDA NON-DISCRIMINATION STATEMENT

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
Program.Intake@usda.gov

This institution is an equal opportunity provider.

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1.0 SCOPE, PURPOSE AND GENERAL PROVISIONS OF THE IFB/CONTRACT

- 1.1 **Vance County** and is herein after referred to as the School District, is requesting to receive Bids from an OFFERING ENTITY, herein after referred to as Vendor, defined as a company that is offering to order, warehouse and deliver milk for use in the School District's School Nutrition Program. A **School District Profile** is provided which includes pertinent information about the district such as the names, addresses and current average daily breakfast and lunch meals served, average daily snacks served, district payment schedule and, where appropriate, average daily participation in the Summer Food Service Program or Seamless Summer Option.
- 1.2 The School Nutrition Programs receiving goods and services under this Contract are **FEDERALLY- FUNDED** programs operated under the authority of the United States Department of Agriculture (USDA). This IFB and the subsequent Contract shall comply with 7 CFR Parts 210, 220, 225, 250, 2 CFR 200 and applicable cost circulars issued by the Office of Management and Budget (OMB) including A-87 Cost Principals, A -102 Administrative Requirements, and A -133 Audit Requirements.

In compliance with the NC State Division of Purchase and Contract, solicitation for this IFB/Contract Bid has been advertised on the NC Interactive Purchasing System (IPS) a minimum of 10 days in advance of the bid release.

1.3 General Provisions of the IFB/Contract

- 1.3.1 This IFB and all attachments and addenda hereto are awarded by the School District and will become the Contract between the School District and the awarded Vendor.
- 1.3.2 **Vance County** reserves the right to retain all Bids for a period of sixty (60) days or until approval by the Local Board of Education, whichever comes first.
- 1.3.3 **Vance County** reserves the right to reject any and all bids, or parts thereof, and to waive informalities and/or irregularities thereof, and request resubmission of bids from all Vendors.
- 1.3.4 **Vance County** reserves the right, at any time after opening and prior to award, to request from any Vendor clarification of processes or procedures, address technical questions, or to seek other information regarding the Vendor's Bid offer. This process may be used for such purposes as providing an opportunity for the Vendor to clarify their bid in order to assure mutual understanding and/or aid in determinations of responsiveness, or responsibility, of the Vendor.

2.0 VENDOR QUALIFICATION, RESPONSIBILITY, PERSONNEL AND INSURANCE REQUIREMENTS

- 2.1 The Vendor awarded the Contract must be fully acquainted with terms and conditions relating to the scope and restrictions involved in the execution of the work as described. Failure or omission of the Vendor to be familiar with existing conditions shall in no way relieve the company of obligation with respect to this Contract.
- 2.2 The Vendor awarded the Contract must have a minimum of one (1) year of experience in the food business and must maintain a current business license from the State of North Carolina. Vendors shall provide documentation of applicable license, certification, commercial experience, and/or letters of current customer and supplier reference upon request of the School District.
- 2.3 The Vendor awarded the Contract must, upon request of the School District, provide satisfactory evidence of their ability to furnish products in accordance with the terms and conditions of this IFB. The School District reserves the right to make the final determination as to the Vendor's ability to provide the products requested herein.
- 2.4 The Vendor will ensure Manufacturer unit pricing offered under this Contract is NOT transferable, under any circumstances, to School Districts in North Carolina NOT associated with the Vance County Schools. Vance County Schools' product usage reports are to be used for pricing to Vance County Schools only. Pricing identified in this bid by the School District, to be sought by the Vendor, must be solicited specifically on the behalf of the Vance County Schools.
- 2.5 The Vendor will solicit the BEST MANUFACTURER OR PACKER PRICING - including freight - for the longest lock in period when negotiating contract pricing for foods which meet Vance County Schools' specifications.

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2.6 **ADDITIONAL VENDOR RESPONSIBILITIES:**

- 2.6.1 Communicate continuously with school district concerning product movement levels and inventory;
- 2.6.2 Interface with product packers on school district problems relating to product levels and product quality;
- 2.6.3 Provide prompt response to customer issues regarding product quality, product delivery, product damage or billing transaction documentation. Failure to resolve customer issues may result in contract termination or future bid disqualification;
- 2.6.4 Provide timely cost and usage reports when requested by the School District;

2.7 The Vendor shall provide product specifications and nutrition information for all products listed on the bid spreadsheet. **ATTACHMENT A**

2.8 All Vendors submitting bids must provide a current **Hazard Analysis Critical Control Point Summary** (HACCP) describing the Vendor on – site food sanitation and safety practices meeting federal regulation. **ATTACHMENT B**
The awarded bidder must maintain a current HACCP plan through the duration of this contract.

2.8.1 Vance County School District reserve the right to request of the Vendor documentation, on-site inspections of facilities, delivery vehicles and records at any time during the Contract period.

2.8.2 The warehouse and delivery vehicles shall be clean, be free of insects, rodents/animals, and be adequate for storing and delivery of dry, chilled, and frozen food products.

2.9 **VENDOR INSURANCE**

The Vendor awarded the Contract shall maintain all necessary insurance for the period during which purchases are made, including Comprehensive General Liability Insurance, Property Damage Insurance, Workers Compensation Insurance, and Automobile Liability Insurance. The Vendor must provide **Evidence of Insurance** in **ATTACHMENT C** that it currently has, and agrees to purchase and maintain, during its performance under this Contract, the following insurance from one or more insurance companies authorized to do business in the State of North Carolina. In addition, the School District Board of Education shall be named by endorsement as an additional insured on the General and Automobile Liability policies.

2.9.1 **Certificates of such insurance** shall be furnished by Provider to the School District Contact and shall contain an endorsement to provide the School System at least 10 days' written notice of any intent to cancel or terminate by either Provider or the insuring company. Failure to furnish insurance certificates or maintain such insurance shall be a default under this contract and shall be grounds for immediate termination of this Contract.

2.9.2 **Vehicle Bodily Injury and Property Damage** - The Vendor shall maintain bodily injury and property damage liability insurance covering all owned, non-owned and hired vehicles. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each person/each occurrence.

2.9.3 **Commercial General Liability** – Vendor shall maintain Commercial General Liability insurance that shall protect the Vendor from claims of bodily injury or property damage which arise from performance under this Contract in the amount of \$1,000,000 each occurrence and Personal & Advertising Injury \$1,000,000 each occurrence with \$2,000,000 General Aggregate.

2.9.4. **Worker's Compensation** - The Vendor shall meet the statutory requirements of the State of North Carolina for worker's compensation coverage and employer's liability insurance of all employees participating in the provision of services under this contract.

2.9.5. Should any of the above required insurance be cancelled or terminated before the expiration, the issuing company will provide at least ten (10) days written notice to the School District.

2.10 **VENDOR'S PERSONNEL**

2.10.1 The Vendor's personnel are to present a professional appearance at all times while on school property. Personnel shall be neat, clean, well groomed, properly uniformed with name ID and conduct themselves in a respectable and courteous manner while performing duties at any School District facilities.

2.10.2 The Vendor's personnel are forbidden to consume alcohol or use illegal drugs, use tobacco, or possess firearms on school property at any time.

2.10.3 The employment of unauthorized aliens by the Vendor is considered a violation of Section 247A (e) of the Immigration Reform and Control Act of 1986. If the Vendor knowingly employs unauthorized aliens, such a violation shall also be cause for cancellation of the Contract.

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- 2.11 **Lunsford Act.** The Vendor acknowledges that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. This prohibition applies to persons required to register under Article 27A who have committed any offense in Article 7A of Chapter 14 or any offense where the victim of the offense was under the age of 16 years at the time of the offense. **LUNSFORD ACT** compliance is addressed in the **ATTACHMENT D**.
- 2.12 The Vendor awarded the Contract shall be expected to voluntarily comply with all Federal, State and local mandates regarding the **Identification and Recall** of foods from the commercial and consumer marketplace. The Vendor shall have a process in place to effectively respond to a food recall; the process must include accurate and timely communications to the School District and Vance County Schools and assurance that unsafe products are identified and removed from school sites in an expedient, effective and efficient manner. A one-page summary of the **VENDOR'S RECALL POLICY** and procedures is required to be submitted with the Bid in **ATTACHMENT E**.

3.0 VENDOR PRICING REQUIREMENTS and UNIT PRICE/EXTENSION DISCREPANCY

- 3.1 This Milk Bid is awarded to the qualified bidder with the lowest bottom line price from the bidding sheets and verified by the School District. Vendor pricing must be based on the unit of measure as specified in the bidding sheets. Prices are not to exceed four (4) decimal places.
- 3.2 **Bids submitted are to be based on the May-issued Federal-Milk-Order (FMO) for March 2025. Prices at start of contract will reflect these prices adjusted as indicated by subsequent FMOs.**
- 3.3 **UNIT PRICE/EXTENSION DISCREPANCY:** In the event of a discrepancy between the unit price and extension, the unit price will be considered correct. In the School District verification of the bid, errors found in Vendor extensions will be corrected by the School District in bid review and the Vendor(s) notified of the corrected bottom line by in the Preliminary Award Letter.
- 3.4 Vendor spreadsheet TOTAL is determined by:

$$\text{Unit Price} \times \text{District Estimated Annual Bid Quantity} = \text{Total Price.}$$

4.0 ADDITIONAL INFORMATION: PRODUCT PRICING AND CODES/PACK

- 4.1 **PRODUCT CODES AND PACK:** Efforts have been made to provide correct Vendor product codes and Vendor packs before the bids are mailed. All interpretations of the specifications shall be made on the basis of the following statement: If the bidder discovers or suspects error in the item specification, product code number, pack size, or change in manufacturer formulation the Vendor shall contact Phyllis Newcomb at pnewcomb@vcs.k12.nc.us to report the error.

5.0 PRODUCT QUALITY, PRODUCT SPECIFICATIONS AND RECOURSE FOR MISREPRESENTATION

- 5.1 All milk products supplied by the Vendor awarded the Contract will comply with Standards of Identity, Quality and Fill as described in 21 CFR Part 100 of the Food, Drug and Cosmetic Act regulations.
- 5.2 **CONTAINER SPECIFICATIONS:**
Container requirements for all (½) half-pint containers in which milk for the Vance County Schools are packaged shall be half-pint paper cartons. The paper containers shall be plastic coated of the Pure-Pak type or approved equal, sound, sanitary, clean, leak proof and with lids that open properly. All containers must be treated to kill bacteria and provide adequate protection of contents from contamination.
Also, 1) all cartons/bottles must bear a brand name. 2) all milk products are to be labeled with an expiration date.
- 5.3 School Districts have automatic product protection recourse against suppliers for products that are misrepresented. **According to Federal regulations, the supplier whose name and address appears on the package is the responsible party.** The Vendor awarded this Contract is expected to take immediate action to correct any situation in which product integrity is violated.

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6.0 ESTIMATED QUANTITIES AND DISTRICT INFORMATION AFFECTING PURCHASES

- 6.1 Quantities reflected in this IFB are estimates based on the combined projected needs of the School District during the Contract period. These quantities are the best estimate of anticipated needs available at the time of publication of this IFB, but the accuracy of this estimate may be affected by numerous factors including but not limited to, budgetary adjustments, product pricing, availability of Federal funds or other subsidies, changing market forces, or unintentional errors or omissions. Actual needs may be greater or less than the estimated quantities provided.
- 6.2 The Vance County milk usage estimate is a guide to potential product usage of all Vance County schools, but under no circumstances guarantees product usage.
- 6.3 The School District will share with the Vendor information concerning availability of USDA commodities which may impact Vendor ordering levels including: The provision of: School District calendars, advance School District menus, menu changes, NCDA 209 reports, monthly district commodity inventory, and other timely communication from the School District will assist the Vendor in ordering. If needed information is not provided, the Vendor shall make and document efforts to obtain needed ordering data from the School District.

7.0 BID OFFER, BID ERRORS, TIE BID, BID REJECTION AND PIGGYBACK CLAUSE

- 7.1 The submittal of a Bid shall constitute an irrevocable Offer to Contract with the School District. In accordance with the terms of the IFB/Contract, the offer may not be withdrawn until or unless rejected or not accepted by the School District.
- 7.2 **THE FOLLOWING BID ERRORS ARE NON – NEGOTIABLE AND WILL RESULT IN A NON – RESPONSIVE BID:**
- 7.2.1 **No Original Vendor Signature on the Official Vendor Bid Certification Form – New or Renewal Bid.**
- 7.2.2 **Any change to Vance County Schools IFB/CONTRACT contract language by the Vendor.**
- 7.3 The accuracy of all unit prices, fixed - fees and statements contained in the Bid is the responsibility of the Vendor, and no change or cancellation may be made. The School District reserves the right to ask the Vendor for clarification of all bid items prior to the final award.
- 7.4 In the event of an error in a product specification or pricing, that item will be excluded from the tabulation. Any item excluded from the bid tabulation will be excluded for ALL bidders for evaluation purposes only. Multiple bid errors may be rationale for bid the School District's disqualification of a Vendor bid.
- 7.5 In the event of a tie on a Bid LOT or line item, the deadlock will be decided by using the following order:
- 7.5.1 Documented evidence of unresolved service issues with a vendor.
- 7.5.2 Vendor is certified as Small Business/Minority Business/Women Owned Business.
- 7.5.3 All else being equal, by coin toss by the School District with tie Vendors present.
- 7.6 The School District reserves the right to reject any and all Bids, or any parts thereof, and request resubmission of bids from all vendors.
- 7.7 **Piggyback Clause:** The Piggyback Clause is a Legal Provision that may be employed by a local school district in the circumstance of no bids received or all bids received are disqualified. If employed, documented Vendor Agreement, Legal Advertisement of Waiver for Competitive Bidding and Local Board Approval by both Districts is required. Pursuant to **G. S. 143-139 (g)**, when a Local Board of Education (BOE) determines it is in the best interest of the member district over which it has authority, the requirement for competitive bidding may be waived for the purchase of food and supplies contained herein, including all subsequent Amendments, to allow the member district to purchase from the bid/contract with any other member district within the Vance County Schools. The member district's BOE, having approved the waiver for competitive bidding, may enter into a new and separate contract with a vendor who has contracted with another member district provided the member district's BOE is in agreement and the vendor is willing to extend the same or more favorable prices, terms and conditions to the member district for which competitive bidding has been waived.

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8.0 PRELIMINARY AWARD, FINAL AWARD, AND VENDOR OPTION TO DECLINE

8.1 Bottom Line Awards are considered “PRELIMINARY” until the following is completed:

- 8.1.1 The School District reviews the line-by-line prices for accuracy of additions and extensions, brands, and compliance with all instructions to ascertain that the offer is made in accordance with the terms and conditions of the IFB. School officials who find error(s) in calculations will make adjustments and corrections and notify the bid Vendors of bottom line findings in the **Preliminary Award Letter**.
- 8.1.2 After approval by the Local Board of Education, the Local School District issues the approved and signed Official Vendor Certification Form to the Awarded Vendor and issues local Purchase Orders to the Vendor.

8.2 **Vendor Option to Decline:** The Vendor awarded the Contract has the option to decline award if the bidder deems the number of line items awarded insufficient. Any award declined by a Vendor will be awarded to the qualified Vendor with next lowest price. If the first Vendor awarded the Contract chooses to decline the award, **the Vendor is required to provide a written request of relief to the School District within five (5) working days after the Preliminary Bid Award Letter is received from the School District.**

9.0 SPECIAL CONDITIONS

- 9.1 The School District retains the right to add any **Special Condition(s)** to this IFB which details conditions that are specific to the School District. Special Condition(s) shall be titled as such and attached to the IFB behind the Vendor Bid Certification. Special Conditions established by the School District as part of this IFB, and the Vendor's response to the Special Condition(s), shall become part of the Contract when awarded. A School District renewing a bid may update, but not change Special Conditions of the original Contract if to do so would substantially change the terms of the original agreement.

10.0 VALUE ADDED OPTIONS AND SERVICES

- 10.1 Value Added Options and Services including, but not limited to product merchandisers and other purchasing incentives will not be considered as a factor in evaluating this Bid.
- 10.2 Should the Vendor choose to make Value Added Options and Services available, a separate document, describing the specific value added features, shall be submitted at the time of the Bid opening. Documents describing Value Added Options and Services must be presented in a sealed envelope labeled “Value Added Options and Services”. The name of the School District, name of the Vendor and IFB Number must be clearly printed on the envelope. **This envelope is not to be opened by the School District until AFTER the bid is awarded.**

11.0 AUDITS

- 11.1 **Scheduled Audits:** All items included in the Bid Specification Spreadsheets are subject to Audit at any time after the Contract has been awarded. The Vendor shall be given notice of the intent to conduct a Scheduled Audit and receive the documentation at least ten work days in advance. Documentation may be viewed at a time and place agreeable to both the Vendor and the Auditor(s).
- 11.2 The Vendor awarded the Contract shall provide acceptable documentation to the School District to conduct pre- and post-award audits, including, but not limited to the following:
 - A signed manufacturer Price Confirmation is acceptable for bid pricing received, but not yet purchased. Pricing must be on source manufacturer letterhead with official signature and dated no more than 60 calendar days prior to the bid opening or renewal date and note the pricing as specifically for Vance County Schools.
 - Actual manufacturer's invoices on manufacturer's letterhead,
 - Freight bills,
 - Perpetual inventory records,
 - Recognized Market bulletins - used for price changes in Vendor manufactured products, and
 - Documentation of discounts, rebates, allowances, and other procurement incentives intended for the customer (school district) received by the Vendor from the manufacturer and/or supplier.

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- Per USDA regulation 210.21, Vendor cash discounts, label allowances, group allowances, promotion allowances, “bill backs” or other purchasing incentives intended for the customer SHALL accrue to the benefit of the School District. Documentation of all such discounts, or allowances, will be provided with the product audit request.
- Evidence of shopping the market for BEST PRICING (including freight) from manufacturers and packers to purchase quality food and supplies from the pre-approved brands listed on the Bid Specification Spreadsheet(s), locking in pricing for the greatest extent of time to avoid price increases.

- 11.3 The Vendor awarded the Contract shall agree to allow Vance County Schools SN Director on site for inspection and review of documents at any time during normal work hours.
- 11.4 The Vendor shall keep all market bulletins, manufacturer quotes, and other information that served as the basis for the cost and the calculation for this Bid on file for audit purposes and such documentation is not required to be submitted with the Vendor’s Bid.
- 11.5 Audits that reveal a Vendor has either overcharged or undercharged the school district will be treated as follows:

Overcharges: Whenever an invoice from a manufacturer reveals the price of a product delivered to the Vendor’s warehouse is less than the quoted cost, a credit will be due on each case delivered at the incorrect price. The credit shall be provided within thirty (30) days of the close of the month in which the audit took place. The credit shall be made in the form of a credit or check made payable to the School District’s School Nutrition Services Department. The price correction shall be made immediately.

Undercharges: Whenever an invoice from a manufacturer reveals that the price of a product, delivered to the vendor’s warehouse, is actually more than the quoted cost, a debit to the school district’s account WILL NOT be permitted. In the event of an unexpected market change that results in the manufacturer not honoring pricing quoted on a product for the costing period, it is the vendor’s responsibility to request a price increase for that product using procedures outlined in Section 25.0 of this IFB. The awarded vendor must maintain records of all documentation regarding prices within this contract, and any and all price changes until they have been audited.

- 11.6 Evidence of manufacturer bill backs, rebates or credits during Audit will result in deduction of the amount from the product cost to the School District.

12.0 TRANSMITTAL OF DELIVERY ORDERS

- 12.1 Orders will be submitted to the Vendor awarded the Contract by the School District on a schedule and by a method that is mutually agreeable to both parties. The School District prefers the shortest lead time possible in order to minimize inventory levels at schools.
- 12.2 Orders may be transmitted electronically or by fax as mutually agreed upon by the Vendor awarded the Contract and the School District. Order guides (preprinted) shall be furnished by the Vendor for recording and/or transmitting orders. If Internet-based, electronic ordering systems are used, the Vendor will provide training on use of their ordering system to necessary School District personnel. The Vendor must block non-bid items from electronic ordering systems available to the School District.
- 12.3 The Vendor awarded the Contract shall provide a representative to screen orders, discuss orders with the School Nutrition Director, or designee, on a weekly basis; the representative shall ensure compliance with scheduled delivery, discuss substitutions and shortages, facilitate approval of substitutions, finalize orders for delivery (including USDA Commodity if required), and screen delivered orders for shortages, errors, and pricing mistakes.

13.0 BILLING AND PAYMENT REQUIREMENTS

- 13.1 Payment will be due to the Vendor awarded the Contract within thirty (30) days of date of the statement, or more frequently, as designated by the School District. Statements must list itemized invoices showing quantity and price. Payment is made by reconciling **signed** invoices with statements.

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- 13.2 The Vendor awarded the Contract shall issue credit memorandums for returned/picked up items within ten (10) business days from the request to do so.
- 13.3 Failure to issue credit memorandums on a timely basis shall constitute grounds for withholding Vendor payments. Failure to provide signed invoices for correct locations shall be grounds for withholding Vendor payments.
- 13.4 Taxable items shall be invoiced separately and shall be billed on a separate statement or products shall be identified as non-taxable. Out-of-state Vendors shall comply with the tax laws of the State of North Carolina for food and non-food items. Food and certain non-food items purchased under the contract are not subject to state and Federal Taxes according to the following:

NC General Statute § 105-164.13. Retail sales and use tax. (23) Sales of the following packaging items:
a. Wrapping paper, labels, wrapping twine, paper, cloth, plastic bags, cartons, packages and containers, cores, cones or spools, wooden boxes, baskets, coops and barrels, including paper cups, napkins and drinking straws and like articles sold to manufacturers, producers and retailers, when such materials are used for packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and when such articles constitute a part of the sale of such tangible personal property and are delivered with it to the customer. (26) Food sold not for profit by public school cafeterias within school buildings during the day is exempt from sales and use tax.

14.0 SITE DELIVERIES

- 14.1 Milk is to be delivered for breakfast and lunch to each of the thirteen (13) school food preparation kitchens. Items and quantities for delivery shall be decided by the cafeteria manager / designee and quantities may vary based on consumption. The Vendor will deliver requested amounts of each type of milk: **BOTH** 1% unflavored and skim flavored milk are required **per delivery**. The driver may not arbitrarily adjust percentages of type to be delivered.
- 14.2 Deliveries shall be between 7:00 a.m. and 2:00 p.m. on any school day, except NO deliveries will be accepted at Dabney Elementary between 10 a.m. and 1 p.m. and NO deliveries will be accepted at STEM Early High School between 11 a.m. and 1 p.m. Any change in this schedule will require notification to the School Nutrition Director/designee. Distributor will work with Vance County schools to accommodate this request and work with the School Nutrition Staff to communicate any delays in delivery times due to uncontrollable factors including, but not limited to traffic, weather, equipment breakdowns, etc. To the degree possible, delivery routes should feature dedicated trucks that deliver in sequence to district schools on a predictable time-table. Conflicts with arrival and departure of students may require Vendor changing delivery routes for safety concerns.
- 14.3 Delivery schedules shall be submitted by the Vendor to the School Nutrition Director for approval a minimum of two (2) weeks prior to the first delivery and remain constant from week to week. In the event of some unforeseen problem, such as delays or vehicle breakdown, the School Nutrition Director/designee is to be notified as soon as possible. Contact information for both drivers and route supervisors should be included in the bid package.
- 14.4 The Vendor shall be notified by the School District in advance of holidays, student vacation and teacher work days so that arrangements can be made for deliveries as approved by the School Nutrition Director. The School District Calendars are enclosed. In case of inclement weather forcing the cancellation of school, deliveries will automatically be CANCELLED.
- 14.5 Each delivery must be made in a single closed truck which will adequately protect products in accordance with manufacturers/packers recommendations. Types of delivery vehicles used may be impacted by school sites; Vendor should be acquainted with facilities. All delivery equipment, including racks and crates, should be clean and maintained in good condition. Milk should be delivered at a temperature of 40 degrees or less, well within the recommended date of use, in clean, 1/2 pint cartons. Any milk delivered above 40 degrees will be rejected.
- 14.6 Drivers must deliver milk products into the milk cooler or walk-in refrigerator at each site as designated by the cafeteria manager. Cafeteria manager / designee will receiver and verify the accuracy of item quantities and item condition, then sign each delivery ticket as approved as received. Two (2) copies of signed delivery ticket must be left with cafeteria manager / designee. Variations from the norm i.e., shortages, damages, etc, shall be

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noted on each ticket by the designated school receiver and initialed by both the truck driver and school receiver. The Vendor shall not be required to issue credits for errors not detected at time of delivery, except for hidden damage or failure to meet specification.

- 14.7 If a product is omitted from an order by the Vendor, or is delivered in unacceptable condition (ex. spoiled milk still "in-date") replacement delivery must be made within 24 hours with no minimum shipment requirement to each site or credit must be issued.
- 14.8 Cartons must be marked with appropriate product identifying information as indicated on the Purchase Order and packaged in containers that are clean, appropriately designed for the products, and sturdy enough to protect the products in the loading, transit, unloading, and storage process.
- 14.9 Empty crates must be picked up in a reasonable amount of time, not to exceed two weeks.

15.0 WAREHOUSING REQUIREMENTS

- 15.1 The Vendor awarded the Contract is responsible for the proper warehousing of all products prior to delivery to the School District. Products must be held at the proper temperatures and humidified as recommended by packers or manufacturers, so as to maintain the products and packages at optimum levels of quality and condition. The Vendor shall be liable for the safety and appearance of products and packaging materials. Any products or packages received that are out of condition, as per HACCP guidelines, will be returned for full credit.

16.0 SUBSTITUTION AND DISCONTINUED PRODUCT REQUIREMENTS

- 16.1 The Vendor awarded the Contract shall order goods from manufacturers in economical quantities and maintain inventories at an sufficient level to prevent out of stock situations while avoiding excessive inventories which may be counter-productive to efficiency. Product substitutions due to out of stock situations should be held to an absolute minimum. Vendor "out of stock" percentage is expected at 3% of invoice orders or less. Persistent problems with delivery of specified products may jeopardize future business from the School District or invoke Termination Proceedings.
- 16.2 Any substitution that is not approved, in advance, in writing by the School Nutrition Director or designee, will be rejected by the School District.
- 16.3 To facilitate delivery schedules and provide appropriate substitutions in out-of stock situations for accommodation of students with food allergies, the awarded Vendor MUST e-mail or fax the school district, for pre-approval by the SND, current specification sheets with ingredient lists, nutritional analysis and allergens for each proposed substitution a minimum of 24 HOURS IN ADVANCE of the delivery. The Vendor may substitute pre-approved brands within a specification without supplying product specifications, but 24 HOURS ADVANCE notification of substitution is still required. The Vendor and/or manufacturer is responsible for any damages to customers due to unidentified allergens from products substituted for brands pre-approved by this Contract.

Any substitution for a bid specification product brought in by the Vendor to alleviate out of stock situations must be (1) of the same or higher quality as the regular stock, (2) the same or lower portion cost than regular stock and (3) priced at the same flat fixed-rate fee per case as the original product. The invoiced price for a substituted product is to be adjusted to the current bid price **at delivery** to avoid incorrect billing.

The fact that a substitute is being made shall be clearly stated on the invoice, or provided on a separate invoice. If a School District employee signs the invoice for a non-approved product, it may be refused and picked up within seven days by the Vendor. Frozen products are not included in this provision and the School District and Vendor must discuss/agree on the policy regarding non-approved frozen food return in regard to Vendor's HACCP policy.

- 16.4 Any substitution of a Non-Domestic product for a domestic product, which was originally a part of the IFB, must be approved in advance, in writing, by the School Nutrition Director, prior to the delivery of the product to the School District.

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If a substitute product is not approved by the School Nutrition Director, or designee, the School District shall, in good faith and in its sole discretion, purchase a product of equal or greater quality from another source.

The Vendor shall be responsible and liable for the difference in the cost between the amount paid for the substituted product and the amount, which would have been paid, had the product been delivered. The Vendor shall have no basis to complain that the substituted product purchased could have been purchased at a lower price and the difference in cost (with documentation) will be subtracted from the amount due the Vendor.

- 16.5 If a pre-approved bid product on the Vance County Schools bid sheet is discontinued by the manufacturer, the Vendor shall immediately notify School District customers to recommend a replacement product. If the bid specification has other pre-approved brands, the Vendor shall price the remaining brands and offer the best pricing. If there is no other pre-approved brand or the item is Private Label, the Vendor shall shop the market and offer a product of the same quality and cost as possible. It is the decision of the local School District to accept or decline a replacement product. The Vendor must notify the Vance County Schools SN Director whenever a product is discontinued so that the appropriate action on Vance County Schools bidding sheets may be taken.

17.0 THE BUY AMERICAN PROVISION

- 17.1 The Vendor shall comply with the **“Buy American”** provision for Contracts that involve the purchase of agricultural products. Federal regulations require that all foods (Ingredients) purchased for School Nutrition Programs be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist:
- 17.1.1. Exceptions to the Buy American provision are possible when the product is not produced or manufactured in the U.S., in sufficient, reasonable and available quantities of a satisfactory quality; and competitive Bids reveal the cost of a domestic product is significantly higher than a non-domestic product or;
- 17.1.2. **Product(s) may qualify under the Richard B. Russell National School Lunch Act’s Buy American provision for purchasing food products used in School Nutrition Programs by providing documentation from the manufacturer which states a minimum of 51% of the final processed product ingredients consist of agricultural commodities that are of U.S. origin.**
- 17.2 To meet food safety and recall regulations, the Vendor must notify the School Nutrition Director and the School Nutrition Director must provide written approval IN ADVANCE whenever there is a change of bid product sources, including when any Non-Domestic agricultural products are substituted for domestic agricultural products. The Vendor must submit written documentation to substantiate (availability or price) any non-domestic item included in this Bid with the exception of the following products: Pineapples, Mandarin Oranges, Olives, Tuna, Bananas and Coffee.
- 17.3 Any non-domestic product delivered to the School District, without the prior, written approval of the School Nutrition Director, will be rejected. Should non-domestic substitutes that were not pre-approved, in writing, by the School Nutrition Director be delivered to and rejected by the School District, the Vendor shall be held accountable for all over-claims that result from failure to meet the School District’s required meal pattern.
- 17.4 Agricultural products which are grown, canned or packed outside of the United States may be accepted with proof from manufacturer that poor Market conditions exist (weather, and/or supply availability of market); this requirement applies to both pre-approved and “private labels”.

18.0 VENDOR PRICE ADJUSTMENTS

- 18.1 Price Escalation/De-Escalation: **Beginning August 2025**, prices will escalate, de-escalate or remain constant based on changes in Class I raw milk prices based on the monthly Federal Milk Order Announcements for the applicable geographical zone. Prices for milk delivered can be increased or decreased at the rate of \$0.001 per half pint for each full \$0.15 increase/decrease in raw milk per hundred weight.

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18.2 The request for a price adjustment (increase or decrease), with an explanation, must be made in writing to the School Nutrition Director, pnewcomb@vcs.k12.nc.us, copying jekearney@vcs.k12.nc.us. The vendor shall also include formal documentation of the published price announcement from the Federal Milk Order for Class I Skim Milk, and shall specify the amount of adjustment requested. The vendor is also requested to submit conversion calculations showing the method for determining the price adjustment.

18.3 This request must be received by the twenty-fifth (25) day proceeding each month under consideration. Should the 25th fall on a weekend, then the request must arrive by the next non-holiday workday. The price change may be made only on the first day of a calendar month. All escalations / de-escalations shall be firm for a minimum of 30 days.

19.0 OPTION FOR CONTRACT RENEWAL

19.1 Unless this Contract is renewed beyond the expiration of the Contract as stated on the **Bid Certification and Agreement**, this Contract shall terminate July 31 of the contract year.

19.2 The School District reserves the right to renew the MILK bid for a period not to exceed two (2) additional terms of one (1) year each with mutual agreement of both parties concerning the following:
If Contract Renewal is available and desired, either the Vendor or the School District may initiate the process.

- Required Documents: The Bid Certification Form and required renewal documents are to be completed, signed by the Vendor and returned to the School District by the required date.
- After District approval, the School District will return a signed copy of the Bid Certification Form to the Vendor.
- The School District completed Purchase Order to the Vendor is the final approval of the Renewal Agreement

20.0 PRODUCT DATA SHEETS AND UTILIZATION REPORTS

20.1 Efforts are made to coordinate pre-approved product specification sheets for the Vance County Schools, but when requested, the awarded Vendor shall provide product data sheets within five (5) working days after request by the SND, or designee. Product data sheets shall include, but will not be limited to ingredient, allergens, and other product information, nutrition information statements, pack sizes, instructions for preparation and serving, and other pertinent product information.

20.2 The Vendor awarded the Contract shall provide utilization reports to the School Nutrition Director, or designee, monthly or upon request. These reports shall be submitted for total quantity delivered per item in terms of bid units per school delivery point and a combined district total. Utilization reports shall be submitted within fifteen (15) calendar days after the end of a month. Payments for the month prior to the due dates for the utilization reports may be withheld at the discretion of School District officials until utilization reports are received.

21.0 RECORDS RETENTION REQUIREMENTS

21.1 By signing this bid, the Vendor understands that the SFA, the U.S. Department of Agriculture, the NC Department of Public Instruction, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract, for the purpose of audits, examinations, excerpts, and transcriptions.

21.2 Additionally, the Vendor must provide all documents as necessary for the independent auditor to conduct the SFA's single audit. The SFA will contract to have the single audit conducted as a regular, direct expense to the SFA; School Nutrition funds may not be used for this purpose.

21.3 The Vendor must retain pertinent records identified by source, type, and category for a minimum of three years after the School District makes final payments. In the event of any unresolved audit findings, the records shall be retained beyond the three (3) year period for as long as required for resolution of the audit issues.

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22.0 ASSURANCE OF NON-COLLUSION

By signing this bid, the Vendor ASSURES that, to the best of his/her knowledge:

1. Neither the Vendor nor any business entity represented by the Vendor has received compensation for participation in the preparation of the items specifications or the General Terms and Conditions related to this IFB/Contract.
2. This bid has been arrived at independently and is submitted without collusion with any other Vendor, with any competitor or potential competitor, or with any other person or entity to obtain any information or gain any special treatment or favoritism that would in any way limit competition or give any Vendor an unfair advantage over any other Vendor with respect to this IFB/Contract.
3. The Vendor has not accepted, offered, conferred or agreed to confer, and will not in the future accept, offer confer, or agree to confer any benefit or anything of value to any person or entity related to the School District or any of its members in connection with any information or submission related to this bid, any recommendations, decisions, vote or award related to this bid, or the exercise of any influence or discretion concerning the sale, delivery, or performance of any product or served related to this bid.
4. Neither the Vendor, nor any business entity represented by the bidder, nor anyone acting for such business entity has violated the Federal Antitrust Laws or the antitrust laws of the state of North Carolina with regard to this bid, and this bid has not been knowingly disclosed, and will not be knowingly disclosed to another Vendor, competitor, or potential competitor prior to the opening of bids.
5. No attempt has been or will be made to induce any other person or entity to submit or to not submit a bid.

23.0 ASSURANCES REGARDING LEGAL AND ETHICAL MATTERS

By signing this bid, the Vendor assures that:

1. he/she has read and understands all the General Terms and Conditions in this document and agrees to be bound by them, and is authorized to submit bids on behalf of the offering entity,
2. the Vendor has noted any and all relationships that might be conflicts of interest and included such information with his/her bid response,
3. the bid submitted conforms to all item specification, these General Terms and Conditions, and any other instructions, requirements, or schedules outlined or included in this IFB,
4. if this bid is accepted, in whole or in part, the offering entity will furnish any item(s) awarded to them under this IFB to the SFA at the proposed price and in accordance with the item specifications and the terms and conditions contained in this IFB,
5. the offering entity has, or has the ability to obtain, such financial and other resources, including inventories, as may be required to fulfill all the responsibilities associated with this bid,
6. the offering entity has a high degree of integrity and business ethics, and a satisfactory record of performances, and has not been notified by any local, state or federal agency with competent jurisdiction that its standing in any matters whatsoever would preclude it from participating in this bid, it would in no other way whatsoever be disqualified to propose or receive any award or contract related to this bid, and the Vendor will comply with any reasonable request from the SFA to supply any information sufficient to substantiate the proposing entity's ability to meet these minimum standards,
7. concerning paragraph (6) above, the offering entity has identified and disclosed in this written bid any and all known suspected matters that would disqualify it from participating in this bid or receiving any award or contract related to this bid, recognizing that the offer's failure to identify and disclose any such matters constitutes its affirmation that no such matters exist, and that failure to disclose in this bid any such matters which do exist is a material breach of contract which would void the submitted bid or any resulting contracts, and subject the offeror to removal from all procurement lists and possible criminal prosecution
8. the offering entity has obtained, and will continue to maintain during the entire term of this contract, all permits, approvals or licenses necessary for lawful performance of its obligations under this contract,
9. the prices, prompt payment discount terms, delivery terms, distribution allowances, and the quality and/or performance of the products offered in the bid are and will remain the same or better than those offered to the vendor's most favored customer under equivalent circumstances,

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10. the offering entity will comply with all laws relating to intellectual property, will not infringe on any third party's intellectual property rights, and will indemnify, defend and hold the SFA and its members harmless against any claims for infringement of any copyrights, patents, or other infringements related to its activities under this contract,
11. the offering entity will maintain, at the offering entity's expense, any insurance necessary to protect the SFA and its members from all claims for bodily injury, death, or property damage that might arise from the performance by the offering entity or the offering entity's employees or its agents or any service required of the offering entity under this contract; however, the existence of such insurance will not relieve the offering entity of full responsibility and liability for damages, injury, death or loss as described or as otherwise provided for by law,
12. neither the SFA nor any of its members shall be liable to the offering entity for any damages (including, but not limited to, loss of profits or loss of business, or any special, consequential, exemplary, or incidental damages) in the event that the SFA declares the offering entity in default,
13. he/she understands that by signing the bid with any false statement is a material breach of the contract which will void the submitted bid or any resulting contract(s), and subject the bidder to removal from all procurement lists, and possible criminal prosecution,
14. Vendors must comply with the State of North Carolina Conflict of Interest requirement as defined in General Statutes, Chapter 14-234.

24.0 Remedies for Non-Performance of Contract, and Termination of Contract

If the vendor cannot comply with the terms and conditions in fulfilling its Contract as anticipated, the vendor must supply the same products or services contracted from other sources at the contract price. The vendor's delay in the above will constitute the vendor's material breach of contract, whereupon the SFA may terminate the vendor's contract for cause as provided by the remainder of this section.

Unless this Contract is extended by mutual agreement of the parties beyond the expiration of the contract time period as stated on the Bid Certification, this Contract shall terminate upon the expiration of the contract term as stated on the Bid Certification.

If any delay or failure of performance is caused by a Force Majeure event as described in the General Terms and Conditions document entitled "Force Majeure," the SFA may, in its sole discretion, terminate this contract in whole or part, provided such termination follows the remaining requirements of this section.

Except as otherwise provided within the General Terms and Conditions of this document, this Contract may be terminated in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party; provided that no such termination may be implemented unless and until the other party is given 1) at least thirty (30) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and 2) an opportunity for consultation with the terminating party, followed by a reasonable opportunity, of not more than ten (10) working days, to rectify the defects in products or performance, prior to termination.

Valid causes for termination of this Contract will include, but are not limited to:

1. the Vendor's failure to adhere to any of the provisions of the General Terms and Conditions of this IFB,
2. the Vendor delivering any product(s) that fail to meet the Item Specifications included in this IFB relating to the awarded product(s),
3. the Vendor delivering any substitution(s) of product(s) different than those originally proposed and awarded without the prior written approval of the SFA,
4. the Vendor's failure to meet the required delivery schedules as identified in the contract documents, or
5. the Vendor's violation of any other provision contained within these General Terms and Conditions or any attachment thereto which provides for contract termination as a remedy.

Notwithstanding anything contained in this section, in the event of the vendor's breach of any provision in this contract, the School District reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of its members, including, but not limited to, the purchase of other products of like type and quality from other sources in the open market. In the event the School District elects to purchase other products from other sources, the School District will invoice the vendor for any increased

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costs to the School District and the vendor agrees, by submission of a bid response, to promptly pay any such charges invoiced.

In the event the School District terminates this Contract, in whole or in part, for any reason provided for within the contract, the School District reserves the right to award the canceled Contract, or any portion thereof, to the next lowest or most responsible offeror as it deems such award to be in the best interest of the SFA.

Any Contract termination resulting from any cause other than a Force Majeure event will be deemed a valid reason for not considering any future bid from the defaulting vendor.

In the performance of this contract, time is of the essence and these General Terms and Conditions are of the essence.

25.0 FORCE MAJEURE

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 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 parties to this Contract will be required to use due caution and preventative measures to protect against the effects of Force Majeure, and the burden of proving that Force Majeure has occurred shall rest on the party seeking relief under this section. The party seeking relief due to Force Majeure will be required to promptly notify the School District and the Vance County Schools School Nutrition Director via pnewcomb@vcs.k12.nc.us in writing, citing the details of the Force Majeure event, including documentation, and request Approval of the Force Majeure. The Vendor will be required to use due diligence to overcome obstacles to performance created by the Force Majeure event, and shall resume performance immediately after the obstacles have been removed, provided the Contract has not been terminated in the interim.

Delay or failure of performance, by either party to this contract, caused solely by the Force Majeure event shall be excused for the period of delay caused solely by the Force Majeure event, provided the affected party has promptly notified the other party in writing. Neither party shall have any claim for damages against the other resulting from delays caused solely by Force Majeure.

The SFA will not be responsible for any costs incurred by the Vendor because of the Force Majeure event unless the SFA has requested, in writing, that the vendor incur such costs in connection with any delay or work stoppage caused by the Force Majeure event, and the SFA has agreed in writing to incur such additional costs.

Notwithstanding any other provision of this section, in the event the Vendor's performance of its obligations under this contract is delayed or stopped by a Force Majeure event, the SFA shall have the option to terminate this contract in accordance with the General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination." Furthermore, this section shall not be interpreted as to limit or otherwise modify any of the SFA's rights as provided elsewhere in this contract.

26.0 WAIVER

No claims or rights arising out of a breach of this Contract can be discharged in whole or part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

27.0 RIGHT TO ASSURANCE

Whenever one party to this contract in good faith has reason to question the other party's intent to perform the questioning party may demand that the other party give a written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

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28.0 PROTEST PROCEDURE

Protests of awards exceeding \$10,000 in value must be submitted to the issuing School District. Protests must be received within 15 calendar days from the date of the IFB/Contract award and provide specific reasons and any supporting documentation for the protest.

29.0 REGULATORY COMPLIANCE

The Vendor and SFA mutually agree to comply with all applicable standards, orders or requirements issued pursuant to Section 306 of the Clean Air Act (42 USC 1857 [h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 117389 and Environmental Protection Agency regulations (40 CFR Part 15). Any violations thereof shall be reported to the Administrator for Enforcement or other appropriate authority. Each party shall not be responsible to the other for acts beyond its control or acts caused by the negligence of the other party.

The Vendor agrees to comply with all mandatory standards and policies relating to energy efficiency as cited in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 165

The Vendor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations, 41 CFR Part 60.

The Vendor shall comply with the following civil rights laws as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-6, "Civil Rights Compliance and Enforcement in School Nutrition Programs".

The Vendor shall comply with the "Buy American" provision for Contracts that involve the purchase of food and/or beverages as per 7 CFR Part 250.

The Vendor shall comply with the provisions of the Consumer Product Safety Act.

The Vendor shall provide notification of **HUB Certification**. ATTACHMENT F

The Vendor shall complete and sign the **Certification of Contracts, Grants, Loans, Lobbying and Cooperative Agreements** and shall include this document as part of the Agreement. ATTACHMENT G

The Vendor shall provide notification of **Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions** ATTACHMENT H

The Vendor shall abide by all applicable State and Federal laws and policies of the State Board of Education when providing services under this Contract.

The Vendor shall comply with the provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

The Vendor shall comply with the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

The Vendor shall comply with the provisions of the Davis-Byrd Act, as amended (40 U.S.C. 3141-3148).

The Vendor shall comply with the provisions of the Rights to Inventions Made Under A Contract or Agreement. <https://www.law.cornell.edu/cfr/text/37/part-401> go to this link for scope and definitions

ATTACHMENT I – No Bid Response