



## **THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION**

### **Invitation for Bid #: 163-04302025TB**

**Commodity: Ice Cream (UNSPSC Code: 501923 Desserts and Dessert Toppings)**

It is the intent of CMBE to purchase Ice Cream and Frozen Fruit Products from a qualified vendor (this purchase must comply with Federal regulations and State statutes). These products will be dispensed in cafeterias during school lunches for Charlotte-Mecklenburg Schools' (CMS) students.

**Date Issued: 04/30/2025**

**Bid Opening Date: 05/14/2025**

**At 3:00 PM ET**


**Direct all inquiries concerning this IFB to:**

**Anthony A Becker**

**Senior Procurement Agent**

**Email: [anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us)**

**Phone: 980-343-6390**

<p>The Charlotte-Mecklenburg BOE</p>  <p>4421 Stuart Andrew Blvd. Charlotte NC 28217</p>	<p><b>INVITATION FOR BIDS NO.163-04302025TB</b></p>
	<p>Bids will be publicly opened: <b>Wednesday, May 14, 2023</b></p> <p><b>3:00 PM EST (Prevailing Local Time)</b></p>
<p>Refer <b>ALL</b> Inquiries to: ANTHONY A BECKER Telephone No.980-343-6390</p>	<p>Contract Type: AGENCY SPECIFIC TERM CONTRACT</p>
<p>E-Mail: ANTHONYA.BECKER@CMS.K12.NC.US</p>	<p>Commodity: Ice Cream (UNSPSC Code: 501923 –Desserts and Dessert Toppings)</p>
<p>Using Agency Name: The Charlotte Mecklenburg Board of Education</p>	
<p>Website: <a href="http://www.cms.k12.nc.us">www.cms.k12.nc.us</a></p>	

**NOTICE TO BIDDERS**

**ONLY Electronic responses will be accepted for this solicitation. You must register to submit a bid. Register as soon as possible! It may take 3 to 5 days for your account to become active. NO MAILED, COURIERED, FAXED, OR EMAIL SUBMISSIONS WILL BE ACCEPTED.** Bids are subject to rejection unless submitted on this form. Failure to submit a bid in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor’s bid(s). **Federal Uniform Guidance:** “Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200). Including the prohibitions outlined in (2 C.F.R. 200.216).” Additional information can be found at: <https://www.cmsk12.org/Page/8947>

**EXECUTION**

In compliance with this Request for Proposals (RFP), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein.

By executing this proposal, the undersigned Vendor understands that false certification is a Class I felony and certifies that this proposal is submitted competitively and without collusion (G.S. 143-54), none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and it is not an ineligible Vendor as set forth in G.S. 143-59.1. Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor’s knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

By executing this proposal, Vendor certifies that it has read and agreed to the **INSTRUCTION TO VENDORS** and **THE CHARLOTTE MECKLENBURG BOARD OF EDUCATION GENERAL TERMS AND CONDITIONS incorporated herein**. These documents can be accessed from the ATTACHMENTS page within this document.

**Failure to execute/sign bid prior to submittal may render bid invalid and it MAY BE REJECTED. Late bids cannot be accepted.**

COMPLETE/FORMAL NAME OF VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #21):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR’S AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

**VALIDITY PERIOD**

Offer shall be valid for at least sixty (60) days from date of bid opening, unless otherwise stated here: \_\_\_\_\_ days, or if extended by mutual agreement of the parties. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this IFB.

**BID ACCEPTANCE**

If your bid is accepted, all provisions of this IFB, along with the written results of any negotiations, shall constitute the written agreement between the parties (“Contract”). The Charlotte-Mecklenburg Board of Education Standard Term and Conditions are incorporated herein and shall apply. Depending upon the Goods or Services being offered, other terms and conditions may apply, as mutually agreed.

<p><b>FOR STATE USE ONLY:</b> Offer accepted and Contract awarded this ____ day of _____, 20____, as indicated on the attached certification, by _____</p> <p style="text-align: center;"><b>(Authorized Representative of CHARLOTTE MECKLENBURG OF EDUCATION)</b></p>
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*Bid Number: 163-04302025TB*

Vendor: \_\_\_\_\_

## 1.0 PURPOSE AND BACKGROUND

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It is the intent of CMBE to purchase Ice Cream and Frozen Fruit Products from a qualified vendor (this purchase must comply with Federal regulations and State statutes). These products will be dispensed in cafeterias during school lunches for Charlotte-Mecklenburg Schools' (CMS) students. See ATTACHEMENT A: PRICING for description of required goods.

The intent of this solicitation is to award an **Agency Specific Contract**.

### 1.1 CONTRACT TERM

The Contract shall be from July 1, 2025, to June 30, 2026.

At the end of the Contract's initial term, The Charlotte Mecklenburg Board of Education shall have the option, in its sole discretion, to renew the Contract on the same terms and conditions for up to three (3) additional one-year terms. The Charlotte Mecklenburg Board of Education will give the Vendor written notice of its intent to exercise each option no later than ninety (90) days before the end of the Contract's then-current term. In addition, The Charlotte Mecklenburg Board of Education reserves the right to extend a contract term after the last active term.

Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

### 1.2 PRICE ADJUSTMENTS

Successful bidder may petition by email by Friday December 1, 2025, for a price increase due to market conditions effective January 1, 2026. Petition(s) shall be emailed to [anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us) and [snfood@cms.k12.nc.us](mailto:snfood@cms.k12.nc.us). Any request for a price increase is subject to negotiation and will be approved or refused on the basis of comparison of supplier invoicing at time of bid opening (dated not more than 1 month prior to the opening of the bid) and invoicing at time of request to increase price. Third party market reports will also be used to determine market conditions. In the event there is an uncustomary drop in the market price of any item or items covered by the contract, CMBE will request a voluntary reduction in pricing by the bidder. CMBE reserves the right to audit invoices from the successful bidder's suppliers periodically throughout the bid period. Whenever an audit reveals an overcharge, a credit will be due on each case delivered at the incorrect price. Whenever an audit reveals an undercharge, an adjustment will not be permitted.

### 1.3 CONTRACT AND PURCHASE ORDER REQUIREMENTS

A response to this IFB is an offer to contract with CMBE based upon the Item Specifications and the Terms and Conditions contained in the IFB. Offers do not become contracts unless and until they are both accepted by CMBE through an Award Notice to the offeror and put into effect by the issuance of a Purchase Order(s) signed by an authorized representative of CMBE.

This contract shall collectively include (1) the Terms and Conditions and the Item Specifications included in the IFB and any subsequent addenda thereto, (2) the offeror's signed Bid Certification and any subsequent addenda thereto, (3) the offeror's entire response to the IFB, (4) the offeror's Notice of Award document, (5) and any additional terms, conditions, or instructions contained in each individual Purchase Order. All binding agreements should be submitted as part of the bid packet.

## 2.0 GENERAL INFORMATION

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### 2.1 INVITATION FOR BID DOCUMENT

The IFB is comprised of the base IFB document, any attachments, and any addenda released before Contract award, which are incorporated herein by reference.

### 2.2 E-PROCUREMENT FEE

This is **NOT** an E-Procurement purchase and consequently NOT subject to the 1.75% fee. In order that you may present competitive bids, please ensure that you have not marked up your bid to cover this fee.

### 2.3 NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions to Vendors, The Charlotte Mecklenburg Board of Education Standard Terms and Conditions, all relevant exhibits and attachments, and any other components made a part of this IFB and comply with all

requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this IFB.

If Vendors have questions or issues, or exceptions regarding any component within this IFB, those must be submitted as questions in accordance with the instructions in the BID QUESTIONS Section. If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an IFB addendum. The Charlotte Mecklenburg Board of Education may also elect to leave open the possibility for later negotiation of specific provisions of the Contract that have been addressed during the question-and-answer period, prior to contact award.

Other than through this process or negotiation under 01 NCAC 05B.0503, The Charlotte Mecklenburg Board of Education rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor’s bid. This applies to any language appearing in or attached to the document as part of the Vendor’s bid that purports to vary any terms and conditions or Vendors’ instructions herein or to render the bid non-binding or subject to further negotiation. Vendor’s bid shall constitute a firm offer that shall be held open for the period required herein (“Validity Period” above).

**The Charlotte Mecklenburg Board of Education may exercise its discretion to consider Vendor proposed modifications. By execution and delivery of this IFB Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded unless expressly agreed upon through negotiations**

**and incorporated by way of a Best and Final Offer (BAFO). Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor’s bid as nonresponsive.**

**2.4 IFB SCHEDULE**

The table below shows the *intended* schedule for this IFB. The State will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue IFB	CMS	Wednesday, April 30, 2025
Hold Pre-Bid Conference/Site Visit	CMS	NOT APPLICABLE
Submit Written Questions	Vendor	Tuesday, May 6, 2025, No Later Than 12:00 PM (EST)
Provide Responses to Questions	CMS	Friday, May 9, 2025
Submit Bids	Vendor	Wednesday, May 14, 2025 @ 3:00 PM (Virtual meeting information Section for attendance to this opening.)
Contract Award	CMS	Upon CMS review and CMBOE Award
Contract Effective Date	CMS	July 1, 2025

**2.5 BID QUESTIONS**

Upon review of the IFB documents, Vendors may have questions to clarify or interpret the IFB in order to submit the best bid possible. To accommodate the Bid Questions process, Vendors shall submit any such questions by the “Submit Written Questions” date and time provided in the IFB SCHEDULE Section above, unless modified by Addendum.

Written questions shall be e-mailed to [anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us) by the date and time specified above. Vendors will enter “IFB # 163-XXXXXTB Questions” as the subject for the email. Question submittals will include a reference to the applicable IFB section and be submitted in a format shown below:

Reference	Vendor Question
IFB Section, Page Number	Vendor question ...?

Questions received prior to the submission deadline date, The Charlotte Mecklenburg Board of Education’s response, and any additional terms deemed necessary by the State will be posted in the form of an addendum to *the electronic Vendor Portal (eVP)*,

<https://evp.nc.gov>, and shall become an Addendum to this IFB. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this IFB, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in an Addendum to this IFB.

## 2.6 BID SUBMITTAL

**IMPORTANT NOTE: This is an absolute requirement.** Vendor shall bear the risk of late submission due to unintended or unanticipated delay. It is the Vendor's sole responsibility to ensure its bid has been received as described in this IFB by the specified time and date of opening. The date and time of receipt will be marked on each bid when received. Any bid or portion thereof received after the bid submission deadline will be rejected.

If applicable to this IFB and using eVP, all proposal responses shall be submitted electronically via the electronic Vendor Portal (eVP). Additional information can be found at the eVP updates for Vendors link: <https://eprocurement.nc.gov/news-events/evp-updates-vendors>.

Failure to submit a bid in strict accordance with these instructions shall constitute sufficient cause to reject a Vendor's bid(s). Vendors are strongly encouraged to allow sufficient time to upload bids.

Critical updated information may be included in Addenda to this IFB. It is important that all Vendors responding on this IFB periodically check the State's eVP website for any Addenda that may be issued prior to the bid opening date. All Vendors shall be deemed to have read and understood all information in this IFB and all Addenda thereto.

## 2.7 BID CONTENTS

Vendors shall populate all attachments of this IFB that require the Vendor to provide information and include an authorized signature where requested. Failure to provide all required items, or Vendor's submission of incomplete items, may result in The Charlotte Mecklenburg Board of Education rejecting Vendor's bid, in The Charlotte Mecklenburg Board of Education's sole discretion

Vendor IFB responses shall include the following items and attachments, which shall be arranged in the following order:

- a) Cover Letter, which must contain all of the following; (i) a statement that confirms that the Vendor has read the IFB in its entirety, including all links, and all Addenda released in conjunction with the IFB; (ii) a statement that the Vendor agrees to perform in accordance with the scope of work, requirements, and specifications contained herein; and (iii) Vendor's agreement to comply with all instructions, terms and conditions, and attachments.
- b) Title Page: Include the company name, address, phone number and authorized representative along with the Bid Number.
- c) Completed and signed version of EXECUTION PAGES, along with the body of the IFB.
- d) Signed receipt pages of any addenda released in conjunction with this IFB, if required to be returned.
- e) Completed version of ATTACHMENT A: PRICING (in its original stand-alone form and part of submitted total PDF)
- f) Completed and signed version of ATTACHMENT D: MWSBE
- g) Completed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- h) Completed and signed version of ATTACHMENT F: NC LUNSFORD
- i) Completed and signed version of ATTACHMENT G: LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS
- j) Completed and signed version of ATTACHMENT I: CERTIFICATION REGARDING DEBARMENT
- k) Completed and signed version of ATTACHMENT J: CERTIFICATION OF INDEPENDENT PRICING
- l) Completed and signed version of ATTACHMENT K: CERTIFICATION OF INDEPENDENT PRICING
- m) Completed and signed version of ATTACHMENT L: CERTIFICATION OF NUT FREE FACILITY

## 2.8 ALTERNATE BIDS

Unless provided otherwise in this IFB, Vendor may submit alternate bids for comparable Goods, various methods or levels of Service(s), or that propose different options. Alternate bids must specifically identify the IFB requirements and advantage(s) addressed by the alternate bid. Any alternate bid, in addition to the marking described above, must be clearly marked with the legend: "Alternate Bid #\_\_\_ [for 'name of Vendor']". Each bid must be for a specific set of Goods and Services and must include specific pricing. If a Vendor chooses to respond with various offerings, each must be offered with a separate price and be contained in a separate bid. Each bid must be complete and independent of other bids offered.

## 2.9 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this IFB are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors referenced below which are incorporated herein by this reference.

The following definitions, acronyms, and abbreviations are also relevant to this IFB:

CMBE – Charlotte Mecklenburg Board of Education

CMBOE – Charlotte Mecklenburg Board of Education

CMS – Charlotte Mecklenburg Schools

SN – Student Nutrition

## 2.10 INDEFINITE ORDER QUANTITY

Bidders are informed that this quote is for an estimated quantity of goods. No guarantees in order quantities exist until bidder receives release order from The Charlotte Mecklenburg Board of Education. The quantities listed in this IFB are for estimation and planning purposes only. The listed quantities are subject to change, with no guaranteed minimum order implied by this request for bid. The pricing reflected in bids are considered valid for the period shown under "execution" section of this quote. The Charlotte Mecklenburg Board of Education will procure certain goods through the term (term contract period) of this quote only upon actual award. The Charlotte Mecklenburg Board of Education conveys to bidder that purchases will be made as a matter of convenience (convenience contract) to The Charlotte Mecklenburg Board of Education. Award of items to certain vendors pertaining to this quote do not guarantee purchase of stated quantities.

## 2.11 REGULATORY COMPLIANCE

- (1) The offeror and The Charlotte Mecklenburg Board of Education 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.
- (2) The offeror 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. 94 – 163).
- (3) The offeror 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.
- (4) The offeror 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".
- (5) The offeror shall comply with the "Buy American" provision for Contracts that involve the purchase of food and/or beverages as per 7 CFR Part 250.
- (6) The offeror shall comply with the provisions of the Consumer Product Safety Act.
- (7) The offeror shall complete the Certification of Independent Price Determination form, complete and sign the: Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions form; Certification for Contract, Grants, Loans and Cooperative Agreements – Lobbying and if applicable, Disclosure Form to Report Lobbying and shall include these documents as part of the Agreement. (See Attachments)

- (8) Also refer to ST&C item 12, Compliance with all Laws. The offeror shall abide by all applicable State and Federal laws and policies of the State Board of Education when providing services under this Contract.

## **2.12 EMPLOYMENT HOUR & WAGE LAW**

The contractor must comply with applicable federal, state, and local laws and regulations pertaining to wages, hours, and conditions of employment.

## **2.13 DRUG FREE WORKPLACE**

The contractor must comply with all terms and conditions of the Drug Free Workplace Act, S.C. CODE ANN. 44-107-10 et seq. (1976, as amended), if this contract is for a stated or estimated value of \$50,000 or more.

## **2.14 USDA CIVIL RIGHTS REGULATIONS AND POLICIES**

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

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

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

This institution is an equal opportunity provider.

## **2.15 RETENTION OF RECORDS**

By signing this bid, the offeror understands that The Charlotte Mecklenburg Board of Education, 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.

Additionally, the offeror must provide all documents as necessary for the independent auditor to conduct The Charlotte Mecklenburg Board of Education's Single Audit. The Charlotte Mecklenburg Board of Education will contract to have the Single Audit conducted as a regular, direct expense to CMBE; Child Nutrition funds may not be used for this purpose

The offeror must retain pertinent records for a minimum of three years after The Charlotte Mecklenburg Board of Education 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 issues raised by the audit.

## **2.16 PRODUCT CHANGES**

Each item that is awarded must be shipped as the approved brand and product submitted on the bid. Vendors reformulating or repackaging awarded product codes shall notify Cheri Taylor at [cheri.andre@cms.k12.nc.us](mailto:cheri.andre@cms.k12.nc.us) with the subject header, PRODUCT

CHANGE, a minimum of two months before existing-formula or packaging of the product is discontinued. Deviation of the awarded product shall not be shipped without approval in writing. Substituting without the prior approval of The Charlotte Mecklenburg Board of Education will constitute a breach of contract by the vendor which may result in the initiation of actions covered in these Standard Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Termination of Contract" and the associated financial impacts attached thereto and may jeopardize any future business from The Charlotte Mecklenburg Board of Education.

## **2.17 FACILITIES AND EQUIPMENT**

The contractor shall have adequate warehouses to supply products.

## **2.18 SANITATION REQUIREMENTS**

School officials may routinely inspect Contractor's warehouse and trucks. The warehouse and truck shall be clean, be free of insects and rodents, and be adequate for storing and delivering products.

## **2.19 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.

## **2.20 ASSURANCE OF NON-COLLUSION**

- (1) Neither the offeror nor any business entity represented by the offeror has received compensation for participation in the preparation of the item's specifications or the Terms and conditions related to this IFB,
- (2) This bid has been arrived at independently and is submitted without collusion with any other offeror, 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 offer an unfair advantage over any other offer with respect to this IFB.
- (3) The offeror 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 CMBE or any of its members in connection with any information or submission related to this bid, any recommendations, decision, 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 offeror, 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 offeror, 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.

## **2.21 ASSURANCES REGARDING LEGAL AND ETHICAL MATTERS**

- (1) he/she has read and understands all the 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 offeror 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 with all item specification, these 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 CMBE 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 offeror will comply with any reasonable request from CMBE 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 licensed 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,
  - (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 CMBE and its members harmless against any claims for infringement of any copyrights, patents, or other infringements related to its activities under this contract (also refer to ST&C, item 37, Intellectual Property),
  - (11) the offering entity will maintain, at the offering entity's expense, any insurance necessary to protect CMBE 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 CMBE 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 CMBE declares the offering entity in default (also refer to ST&C, item 15, Indemnification),
  - (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) Offerors must comply with the State of North Carolina Conflict of Interest requirement as defined in General Statutes, Chapter 14-234 (<http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=14-234>).

In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410, or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

## 2.22 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 CMBE 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 Terms and Conditions document entitled "Force Majeure," CMBE 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 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 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 CMBE,
- (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 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, CMBE 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 CMBE elects to purchase other products from other sources, CMBE will invoice the vendor for any increased costs to CMBE, and the vendor agrees, by submission of a bid response, to promptly pay any such charges invoiced.

In the event CMBE terminates this Contract, in whole or in part, for any reason provided for within the contract, CMBE 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 CMBE.

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 Terms and Conditions are of the essence.

### **3.0 METHOD OF AWARD AND BID EVALUATION PROCESS**

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#### **3.1 METHOD OF AWARD**

North Carolina G.S. 143-52 provides a general list of criteria. The Charlotte Mecklenburg Board of Education shall use to award contracts, as supplemented by the additional criteria herein. The Goods or Services being procured shall dictate the application and order of criteria; however, all award decisions shall be in The Charlotte Mecklenburg Board of Education's best interest.

All responsive bids will be reviewed, and award or awards will be based on the responsive bid(s) offering the lowest price that meets the specifications to include any required verifications set out herein such as but not limited to past performance, references, and financial documents.

While the intent of this IFB is to award a Contract(s) to a single vendor or multiple Vendors for all line items, The Charlotte Mecklenburg Board of Education reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items or to cancel this IFB in its entirety without awarding a Contract, if it is considered to be most advantageous to The Charlotte Mecklenburg Board of Education to do so.

The Charlotte Mecklenburg Board of Education reserves the right to waive any minor informality or technicality in bids received.

#### **3.2 BID EVALUATION PROCESS**

Only responsive submissions will be evaluated.

**The Charlotte Mecklenburg Board of Education will conduct an evaluation of responsive Bids, as follows:**

Bids will be received according to the method stated in the Bid Submittal section above.

All bids must be received by the issuing agency not later than the date and time specified in the IFB SCHEDULE Section above, unless modified by Addendum. Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

At the date and time provided in the IFB SCHEDULE Section above, unless modified by Addendum, the bids from each responding Vendor will be opened publicly and all offers (except those that have been previously withdrawn, or voided bids) will be tabulated.

The tabulation shall be made public at the time it is created. When negotiations after receipt of bids is authorized pursuant to G.S. 143-49 and 01 NCAC 05B.0503, only the names of offerors and the Goods and Services offered shall be tabulated at the time of opening. If negotiation is anticipated, cost and price shall become available for public inspection at the time of the award. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a vendor's pricing position.

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the bid. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all bids should be complete and reflect the most favorable terms available from the Vendor. Prices bid cannot be altered or modified as part of a clarification.

Bids will generally be evaluated, based on completeness, content, cost and responsibility of the Vendor to supply the requested Goods and Services. Specific evaluation criteria are listed in Section 3.1 METHOD OF AWARD.

Upon completion of the evaluation process, The Charlotte Mecklenburg Board of Education will make Award(s) based on the evaluation and post the award(s) to the State's eVP website under the IFB number for this solicitation. Award of a Contract to one Vendor does not mean that the other bids lacked merit, but that, all factors considered, the selected bid was deemed most advantageous and represented the best value to The Charlotte Mecklenburg Board of Education.

The Charlotte Mecklenburg Board of Education reserves the right to negotiate with one or more Vendors, or to reject all original offers and negotiate with one or more sources of supply that may be capable of satisfying the requirement, and in either case to require Vendor to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the State.

### 3.3 EVALUATION CRITERIA

In addition to the general criteria in G.S. 143-52 which may or may not be relevant to this RFP, all qualified proposals will be evaluated, and award made based on considering the following criteria, to result in an award most advantageous to the State:

**BEST VALUE:** "Best Value" procurement methods are authorized by N.C.G.S. §§143-135.9 and 143B-1350(h). The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the Vendor's offer; the Vendor's past performance; and the evaluated probability of performing the specifications stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance. The intent of "Best Value" procurement is to enable Vendors to offer and the Agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement.

A ranking method of source selection will be utilized in this procurement using evaluation criteria listed in order of importance in the Evaluation Criteria section below to allow The Charlotte Mecklenburg Board of Education to award this RFP to the Vendor(s) providing the Best Value and recognizing that Best Value may result in award other than the lowest price or highest technically qualified offer. By using this method, the overall ranking may be adjusted up or down when considered with, or traded-off against, other non-price factors.

**EVALUTION METHOD:** Narrative and by consensus of the evaluating committee, explaining the strengths and weaknesses of each proposal and why the recommended awardee(s) provide the best value to The Charlotte Mecklenburg Board of Education.

All qualified proposals will be evaluated, and award made based on considering the following criteria listed to result in an award most advantageous to The Charlotte Mecklenburg Board of Education:

1. Pricing
2. Vendor Qualifications
3. Vendor Technical Approach
4. Vendor Experience with Related program *[including references]*
5. Completeness of Proposal

### **3.4 PUBLIC BID OPENING**

Since bid submissions will be opened electronically when they are released to the buyer by the State of North Carolina's software, the public bid opening (reading of the names of the companies submitting bids) will be facilitated either by a conference call or by online meeting software. Should you wish to join the public bid opening, contact the buyer at the email listed on the first page of the bid no later than 10 am (EST) the day of the bid opening. If you do not receive confirmation within the hour, please phone the buyer.

### **3.5 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION**

While this IFB is under evaluation, the responding Vendor, including any subcontractors and suppliers, is prohibited from engaging in conversations intended to influence the outcome of the evaluation. See the Line 28 of the Instructions To Vendors entitled COMMUNICATIONS BY VENDORS.

Each Vendor submitting a bid to this IFB, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's bid or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

Any Vendor not in compliance with this provision shall be disqualified from evaluation and award. A Vendor's proposal may be disqualified if its subcontractor and/or supplier engage in any of the foregoing communications during the time that the procurement is active (*i.e.*, the issuance date of the procurement until the date of contract award or cancellation of the procurement). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this IFB or inquiries directed to the purchaser named in this IFB regarding requirements of the IFB (prior to proposal submission) or the status of the award (after submission) are excepted from this provision.

### **3.6 BID CONSIDERATION**

Unless stated otherwise by Vendor on page 1, prices and any other entry made hereon by the Vendor shall be considered firm and not subject to change or withdrawal for 120 days.

### **3.7 BUY AMERICAN PROVISION**

Section 104(d) of the William F. Goodling Child Reauthorization Act of 1998 requires schools participating in the National School Lunch Program (NSLP) and School Breakfast Program (SBP) to purchase to the maximum extent possible, domestic commodities or products used in meals serves in the NSLP and SBP. "Domestic commodity or product" is defined as one that is produced in the United States and over 51 percent of the final processed product consists of agricultural commodities that are grown domestically.

### **3.8 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.

### **3.9 N.C. LAW CLAUSE**

Upon award of a contract under this bid, the person, partnership, association, or corporation to whom the award is made must comply with the laws of North Carolina which require such person or entity to be authorized and/or licensed to do business in this State. Notwithstanding the fact that applicable statutes may exempt or exclude the successful bidder from requirements that it be authorized and/or licensed to do business in this State, by submission of this signed bid, the successful bidder agrees to subject him/herself to the jurisdiction and process of the courts of the State of North Carolina as to all matters and disputes arising or to arise under the contract and the performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.

### **3.10 INTERPRETATION OF TERMS AND PHRASES**

This IFB serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by The Charlotte Mecklenburg Board of Education; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. The use of phrases such as “shall,” “must,” and “requirements” are intended to create enforceable contract conditions. In determining whether bids should be evaluated or rejected, The Charlotte Mecklenburg Board of Education will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy The Charlotte Mecklenburg Board of Education’s needs as described in the IFB. Except as specifically stated in the IFB, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in The Charlotte Mecklenburg Board of Education exercising its discretion to reject a bid in its entirety.

## **4.0 REQUIREMENTS**

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This Section lists the requirements related to this IFB. By submitting a bid, the Vendor agrees to meet all stated requirements in this Section, as well as any other specifications, requirements, and terms and conditions stated in this IFB. If a Vendor is unclear about a requirement or specification or believes a change in a requirement would allow for The Charlotte Mecklenburg Board of Education to receive a better bid, the Vendor is encouraged to submit these items in the form of a question during the question-and-answer period in accordance with the Bid Questions Section above.

### **4.1 PRICING**

All “Line Item” bids must be for a specific price for the unit of measure specified for that item.

The offeror is responsible for clearly noting any differences in proposed packaging and/or units of measure in the bid response, and the offeror shall understand that if the item in question is awarded to the offeror, the quantity specified for that item will be adjusted to achieve an approximately equivalent amount of the product.

In cases where another price is requested for comparison purposes (e.g., “portion price” or “price per ounce”), such price is for comparison purposes only. Purchases will be made in the increments of the unit of measure specified. In the case of any discrepancy or error in comparison price calculations, the price for the unit of measure specified will prevail. Excessive errors in comparison price calculations will be sufficient grounds for rejection of the entire bid.

“Discount from Catalog” IFB requires a single discount percentage to be applied to all items in the offeror’s published catalog, which must be supplied with the bid response.

“Cost Plus” bids will not be accepted unless otherwise requested in this IFB.

If during the term of the Contract, a successful offeror’s net prices to any or all of its other customers in similar market circumstances for any of the same items awarded under this IFB are reduced below the contracted price, it is understood and agreed that the benefits of such price reduction shall be extended to CMBE.

### **4.2 ESTIMATED QUANTITIES**

The quantities indicated herein are annual estimates only and are provided for informational purposes based on the anticipated usage during the previous *2023-2024 School* year period. No maximum or minimum quantities are guaranteed. It shall be understood and agreed that The Charlotte Mecklenburg Board of Education may purchase more or less than the estimated quantities during the contract period. The Charlotte Mecklenburg Board of Education reserves the right to increase or decrease the quantities as needed. The Charlotte Mecklenburg Board of Education shall not be obligated to purchase more than its normal requirements. The Charlotte Mecklenburg Board of Education will be responsible only for items requested and received.

### **4.3 PRODUCT IDENTIFICATION**

#### **SUITABILITY FOR INTENDED USE**

Vendors are requested to offer only items directly complying with the specifications herein or comparable items which will provide the equivalent capabilities, features and diversity called for herein. The Charlotte Mecklenburg Board of Education reserves the right to evaluate all bids for suitability for the required use and to award the one best meeting requirements and considered to be in The Charlotte Mecklenburg Board of Education’s best interest.

#### 4.4 TRANSPORTATION AND IDENTIFICATION

The Vendor shall deliver Free-On-Board (FOB) Destination to any requested location within the Charlotte Mecklenburg School district with all transportation costs and fees included in the total bid price.

When an order is placed using a purchase order, the purchase order number shall be shown on all packages and shipping manifests to ensure proper identification and payment of invoices. If an order is placed without using a purchase order, such as via phone, the Requestor's name shall be show on all packages. A complete packing list shall accompany each shipment. Vendors shall not ship any products until they have received an order.

#### 4.5 DELIVERY

The Vendor shall deliver Free-On-Board (FOB) Destination to the following location(s):

Orders will be placed directly with the awardee by the cafeteria manager. CMBE will receive deliveries at individual school sites monthly during manager's regular working hours, 7 am to 2 pm. A delivery schedule must be provided by Friday, August 1, 2025, and shall remain constant throughout the contract period (barring any written mutually-approved-revisions). A plan for delivery when school is closed on a regular delivery date must be submitted to the SN office (Email to [cheri.andre@cms.k12.nc.us](mailto:cheri.andre@cms.k12.nc.us) for approval). All goods delivered shall be in the current year standard commercial pack. Delivery person shall deliver merchandise into designated storage area. Delivery person shall request the authorized school receiver to verify the accuracy of quantities of each item, brand, and code number of each item, and condition of merchandise. Each delivery ticket shall be signed by a designated school receiver. Variations shall be noted on each ticket and initialed by both the truck driver and school receiver. Bidder must be capable of taking care of reships and or emergencies that may occur within 24 hours of notification. An electronic file of the delivery locations is available on request.

Except for items that have hidden defects or that do not meet specification, title to all products shall pass to CMBE upon receipt and acceptance at the time of delivery.

Unless otherwise noted in this IFB or in the Purchase Order, the offeror must deliver scheduled releases of products awarded under this IFB within twenty (20) working days after receipt of a Purchase Order. The vendor must immediately notify the CMBE scheduling contact listed in the purchase order, by email, telephone and/or fax, if any delays occur. CMBE will have the option to cancel the order if unable to accept the delay. At the discretion of CMBE, items received after the due date, for which CMBE has not been notified regarding the delay, may be returned at the vendor's expense with no penalty to CMBE.

Repeated failure to meet delivery dates will constitute a breach of Contract by the vendor and may result in the initiation of actions covered in these Terms and conditions entitled "Remedies for Non-Performance of Contract, and Contract Termination" and the associated financial impacts attached thereto, as well as jeopardize any future business from CMBE.

Cartons must be marked with appropriate product identifying information as indicated on the Purchase Order. Each shipment must include a packing list and waybill or delivery ticket.

If the vendor is delivering products out of more than one warehouse or distribution center, all warehouses or distribution centers involved in the distribution plan MUST carry or have timely access to all awarded items and MUST be able to respond to orders in a timely manner. Unless otherwise specified in this IFB, product substitutions are not allowed, and the involvement of multiple distribution centers will not be construed as to alter the restrictions against product substitutions. In the event the vendor uses multiple distribution centers, CMBE will have ONE CONTACT PERSON for overall Contract management relative to any Contract resulting from any award under this IFB, and CMBE WILL NOT be required to deal with multiple Contacts for overall contract management.

Vendor shall complete delivery within **10** consecutive calendar days after receipt of purchase order and coordination with cafeteria manager.

#### 4.6 WARRANTY

By submission of a bid, the offeror warrants that: he/she is an authorized dealer, distributor, or manufacturer for the product(s) being offered; all items proposed conform to the specifications for which the items are being offered; all Goods delivered pursuant to the Contract will meet the customary standards in the industry, will be free from defect (material and title), will conform strictly to the specifications or samples specified or furnished and will be manufactured, processed, packaged, stored, handled, transported and delivered in full compliance with all applicable federal, state and local laws, and regulations and industry standards. This warranty shall survive any inspection, delivery, acceptance, or payment by CMBE of the Goods. This express warranty is in addition to the Bidder's implied warranties of merchantability and fitness for a particular purpose, which shall not be disclaimed by the Bidder. A minimum of 90-days product guarantee or the manufacturer's standard commercial warranty, whichever is greater, shall apply to all

products purchased under this IFB. This warranty shall provide for replacement of defective merchandise from CMBE location and delivery of the replacement(s) to the same location. The warranty shall be effective from the date of acceptance of the merchandise.

Manufacturer’s standard warranty shall apply. Vendors shall include a copy of the manufacturer’s standard warranty with the bid response.

Vendor warrants that all equipment furnished under this IFB will be newly manufactured, of good material and workmanship. The warranty will apply from date equipment is put into operation for a minimum period of twelve (12) months or the length of the manufacturer’s warranty, whichever is longer. Such warranty shall cover the cost of all defective parts replacement, labor, freight, and technicians’ travel at no additional cost to the State, or as specified by the Purchasing Agency herein. To the extent not superseded by the terms of this paragraph, manufacturer’s warranty terms shall apply. Vendor’s warranty shall be at least the level of coverage provided for its comparable customers.

The report of a problem does not presuppose that every call must result in an “on-site” visit for service/repair. The Vendor and/or service sub-contractor shall utilize best efforts to resolve problems in a timely fashion by using acceptable servicing methods to include, but not limited to, verbal problem analysis and remote diagnosis. The warranty requirement does not impose any additional duty on the State to make other than normal and good faith problem resolution efforts or expenditures of time. Vendor shall be responsible for compliance with warranty terms by any third-party service provider. Vendor shall provide contact information for warranty service provider, below.

Vendor is authorized by manufacturer to repair equipment offered during the warranty period?  YES  NO

Will the Vendor provide warranty service?  YES  NO, a manufacturer-authorized third party will perform warranty service.

**Contact information** for warranty service provider:

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_  
\_\_\_\_\_

Contact Person (name): \_\_\_\_\_

Contact Person (phone number): \_\_\_\_\_

Contact Person (email): \_\_\_\_\_

**4.7 SAMPLES AND DESCRIPTIVE LITERATURE**

**SAMPLE**

Samples are not required prior to bid opening date; however, samples may be required at a later time. If so requested, Vendor agrees to furnish samples of items offered at no expense to The Charlotte Mecklenburg Board of Education. Unless otherwise indicated in the request for the samples, bidder agrees to furnish samples of items offered at no expense to CMBE within 72 hours from the time request is made by CMBE. Bids which do not comply with these requirements shall be subject to rejection. It is the Bidders responsibility to ensure that items are delivered on time and in good condition. Samples size may vary dependent on product type. Samples must be pulled from existing stock with proper labels attached. Samples must be labeled with CMBE Bid Number, Item Number, Product Identification number(s), and the name of the offering entity. Nutritional information - facts labels, ingredients, and list of allergens **(products must be peanut free)** - shall be sent for every sample. Regulations require that all foods purchased be of “domestic origin” to the maximum extent practicable. All samples will be retained by CMBE for a sufficient length of time for proper evaluation. If not destroyed or consumed during examination of testing, samples will be returned to the offeror at the offeror’s expense, but only upon written request submitted with the samples at the time the samples were submitted. However, notwithstanding the above samples from the successful offeror may be retained permanently by CMBE for the purpose of determining the quality of the delivered items are comparable to the samples. CMBE shall incur no liability for any samples that are damaged, destroyed or consumed during examination or testing.

Failure by any offeror to submit samples when requested will result in the items in question not being considered for award to that offeror.

**DESCRIPTIVE LITERATURE/CERTIFICATION**

Each bid shall be accompanied by complete descriptive literature, specifications, certifications, and all other pertinent data necessary for thorough evaluation of the item(s) offered and sufficient to determine compliance of the item(s) with the specifications. All bid entries shall be accompanied by the following current documentation (confirm with the manufacturer that you have the most current version): Product label with ingredients, List of all allergens (products must be peanut-free), Nutritional analysis (including: size in fl. oz., calories, calories from fat, saturated fat in grams, trans fat in grams, weight in grams, weight of sugar in grams, and milligrams of sodium), and official corporate product specification sheet with a signature. Failure to include such information to shall be a sufficient basis for rejection of the bid.

**4.8 HUB PARTICIPATION**

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this IFB will serve to identify those Vendors that are minority owned or have a strategic plan to support the State’s Historically Underutilized Business program by meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.

**4.9 REFERENCES**

Vendors shall provide at least three (3) references, using ATTACHMENT E: CUSTOMER REFERENCE FORM, for which your company has supplied the exact model of equipment offered. The Charlotte Mecklenburg Board of Education may contact these users to determine quality level of the offered equipment; as well as, but not limited to user satisfaction with Vendor performance. Information obtained may be considered in the evaluation of the bid.

**4.10 VENDOR’S REPRESENTATIONS**

If the bid results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of The Charlotte Mecklenburg Board of Education under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor’s proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such service, they will be deemed to be implied by and included within the scope of the contract to the same extent and in the same manner as if specifically described in the Contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and/or other Deliverables.

**4.11 FINANCIAL STABILITY**

As a condition of contract award, the Vendor must certify that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction

Each Vendor shall certify it is financially stable by completing the ATTACHMENT K: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential performance issues from contracting with a Vendor that is financially unstable. This Certification shall be deemed continuing, and from the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification.

**4.12 AGENCY INSURANCE REQUIREMENTS MODIFICATION**

A. Default Insurance Coverage from the General Terms and Conditions applicable to this Solicitation:

- Small Purchases
- Contract value in excess of the Small Purchase threshold, but up to \$1,000,000.00
- Contract value in excess of \$1,000,000.00

#### **4.13 LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS**

Federal law prohibits recipients of federal funds, whether through grants, contracts, or cooperative agreements, from using those funds to influence or attempt to influence (lobby) a federal official in connection with obtaining, extending, or modifying any federal contract, grant, loan, or cooperative agreement. Further, federal law requires that applicants for federal funds certify:

- that they abide by the above restriction
- that they disclose any permissible (non-federal) paid lobbying on the Federal Awards being applied for; and
- that such certification requirements will also be included in any subawards meeting the applicable thresholds.

Vendors must complete and submit the CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS and the OMB STANDARD FORM LLL when responding to this solicitation.

### **5.0 PRODUCT SPECIFICATIONS**

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The specific items and any specifications that the Purchasing Agency is seeking are listed below. Items offered by the Vendor must meet or exceed the listed Specifications.

#### **5.1 CERTIFICATION AND SAFETY LABELS**

All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

#### **5.2 QUALITY**

Unless otherwise indicated in the IFB, all items proposed must be new and in highest quality condition and must conform to the highest standards of manufacturing practice, including containers suitable for shipment and storage. Unless otherwise requested, CMBE will not accept "factory seconds" or otherwise inferior goods and reserves the right to return any such item(s) within (30) days of receipt at vendor's expense.

#### **5.3 PRODUCT INSPECTION, TESTING, AND DEFECTIVE ITEMS**

All products supplied under this contract should arrive in the best possible condition and will be subject to inspection, testing, and approval by CMBE. Any item delivered in an unacceptable condition will not be accepted. Tests may be performed on any samples submitted as part of the bid or evaluation process, or on samples taken from any regular shipment. In the event any product tested fails to meet or exceed all requirements of the bid item specifications or the Terms and conditions of the IFB, the cost of the samples used, and the cost of the testing shall be borne by the supplier, and upon notification to the vendor, the defective product(s) will be picked up and replaced by the vendor. Repeated incidents of delivery of products that fail to pass product inspection and/or testing by a vendor will warrant cancellation of the Contract in addition to the remedies outlined above. Furthermore, future business from CMBE could be jeopardized.

Products damaged in shipment will be considered as defective products and will be subject to the same remedies outlined above. Except for items that have hidden defects or that do not meet specification, title to all products shall pass to CMBE upon receipt and acceptance at the time of delivery. Latent defects discovered after delivery and acceptance of any products may result in revocation of the acceptance. CMBE shall have access to any supplier's place of business during normal business hours for the purpose of inspecting merchandise.

#### **5.4 DEVIATIONS**

The nature of all deviations from the Specifications listed herein shall be clearly described by the Vendor. Otherwise, it will be considered that items offered by the Vendor are in strict compliance with the Specifications provided herein, and the successful

Vendor shall be required to supply conforming goods. All bids must identify the manufacturer, brand, portion size, etc. of the product being offered. Any deviations from specifications and requirements herein shall be clearly pointed out by bidder. Deviations shall be explained in detail on an attached sheet. However, no implication is made or intended by The Charlotte Mecklenburg Board of Education that any deviation will be acceptable. Bidder is advised that the response (or lack thereof) on this question does not take precedence over specific responses or non-responses provided elsewhere in this bid. Any and all limitations, expectations, qualifications, special conditions, or deviations from the contract terms and conditions or any of the item specifications, including the offering of any alternate to the “approved brand and/or model” (where identified) shall be explained in detail below the item or on an attached sheet by the at the time of submission of the bid. The absence of such limitations, exceptions, qualifications, special conditions, or deviations being submitted in writing with the offeror’s response will hold the offeror accountable to The Charlotte Mecklenburg Board of Education to perform in strict accordance with all these terms and conditions and all the item specifications as written, including any such limitations, exceptions, qualifications, special conditions, or deviations with the bid response may place the offeror at a competitive disadvantage or otherwise prevent CMBE from considering the affected items(s). Do not list objections to the Charlotte Board of Education Standard Terms and Conditions in this section.

## 6.0 CONTRACT ADMINISTRATION

All Contract Administration requirements are conditioned on an award resulting from this solicitation. This information is provided for the Vendor’s planning purposes

### 6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

The Vendor shall be required to designate and make available to The Charlotte Mecklenburg Board of Education a contract manager. The contract manager shall be The Charlotte Mecklenburg Board of Education’s point of contact for Contract related issues and issues concerning performance, progress review, scheduling, and service.

Contract Manager Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

The Vendor shall be required to designate and make available to The Charlotte Mecklenburg Board of Education for customer service. The customer service point of contact shall be the State’s point of contact for customer service-related issues (define roles and responsibilities).

Customer Service Point of Contact	
Name:	
Office Phone #:	
Mobile Phone #:	
Email:	

### 6.2 POST AWARD PROJECT REVIEW MEETINGS

The Vendor, at the request of The Charlotte Mecklenburg Board of Education, shall be required to meet periodically *as needed* with The Charlotte Mecklenburg Schools Student Nutrition Department for Project Review meetings. The purpose of these meetings will be to review project progress reports, discuss Vendor and The Charlotte Mecklenburg Schools Student Nutrition Department

performance, address outstanding issues, review problem resolution, provide direction, evaluate continuous improvement and cost saving ideas, and discuss any other pertinent topics.

### **6.3 CONTINUOUS IMPROVEMENT**

The Charlotte Mecklenburg Board of Education encourages the Vendor to identify opportunities to reduce the total cost The Charlotte Mecklenburg Board of Education. A continuous improvement effort consisting of various ideas to enhance business efficiencies as performance progresses.

### **6.4 PERIODIC STATUS REPORTS**

The Vendor shall be required to provide supply and shipping Management Reports to the designated Contract Lead on a \_as needed basis. This report shall include, at a minimum, information concerning product supply inventory, any supply chain issues, shipping issues, etc. These reports shall be well organized and easy to read. The Vendor shall submit these reports electronically using the format required by the Purchasing Agency. The Vendor shall submit the reports in a timely manner and on a regular schedule as agreed by the parties.

Within ten (10) business days of the award of the Contract the Vendor shall submit a final work plan and a sample report, both to the designated Contract Lead for approval.

### **6.5 ACCEPTANCE OF WORK**

Performance of the work and delivery of Goods shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services or Goods are approved as acceptable by the Contract Administrator.

The Charlotte Mecklenburg Board of Education shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work or delivery of a deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation, or testing, as applicable to the work or deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures. Should the work or deliverables fail to meet any specifications, acceptance criteria or otherwise fail to conform to the Contract, the State may exercise any and all rights hereunder, including, for Goods deliverables, such rights provided by the Uniform Commercial Code, as adopted in North Carolina.

### **6.6 INVOICES**

Vendor shall invoice the Purchasing Agency. The standard format for invoicing shall be Single Invoices meaning that the Vendor shall provide the Purchasing Agency with an invoice for each order. Invoices shall include detailed line item information to allow Purchasing Agency to verify pricing at point of receipt matches the correct price from the original date of order. At a minimum, the following fields shall be included on all invoices:

Vendor's Billing Address, Customer Account Number, Order Date, Purchase Order Number, Manufacturer Part Numbers, Vendor Part Numbers, Item Descriptions, Price, Quantity, and Unit of Measure as applicable to the purchase.

**INVOICES MAY NOT BE PAID UNTIL AN INSPECTION HAS OCCURRED AND THE GOODS AND/OR SERVICES ARE ACCEPTED.**

### **6.7 DISPUTE RESOLUTION**

During the performance of the Contract, the Parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State's Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall agree to negotiate in good faith and use all reasonable efforts to resolve such dispute(s).

During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

## **6.8 PRODUCT RECALL**

Vendor expressly assumes full responsibility for prompt notification to the Buyer listed on the face of this IFB of any product recall in accordance with the applicable state or federal regulations. The Vendor shall support The Charlotte Mecklenburg Board of Education, as necessary, to promptly replace any such products, at no cost to The Charlotte Mecklenburg Board of Education.

## **6.9 PRICE ADJUSTMENTS**

Prices proposed by the Vendor shall be firm against any increase for one hundred twenty (120) days from the effective date of the Contract.

Price increase requests shall be submitted in writing to [anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us) and [sffood@cms.k12.nc.us](mailto:sffood@cms.k12.nc.us) , which shall include the reason(s) for the request and contain supporting documentation for the need no later than **December 1, 2025** for a price increase due to market conditions effective January 1, 2025. Price increases will be negotiated and agreed to by both The Charlotte Mecklenburg Board of Education and Vendor in advance of any price increase going into effect. The Charlotte Mecklenburg Board of Education is not obligated to accept pricing adjustments or increases and reserves the right to accept or reject them in part or in whole. Price de-escalation or decreases may be requested by The Charlotte Mecklenburg Board of Education at any time.

It is understood and agreed that orders will be shipped at the established Contract prices in effect on the date an order is placed. Invoicing that deviates from this provision may result in Contract to cancellation.

## **6.10 TAXES**

Items used served with meals and those used to serve meals purchased under this contract by the school district are not subject to State and Federal Taxes. A substitute certificate of exemption will be supplied upon request for all NON-Taxable products. Send your request to [anthonya.becker@cms.k12.nc.us](mailto:anthonya.becker@cms.k12.nc.us).

## **6.11 CONTRACT CHANGES**

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by The Charlotte Mecklenburg Board of Education and Vendor. Amendments to the contract can only be made through the contract administrator.

## **6.12 FORCE MAJEURE**

Also refer to ST&C, item 42, 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 other party in writing, citing the details of the Force Majeure event, and 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 executed 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.

CMBE will not be responsible for any costs incurred by the vendor because of the Force Majeure event unless the CMBE 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 CMBE 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 CMBE shall have the option to terminate this contract in accordance with ST&C, item 17, "Termination For Convenience", of the General Contract Terms and Conditions. Furthermore, this section shall not be interpreted as to limit or otherwise modify any of the CMBE's rights as provided elsewhere in this contract.

**The remainder of this page is intentionally left blank**

## **7.0 ATTACHMENTS**

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### **\*\*IMPORTANT NOTICE\*\***

#### **RETURN THE REQUIRED ATTACHMENTS WITH YOUR RESPONSE**

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##### **ATTACHMENT A: PRICING FORM**

Complete and return the Pricing Form associated with this IFB, which can be found in as Attachment A, which can be found as a separate document.

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##### **ATTACHMENT B: INSTRUCTIONS TO VENDORS**

The Instructions to Vendors, which are incorporated herein by this reference, which can be found as a separate document.

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##### **ATTACHMENT C: CHARLOTTE MECKLENBURG BOARD OF EDUCATION STANDARD TERMS & CONDITIONS**

The CHARLOTTE MECKLENBURG BOARD OF EDUCATION STANDARD Terms and Conditions, which are incorporated herein by this reference, which can be found as a separate document.

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##### **ATTACHMENT D: MINORITY, WOMEN'S, SMALL BUSINESS ENTERPRISES**

Complete and return the Historically Underutilized Businesses (HUB) Vendor Information form, which can be found as a separate document.

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##### **ATTACHMENT E: CUSTOMER REFERENCE FORM**

Complete and return the Customer Reference Form, which can be found as a separate document.

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##### **ATTACHMENT F: NC LUNSFORD**

Complete and return NC LUNSFORD, which can be found as a separate document.

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##### **ATTACHMENT G: LOBBYING ACTIVITY CERTIFICATION FOR FEDERAL GRANTS**

Complete, sign, and return ATTACHMENT G: LOBBYING, which can be found as a separate document.

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##### **ATTACHMENT H: CONTRACT TEMPLATE (SAMPLE)**

Review ATTACHMENT H: CONTRACT TEMPLATE (SAMPLE) associated with this IFB as a separate document.

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##### **ATTACHMENT I: CERTIFICATION REGARDING DEBARMENT**

Complete, sign, and return the CERTIFICATION REGARDING DEBARMENT associated with this IFB as a separate document.

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##### **ATTACHEMENT J: CERTIFICATION OF INDEPENDENT PRICE**

Complete, sign, and return the CERTIFICATION OF INDEPENTENT PRICE associated with this IFB as a separate document.

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##### **ATTACHEMENT K: CERTIFICATION OF FINANCIAL CONDITION**

Complete, sign, and return the CERTIFICATION OF FINANCIAL CONDITION associated with this IFB as a separate document.

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##### **ATTACHEMENT L: CERTIFICATION OF NUT FREE FACILITY**

Complete, sign, and return the CERTIFICATION OF NUT FREE FACILITY associated with this IFB as a separate document.

**\*\*\* Failure to Return the Required Attachments May Eliminate  
Your Response from Further Consideration \*\*\***