



DISTRICT OF COLUMBIA PUBLIC SCHOOLS
NEGOTIATED CONTRACT FOR GOODS AND/OR SERVICES

ISSUED BY: Office of Contracts and Acquisitions (OCA)
ADDRESS: 1200 First Street, N.E. 9th Floor
Washington, DC 20002

CONTRACT NO: GAGA-2023-C-0248 **SOLICITATION NO:** N/A
PROGRAM OFFICE: Office of the Chief Operations Officer (OCOO), Food and Nutrient Services (FNS)
CAPTION: Food Services Management Company
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The undersigned offers and agrees that, with respect to all terms and conditions, as negotiated between the offeror and DCPS and contained herein, and the provisions of the solicitation constitutes the Formal Contract.

<p>CONTRACTOR: (Contractor shall not commence performance until the District of Columbia Public Schools has signed this document)</p> <p>Contractor's Name: DC Central Kitchen (DCKK)</p> <p>BY: <u>Glenda Cognevich</u> Signature of Authorized Representative</p> <p>Print Name: Glenda Cognevich</p> <p>_____</p> <p>Title: Chief Financial Officer</p> <p>_____</p> <p>Date: 6/22/2023</p> <p>Mailing Address of the Contractor 2121 First Street SW, Washington, DC 20024</p> <p>_____</p> <p>202-266-2019 _____ Telephone No. Facsimile No.</p>	<p>ACCEPTANCE BY THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS:</p> <hr/> <p><u>Brenda Allen</u> Contracting Officer</p> <p><u>Brenda Allen</u> _____ <u>6/22/2023</u> Type or Print Name Date</p> <hr/> <p>The information contained in the box below is for District of Columbia Public Schools use only, and in the event of a discrepancy between this information and the terms of the contract, the contract terms shall take precedence.</p> <p>PERIOD OF CONTRACT: July 1, 2023, through September 30, 2023</p> <p>CONTRACT AMOUNT: \$740,319.45 for the base year</p>
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ACCOUNTING AND APPROPRIATION DATA:

SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

B.1 INTRODUCTION

The District of Columbia Public Schools (DCPS), Office of Resource Strategy (ORS), Contracts and Acquisitions Division (OCA), on behalf of the Office of the Chief Operating Officer (OCOO), Food & Nutrition Services (FNS), is awarding this sole source contract to DC Central Kitchen (DCCK), Food Service Management Company (FSMC) to prepare, furnish and deliver high-quality food service products and services to 108 DCPS School Sites, which are divided into ten (10) clusters. DCCK will serve 12 schools at Cluster 10.

The Contractor must conduct all program operations in accordance with all applicable Federal regulations, including, but not limited to, United States Department of Agriculture (USDA) 2 CFR Part 180, 2 CFR Part 200, and 7 CFR Parts 210, 220, 225, 226, 240, 245, 250, 3016.36, 3018.110(d), 3019.4, any Summer Food Service Program (SFSP) and Child Adult Care Food Program (CACFP) requirements, and Food and Nutrition Service (FNS) instructions, policies, and memorandum, as applicable, in addition to all applicable state and local regulations, policies and procedures, including but not limited to the DC Healthy Schools Act (HSA) of 2010, as amended, the Healthy Hunger-Free Kids Act (HHFKA) of 2010, as amended, and all State Agency memorandums and requirements. It is the duty of the Contractor to apprise itself with the requirements of DCPS Food Services and the District of Columbia Municipal Regulations 27 (DCMR 27).

B.2 CONTRACT TYPE

B.2.1

a. The DCPS awarded this one Requirements Contract(s) with a combination of 1) fixed unit price CLINs and 2) cost reimbursement component for the Fresh Fruit and Vegetable Program in accordance with 27 DCMR Chapter 24, Section 2416.3.

b. The contract has been awarded to the responsible Contractor with the most advantageous to the DCPS, price and other factors considered and pursuant to the Federal, State, and DCPS laws and regulations.

c. The award has been made based on fair and reasonable pricing of the proposed services. This is a Requirements Contract with fixed unit price CLINs Contract, where the District will purchase the articles of services and supplies described in the awarded contract. In the event of any assignment, the contractor shall remain liable to DCPS for the performance of all its obligations under the contract.

B.2 CONTRACT TYPE SELECTION:

B.2.1 The District contemplates the award of multiple Requirements Contracts with Fixed Unit Price in accordance with 27 DCMR Section 2400. There will be a minimum of one contract per category.

B.2.2 The CO may elect to proceed with any method of negotiations, discussions, or award of the contract without discussion or negotiations.

B.2.3 The award will be made to the responsive, responsible contractor with reasonable pricing whose bid will be the most advantageous to DCPS and DCIAA with respect to price, responsiveness, and responsibility determination.

B.3 PRICE SCHEULE – REQUIREMENTS CONTRACT WITH FIXED UNIT PRICE, AND COST REIMBURSEMENT

COMPONENTS.**B.3.1**

B.3.1.1 Contractor is awarded a Requirements Contract based on fixed unit price with a cost reimbursable component as allowable by USDA. DCPS will not pay any fees, costs, or charges not clearly identified in the Contractor's proposal and/or any subsequently executed food service contracts between Contractor and DCPS.

B.3.1.2 Per USDA 7 CFR Part 210, allowable costs for any and all cost-reimbursable elements of the contract will be paid from the DCPS nonprofit school food service account to the Contractor net of all discounts, rebates, and other applicable credits accruing and received by the Contractor or any assignee under the contract to the extent those credits are able to be allocated to the allowed portion of the costs billed to the school food authority.

B.3.1.3 The Contractor provided DCPS with the information described in sections G.2.4 of this contract related to any cost-reimbursable portions of the contract such that DCPS will be able to identify allowable and unallowable costs and the amount of any discounts, rebates, and credits on invoices and bills presented for payment. The Contractor determination of allowable costs must comply with applicable USDA regulations and 7 CFR Part 210.

B.3.2 The Contractor shall provide firm fixed unit pricing for the following categories:

B.3.2.1 CLIN 1001 Breakfast

B.3.2.2 CLIN 1002 Lunch

B.3.2.3 CLIN 1003 Afterschool CACFP Supper

B.3.2.4 CLIN 1004 Afterschool Snack Program

B.3.2.5 CLIN 1005 Summer Food Service, Breakfast

B.3.2.6 CLIN 1006 Summer Food Service, Lunch

B.3.2.7 CLIN 1007 Adult Meals, Breakfast

B.3.2.8 CLIN 1008 Adult Meals, Lunch

B.3.2.9 CLIN 1009 CACFP Snack

B.3.2.10 CLIN 1010 CACFP Lunch

B.3.3 The following costs shall be included in the calculation of the firm fixed unit price per meal:

B.3.3.1 Purchased food costs, including but not limited to the cost of the processed donated foods net of the value of the commodity, beverages, merchandise, and supplies and sales use and other taxes related to these purchases;

B.3.3.2 Non-food items that are necessary for the meal to be served and eaten;

B.3.3.3. Contractor salaries, wages, and taxes for employees assigned to DCPS school facilities;

B.3.3.4 Contractor salaried benefits, retirement plans, and the cost of administering such plans for services for employees working at DCPS school facilities;

B.3.3.5 Contractor hourly wages and taxes for employees working at DCPS school facilities;

B.3.3.6 Contractor hourly benefits, retirement plans, and the cost of administering such plans for services for employees working at DCPS school facilities;

B.3.3.7 All insurance is maintained pursuant to the contract;

B.3.3.8 All cleaning supplies necessary to maintain the sanitation of kitchen facilities;

B.3.3.9 Uniforms and Aprons;

B.3.3.10 Kitchen Smallware;

B.3.3.11 Any District and/or federal licensing costs or fees;

B.3.3.12 Printing expenses, including but not limited to menus and marketing materials;

B.3.3.13 Transportation and delivery of food or food equipment;

B.3.3.14 Office supplies for use by employees working at DCPS school facilities;

B.3.3.15 Postage and courier services related to DCPS school food service;

B.3.3.16 Marketing or promotion or proprietary materials, signage, and related materials purchased on behalf of DCPS Food Services;

B.3.3.17 Staff Training; and

B.3.3.18 All services related to section B.6 below.

B.4
THE CONTRACTOR SHALL PROVIDE SERVICES AT EACH CLUSTER SITE AWARDED TO THEM.

B.5 PRICE SCHEDULE / COST SCHEDULE

B.5.1 The quantities provided in the FNS School Sites Profiles in accordance with **Section C.4 item 10** are projections based on the school year 2018-2019 data. DCPS does not guarantee the actual quantities of meals nor establish norms for stable or normal operations.

B.5.2 The Contractor provided pricing for each cluster(s) the Contractor is providing service as set forth in section C.4 Item 26.

B.5.3 The estimated quantity of meals served at each DCPS School Site is identified in the document titled FNS School Sites Profiles, which is available at the following location:
<https://drive.google.com/drive/folders/19U1WxHQygZDOmnpMgZlmwFeGyVi0gFiR>

B.5.4 The Contractor included estimated yearly quantities based on the figures provided in the FNS School Sites Profiles referenced in Section C.4 Item 10.

B.5.5 The estimates provided in the FNS School Site Profiles are not representative of a minimum quantity order. The actual quantities of meals will depend on students' participation rates for each of the Contract Line-Item Numbers (CLIN) for the Period of Performance.

B.5.6 The Contractor agrees to meet all obligations under the awarded contract.

B.6 PRICE SCHEDULE FOR THE PERIOD OF PERFORMANCE

B.6.1 The Contractor provides D pricing for each CLIN that is available at the school site(s) the Contractor is responsible to serve. The school sites are identified in FNS School Sites Profiles; see Section C.4 Item 10.

B.6.2 The Contractor included pricing for the Period of Performance for cluster 10. for which they submitted proposal.

B.6.3 Section **B.6.4**, pricing for cluster 10, was submitted as part of the Contractor price proposal **under this Sole Source Contract GAGA-2022-C-0260 Food Services Management Price Proposal**.

B.6.4 PRICING

The table below provides a cross-reference between each Contract Line-Item Number (CLIN) and the section related to each CLIN in the Specifications and Work Statement – Section C. All estimated quantities in this section apply to the base year and two option years.

CLIN ENDING IN	COST CATEGORY	REFERENCE SECTION
1001	BREAKFAST	B.3.2.3.1
1002	Lunch	B.3.2.3.2
1003	AFTERSCHOOL CACFP SUPPER	B.3.2.3.3
1004	AFTERSCHOOL SNACK Program	B.3.2.3.4
1005	SUMMER FOOD SERVICE, BREAKFAST	B.3.2.3.5
1006	SUMMER FOOD SERVICE, LUNCH	B.3.2.3.6
1007	ADULT MEALS, BREAKFAST	B.3.2.3.7
1008	ADULT MEALS, LUNCH	B.3.2.3.8
1009	CACFP SNACK	B.3.2.3.9
1010	CACFP LUNCH	B.3.2.3.9

B.6.4.2 PRICING FOR CLUSTER 10**B.6.4.2.1****CLUSTER 10: 12 SCHOOLS**

1. Whitlock ES
2. Burrville ES
3. C.W. Harris ES
4. Drew ES
5. Houston ES
6. Kelly Miller MS
7. Nalle ES
8. River Terrace EC
9. Ron Brown HS
10. Smothers ES
11. Thomas ES
12. Walker-Jones
EC

CLUSTER 10 July 1,2023 – September 30, 2023					
CLIN	Item Description	Estimated Qty	Unit	Fixed Unit Price	Estimated Total
1001	Breakfast	41,305	EACH	\$6.55	\$270,547.75
1002	Lunch	48,152	EACH	\$7.10	\$341,879.20
1003	Afterschool Supper	9,503	EACH	\$7.50	\$71,272.50
1004	Afterschool Snack Program	400	EACH	\$1.70	\$680.00
1005	Summer Food Service, Breakfast	3,500	EACH	\$6.55	\$22,925
1006	Summer Food Service, Lunch	4,650	EACH	\$7.10	\$33,015
1007	Adult Meals, Breakfast	0	EACH	\$6.55	\$0.00
1008	Adult Meals, Lunch	0	EACH	\$7.10	\$0.00
1009	CACFP Snack	0	EACH	\$1.70	\$0.00
1010	CACFP Lunch	0	EACH	\$7.10	\$0.00
Total Not To Exceed		107,510			\$740,319.45

B.7 RESERVED**B.8 REQUIREMENTS CONTRACT**

The District will purchase its requirements of the articles or services included herein from the Contractor (refer to Section B.6, Cost Categories, Clusters List, and Clusters Pricing Tables.) The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered or that conditions affecting requirements will be stable. The

estimated quantities shall not be construed to limit the quantities which may be ordered from the Contractor by DCPS or to relieve the Contractor of its obligation to fill all such orders.

- a) Delivery or performance shall be made only as authorized in accordance with the Ordering Clause, G.10. DCPS may issue orders requiring delivery to multiple destinations or performance at multiple locations. If DCPS urgently requires delivery before the earliest date that delivery may be specified under this contract, and if the Contractor shall not accept an order providing for accelerated delivery, DCPS may acquire the urgently required goods or services from another source.
- b) There is no limit on the number of orders that may be issued. DCPS may issue orders requiring delivery to multiple destinations or performances at multiple locations.
- c) DCPS shall not be required to purchase from the contractor requirements in excess of the limit on the total orders under his contract, if any.
- d) DCPS may issue orders that provide for delivery to or performance at multiple destinations. DCPS may, with reasonable notice but with no less than thirty days' written notice to the Contractor, add locations not included in the agreement at the time of award, and those locations shall be fully incorporated into the awarded Contract for the remaining term.
- e) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and DCPS's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period, provided that the Contractor shall not be required to make any deliveries under this contract after the expiration of the Contract.

B.9 FRESH FRUITS AND VEGETABLES PROGRAM (FFVP) COST REIMBURSEMENT COMPONENT

B.9.1

The Contractor will be reimbursed for the USDA-administered Fresh Fruit and Vegetable Program (FFVP), which operates separately from traditional school meal services, based on cost reimbursement ceiling rates determined by the OSSE for each school. In this program, students shall be served a sampling of fresh fruits and vegetables by the Contractor, and costs for purchasing, labor, and packaging are reimbursed up to the ceiling established by OSSE independently of any school meals associated with a CLIN in this contract. To be reimbursed, the Contractor must submit monthly cost reimbursement invoices to FNS explaining its operational and administrative expenses, as referenced in section G.2 and section C.4 item 25. Cost reimbursements to the Contractor for each school served shall not exceed the cost reimbursement ceiling rate for each school, which shall be provided to Contractor by DCPS annually. The Contractor shall not include FFVP reimbursement in its firm fixed unit price, as this will be reimbursed separately.

B.10 SPECIAL PROVISIONS RELATED TO THE COVID-19 EMERGENCY:

(a) The Contractor is required to comply with Mayor's Order 2021-099, COVID-19 Vaccination Certification Requirement for District Government Employees, Contractors, Interns, and Grantees, dated August 10, 2021, and all substantially similar vaccine requirements, including any modifications to this Order, unless and until they are rescinded or superseded. At the request of the district government, Contractors may be asked to provide certification of compliance with this requirement and/or documents and records in support of this certification.

(b) The Contractor is required to comply with City Administrator's Order 2021-4, Resumption of Requirement for All Persons to Wear a Mask Inside District Government Buildings and While on Duty as a District Government Employee or Contractor, dated July 30, 2021, and all substantially similar mask requirements, including any modifications to this Order, unless and until they are rescinded or superseded.

THIS SPACE WAS INTENTIONALLY LEFT BLANK.

C.1 SCOPE

- (a) The Contractor shall implement and manage the overall District of Columbia Public Schools (DCPS) Food Service Program (FSP). School operations are not limited to weekdays and may include evenings and weekends. The Contractor shall prepare, serve, transport (if applicable) and account for meals on all DCPS operating days and in extenuating circumstances, such as during storms or other acts of God where assistance to school children, families, and the community is required. Such services include management of the School Breakfast Program (SBP) (including, but not limited to, “breakfast in the classroom,” and other alternative program configurations), the National School Lunch Program (NSLP), the Summer Food Service Program (SFSP), Seamless Summer Operation (SSO), the After School Snack Program (ASSP), the At-Risk Child and Adult Care Food Programs (CACFP), the Fresh Fruit and Vegetable Program (FFVP), a la carte meals and items, adult meals, and any other food service the program is organized within the breadth of Food and Nutrition services specified in the contract, as applicable. The number of school sites under contract and/or locations of schools is subject to change over the contract term for a variety of reasons, including, but not limited to, modernization, consolidation, new school sites, DCPS special initiatives, Contractor performance, and/or closure of school buildings.
- (b) The DCPS Food and Nutrition Services Division (FNS) has been a pioneer in improving the quality and healthfulness of school food while embracing alternative serving models to increase students’ access to school meals. To continue the advancement of its work, FNS aligns with four key value areas: Student Health and Achievement, Equity, Community, and Continuous and Strategic Improvement. By prioritizing each value area, it is FNS’s mission to continue to find innovative ways to offer equitable access to appetizing school meals made from fresh, locally produced ingredients and engage the entire D.C. community in implementing programs that meet the needs of our school communities to encourage healthy decision-making through sustainable practices. DCPS seeks to increase children’s participation in school meal programs and promote the consumption of fruits, vegetables, and wholesome foods, thereby improving childhood nutrition, reducing hunger, and preventing obesity and obesity-related diseases. In an effort to continue to support student health and achievement, DCPS FNS and the Contractor will work to ensure that all DCPS students receive nutritious meals and address the needs and concerns of our families. FNS believes in providing appetizing school meals made from fresh, locally produced ingredients to the fullest extent possible while utilizing the maximum amount of on-site equipment. FNS strives to engage the entire DC community in implementing programs that encourage healthy decision-making, promote sustainable practices, and exceed expectations in satisfaction.
- (c) DCPS continually engages students, parents, principals, and the greater school community to best assess satisfaction with the school meal programs with the goal of improving menus by offering more nutritious and delicious meals. The Contractor, in collaboration with FNS and local partners, shall participate in the facilitation of the School Food Collaborative (SFC) through the recruitment of students, teachers, parents, and administrative staff to assist in menu planning, taste testing, surveys, enhancement of the eating environment, program promotion, and related student-community support activities per 7 CFR Part 210.16(a)(8). SFA is responsible for scheduling periodic meetings with the SFC. The Contractor will assist in the promotion and facilitation of meetings as directed by FNS.
- (d) In awarding a new contract for meal service for the school year 2022-2023, DCPS selected this Contractor to provide consistent, high-quality meals and service across all schools while managing costs to match federal meal reimbursement rates.

- (e) The Contractor must meet DCPS' expectations for daily service management and delivery while embracing and building upon DCPS Food Services' mission. DCPS Food & Nutrition Services believes that healthful food improves students' physical and mental development and therefore is essential to academic and lifelong success.
- (f) Along with sharing in its mission, DCPS has identified specific factors which would most contribute to a Contractor's success in DC schools. These include:
- (1) Strong internal policies and procedures.
 - (2) Strong hiring practices and staff engagement.
 - (3) A comprehensive and systematic approach to staff training and development.
 - (4) Knowledgeable and results-oriented upper management.
 - (5) Detail orientation.
 - (6) Prioritizing and enabling problem-solving at all levels.
 - (7) Ensuring accountability for results/celebrating success.
 - (8) Proven, rigorous systems and processes which ensure superior food, nutrition, quality, service, and satisfaction results; and
 - (9) Able to adapt and change well when needed.
- (g) The above factors are standard practices for food service organizations in the private sector and should be applied in the school food service environment. DCPS believes in setting high expectations for its food service program and that any company looking to lead in DCPS must demonstrate a mastery and proven track record of food service competencies and a desire to drive success through innovation collaboratively with DCPS Food & Nutrition Services.

C.1.1 MAIN OBJECTIVES

C.1.1.1 The DCPS FSP shall be operated and maintained as a benefit to DCPS students and the community.

C.1.1.2 The DCPS FSP shall operate in a manner that is fiscally responsible and no greater to the rate of reimbursement per meal provided by the USDA, a standard practice for school nutrition programs and an essential component of DCPS' programmatic success. A financial plan detailing this strategy is required as a component of this procurement.

C.1.1.3 Within the scope of the services, the Contractor shall assume the following, in addition to its other obligations for the full duration of the contract:

C.1.2 Program Compliance

C.1.2.1 The Contractor shall adhere to all DCPS, local, and federal compliance requirements, including student eligibility, meal counting and claiming, nutrition and allergen requirements, and medical substitutions; and

C.1.2.2 The Contractor shall maintain all FSP-required and DCPS-specified records for each state and federally-mandated audit reporting period and assist with FSP audits as necessary.

C.1.3 FISCAL MANAGEMENT & REPORTING

C.1.3.1 The Contractor shall manage and accurately report, on a daily basis, all revenue-generating activities through the approved, DCPS-owned Point-of-Sale system in coordination with the Office of the Chief Financial Officer (OCFO) including, but not limited to, cash sales and federal reimbursements.

C.1.3.2 The Contractor shall manage and accurately report all revenues, credits, fees, and expense items in a manner and format agreed to by DCPS; and

C.1.3.3 The contractor shall manage and accurately report the FSP income position as required by DCPS.

C.1.4 OPERATIONS & PERFORMANCE

C.1.4.1 The Contractor shall increase the Food & Nutrition Program satisfaction versus each prior school year by improving the quality of meals and service through enhancements in execution and innovation and by mitigating barriers to meal participation across all schools. The Contractor shall provide and be accountable to an annual plan to improve satisfaction with food and service and report on the status of meeting the objectives of its plan as a component of its regularly scheduled reporting. The annual plan is due to procurement 60 days prior to the start of each regular school year electronically and in hard copy in accordance with the table contained in section F.3 and shall be subject to approval by DCPS. Failure to improve where satisfaction rates are below 85% is subject to the reassignment of individual schools as stipulated in section F.2.2.1. An executive summary of the approach to be implemented is due as a component of this procurement.

RC.1.4.1.1 The Contractor shall measure satisfaction among DCPS students via surveys to be administered twice annually. These surveys shall be subject to approval by DCPS.

C.1.4.1.2 The Contractor shall participate in waste studies annually to further determine consumption rates and relationships to satisfaction. Frequency and method of evaluation shall be determined by DCPS with feedback provided by the Contractor considered prior to implementation.

C.1.4.1.3 The Contractor has experience in a large, urban school district setting (duration of at least 10 years). The Contractor demonstrated experience operating similar Food Services Programs and perform the same or similar functions.

C.1.4.2 The annual satisfaction plan initiatives must contain deliverables that are specific, measurable, achievable, realistic, and time-bound (S.M.A.R.T.) in nature.

C.1.4.3 The Contractor shall manage and conduct all procurement relating to the Food Service Program in accordance with all applicable Federal and District procurement laws, subject to any requirements set forth herein.

C.1.4.4 The Contractor shall work with DCPS to manage the USDA Foods program in coordination with the District of Columbia (DC) State Agency (SA) which is the Office of the Superintendent of Education (OSSE).

C.1.4.5 The Contractor shall work with DCPS to manage all other federal or state food programs, including the Fresh Fruit and Vegetable Program (FFVP), in coordination with OSSE; and

District Standard	FNS Daily Accountability Policy & Procedures; Guide to Daily Operations for Family Style Meals, FNS Site Review Process; DCPS Standard Operating Procedures; The District of Columbia Municipal Regulations (DCMR Title 27).
Local Standard	DC Healthy Schools Act (HSA) of 2010 (as amended); Healthy Students Amendment Act of 2018
Federal Standard	Richard B. Russell National School Lunch Act; Child Nutrition Act of 1966; Healthy Hunger-Free Kids Act (HHFKA) of 2010 (as amended); Nutrition Standards in the National School Lunch and School Breakfast Programs, final regulations published 1/26/2012; United States Department of Agriculture (USDA) 2 CFR Part 180, 2 CFR Part 200, and 7 CFR Parts 210, 220, 225, 226, 240, 245, 250, 3016.36, 7 CFR 3018.110(d), 7 CFR 3019.4, any Summer Food Service Program (SFSP) and Child Adult Care Food Program (CACFP) requirements, and Food and Nutrition Service (FNS) instructions, policies, and memoranda, as applicable, in addition to all applicable state and local regulations, policies, and procedures, including but not limited to the DC Healthy Schools Act (HSA) of 2010, Healthy Students Amendment Act of 2018, as amended, the Health Hunger-Free Kids Act (HHFKA) of 2010 (as amended), and all State Agency memorandums and requirements.

C.1.4.6 The Contractor shall provide detailed analysis relating to fiscal management, program compliance, operations, and performance as specified by DCPS each month.

C.1.4.7 At the termination of the contract, all program records maintained by the Contractor shall be released and returned to DCPS.

C.2 DEFINITIONS

C.2.1

Adult Meals (Breakfast or Lunch): Meals served to non-students that follow the 9-12 meal pattern. Adult meals may be inclusive of school-community partnerships, i.e., PTA meetings, parent cabinet meetings, Back-To-School Nights, School Food Collaborative meetings, etc.

C.2.2

Afterschool Snack: Snacks that meet all of the requirements of this agreement regarding quality and compliance (NSLP ASSP or CACFP) and which are provided to DCPS students as a part of the DCPS food service program.

C.2.3

Afterschool Supper: Suppers that meet all of the requirements of this agreement regarding quality and

compliance (CACFP) and which are provided to DCPS students as a part of the DCPS food service program.

C.2.4

Breakfast in the Classroom (BIC): An alternative breakfast serving model wherein students are served portable breakfast items in the classroom after the required time to be in school.

C.2.5

Building and Structure: Wiring, plumbing, or equipment integral to the general function of the building.

C.2.6

Child and Adult Care Food Program (CACFP): A federally funded program that complements after-school programs that serve a meal or snack to children in low-income areas.

C.2.7

Child Nutrition (CN) Program: Federal programs which DCPS administers through its food service management contract(s), including the National School Breakfast and Lunch Programs, Summer Food Service Program, and the Child and Adult Care Food Program, which is funded by regulatory agencies.

C.2.8

Cluster(s): For the purposes of this solicitation, cluster refers to the cluster of schools grouped for the purposes of this RFP and as described in Section B. The terminology is specific to the work of FNS. The cluster does not refer to DCPS clusters, each managed by an Instructional Superintendent.

C.2.9

Community Eligibility: A USDA NSLP certification allows a school to provide lunch meals to all students at no charge.

C.2.10

Contractor: A commercial enterprise or a nonprofit organization that is or shall be contracted with by DCPS Food Services to manage any aspect of the school food service.

C.2.11

CLIN: Contract Line-Item Number.

C.2.12

Customer Ignored: A student whose meal service transaction was not ignored because the prior student's the transaction had not been completed.

C.2.13

DCPS: The District of Columbia Public Schools.

C.2.14

Donated Foods: USDA Foods/commodities donated to DCPS by USDA for distribution to schools and other recipient agencies.

C.2.15

Early Childhood Family Style Lunch: Portable lunch provided to Preschool or Pre-Kindergarten students enrolled under DCPS. Students are encouraged to serve and portion the food themselves from family-style containers.

C.2.16

Equipment: Powered appliances used for food preparation, including temperature-controlled storage equipment located in DCPS schools owned by DCPS Food Services used to facilitate the food service program.

C.2.17

Equivalency Factor: The sum of applicable federal and District reimbursements plus the USDA Foods entitlement rate. Subject to change yearly with USDA published rate changes. (e.g., 2020-2021: Greater than 60% free and reduced federal free lunch reimbursement rate \$3.43 (Fiscal Year 2020 NSLP Rate); Estimated state reimbursement per lunch \$.10 (Fiscal Year 2020 Healthy Schools Act Rate); Federal commodity entitlement rate for 2021 is \$0.3625).

C.2.18

Extended Breakfast: Also referred to as “second chance breakfast,” an alternative breakfast serving model wherein breakfast time is extended past the start of school or reopened for additional time to accommodate tardy students.

C.2.19

Facilities: DCPS Food Service facilities include school kitchens, kitchen offices, kitchen bathrooms, locker rooms, and administrative space.

C.2.20

Firm Fixed Unit Price per Meal: The price charged by a Contractor for each meal accounted for in the point-of-sale system, given the cost of food, labor, marketing, overhead, and supplies.

C.2.21

Fixed Fee: The price charged by the Contractor to DCPS for a product or service.

C.2.22

Food & Nutrition Services Division or “FNS”: The DCPS Office of Food & Nutrition Services.

C.2.23

Fresh Fruit and Vegetable Program or “FFVP”: A federally assisted program providing free fresh fruits and vegetables to students in participating elementary schools during the school day, as referenced in section C.4 Item 17.

C.2.24

FSP: Food service program. The scope of operations is managed by the DCPS Office of Food & Nutrition Services.

C.2.25

FSW: Food service worker. A person (full-time, part-time, or temporary) who is hired to provide food services at DCPS school facilities.

C.2.26

HHFKA: Healthy Hunger-Free Kids Act of 2010, Nutrition Standards in the National School Lunch and School Breakfast Programs, final regulations published 1/26/2012.

C.2.27

H.S.A.: Refers to the District of Columbia Healthy Schools Act of 2010, as amended 8/5/2011, and the DC Healthy Students Amendment Act of 2018.

C.2.28

Grab and Go: An alternative meal service model wherein students take a meal from a portable serving unit placed outside of the cafeteria and eat in areas determined by the school administration.

C.2.29

Meal Equivalent: The common denominator for the calculation of the firm fixed unit price.

C.2.30

Nonprofit Food Service Account: Regulates food service spending to allowable expenses, defined as those expenses which are conducted principally for the benefit of schoolchildren. Any revenue in excess of expenses must be used only to maintain, expand, or improve DCPS' food service program.

C.2.31

Non-Provision School: A school that does not provide universally free lunch meals through Community Eligibility Provision or Provision 2 designation. A non-provision school requires students to pay for meals unless the students have completed a Free and Reduced Meal Application and have been confirmed as eligible for the benefit individually.

C.2.32

Offer versus Serve (OVS): A concept that applies to menu planning and meal service. OVS allows students to decline some of the food offered in a reimbursable lunch or breakfast. The goals of OVS are to reduce food waste and to permit students to choose the foods they want to eat, as referenced in section C.4, Items 18A and 18B.

C.2.33

On-Site: A school that has the equipment and space necessary to prepare meals daily for its student enrollment (See Section C.4 Item 10).

C.2.34

Operating Days: Any day of the week when DCPS programming is scheduled.

C.2.35

Participation: The percentage of students who receive Reimbursable Meals under the National School Lunch Program and the School Breakfast Program. It shall be calculated as the number of reimbursable meals served divided by the average daily attendance established by DCPS.

C.2.36

Provision 2: A USDA NSLP certification wherein a school provides free lunch meals to students regardless of

eligibility for a four-year period. Schools collect Free and Reduced Meal Applications during the program's base year to determine reimbursement claiming percentages for the certification period.

C.2.37

Reimbursable Meals: Those meals served in the Food Service Program to eligible students for which DCPS Food Services is entitled to reimbursement from OSSE under applicable federal and state law (7 CFR 210):

C.2.37.1

Reimbursable Breakfast: A breakfast that meets all of the requirements of this agreement regarding quality and compliance of the School Breakfast Program (SBP) and which is provided to DCPS students as a part of the DCPS food service program.

C.2.37.2

Reimbursable Lunch: A lunch that meets all of the requirements of this agreement regarding quality and compliance of the National School Lunch Program (NSLP) or CAFCP, as applicable, and which is provided to DCPS students as a part of the DCPS food service program.

C.2.37.3

Reimbursable Salad Bar: A lunch acquired solely from a salad bar that meets all of the requirements of this agreement regarding quality and compliance of the NSLP and which is provided to DCPS students as a part of the DCPS food service program.

C.2.37.4

Reimbursable Supper: A supper that meets all of the requirements of this agreement regarding quality and compliance of the At-risk CACFP and which is provided to DCPS students as a part of the DCPS food service program.

C.2.37.5

Reimbursable Snack: A snack that meets all of the requirements of this agreement regarding quality and compliance of the NSLP or CACFP, as applicable, and which is provided to DCPS students as a part of the DCPS food service program.

C.2.38

SA or State Agency: State Agency, the District of Columbia Office of the State Superintendent of Education (OSSE), Wellness and Nutrition Services Division, responsible for overseeing the administration of all applicable programs under the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, the Healthy Hunger-Free Kids Act, and the DC Healthy Schools Act.

C.2.39

School Food Authority (SFA): The administering unit for the operation of a school feeding program.

C.2.40

Satellite: A school that does not have the equipment and space necessary to prepare meals daily for its student enrollment.

C.2.41

Services: The services to be provided by the Contractor under this agreement.

C.2.42

Small Ware: Glassware, flatware, dinnerware, pots and pans, tabletop items, bar supplies, food preparation utensils and tools such as can openers, storage supplies, service items, and small appliances cost \$500 or less.

C.2.43

Specialty Cluster(s): A select number of DCPS schools without distinct feeder patterns.

C.2.44

USDA: The United States Department of Agriculture.

C.2.45

Mosaic: DCPS' owned and adopted point-of-sale system.

C.2.46

PPE: Personal Protective Equipment: Wares, garments, and accessories designed to protect workers from exposure to contagions. PPE includes but is not limited to hand sanitizer, gloves (latex or nitrile), masks (surgical or cloth).

C.2.47

Cost Reimbursable: Operating expenses billed at cost outside of Firm Fixed Unit Price Per Meal.

C.2.48

Community Partner: Non-DC Government organizations, such as nonprofits or private businesses, that partner with DCPS on initiatives or programming.

C.2.49

OSSE: Office of the State Superintendent of Education, a DC government agency and FNS regulatory authority.

C.2.50

DGS: Department of General Services, a DC government agency that executes construction, property management, among other services, for the District of Columbia and its government agencies.

C.2.51

Good Food Purchasing Program (GFPP): A values-based procurement framework that supports institutions to direct their buying power toward five core values: local economies, environmental sustainability, valued workforce, animal welfare, and nutrition.

C.2.52

Locally Grown: As defined by the HSA, it means a from a grower i: Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia. Locally processed, as defined by the District of Columbia Healthy Schools Act of 2010, means processed at a facility in: Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia.

C.3 REQUIREMENTS

C.3.1 COMPLIANCE

C.3.1.a Contractor shall remain in full compliance listed in the Table in Section C.1.4.5, Page 34.

C.3.1.b Contractor shall abide by the DCPS-specific standards where the standards exceed the requirements of the HHFKA and the HSA and shall abide by the HSA where the standards exceed the requirement of the HHFKA.

C.3.1.c Contractor shall abide by all applicable policies, procedures, and directives of DCPS, which shall be provided to the Contractor by DCPS.

C.3.1.1 Contractor communication with School Administrators, teachers, and other school personnel shall be professional. FNS designated point of contact shall be copied on all communication sent by the Contractor to the school principal.

C.3.2 NUTRITION

C.3.2.1 DCPS NUTRITION STANDARDS

Menu items shall comply with the nutrition standards of 7 CFR Parts 210, 215, 220, 225, and 226.

[A=applicable to all meals; B=applicable only to breakfast; L=applicable only to lunch; S=applicable only to supper]

On average, throughout the year, a minimum of 20 percent, by cost, of all food ingredients and products used in the making of the meals shall be locally grown* and locally processed* [A]

C.3.2.1.1 Vegetarian meals shall be available every day at all grade levels. Vegetarian meals must rotate daily to avoid repetition. Vegetarian meals must be clearly labeled or identified as vegetarian. [A]

C.3.2.1.2 Medically necessary dietary accommodations are reasonably accommodated upon receipt and FNS approval of the dietary accommodation form signed by the parent/guardian and medical provider as referenced in section C.4 Item 9 and Item 22 per federal and local requirements. [A]

C.3.2.1.3 Other dietary accommodations, such as plant-based and religious restrictions, shall be reasonably accommodated if approved by FNS after FNS review of the dietary accommodation form signed by the parent or guardian as referenced in section C.4, Item 9 and Item 22. [A]

C.3.2.1.4 Peanut and tree nut products shall not be served in any form. The Contractor (s) may request express consent for specific items to be served during special event days (e.g., coconut milk) [A]; and

C.3.2.1.5 Pork shall not be served in any meals and in any form [A].

C.3.2.1.6 Foods listing added sugars as the first or second ingredient must be approved by DCPS for service and frequency of service through menu approvals and/or taste tests. Foods containing high-fructose corn syrup (HFCS) shall not be permitted [A].

C.3.2.1.7 Fish or seafood shall be offered at least twice per month [L]; and

C.3.2.1.8 Pizza (defined as a flat base of dough, traditionally topped with tomato sauce and cheese, typically with an added meat or vegetable) shall be served in elementary schools no more than once per week, in middle schools no more than twice per week, and shall be served in high schools no more than three times per week [L].

C.3.2.1.9 Meats and proteins shall not be deep-fried at any point during their processing [A]

C.3.2.1.10 Foods served shall not contain any artificial ingredients, sweeteners, colors, or flavors, or preservatives without consent from FNS. [A] DAIRY

C.3.2.1.11 Milk shall be unflavored skim or no more than 1% fat [A];

C.3.2.1.12 Milk shall not contain added sweeteners or artificial flavorings [A];

C.3.2.1.13

Milk substitutions shall be provided in accordance with 7 CFR 210.10(g) [A].

C.3.2.1.14

A fresh fruit and vegetable shall be offered at a minimum of once per day [A];

C.3.2.1.15

20% of fruit and vegetable offerings shall be rotated each month for a variety [A];

C.3.2.1.16

On average, throughout the year, a minimum of 20% of the cost of all produce used in the making of the meals shall be locally grown* and/or locally processed*; geographic preference will be given to contractors who can provide locally grown or processed products. [a];

C.3.2.1.17

Fruits and vegetables are preferably fresh or frozen and shall not be packed in anything other than water or natural fruit juice [A]; and

C.3.2.1.18

Only 100% fruit, vegetable, or fruit-vegetable blended juice shall be served [A];

C.3.2.1.19

No non-naturally occurring trans fatty acids or hydrogenated oils [A];

C.3.2.1.20

Products containing hormones or antibiotics must meet Good Food Purchasing Program Standards [A].

C.3.2.2

HSA NUTRITION STANDARDS AND COMPLIANCE

Menu items shall comply with the nutrition standards of the DC Healthy Schools Act of 2010 as amended and the DC Healthy Students Amendment of 2018 as amended.

C.3.2.2.1

The Contractor shall identify and report the number of meals served that are nutritionally compliant, provide documentation as necessary, and shall make every effort to provide meals that meet these reimbursement requirements in Sections 101 and 301 of the DC Healthy Schools Act, referenced in section C.4 Item 11 and Item 12;

C.3.2.2.2

The FSMC will provide a quarterly summary report stating which farm supplies the locally grown or raised agricultural products, amount, and type purchased for that period.

C.3.2.2.3

All grain products should be whole-grain rich, meaning that the product contains at least 50% whole grains, and the remaining grains must be enriched.

C.3.2.2.4

The FSMC agrees to serve locally grown or raised unprocessed foods from growers engaged in sustainable agriculture practices whenever possible, and at minimum once daily.

C.3.2.3

HHFKA NUTRITION STANDARDS

Standards listed in section C.4 Item 14 are new as per HHFKA revision. If a standard is encompassed in the DCPS-specific or HSA requirements, it is not listed.

C.3.2.4

Water Cold filtered water shall be made available to students through drinking fountains or other means when meals are served. In the absence of a drinking fountain in the cafeteria, Contractor shall provide an alternative means of making cold filtered water available to students as directed by DCPS.

C.3.3 PRICING AND CHARGE POLICY

C.3.3.1

The Contractor shall provide free breakfast, snacks, and supper meals to all students.

C.3.3.2

The Contractor shall provide free lunch to all students eligible for reduced or free meals and all students enrolled in Provision 2 (if applicable) or Community Eligible Provision (CEP) schools.

C.3.3.3

The Contractor shall establish student and meal prices as directed by DCPS. Meal prices are subject to change annually as per HHFKA until equity is achieved with federal reimbursement rates. Adult meal prices are subject to change annually per DCPS' discretion.

C.3.4 COUNTING AND CLAIMING

C.3.4.1

“Offer” versus Serve (OVS) will apply for all grades, as referenced in section C.4 Items 18A and 18B DCPS shall inform the Contractor prior to modifying its service type.

C.3.4.2

Each point of sale (POS) machine shall have a working PIN pad or scanner, and this equipment shall be used to record meal counts when operable without exception. If inoperable, cashiers shall take meal accountability on a paper tally sheet (NSLP) or roster (CACFP) and later enter it in the POS system. If all students are being checked off on a roster or if notations other than checkmarks are used (indications of incorrect counting procedures), those recording meal counts shall be instructed on correct meal counting procedures.

C.3.4.3

Each POS machine shall have one worker to record meal counts.

C.3.4.3.1

Unless otherwise directed by FNS, food service workers are the only individuals permitted to record meal counts; and,

C.3.4.3.2

Each student shall be asked their name before being checked off on a roster, and,

C.3.4.3.3

Meal rosters shall be kept in folders and shall not be visible to students.

C.3.4.5

All point-of-sale technical issues shall be reported immediately via the DCPS reporting application: “Quickbase”. In the event of a technology emergency, the Contractor shall communicate directly via email or call the identified DCPS IT POC.

C.3.4.6

Contractor production records shall be in a form and format that meets federal requirements and supports meal claims as defined in Administrative Review. Contractor production record forms shall receive DCPS approval prior to the start of school. DCPS reserves the right to mandate a universal production record if necessary.

C.3.4.7

The Contractor approved production records shall be completed daily for each meal type and serving model (as needed) and maintained in a binder in the cafeteria office at the school.

C.3.5 RECORDKEEPING

C.3.5.1

Mosaic edit checks shall be printed and signed daily by Contractor at each school site and maintained securely in a binder in the cafeteria office.

C.3.5.1.1

Breakfast and lunch meal counts shall be inputted in full prior to printing daily.

C.3.5.1.2

Supper and snacks edit checks shall be printed the day following service and attached to the matching breakfast and lunch edit check;

C.3.5.1.3

If edit checks are changed to account for field trip rosters and/or meal count edits, these changes shall be relayed to the cafeteria lead and be noted on the daily edit check and daily production record, dated and initialed.

C.3.5.1.4

A new edit check must be printed and stapled to the production records and edit check.

C.3.5.1.4.1

Applicable to Non-Provision Schools: If the meals claimed exceed the average daily attendance for any category (free, reduced, paid) on the daily edit check, the justification for the claim shall be noted on the daily edit check, dated, and initialed.

C.3.5.1.4.2

Applicable to Provision Schools: if the meals claimed to exceed the average daily total attendance on the daily edit check, the justification for the claim shall be noted on the daily edit check, dated, and initiated by the appropriate and designated staff.

C.3.5.2

Production records shall be completed daily and maintained securely in the school cafeteria office in a manner that is accessible electronically and in print, at each site.

C.3.5.2.2

For on-site schools, "Portion prep total" shall equal the portions prepared for service, and "Portion serve reimbursable" (entrée) shall equal "reimbursable meals."

C.3.5.2.3

Edit checks, production records, and transaction logs shall be reviewed daily by cafeteria leads and weekly by Contractor management. Transaction log errors must be corrected by the Contractor or reported to DCPS by the end of the calendar week. The status of every school's production records and edit checks shall be reported monthly to DCPS. Any errors found by DCPS shall be corrected by the Contractor in Mosaic dated and initialed; and, noted on the corresponding daily edit check(s) and production record(s). Updated Edit Checks are to be printed and stapled to the previous ones.

C.3.5.3

All records shall be maintained for a minimum of five years beyond the date of their creation. Records shall be orderly, easily accessible, and explained to DCPS by Contractor as required by DCPS. Records which shall be maintained at the school site include:

C.3.5.3.1

Production records.

C.3.5.3.2

Daily edit checks and accountability rosters.

C.3.5.3.3

Delivery tickets (if applicable).

C.3.5.3.4

Dietary accommodation forms (if applicable).

C.3.5.3.5

Completed operational/compliance forms completed during monitoring visits; and

C.3.5.3.6

Findings of formal and/or informal school-based audits or monitoring visits.

C.3.6 DEPARTMENT OF HEALTH: DC HEALTH

C.3.6.1

The Contractor (s) shall comply with DC Health regulations, including but not limited to the following:

C.3.6.1.1

At least one DC Certified Food Protection Manager/DC Health required “Person In Charge” designee must be on school premises during work hours, with a valid copy of their Food Protection Manager ID posted conspicuously in the school kitchen, and an electronic copy was provided to FNS. Contractor is required to have a permitted backup worker available in the event of the primary permit holder’s absence to ensure compliance with DC Health regulations;

C.3.6.1.2

Hold a valid DC Basic Business License (BBL) under the name of the Contractor and school (IE Contractor/School), with a copy posted conspicuously in the school kitchen* and an electronic copy provided to FNS;

C.3.6.1.3

Submit to all unannounced and regular health inspections (minimum 2 each year) for any facility, inside or outside of the school for which it plans to prepare meals, with a copy of the latest inspection (six months old or less) posted conspicuously in the school kitchen; and

C.3.6.1.4

Comply with all health code requirements concerning the maintenance of facilities, equipment, and delivery vehicles and the storage, preparation, and service of food which are examined during a DC Health inspection.
*It is the responsibility of the Contractor to pay for, obtain, and maintain a valid BBL for each school cafeteria.

C.3.6.2

DCPS reserves the right to obtain meals from other sources without obligation to Contractor if meals are rejected due to closure of one or more of the Contractor’ school kitchens by the DC Health for health code violations.

C.3.6.3

Contractor shall notify DCPS immediately (prior to the close of business on the same operating day) following DC Health site inspections with details of the inspection. Corrections to any cited DC Health violations shall be

addressed immediately (prior to the close of business on the same operating day), including but not limited to, a plan of action that is mutually agreed upon between Contractor, DCPS, and DC Health.

C.3.6.4

The Contractor shall adhere to all DC Health guidelines for COVID-19. These guidelines stipulate operating requirements in response to the COVID-19 pandemic which may include PPE requirements for essential workers, testing and tracing protocols, social distancing, capacity limits, among others. The Contractor is responsible for keeping abreast of guidelines, should expect review and enforcement by DCPS, and shall quickly adjust operations as guidelines change from time-to-time.

C.3.7 CONSEQUENCES OF NON-COMPLIANCE

C.3.7.1

Contractor shall be responsible for compensating DCPS on a per meal basis for any and all meals that do not meet program requirements, including, but not limited to:

C.3.7.1.1

Incomplete or non-compliant meals/adult meals per federal, local and district regulations.

C.3.7.1.2

Meals rejected as unacceptable: no payment is to be made for meals that are spoiled or unwholesome at time of delivery, do not meet detailed specifications as developed by the school food authority for each food component specified in 7 CFR 210.10, or do not otherwise meet the requirements of the contract. Specifications shall cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.

C.3.7.1.3

Incorrect component substitutions.

C.3.7.1.4

Non-DCPS approved menu items or a la carte sales.

C.3.7.1.5

Meals served through a non-compliant service model under HSA.

C.3.7.1.6

Failure to implement any compliant service models requested by DCPS that Contractor cannot reasonably document as not being feasible.

C.3.7.1.7

Meals that are in violation of a student's approved dietary accommodation plan.

C.3.7.2

Said violations shall result in the Contractor reimbursing DCPS within 30 days from the day of violation with the full per meal federal and state reimbursement. If nutritional or counting and claiming compliance or excessive or unusable USDA bonus or donated food inventories is the subject of an OSSE fiscal action, DCPS shall withhold from Contractor payment in the amount equal to the penalty. Noncompliant actions, per meal and otherwise, are to be reimbursed to DCPS in the form of a line-item credit on the subsequent month's invoice.

C.3.7.3

In the event of non-performance or violation or breach of the requirements by the Contractor, DCPS shall also have the right to pursue all administrative, contractual, and legal remedies against the Contractor and shall have the right to seek appropriate remedies including, but not limited to, the withholding of partial or full payment as remediation for poor performance in the form of unrealized value of contracted services and the reassignment of school(s).

C.3.7.4

DCPS shall issue directives regarding any deficiencies, and the Contractor shall be obligated to rectify those deficiencies in a timely manner.

C.3.7.5

DCPS shall use Contractor unit price as reflected by meal category and cluster starting in Section B.6.4.

3.7.5.1

Deficient meal counts must be calculated against the meal cost per cluster to determine amount owed to DCPS. The Contractor shall reflect the breakout of the calculated amount by CLIN category (reference Section B.3.2.3) to ensure correct reimbursement or credit activity is recorded.

C.3.8 NON-COMPLIANCE APPEAL

C.3.8.1

Appeals shall be handled according to applicable law and policy.

C.3.9 DATA AND TECHNOLOGY

C.3.9.1

The Contractor shall, on a daily basis, record all breakfast, lunch (to include salad bars), a la carte, supper and snack counts and cash intake into Mosaic or the current DCPS-owned POS technology solution, including data from rosters or other approved meal count forms.

C.3.9.2

The Contractor shall ensure each applicable service line employs an operational point of sale at all times, including standalone salad bars serving reimbursable meals.

C.3.9.3

The Contractor shall not request nor disclose student personal data as specified by the Children's Online Privacy Protection Act (COPPA) or the Family Educational Rights and Privacy Act (FERPA).

C.3.9.4

If the POS is inoperable or if meals are served outside of the cafeteria, the Contractor shall use a roster generated from Mosaic to document which students are served lunch.

C.3.9.5

The Contractor shall account for all students by checking them off on a Mosaic roster consistent with the DCPS approved process.

C.3.9.6

The Contractor shall ask each student his/her name or assigned meal program identification before being counted as having received a reimbursable meal. The Contractor must record meals on rosters so they are claimed at the correct reimbursement level (Free, Reduced Price, or Paid);

C.3.9.7

The Contractor shall maintain meal rosters in such fashion as to comply with federal regulations on overt identification; and

C.3.9.8

All data files, including those generated by the District-owned technology systems, including POS and student files, are owned solely by DCPS and must reside exclusively within District-owned data systems.

C.3.9.9

Contractor shall utilize and help maintain all DCPS POS' equipment including client monitors, manager computers, Cashless serving units, pin pads, and scanners, including but not limited to promptly reporting any issues with this equipment within 48 hours via DCPS's Quickbase reporting system.

C.3.9.10

Contractor shall implement and utilize all software applications as adopted by DCPS. All software licenses and databases are the exclusive property of DCPS.

C.3.9.11

The Contractor shall ensure the manager computer is turned on at all times to facilitate point of sale data replication.

C.3.9.12

Failure to provide accurate POS data, or deliberate alteration of this data in any way, shall constitute a material breach of the contract.

C.3.10 REPORTING

C.3.10.1

The Contractor shall present a progress report to DCPS Food Services management at least monthly or as specified by DCPS. This report shall include, but not be limited to:

C.3.10.1.1

Participation data for breakfast, lunch, and supper (week analyzed, week prior year, year to date (YTD), and last year to date (LYTD)).

C.3.10.1.2

Data shall be broken down by school type and program type.

C.3.10.1.3

School analysis for the highest participation drops year/year with action plans for improving participation rates.

C.3.10.1.4

A la carte, salad bar, and adult meal sales.

C.3.10.1.5

Operations including Site Visit Reporting and Follow Up.

C.3.10.1.6

Regulatory Compliance Audit Results.

C.3.10.1.7

Menu and Food Quality (including local food).

C.3.10.1.8

Customer Satisfaction.

C.3.10.1.8

Community and Student Engagement activity; and

C.3.10.1.9

New and/or ongoing food service initiatives.

C.3.10.2

Contractor shall be provided access to all prior year and current year data needed to fulfill DCPS' reporting requirement.

C.3.11 EQUIPMENT AND FACILITIES

C.3.11.1

DCPS will furnish and install any equipment and make any structural changes needed to comply with federal, state, and local laws, ordinances, rules, and regulations regarding food service equipment and facilities.

C.3.11.2

The Contractor shall inventory the equipment owned by the School Food Authority (SFA) on a biannual basis and as directed by DCPS. The Contractor shall be responsible for reporting any discrepancies and any equipment repairs that are not the result of normal wear and tear within 30 days of the end-of-the-school-year inventory.

C.3.11.3

DCPS will repair and service equipment except when damages result from the use of less-than-reasonable care by the Contractor' employees. When damage results from less-than-reasonable care on the part of any Contractor employees or agents, it shall be the Contractor responsibility to repair and service the damaged equipment, incurring all applicable fees and costs, within a reasonable timeframe to ensure no disruption in service.

C.3.11.4

The Contractor shall utilize and agree to help maintain all DCPS equipment utilized in the preparation and holding of any food product for meal service, including but not limited to: ovens, stoves, steamers, refrigerators,

freezers, salad bars, and the like by promptly reporting any issues with this equipment, within 48 hours via DCPS's Quickbase reporting system.

C.3.11.4.1

The Contractor shall assume costs for any service calls requested where less-than-reasonable action or inadequate troubleshooting on behalf of the reporting staff has occurred including but not limited to: a switch turned off, a pilot light that required ignition, a breaker switch reset or a power cable that needed to be connected.

C.3.11.5

All of Contractor equipment, vehicles, and other property shall be on DCPS property at the sole risk and hazard of the Contractor. It is expressly understood that the District of Columbia Government, its agencies (including DCPS), elected/appointed officials, employees, agents and volunteers shall not be liable to Contractor for any accident, injury, loss, or damage while Contractor is in, upon, or about, or entering or leaving DCPS property at any time during the term of the contract or any renewal or extension hereof and all claims therefore are hereby released to the District of Columbia Government, its agencies (including DCPS), elected/appointed officials, employees, agents and volunteers, who may plead this release in bar thereof, in any and every suit, demand, and claim for same.

C.3.11.6

DCPS shall provide sanitary toilet and hand washing facilities for the Contractor employees at each school site.

C.3.11.7

The Contractor shall utilize workable serving equipment at each school, including salad bars and other meal stations as developed for the facility, unless an alternative strategy is approved by DCPS. Contractor staff should be trained in how to operate and troubleshoot basic kitchen equipment.

C.3.11.8

The Contractor shall protect all food service equipment from pilferage or destruction.

C.3.11.9

The Contractor shall operate and care for all equipment and food service areas in a clean, safe, and sanitary condition in accordance with applicable District law and standards acceptable to DCPS. DCPS shall be responsible for all facilities repairs, including exhaust hoods and pest control requests, and for regularly cleaning grease traps.

C.3.11.10

The Contractor shall maintain all dry-storage food products susceptible to rodent/insect contamination in Food Service Grade, NSF listed, sealed food storage containers to prevent potential pest infestation.

C.3.11.11

The Contractor shall be responsible for managing the recycling and/or composting of kitchen refuse and transporting all kitchen waste to the appropriate waste disposal area.

C.3.11.12

The Contractor shall consent to recycling and/or composting foodstuffs and specific materials if these disposal methods are supported by the school facility.

C.3.11.13

The Contractor shall assist with an education program for the students and school staff on the proper use of the trash, recycling, and/or composting receptacles through signage and promote all DCPS recycling, composting, or landfill diversion programs.

C.3.11.14

The Contractor shall clean the kitchen (including, but not limited to all equipment, counters, walk-in floors, sinks, cookware, utensils, plates, bowls, trays, cups, and glassware) and dining room tables daily or as needed following each meal period. Cafeteria floors shall be maintained by school custodial staff.

C.3.11.15

The Contractor shall allow school-based organizations to utilize kitchen and cafeteria facilities, and DCPS shall set guidelines for facilities use. If an organization violates the set guidelines, the Contractor shall not receive further access to facilities. Foods utilized for reimbursable meal service shall not be comingled with food for other purposes (celebrations, after-school cooking clubs, teacher meals, etc.).

C.3.11.16

The Contractor shall not utilize DCPS school facilities for any purposes outside of the scope of this agreement without DCPS approval. The Contractor shall be charged a set fee for facility usage which shall be listed as a line item credit on the monthly invoice. This fee shall be determined by DCPS.

C.3.11.17

The Contractor shall utilize all specialized equipment available at the school including the dishwashers, salad bars (freestanding and line-based), and meal stations to the fullest extent possible.

C.3.11.18

The Contractor shall establish standards subject to DCPS approval for receiving, storage, ordering, and cleanliness and assess performance against these standards during monitoring visits conducted by DCPS as well as those conducted by the Contractor.

C.3.12 SANITATION

C.3.12.1

The Contractor shall place all recyclables, garbage, and trash in DCPS-specified containers and place such containers in areas designated by DCPS.

C.3.12.2

DCPS shall consult with on-site custodians and the DC Department of General Services (DGS) to ensure the removal of all recyclables, garbage, and trash from the designated areas.

C.3.12.3

The Contractor shall clean the kitchen area, including, but not limited to, sinks, counters, tables, chairs, flatware, and utensils.

C.3.12.4

The Contractor shall operate and care for all equipment and food service areas in a clean, safe, and healthy condition in accordance with standards acceptable to the DCPS and comply with all applicable laws, ordinances, regulations, and rules of federal, state, and local authorities.

C.3.12.5

DCPS shall itself implement or consult with DGS to ensure the cleaning of grease traps, walls, floors, light fixtures, window coverings, and ducts and hoods above the filter line.

C.3.12.6

DCPS will consult with DGS to ensure extermination services as needed. The Contractor should notify DCPS if such services are needed.

C.3.12.7

The Contractor shall clean the dining/cafeteria area, including tables and chairs after the meal service.

C.3.13 SERVING WARE, SMALL WARE, & DISPOSABLES

C.3.13.1

The contractor shall use packaging allowable per the Sustainable DC Omnibus Amendment Act of 2014 (the Act). The Act bans the use of disposable food service ware made of expanded polystyrene, commonly known as foam or Styrofoam, and other products that cannot be recycled or composted. The ban on foam began on **January 1, 2016**, and applies to all District businesses and organizations that serve food. The additional recyclable and compostable requirements became effective on **January 1, 2017**. On **October 29, 2018**, new restrictions on the use of single-use plastic straws and stirrers took effect. New requirements affecting the distribution of “accessory disposable food service ware” were added to the Act in 2020, and are detailed in C.5.f.c. below, and are effective January 1, 2021. For more information, visit <https://doee.dc.gov/foodserviceware>.

a) District Businesses and organizations using disposable products for food service may only use recyclable or compostable materials when serving consumers. Compliant products for consumer use include:

1. Products made solely of rigid plastic or made of pulp or paper with or without a plastic coating
2. Products made entirely of paper or pulp without a plastic coating
3. Products made of paper or pulp with a wax coating
4. Products certified compostable by the Biodegradable

5. Single-use plastic straws and stirrers are now banned from use in District schools and any entity that serves food or beverages. As a reminder, expanded polystyrene foam containers (Styrofoam) have also been banned since January 2016.

b) Schools must transition to compostable or reusable alternatives if they would like to continue to provide straws with meals. Compliant alternatives include:

1. Paper
2. Hay
3. BPI-certified PLA
4. Reusable straws are made from materials like stainless steel or glass.

c) Pursuant to the Americans with Disabilities Act (ADA) and the DC Human Rights Act, students with disabilities may request single-use plastic straws to consume food and beverages. Schools must keep a

stock of plastic straws available to meet the needs of students with disabilities and remain compliant with those laws.

C.3.13.1.1

The Contractor shall provide all serving ware, small ware, and disposables needed for meal service including, but not limited to:

- a. Plates, bowls, and/or trays
- b. Portion cups
- c. Cutlery
- d. Napkins

C.3.13.2

All disposables provided by the Contractor, including plates, trays, cups, bowls, sandwich containers, straws, cutlery, utensils, napkins, menus, placemats, cups, etc., shall be either reusable or made of recycled materials, be recyclable, and/or be easily compostable. The determination of the material type purchased should be based on the school's ability to dispose of said materials properly (e.g., composting or recycling refuse pickups scheduled). No expanded polystyrene or Styrofoam is to be used by Contractor for any food service operation within DCPS.

C.3.13.3

If a school has an operable dishwasher and a DCPS-approved process is in place, the Contractor shall purchase and maintain adequate inventory at all times of all reusable serving ware to be available to all students who participate in the meal program in that school. Reusable cutlery shall be subject to DCPS approval prior to purchase.

C.3.13.4

Utensils (forks, knives, and spoons) shall be purchased separately and shall be displayed at a condiment/cutlery station located at the end of the serving line or in the cafeteria. No sporks or prepackaged combination meal utensil "kits" (fork/spoon/napkin combinations) shall be utilized in schools, and straws shall be purchased only on an as-needed basis to reduce waste.

C.3.13.5

The contractor shall comply with D.C. Law 23-211. Zero Waste Omnibus Amendment Act of 2020 is as follows:

- Schools shall provide accessory disposable food service ware ***only upon request*** by the student or at a self-serve station. Meals shall not include accessory disposable food service ware unless specifically requested by the student.
- "Accessory disposable food service ware" means any disposable food service ware, including straws, utensils, condiment cups and packets, cup sleeves, and napkins that are not used to hold or contain food.

C.3.14 PACKAGING AND PRESENTATION

C.3.14.1 The Contractor shall package all food items to be in compliance with health regulations, to maintain food quality, to limit mess or waste, to be easily consumable, to be visually appealing.

C.3.14.2 The presentation of food on the serving line and in all auxiliary equipment shall be appealing in a retail

appearance. Presentation shall be consistent across all schools.

C.3.15 FOOD SAFETY & EMERGENCY PREPAREDNESS

C.3.15.1 The Contractor shall maintain all foods at the temperature necessary to ensure safety at all times, including preparation, storage, delivery, and service. Delivery of chilled and frozen foods and components will be under constant refrigeration.

C.3.15.2

Delivery vehicles shall be maintained to meet required regulatory sanitation standards.

C.3.15.3 The Contractor shall not serve foods considered to be unsafe and shall remove and dispose of said foods as required by DC health codes at no cost to DCPS.

C.3.15.4 The Contractor shall have effective contingency (resource readiness including staff and facilities) plans for food recalls inclement weather, security, or any other unforeseen event.

C.3.15.4.1 The Contractor shall be prepared for the portability of meals in the event of an emergency. Emergency meals may be required in the event of early dismissal, closure due to weather impacts, COVID-19 impacts, or other acts of God.

C.3.15.4.2 Emergency meals shall follow the same menu, operating and nutritional compliance requirements of this contract and the meal pattern associated with the intended distribution, such as Breakfast, Lunch, Supper, or Snack.

C.3.15.4.3 Portable emergency meals may be required to be issued in multiple-day packages for virtual learners and similar situations.

C.3.15.4.4 Portable emergency meals in single or multiple-day packages shall be issued in size and weight-appropriate packaging. Packaging may require a bag or box depending on the circumstances for issuance and shall be approved by the DCPS-FNS department in advance of issuance.

C.3.15.4.5 Portable emergency meals shall be invoiced according to the CLIN associated with the intended meal pattern of Breakfast, Lunch, Supper, or Snack.

C.3.15.5 Contractor shall notify DCPS immediately upon discovery of any food recall incident and provide alternate menu items as necessary.

C.3.16 NUTRITION, FOOD QUALITY, AND PROCUREMENT

C.3.16.1 Contractor shall abide by DCPS-specific nutrition standards where the standards exceed the current federal regulations and shall abide by the HSA where the standards exceed the requirement of the HHFKA.

C.3.16.1.1 Contractor shall abide by DCPS-specific product and brand specifications standards for all procured items as directed. Alternative products may be considered; however, DCPS reserves the right to specify products and brands to best serve its needs.

C.3.16.2 DCPS reserves the right to audit the Contractor’s facilities and operations to ensure nutritional, food quality, or procurement compliance.

C.3.16.3 The Contractor shall provide DCPS with all nutritional documentation or data necessary to maintain the program compliance in the timeframe specified by DCPS.

C.3.16.4 The Contractor shall provide to the Contract Administrator (CA) or authorized designee the estimated nutritional content, ingredients, and food origin information for a one-month menu cycle (21 days), 60 days in advance of meal service via an electronic file. DCPS may request changes before approval.

C.3.16.5 The FSMC agrees to assume the responsibility of adhering to the Buy American provision on behalf of the SFA. The SFA participates in the NSLP and SBP and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A ‘domestic commodity or product’ is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d). “Substantially” means over 51% from American products. The FSMC must be able to provide product label information that clearly shows the country of origin for all food and beverage products in the meal program. For products that do not have country of origin labels, the FSMC must provide certification of domestic origin. If the FSMC cannot obtain a domestic product due to availability and/or a significantly higher cost and cannot find an appropriate substitute, the FSMC may request an exception from the SFA. Exceptions may be requested at any point during the school year, are approved at the discretion of the SFA, must be submitted prior to the purchase of the non-domestic food, and limited exceptions will be allowed. To request an exception, the FSMC must submit in writing to the SFA:

- i. . Alternative substitute(s) that are domestic and meet the required specifications:
 - a. Price of the domestic food alternative substitute(s); and
 - b. Availability of the domestic alternative substitute(s) in relation to the quantity ordered.
- ii. Reason for exception: limited/lack of availability or price (include price):
 - a. Price of the domestic food product; and
 - b. Price of the non-domestic product that meets the required specification of the domestic product.

C.3.17 MENU

C.3.17.1 The Contractor shall serve only meals and food items approved by DCPS in accordance with section C.4, Item 8 DCPS, and the Contractor shall work collaboratively to ensure that menus are approved using mutually acceptable and compliant items in accordance with the Contractor procurement timeline. DCPS shall review, give feedback on, and approve all menus, ingredients, and meal components at least 45 calendar days prior to meal service. Product nutrition information in addition to Child Nutrition (CN) labels, Product Formulation Statements (PFS), or Recipe Analysis Workbook (RAW) data (as applicable) shall be submitted and approved by DCPS as part of this solicitation and 60 calendar days prior to the start of service each school year following the execution of a contract. Monthly menus/menu cycles and proof of compliance shall be provided at a minimum of 60 calendar days prior to service and are contingent upon DCPS approval. Upon approval, final menus and nutrition information, CN labels (as available), PFS information, RAW data, meal ingredients, and food origin reports shall be provided to DCPS at a minimum of five business days prior to service. The Contractor’s procurement requirements shall influence the menu submission deadline.

C.3.17.2 All new menu items or products shall be taste tested with authorized FNS staff and DCPS students prior to receiving approval. The Contractor shall develop a taste test survey and evaluation rubric (which must be approved by DCPS) to determine student approval for menu items. All menu items shall comply with the nutritional requirements contained herein.

C.3.17.3 Contractor shall obtain prior approval for any substitution of menus or menu items. Any item substituted shall be from the list of approved items. Any substitution shall not impact compliance with daily/weekly menu requirements. Further guidance can be found in C.4, Item 8 and Item 29.

C.3.17.4 Contractor shall train all staff and record validation of learning on menu item preparation prior to service. The Contractor shall maintain a standardized recipe book and applicable guides at every school with pictures of each finished menu item and step-by-step instructions for recipe execution. The recipe book may be physically printed or in electronic format. The Contractor shall make the recipe book and applicable guides available to FNS upon request.

C.3.17.5 Menus shall feature a minimum of three entrée choices in grades K-5 and four choices in grades 6-12 daily for lunch during the traditional school year. Breakfast menus must include a minimum of two entrees daily for the traditional school year. One entrée at each meal, at minimum, must be non-meat. Deviations from this requirement due to unforeseen circumstances must have prior approval from DCPS.

C.3.17.6 The Contractor shall provide no meals served to students in Pre-K/Preschool, Kindergarten, or Grade 1 that shall pose a choking hazard or are too large for easy consumption. Meals for this grade range shall be modified to meet the physical development and preference of that age group.

C.3.17.7 The Contractor shall make substitutions in the food components of the meal pattern for students with disabilities when their disability restricts their diet as stated in the student's Individual Educational Plans (IEPs) or 504 Plans and those non-disabled students who are unable to consume regular meals because of medical or other special dietary needs. Substitutions shall be made on a case-by-case basis when supported by a statement of the need for substitutes that includes recommended alternate foods unless otherwise exempted by USDA. Said statement shall be signed by a medical doctor or a recognized medical authority. There shall be no additional charge to the student for such substitutions.

C.3.17.8 The Contractor shall develop daily meals with sides that pair well with the main entree. The Contractor shall develop a cycle vegetarian menu that aligns with the other menu options. The Contractor shall, at a minimum, have three hot breakfasts per week and one hot lunch per day at each school during traditional and extended year school calendar days. The minimum number of hot breakfasts per week and hot lunch meals per day for summer school shall be evaluated and approved by Food & Nutrition Services during each annual summer planning phase.

C.3.17.9 The Contractor shall create a Breakfast in the Classroom menu and shall include foods that will be consistent with food safety standards throughout the service period, are easily portable, hold temperature well, require little to no assembly in the classroom, and limited mess.

C.3.17.10 The Contractor shall create a Grab and Go Breakfast menu to be consistent with food safety standards throughout the service period and shall include at least three hot items per week. Deviations from this requirement due to unforeseen circumstances must have prior approval from DCPS.

C.3.17.11 The Contractor shall create menus for FFVP and after-school snacks that meet current regulations and features a variety of fruits and vegetables.

C.3.17.12 The Contractor shall create a salad bar menu for reimbursable and adult (fruit and vegetable) salad bars for schools with stand-alone or line-based salad bar equipment in operation. Approximately 30% of menu items featured should rotate to increase the variety and express seasonality. All menu items presented on the salad bar shall be legibly labeled. Dressing for the salad bar shall be dispensed in a manner approved by DCPS prior to use. If the salad bar is stand-alone, the product should be presented identically on both sides of the bar to facilitate line flow.

C.3.17.13 The Contractor shall create an afterschool supper menu that meets current regulations and features a variety of menu items and includes all five reimbursable meal components.

C.3.17.14 The Contractor shall print monthly menus and distribute them to every school under its management. The Contractor shall ensure that menus are displayed clearly at each meal site per USDA FNS regulations. Printed menus will be provided to students, parents/guardians, or school staff upon request. The Contractor shall ensure that menus are posted in the cafeteria line and in the school office. Menus will be printed in English and Spanish for posting and made available in the DCPS mandatory languages for any school that requests it. The Contractor shall provide electronic copies of each menu and associated nutritional analysis specific to DCPS filename standards and within a timeframe set by DCPS.

C.3.18 À LA CARTE

C.3.18.1 Upon an FNS-approved strategy and implementation, Contractor shall provide à la carte options at all middle and high schools. The Contractor shall provide à la carte milk at all elementary schools and education campuses. If a school has a salad bar, à la carte salads shall be made available to students.

C.3.18.2 All à la carte meals or items and their prices shall be submitted to DCPS for approval prior to the start of the school year to determine compliance. Any change in à la carte menu offerings or prices shall be approved by DCPS. Prices must meet HHFKA requirements for “non-program revenue” as stated in the interim rule dated 6/28/13, National School Lunch Program: School Food Service Account Revenue Amendments Related to the Healthy Hunger-Free Kids Act of 2010 and as amended. À la carte items shall meet the DCPS Nutrition Standards, Local Wellness Policy, and USDA Smart Snack Final Rule standards.

C.3.18.3 All à la carte items shall be available daily and shall be displayed in a consistent manner that is eye-catching and appealing. Signage shall be available at every school selling à la carte showing the items available and price. The Contractor shall also provide an electronic menu document for digital posting.

C.3.18.4 The Contractor will be reimbursed for à la carte items using meal equivalency.

C.3.18.5 Contractor shall provide all nutrition information, ingredients, and smart snack calculations for à la carte items via electronic document.

C.3.19 USDA FOODS PROGRAM

C.3.19.1 Any USDA-donated commodities (USDA Foods) made available to DCPS and received for use by the Contractor shall be utilized toward the preparation and service of meals and for other allowable uses in

accordance with the Code of Federal Regulations. Contractor shall perform the specific activities relating to United States Department of Agriculture (USDA) donated foods that are indicated below.

C.3.19.2 Ensuring that DCPS shall retain title to all USDA Foods, while conducting all activities relating to these foods for which it is responsible in accordance with 7 CFR Parts 210, 220, 225, 226, and 250, as applicable.

C.3.19.3 Ensuring that the full value of all USDA Foods to which DCPS is entitled is incorporated into the menu plans.

C.3.19.4 DCPS shall work cooperatively with the Contractor in determining the optimal requests for donated foods offered. However, the Contractor is obligated to fully utilize 100% of the District's entitlement, or their share of the District's entitlement, in proportion to the percentage of meals served. DCPS retains final authority for determining the allocation of entitlement dollars to foods offered. The Contractor accepts the choices and use of USDA Foods ordered and diverted at the commencement of the contract as a condition of this agreement.

C.3.19.5 DCPS shall work cooperatively with the Contractor in determining whether to accept a Bonus or donated foods. DCPS retains final authority for making this determination. The Contractor will credit the full value of bonus donated foods accepted during the month they are in accordance with 7 CFR 250.58(a).

C.3.19.6 USDA Foods inventory must be stored and managed in accordance with 7 CFR 250.52.

C.3.19.6.1 USDA direct-shipment foods are not permissible without explicit permission via contract modification from DCPS, accompanied by a specific spending plan for those direct-ship products. The Contractor assumes all storage costs associated with direct-ship products.

C.3.19.7 Paying processing fees or submitting refund requests to a processor on behalf of DCPS or remitting refunds for the value of USDA Foods in processed end products to DCPS, in accordance with the requirements in 7 CFR250(C). The cost of processing shall be included in the food cost calculation for this procurement referenced in Section B.3.2.3.1.

C.3.19.8 Ensuring that any USDA Foods received (when the foods arrive at the school kitchen, DCPS storage facility, or the Contractor storage facility, in either the raw form or in processed end products) by DCPS and made available to the Contractor accrues solely to the benefit of DCPS's nonprofit school food service and SFSP programs, if applicable, and shall be fully utilized therein. The Contractor shall have records available to substantiate that the full value of all USDA Foods is used solely for the benefit of DCPS.

C.3.19.9 Enabling and facilitating DCPS in conducting its year-end reconciliation to ensure and verify correct and proper credit has been received for the full value of all USDA Foods received by the Contractor during the fiscal year. DCPS reserves the right to conduct USDA food credit audits throughout the year to ensure compliance with federal regulations 7 CFR Part 210 and 7 CFR Part 250.

C.3.19.10 The Contractor is prohibited from entering into any processing contracts utilizing USDA Foods on behalf of DCPS. The Contractor agrees that any procurement and/or utilization of end products by the Contractor on behalf of DCPS shall be in compliance with the requirements in subpart C of 7 CFR Part 250 and

with the provisions of DCPS' processing agreements. The Contractor understands and hereby acknowledges that DCPS and OSSE are separate entities. DCPS is the final authority with respect to any processing agreements proposed by the Contractor. DCPS will, therefore, independently authorize in writing the Contractor's entry into any such processing agreements on behalf of DCPS.

C.3.19.11 The value of USDA Foods received shall appear as a credit on the invoice for the month in which the donated food was used, except that the Contractor must credit DCPS for the value of all USDA Foods received for use in DCPS' meal service in the school year or fiscal year (including both entitlement and bonus foods), and including the value of USDA Foods contained in processed end products, in accordance with the contingencies in 7 CFR Part 250.51(a).

C.3.19.12 At the end of each year, Contractor shall reconcile the value of USDA Foods received against credits provided on monthly invoices. The Contractor will provide a final credit for any balance due to DCPS. The total credit given for USDA Foods in each year must equal the sum of the District's USDA Foods entitlement (lunches served in the preceding year x USDA Foods entitlement rate, also known as the Planned Assistance Level) plus any bonus donated foods accepted by the District. The Planned Assistance Level for the School Year 2020-2021 is located in C.4 Item 29.

C.3.19.13 The Contractor shall use the USDA food values as posted on the USDA Foods website, including the value of USDA bonus foods. The Contractor shall use all USDA-donated ground beef product, and all processed end products in DCPS' food service. The Contractor shall use all other USDA Foods or shall use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods, in DCPS' food service. The Contractor shall comply with the storage and inventory requirements for USDA Foods set forth in 7 CFR § 250.52. Upon termination of the contract, the Contractor shall return all unused USDA donated ground beef and products and, at DCPS' discretion, other USDA Foods.

C.3.19.14 The Contractor assures DCPS that the procurement of processed end products on behalf of DCPS, as applicable, shall comply with 7 CFR Part 250 and with provisions of DCPS processing agreements, if any. The Contractor shall disclose to DCPS the value of USDA Foods contained in such end products at the processing agreement value. The Contractor shall not enter into a processing agreement with a processor without DCPS' written authorization to do so.

C.3.19.15 The Contractor and DCPS shall maintain records relating to the use of USDA Foods in accordance with 7 CFR Part 250.54.

C.3.19.16 DCPS will provide the Planned Assistance Level notification from OSSE. The values are to be based on the values at the point DCPS receives the commodities from the State Distributing Agency (OSSE) and are to be based on the USDA Commodity Value Added Listing pertinent to the time period. This information is available from the USDA Food Distribution Program.

C.3.19.17 The State Distributing Agency, SA, DCPS, USDA, or their duly authorized representatives, shall perform onsite reviews of the Contractor's food service operation, including the review of records, to ensure compliance with the requirements for the management and use of USDA Foods.

C.3.19.18 Extensions or renewals of the contract, if applicable, are contingent upon the fulfillment of all contract provisions relating to USDA Foods.

C.3.19.19 The Contractor system of inventory management will ensure that all donated foods are kept wholesome and utilized within the period of each item's "use by" date.

C.3.19.20 Contractor shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods and notify DCPS within 24 hours and credit DCPS accordingly within 30 days.

C.3.19.21 The Contractor shall account for all USDA Foods separately from commercially purchased foods. The Contractor is required to maintain accurate and complete records with respect to the receipt, use, disposition, storage, and inventory of USDA Foods. Failure by the Contractor to maintain the required records under the contract shall be considered prima facie evidence of improper distribution or loss of USDA Foods. Further, the Contractor shall maintain records of any and all information relating to USDA entitlements and foods received, electronically, whether in DCPS information technology systems or otherwise. Such records shall be available at all times to DCS, without notice to the Contractor.

C.3.19.22 DCPS will enter into federal commodity food coop agreements and/or agreements with other duly authorized agencies or School Food Authorities to structure commodity purchasing to the mutual benefit of the agreeing parties.

C.3.19.23 In the event the Contractor has not fully utilized the USDA Foods PAL, the Contractor must credit Food & Nutrition Services for the value of unused USDA foods by the end of the school year in which the USDA Foods were received. If the contract is not renewed, the Contractor will, at the State Agency's discretion, pay the value of the remaining commodities or return the unopened cases for the benefit of the school. However, the Contractor cannot pay DCPS for any unused beef, pork, or processed end products but instead must return these to DCPS.

C.3.20 FOOD WASTE

C.3.20.1 As per PL 112-55 Sec. 734, an amendment to the Richard B. Russell National School Lunch Act, the Contractor shall make arrangements with a 501(c)(3) tax-exempt DC-based food bank or charitable organization to donate any unconsumed food products. Pursuant to the law, the Contractor shall be exempt from civil and criminal liabilities to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791).

C.3.21 PROGRAMS

The Contractor shall execute and staff appropriately for all special programs and meal service models produced to the fullest extent possible on-site at each location with a goal of 100% from-scratch production; DCPS and the greater community are strongly opposed to pre-packaged, commercial industry products. Meal service models are inclusive of but not limited to: Breakfast in a traditional school line service as well as the alternative models of Breakfast in Classroom and Grab and Go; Lunch, Early Childhood Family Style Lunch; Afterschool Supper Afterschool Snacks, Summer Food Service, Saturday/Weekend Meals; Holiday Break Meals; Adult Meals Breakfast; and Adult Meals Lunch, as well as the cost-reimbursable component of the Fresh Fruit and Vegetable Program (FFVP) (delineated in C.3.21.11). The Contractor shall ensure program continuity year over year and identify and implement program best practices.

C.3.21.1 Breakfast shall be provided in accordance with the USDA School breakfast program (SBP) as referenced in USDA 7 CFR Parts 210 and 220, and in section C.4 item 11, item 12, and Item 13. Breakfast may be executed in a traditional school line service, or as an alternative service such as breakfast in the classroom, grab and go or extended breakfast as required by DCPS and identified by each school in the FNS school site profiles in section C.4 item 10 Per the Healthy Schools Act: if more than 40% of the students at a school qualify for free or reduced-price meals, breakfast participation is below 75% of average daily attendance: a) elementary schools must offer breakfast in the classroom each day and b) middle and high schools must offer alternative breakfast serving models each day. Traditional breakfast service, breakfast in the classroom and grab and go breakfast shall be priced as a cost-reimbursable component of the contract and will correspond to CLIN's ending in 001 in the tables found in section B.6.4.

C.3.21.2 BREAKFAST IN THE CLASSROOM

C.3.21.2.1 DCPS will provide each breakfast in the classroom school with supplemental sanitation supplies such as wipes and hand sanitizer at the start of the school year based on participation volume.

C.3.21.2.2 DCPS staff will liaise with, provide resources to, and support the Contractor's training of school personnel, when necessary, in the operation of a Breakfast in the Classroom program.

C.3.21.2.3 DCPS will conduct Breakfast in the Classroom outreach and marketing and shall be supported by the Contractor.

C.3.21.2.4 The Contractor shall train DCPS school-based and Contractor staff on operating the Breakfast in the Classroom program and shall include instructions on Breakfast in the Classroom operations in an operations manual or other instrument left at the school. Training shall occur before the start of every school year and following on an as-needed basis. Documentation of training will be provided to DCPS within the time period specified by DCPS.

C.3.21.2.5 The Contractor shall provide a simple set of instructions for each classroom participating in the Breakfast in the Classroom program on the required method of distribution of food and accounting for meals each day with the meals being sent to the classrooms.

C.3.21.2.6 The Contractor shall observe their Breakfast in the Classroom programs at least once per month and shall make process improvements accordingly.

C.3.21.2.7 The Contractor shall instruct its school-based staff on how to communicate Breakfast in the Classroom requirements to teachers, aides, or other program facilitators.

C.3.21.2.8 The Contractor shall create a Breakfast in the Classroom menu and shall include foods that will be consistent with food safety standards throughout the service period, are easily portable, require little to no assembly in the classroom, and limit mess.

C.3.21.2.9 The Contractor shall prepare and individually package each meal component as necessary. Hot components and cold components shall be packed in separate bags. Insulated bags shall be packed by homeroom. Accountability tally sheets shall be printed per classroom and packed with breakfast bags.

C.3.21.2.10 The Contractor shall input all breakfast accountability data into the point of sale no later than the end of the day in which the breakfast was served. If an accountability roster is not properly completed or returned, the Contractor shall speak to the school administration and alert DCPS of the issue.

C.3.21.3 ADDITIONAL ALTERNATIVE BREAKFAST MODELS

C.3.21.3.1 DCPS will provide the Contractor with portable serving units or tables to facilitate the program in schools where breakfast is served outside of the cafeteria.

C.3.21.3.2 DCPS will collaborate with the school administration to decide the location of the serving unit or tables, the addition of full-service breakfast, and breakfast times. This information shall be communicated to the Contractor prior to the start of the program.

C.3.21.3.3 DCPS staff shall liaise, provide resources to, and support the training of school personnel when necessary to initiate a grab-and-go breakfast program.

C.3.21.3.4 DCPS will conduct Grab and Go outreach and marketing, when necessary, which shall be supported by the Contractor.

C.3.21.3.5 The Contractor shall train DCPS and school-based Contractor staff on operating the Grab and Go breakfast program and shall include instructions on Grab and Go in an operations manual or other instrument left at the school. Training shall occur before the start of every school year and following on an as-needed basis. Documentation of training will be provided to DCPS within the time period specified by DCPS.

C.3.21.3.6 The Contractor shall create a grab-and-go breakfast menu and shall include at least three hot items per week. Deviations from this requirement due to unforeseen circumstances require approval by DCPS.

C.3.21.3.7 The Contractor shall bag or otherwise package breakfast components so that the meal is made portable to students. The items within the breakfast bag or package shall be prominently displayed on the serving unit, tables, or in another location highly visible to students and the menu for grab and go shall be posted daily at the serving unit. Grab and Go items shall be kept at the appropriate safe temperatures (hot and cold) at all times through the use of insulated compartments or other means as the Contractor sees fit.

C.3.21.3.8 The serving unit or tables shall be in position throughout the breakfast period, and items shall be restocked as needed.

C.3.21.3.9 The Contractor staff shall account for all students taking breakfast from the serving unit or tables through portable point-of-sale machines (provided by DCPS) or through accountability tally sheets.

C.3.21.3.10 If the school administers extend breakfast, the Contractor shall keep the traditional breakfast service open for the length of time or at such additional times as agreed to by the school administration and approved by DCPS Food & Nutrition Services prior to the start of school.

C.3.21.4 CAFETERIA LUNCH & A LA CARTE EQUIVALENTS

C.3.21.4.1 The Contractor shall serve cafeteria lunch in accordance with USDA 7 CFR Parts 210 and 220, and Section C.4 item 13. Lunch meal quantities shall correspond to CLINs ending in 002 in the table found in section B.6.4.

C.3.21.5 EARLY CHILDHOOD FAMILY STYLE LUNCH

C.3.21.5.1 Early Childhood Family Style Lunch shall be prepared according to the program guidelines as referenced in section C.4, Item 7, with meal patterns following the National School Lunch Program requirements. Early Childhood Family Style Lunch meal quantities shall correspond to CLINs ending in 003 in the tables found in section B.6.4.

C.3.21.5.2 DCPS Office of Early Childhood shall train its staff on family style meal operations. DCPS Early Childhood staff shall serve the family style meals as prepared by the Contractor.

C.3.21.5.3 DCPS by way of its Early Childhood Education division shall provide Contractor with all serving ware, small ware, and equipment necessary to facilitate family style meals. A family style lunch “kit” of serving equipment and wares shall be available for each Early Childhood classroom.

C.3.21.5.4 The Contractor shall train staff on operating the family style meals program and shall include DCPS approved instructions on family style meals in an operations manual or other instrument left at the school. Training of DCPS school-based and the Contractor staff shall occur before the start of every school year and following on an as needed basis. Documentation of training will be provided to DCPS within the time period specified by DCPS.

C.3.21.5.4 The Contractor shall create a family style meals menu that is developmentally appropriate and considers family style meals execution. This menu can be a simplified version of the regular lunch menu. Contractor shall transport family style menu items to the classrooms portioned into pans according to class size and the age of students enrolled in the class. Serving ware, smallware, and accountability rosters shall be transported with the meals to the classroom. All food shall be kept in insulated thermal containers. DCPS Early Childhood staff shall return serving and transport wares to the kitchen at the conclusion of service.

C.3.21.5.5 Accountability shall be taken by the classroom teacher and shall be reported to the Contractor via an accountability roster. The Contractor shall input accountability data into the point of sale on the day the meal is served. The Contractor is responsible for reporting lost, broken, or deteriorated Family Style Meals equipment to FNS.

C.3.21.6 AT-RISK CHILD AND ADULT CARE FOOD PROGRAM

C.3.21.6.1 Afterschool supper, snack, weekend, and holiday meals, administered as part of the Child and Adult Care Food Program, referenced in Section C.4, Item 20, shall be facilitated, served and students accounted for by Food Service staff members unless specified otherwise by DCPS. DCPS FNS reserves the right to assign where these programs shall run. Meal quantities shall correspond to CLINs in the table found in section B.6.4.

C.3.21.6.2 Meals or snacks served shall conform to the CACFP Program. Contractor shall train staff on operating these programs and shall include instructions in an operations manual or other instrument left at the school. Training of DCPS school-based and Contractor staff shall occur before the start of every school year and be followed up in subsequent professional development training as directed by FNS and as needs are identified. Documentation of training will be provided to DCPS within the time period specified by DCPS.

C.3.21.6.1.3 The Contractor shall create menus that feature a variety of menu items and include all applicable reimbursable meal components. Menus will be reviewed and approved by DCPS FNS prior to implementation.

C.3.21.6.4 With support from DCPS, contractors shall coordinate training of supper facilitators at schools that do not require a Food Service staff member, designated by DCPS.

C.3.21.6.5 With support from DCPS, contractors shall ensure all facilitators are accountable for meals in the manner specified by DCPS Food Services where non-Contractor staff is needed and as applicable.

C.3.21.6.6 The Contractor shall report all incidences of facilitator non-compliance to FNS consistent with the most current program troubleshooting escalation process.

C.3.21.6.7 DCPS will report all changes in enrollment to Contractor no later than a week in advance.

C.3.21.6.8 For schools that do not require a Food Service Staff member as delineated in this Contract, the Contractor shall prepare and package all components together, except for milk and fruit. No non-whole components shall be left disaggregated.

C.3.21.6.9 In accordance with sections C.3.21.6.7, DCPS CACFP meal facilitators shall keep a binder containing accountability logs in a place that is accessible to the cafeteria lead and shall inform the cafeteria lead of its location at the start of school.C.3.21.6.7

C.3.21.6.10 Prepackaged meals shall be left in a refrigerated area that is accessible to the facilitator where non-Contractor staff is needed and as applicable.

C.3.21.6.11 The Contractor shall account for students the day following the meal by checking the accountability tally sheet with student signatures or roster left by the facilitator in the binder.

C.3.21.7 AFTERSCHOOL SNACK PROGRAM

C.3.21.7.1 The Contractor shall serve a light snack after school in schools designated by DCPS and referenced in section C.4, Item 19.

C.3.21.7.2 The snack served shall include two reimbursable meal components that conform to the NSLP Afterschool Snack Program. The Contractor shall create menus for snacks that feature a variety of fruits and vegetables. Menus will be reviewed and approved by DCPS FNS prior to implementation.

C.3.21.7.3 Only one snack shall be served to each student. Afterschool snacks shall be accounted for using bulk claiming and manual meal count sheets.

C.3.21.8 SUMMER FOOD SERVICE PROGRAM

C.3.21.8.1 The Contractor shall facilitate breakfast and lunch feeding for the Summer Food Service Program (SFSP) referenced in section C.4, items 21A and 21B, at schools with DCPS-sponsored summer academic programs as well as community-based programs. The list of schools that participate in summer meals is subject to change each year based on programs that may not be provided each year based on school/district needs, sponsor availability, public interest, funding, and other impacts.

C.3.21.8.2 Contractor shall create monthly menus to cover the term of the SFSP. Menus will be reviewed and approved by DCPS FNS prior to implementation. The Contractor shall print monthly menus and distribute them

to every school facilitating the SFSP. Menus must be displayed at each meal site per USDA FNS regulations. Printed menus will be provided to students, parents/guardians, or school staff upon request. The Contractor shall ensure that menus are posted in the cafeteria line and in the school office.

C.3.21.8.3 The Contractor shall take accountability via DCPS-approved meal count sheets. The Contractor shall support all community outreach efforts sanctioned by DCPS.

C.3.21.9 ADULT MEALS

C.3.21.9.1 The Contractor shall offer adult meals to school staff unless providing such meals shall compromise Contractor's ability to provide meals to students. Adult meal service extends to meals requested by DCPS, including but not limited to PTA meetings, Back to School Nights, Parent Cabinet meetings, and engagements in which adults can impact the increase of student participation.

C.3.21.9.2 The price of an adult school staff meal shall be set by DCPS prior to the start of each school year. Prices are subject to change at DCPS' discretion.

C.3.21.9.3 The portions for adult school staff meals shall be equivalent to the serving size for a student in grades 9-12.

C.3.21.9.4 Should non-Food & Nutrition Services departments of DCPS require food service for banquets, meetings, etc., the Contractor shall provide meal services. No food, labor and supplies appropriated for the daily FSP shall be used for these functions. All special food service events require prior approval from DCPS Food Services.

C.3.21.10 SCHOOL GARDEN PROGRAM

C.3.21.10.1 DCPS shall support schools in establishing school gardens.

C.3.21.10.2 The Contractor shall integrate school garden produce in school meals and other engagement opportunities if the school has completed the school garden checklist and received waivers from the parents or guardians of all students.

C.3.21.10.3 The Contractor shall promote school gardens in coordination with DCPS and shall utilize the garden in nutrition education activities. The Contractor shall engage in any other activity establishing garden to cafeteria connections, which shall include working directly with or supporting a school garden coordinator as well as other community based or DCPS contracted programs. All activities shall be approved by DCPS prior to initiation.

C.3.21.11 FRESH FRUIT AND VEGETABLE PROGRAM

C.3.21.11.1 The Contractor shall create menus for FFVP that feature a variety of fruits and vegetables. A vegetable must be served, at a minimum, once per week. Menus will be reviewed and approved by DCPS FNS prior to implementation.

C.3.21.11.2 The Contractor shall create and distribute nutrition education materials along with the FFVP produce upon DCPS approval a minimum of once per month for the duration of the program

C.3.21.11.3 The Contractor shall spend up to the monthly FFVP grant allocation on operating costs. Operating costs include:

- C. Buying fruits, vegetables, and low-fat or nonfat vegetable dipping sauce;
- b. Buying nonfood items like napkins, paper plates, serving bowls and trays, cleaning supplies, and trash bags;
- c. Value-added services such as pre-cut produce, ready-made produce trays, and delivery charges; and
- e. Salaries and fringe benefits for employees who do such tasks as washing and chopping produce, preparing trays, distributing produce to classrooms, setting up serving units, and cleaning up.

C.3.21.11.4 DCPS will apply up to ten (10) percent of the total grant toward administrative costs.

Administrative costs are the documented expenses incurred in planning the Program, managing paperwork, obtaining equipment, and all other aspects of FFVP that are not related to the preparation and service of fruits and vegetables.

C.3.21.11.5 The Contractor shall be reimbursed for FFVP operational and administrative expenses by invoicing a monthly cost reimbursement less than or equal to the total grant allocation for the applicable schools and net of all discounts and rebates. The Contractor shall submit monthly program invoices with their invoice to DCPS to substantiate the cost figure.

C.3.21.11.6 The Contractor shall budget for FFVP prior to the start of the program and create the program schedule with school administrators. FFVP must be served per the number of days requested by each school, at minimum, twice per week. The Contractor shall not change the schedule without the approved consent of the school administrators.

C.3.23 SCHOOL OPERATIONS PROTOCOL

C.3.23.1 The Contractor shall fulfill specific school opening and closing functions including, but not limited to:

C.3.23.2 The Contractor shall submit strategic plans to DCPS for closing and opening of schools. Execution of plans will be monitored and confirmed by management staff and reported to DCPS. Plans will include but are not limited to product removal or delivery, cleaning, staffing, schedules, and food preparation.

C.3.23.3 The Contractor will check the status of equipment in schools not operating during summer and extended breaks, such as winter holiday, and report to DCPS monthly.

C.3.23.4 The Contractor shall staff schools for one full day prior to summer school operating upon DCPS request.

C.3.23.5 The Contractor shall staff the schools for two full days prior to the start of the school year upon DCPS request.

C.3.24 SPECIAL EVENTS & INITIATIVES

C.3.24.1 Contractor shall participate in specialized service models and programs for DCPS; and when appropriate, create menu items in coordination with DCPS' annual special events. Menus for special events will be provided to DCPS for review a minimum of 30 days prior to scheduled event. Annual special events and programs shall include, but are not limited to:

- (a) International Food Days
- (b) Featured/Innovative Meal Stations
- (c) Strawberries and Salad Greens Day (Spring)
- (d) Chancellor sponsored Events (September)
- (e) Holiday Meal (November)
- (f) Holiday Meal (December)
- (g) School Enrollment Events & Initiatives
- (h) Good Food Purchasing Program Requirements

C.3.24.2 The Contractor shall, upon approval of DCPS, organize special events in support of student health, nutrition, or physical fitness. The Contractor shall support special events sponsored by external organizations, including but not limited to National School Breakfast Week, Farm to School Week, National School Lunch Week, Black History Month, National Nutrition Month, and National School Lunch Hero Week.

C.3.24.3 The Contractor shall work in collaboration with DCPS FNS to identify current and future opportunities values-based purchasing within current and future environmental restrictions based on action items identified by the Good Food Purchasing Program (GFPP) baseline and follow-up assessments (C.4 Item 28).

C.3.25 MARKETING, COMMUNICATIONS, AND NUTRITION EDUCATION

C.3.25.1 DCPS shall control all messaging and marketing collateral related to the FSP. The Contractor shall submit quarterly submission plans for student engagement, display menus, marketing/communication initiatives including centralized events identified by DCPS, and nutrition education to DCPS. This schedule will be based on the academic school term calendar. All Contractor marketing, communications, and nutrition education plans shall be approved by DCPS prior to implementation. Contractors are responsible for the development of all collateral for the promotion and execution of marketing, communications, and nutrition education initiatives. The appearance of all collateral materials should meet professional standards prior to submission for review by DCPS. The DCPS FNS logo or its equivalent shall be present on all public-facing materials.

C.3.25.2 The Contractor shall comply and assist in coordinating DCPS authorized marketing campaigns in schools.

C.3.25.3 All Contractor-generated communications shall be approved by DCPS prior to distribution. All materials related to the facilitation of marketing, communication, and nutrition education initiatives should be submitted to FNS for review no fewer than 30 days prior to the planned distribution date.

C.3.25.4 Contractor communication with School Administrators, teachers, and other school personnel shall be professional. FNS designated point of contact shall be copied on all communication sent by the Contractor to the school principal.

C.3.25.5 The Contractor shall communicate with the parent/guardian directly to facilitate the implementation of dietary accommodations upon receipt and FNS approval of the dietary accommodation form signed by the parent/guardian and medical provider (as needed) as referenced in section C.4 Item 9. Contractor will provide

DCPS menu for review that meets the student's dietary needs, conduct staff training, and continue to update the process in the electronic system (Mosaic FOH). [A]

C.3.25.6 The Contractor agrees to provide at minimum one point of contact who will regularly coordinate with FNS on all marketing, communications, and nutrition education efforts. The point of contact shall have professional expertise pertinent to school nutrition program marketing and promotion.

C.3.25.7 The Contractor shall perform nutrition education activities as dictated by marketing campaigns (e.g., food tastings and chef demonstrations). A minimum of one nutrition education activity should be held per month that is not associated with FFVP nutrition education at each school in their cluster(s) during the standard school year. Nutrition education activities should be submitted to FNS for review no fewer than 30 days prior to planned implementation date.

C.3.25.8 The Contractor shall perform marketing and communications activities for any public-facing initiatives serviced by the Contractor at the direction of FNS. These activities will take playtime to time-to-time.

C.3.25.9 Any nutrition education component required for federal meal program compliance shall be furnished and executed solely by the Contractor.

C.3.25.10

Contractor agrees to assume primary responsibility for the following marketing assets for use in the promotion of the FSP and any public-facing initiatives serviced by the Contractor at the direction of FNS. In the event the Contractor is unable to fulfill this responsibility, or if marketing quality would benefit from transfer of responsibility to FNS, it may transfer primary responsibility to FNS with FNS approval. FNS agrees to provide secondary responsibility at all times and will make available one point of contact with professional expertise pertinent to school nutrition program marketing and promotion. FNS may also assume primary responsibility for any marketing asset or activity at any time at its sole discretion.

C.3.25.10

Marketing Asset	Responsible Party or Parties
Flyers and Posters – Graphic Design	Contractor(s)
Flyers and Posters – Printing	Contractor(s)
Digital Communications – Graphic Design and Language for Irregular Program Changes and	Contractor(s)
Digital Communications – Graphic Design and Language for Irregular Program Changes and Announcements	FNS
Signage – Graphic Design	Contractor(s)
Signage – Printing	Contractor(s)
Social Media – Graphic Design and Language	Contractor(s)

C.3.25.11 The cost of marketing, communications, and nutrition education is to be included in the Contractor invoice and in accordance with their respective CLIN's.

C.3.25.12 The Contractor, in collaboration with FNS and partners, shall participate in the facilitation of the School Food Collaborative (SFC) through recruitment of students, teacher, parents and administrative staff to assist in menu planning, taste testing, surveys, enhancement of the eating environment, program promotion, and related student-community support activities per 7 CFR Part 210.16(a)(8). SFA is responsible for scheduling periodic meetings with the SFC. The Contractor will assist in promotion and facilitation of meetings as directed by FNS.

District Standard	FNS Daily Accountability Policy & Procedures; Guide to Daily Operations for Family Style Meals, FNS Site Review Process; DCPS Standard Operating Procedures; The District of Columbia Municipal Regulations (DCMR Title 27).
Local Standard	DC Healthy Schools Act (HSA) of 2010 (as amended); Healthy Students Amendment Act of 2018
Federal Standard	Richard B. Russell National School Lunch Act; Child Nutrition Act of 1966; Healthy Hunger-Free Kids Act (HHFKA) of 2010 (as amended); Nutrition Standards in the National School Lunch and School Breakfast Programs, final regulations published 1/26/2012; United States Department of Agriculture (USDA) 2 CFR Part 180, 2 CFR Part 200, and 7 CFR Parts 210, 220, 225, 226, 240, 245, 250, 3016.36, 7 CFR 3018.110(d), 7 CFR 3019.4 any Summer Food Service Program (SFSP) and Child Adult Care Food Program (CACFP) requirements, and Food and Nutrition Service (FNS) instructions, policies and memoranda, as applicable, in addition to all applicable state and local regulations, policies and procedures, including but not limited to the DC Healthy Schools Act (HSA) of 2010, Healthy Students Amendment Act of 2018, as amended, the Healthy Hunger Free Kids Act (HHFKA) of 2010 (as amended), and all State Agency memorandums and requirements.

C.3.26 STAFFING

C.3.26.1 The Contractor shall recognize that one of the most important elements of a successful food service program is the staff employed to administer the food service program. The Contractor shall be responsible for the employment of all staff necessary for the safe, timely, and efficient distribution of meals to students and members of the DCPS staff.

C.3.26.2 The Contractor shall instruct its employees to abide by the policies, rules, and regulations with respect to the use of DCPS' premises, as established by DCPS and furnished in writing to the Contractor.

C.3.26.3 The Contractor shall provide DCPS with a list of its personnel policies and employee handbook.

C.3.26.4 DCPS will provide the Contractor with an initial staffing guide with minimum requirements for the start of the contract referenced in section C.4 item 32. Any decrease in school food service personnel must be approved by DCPS.

C.3.26.5 In the event of a Contractor transition, before the Contractor may provide services to DCPS, and in the spirit of valuing the existing workforce, the Contractor shall first offer incumbent management personnel an opportunity to compete for a similar position on the same terms and conditions as their current employment.

C.3.26.6 The Contractor shall maintain the same minimum level of employee positions, hours, wages, and benefits throughout the entire Contract Term and each subsequent Contract Term, as applicable, unless a reduction in the required levels is authorized by DCPS. The Contractor shall provide the DCPS with written notice of any increases in employee positions, hours, wages, and benefits. DCPS shall review and give consent to all management/supervisory staff hired during the term of the agreement. The Contractor is not obligated to honor any existing collective bargaining agreements toward the fulfillment of this agreement.

C.3.26.7 Contractor shall be fully staffed at all times for the efficient and effective production, distribution, and service of meals in accordance with the requirements of the contract and in accordance with the staffing schedule in each school supplied at the execution of the contract. Additionally, Contractor must maintain a sufficient pool of trained workers to supplement site staff as needed to account for all daily work absences and vacancies. If a school-based vacancy arises and Contractor is unable to fill the position from the existing labor pool within two operating days, Contractor shall utilize DCPS security-cleared temporary services and staff until a permanent food service worker (FSW) is hired. All FSW vacancies shall be filled within a two-week timeframe. Contractor shall promote internally whenever possible and provide opportunities for development for all FSW positions. FSW positions shall not be filled by management staff while vacant, this removes management staff from their regular duties. Temporary staffing must be DCPS security cleared prior to arrival at any school for work.

C.3.26.8 FSW shall be expected to have basic written and verbal skills, basic computer skills, and have passed ServSafe or other national industry-recognized food safety exam.

C.3.26.9 In the event of the removal or suspension of any employee, the Contractor shall immediately restructure its staff without disruption in service.

C.3.26.10 All food service personnel assigned to each school shall be instructed in basic equipment troubleshooting, and on the use of all emergency valves, switches, and fire and safety devices in the kitchen and cafeteria areas.

C.3.26.11 The use of student workers or students enrolled in vocational classes in the food service shall be mutually agreed upon.

C.3.26.12 The Contractor shall provide daily, on-site supervisory personnel dedicated solely to DCPS for the overall food service program.

C.3.26.13 The Contractor shall provide a point of contact for all Information Technology concerns pertaining to any internal business needs required to fulfill its contract with DCPS.

C.3.26.14 The Contractor shall be responsible for supervising and training all personnel. Supervision activities include employee and labor relations, personnel development, culinary training, hiring, and termination of the Contractor staff. All training shall be delivered by DCPS-approved trainers, either mobile or site-based, and all training materials shall be approved by DCPS. All FSW staff shall receive training or other validation for each functional area of their employment.

C.3.26.15 Contractor shall ensure that training requirements are in accordance with the Professional Standards for school nutrition professionals outlined in the Healthy, Hunger-Free Kids Act of 2010 (HHFKA), which requires a minimum amount of annual training hours for all staff.

C.3.26.15.1 Following training, all attending staff shall be given a means to provide feedback to the Contractor on the training program and an opportunity to demonstrate what he/she has learned within 90 days of completion. This feedback should be maintained along with all training materials and sign-in sheets for a period of five years from the date of creation.

C.3.26.15.2 Continuing education and professional development for all Contractor Food Service personnel shall include quarterly training in, but not limited to, the following areas:

- (a) New recipes.
- (b) Production records.
- (c) Portion control.
- (d) Food safety.
- (e) Program updates; and
- (f) Customer service skills.

C.3.26.15.3 The Contractor shall conduct civil rights training for all food service employees, including front-line staff, on an annual basis. Civil rights training must include:

- (a) Collection and use of data,
- (b) Effective public notification systems,
- (c) Complaint procedures,
- (d) Compliance review techniques,
- (e) Resolution of noncompliance,
- (f) Requirements for reasonable accommodation of persons with disabilities,
- (g) Requirements for language assistance,
- (h) Conflict resolution, and
- (i) Customer service.

C.3.26.15.4 The Contractor shall provide quarterly training compliance reports for all staff in accordance with USDA Professional Standards for all School Nutrition Employees.

C.3.26.16 The Contractor shall configure school staffing to ensure that the number of employees on hand shall be such as to avoid delays in the service of meals to the students.

C.3.26.17 The Contractor shall provide DCPS with a schedule of employees, positions, assigned locations, and hours to be worked three full calendar weeks prior to the commencement of operation. Schedules shall comply with DCPS requirements for staffing levels at each school and as referenced in section C.4. Item 6. The Contractor shall maintain their own personnel and fringe benefits policies for its employees.

C.3.26.18 All employees are expected to meet the standards for employment in DCPS and in accordance with the Hiring and Continuing Education Requirements effective July 1, 2015, per USDA Professional Standards for all School Nutrition Employees as referenced in section C.4 Item 24.3, including but not limited to submitting to and passing DCPS-administered background checks. Any employee who fails to pass pre-employment tests, including but not limited to background checks, TB tests, drug tests, etc., shall be subject to immediate termination. Any employee who has not cleared the pre-employment tests shall not be allowed to work in any DCPS facility.

C.3.26.19 The Contractor shall ensure that employees clear background checks on each two-year anniversary following their last background check. The Contractor shall keep a current schedule of background checks and schedule them with DCPS accordingly.

C.3.26.20 The Contractor shall ensure that employees have sufficient uniforms which comply with applicable food service regulatory requirements for health and safety, including but not limited to hair restraints and slip resistant shoes, and that employees report to work daily in a clean uniform in good condition. The cost of uniforms is to be included in the Contractor firm fixed unit charge.

C.3.26.21 The Contractor shall develop and implement a progressive discipline procedure for FSW staff, a standard operating procedure for each FSW and management position adapted for each school setting, and a performance rubric for each position.

C.3.26.22 DCPS shall request in writing discipline for any employee of the Contractor who violates health requirements or conducts himself/herself in a manner which is detrimental to the wellbeing of the students, consistent with DCPS personnel policies. Discipline of this nature is serious and shall abide by the highest levels of appropriate discipline procedures as accepted by DCPS in this contract.

C.3.26.23 In the event of removal or suspension of any such employee, the Contractor shall immediately restructure the food service staff without disruption of service.

C.3.26.24 The Contractor shall provide management supervision at all times and maintain constant quality control inspections to check for portion size, appearance, and packaging in addition to the quality of products. Management monitoring visits shall include the completion of one or more checklists to ensure the standard operating procedure is being followed and FSWs are executing their responsibilities fully.

C.3.26.24.1 Routine monitoring shall consist of a quality assurance Operations Site Review, as found in section C.4. Items 4, 5, and 6.

C.3.26.24.2 Operations Site Reviews require a score of 80% to pass.

C.3.26.24.3 Operations Site Reviews that score less than 80% shall be reported immediately to DCPS. Mitigating action plan noting specific, measurable, achievable, realistic, and time-bound (S.M.A.R.T.) properties are required within 48 hours of failure.

C.3.26.24.4 Mitigating action plans for Operations Site Reviews must be completed within the parameters submitted to DCPS. Failure to submit mitigating action plans timely will result in increased oversight and increased unannounced site visits.

C.3.26.24.5 Failure to mitigate performance failures identified as a result of operations reviews and subsequent action plans will be deemed a deficiency of Contractual obligations and subject the Contractor to Consequences of Non-Compliance in Section C.3.7 up to and including withholding of payment for service.

C.3.27 POSITION SPECIFIC RESPONSIBILITIES

C.3.27.1 “Field Managers” shall be responsible for supervising a cluster(s) group of schools. It is expected that Field Managers shall have at least three years of managing multi-unit schools, restaurants, or other food service

facilities. Field Managers shall have an intermediate knowledge of the MS Office suite and have intermediate general computer skills.

C.3.27.2 Field Managers shall visit each cluster(s) a minimum of two times per week. The Contractor shall provide a monthly report demonstrating fulfillment of this requirement listing the supervisory staff member making the visit, and the time and place of each visit occurred.

C.3.27.3 If a Field Manager is unavailable to perform his/her assigned duties and supervision of schools due to illness, vacation, or separation from company the Contractor is still required to provide proper coverage of all assigned schools during the Manager's absence. A permanent replacement of the displaced Field Manager shall be made within 30 days of separation from the Contractor's employment. Field Managers are required to

- (a) Perform accountability checks;
- (b) Fill staffing vacancies and provide substitute employees to cover work absences;
- (c) Perform staff evaluations;
- (d) Complete required Operations Site Reviews at each school under their supervision and in accordance with FNS requirements;
- (e) Report and verify equipment malfunctions and service;
- (f) Ensure product quality;
- (g) Ensure staff are trained on and follow all recipes;
- (h) Have a thorough understanding of components of a reimbursable meal under all programs DCPS operates and ensure that appropriate food service staff are trained on recognizing what makes up a reimbursable meal under all programs DCPS operates;
- (i) Ensure that all food is served at proper temperature, proper portions are served, and proper presentation is met;
- (j) Ensure that line service is fast and friendly and that counting procedures are followed resulting in accurate claims;
- (k) Assist and coordinate food quality surveys and tastings as specified by DCPS;
- (l) Ensure appropriate customer service policies are being followed;
- (m) Maintain open lines of communication with school Principals and Administration and update them on all personal changes, menu changes and operational issues; and
- (n) Respond to all requests and address all concerns in a timely manner.

Contractor is to ensure that proper accountability measures are performed, monitored and recorded daily at all school feeding sites as specified by USDA Standards and OSSE; Failure to properly account for, or make corrections to, schools found in violation by SFA, OSSE or USDA can result in loss of reimbursement funds to DCPS as specified under USDA guidelines; If the Contractor fails to use proper accountability procedures, Contractor can be required to pay for these losses via a line-item credit to the subsequent month's invoice to DCPS; and failure to institute corrective measures in schools found in violation shall be considered a violation of the terms of this agreement and shall result in termination of the Contractor.

C.4 APPLICABLE DOCUMENTS

The following documents are applicable to this procurement and are hereby incorporated by this reference. The Contractor shall provide services in accordance with the applicable laws and regulations listed below and any revisions or updates issued during the contract's period of performance.

Item No.	Document Type	Title	Date	Location
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1	Internal Policy	FNS Daily Accountability Policy & Procedures	10/25/2020	https://docs.google.com/document/d/1eSGu5yHBc5jtv m9uk5x-DRv1-_B2-e54/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
2	Internal Policy	Vendor Fingerprinting Policy	9/18/2019	https://docs.google.com/document/d/1aMr9P0me3JNB hLN5La4ZSzdPKviAtSJ-/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
3	Internal Policy	Operating Site Review Guidebook	12/17/2021	https://docs.google.com/document/d/19AWsI1RU7ng K-D0T8Eo_8YLZIk15os57/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
5	Internal Policy	FNS/Contractor Site Review Protocol	12/29/2020	https://docs.google.com/document/d/1BCFWSKDX YX02QEV-4UGtupD2Ds4WnFuE/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
6	Internal Policy	Operations Site Review Form	2021-2022	https://drive.google.com/file/d/14bMI mnJbLzYA1i2Y ETTfuM614jQBY-nO/view?usp=sharing
7	Internal Policy	Guide to Daily Operations for Family-Style Meals	9/18/15	https://drive.google.com/file/d/128GaOwwAtUNBqLi PzbAmkXiEeGa8bc7t/view?usp=sharing
8	Internal Policy	New Item/Taste Test Guide	1/7/2021	https://docs.google.com/document/d/1DEexZS9Z8D46 GF2J85T1XRzpEKVhsA9h/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
	Internal Policy	Dietary Accommodations Policy and Attachment	3/2021	https://drive.google.com/drive/folders/11x QrKTz2L4WAlIcSNGo_sd mrdz-VS8Qk?usp=sharing
10	DCPS Reference	FNS School Site Profile	11/2020	https://docs.google.com/spreadsheets/d/1SROcoxbi42q 2_GVQ0gGNrOCilrVqRBPI/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
11	DC Regulation	DC Healthy Schools Act, as Amended	12/31/2012	https://drive.google.com/file/d/1klNaXvNo5prg5AKa Xmh1luiPOf_va8zq/view?usp=sharing
12	DC Regulation	Healthy Student Amendment Act of 2018		https://drive.google.com/file/d/1B9G9Cjm7EHHWUJb 7EaMgW4OKIRURzv1s/view?usp=sharing
13	USDA Guidance	Department of Agriculture Food and Nutrition Service 7 CFR Parts 210 and	11/25/20	https://drive.google.com/file/d/1N0miY9NsYP_ZFej2 1T2597GkyEBHICKI/view?usp=sharing

		220		
14	USDA Guidance	Healthy Hunger-Free Kids Act of 2010	11/20/13	http://www.fns.usda.gov/school-meals/healthy-hunger-free-kids-act
15	USDA Guidance	Buy American Procurement Considerations	6/30/2017	https://drive.google.com/file/d/1S80UDBIc4-W02ERmp4k1hdNKYzOI96nn/view?usp=sharing
16	USDA Guidance	Provision 2 Guidance	8/13/02	https://drive.google.com/file/d/11w7zqZ5qslv-i-MqxpIPvMI3OMZFnQn/view?usp=sharing
17	USDA Guidance	FFVP Handbook	6/29/2011	https://drive.google.com/file/d/1OZTVnAXrFlmJPkADQs-4Oyl4NoUF0n4-/view?usp=sharing
18A& B	USDA Guidance	Offer vs. Serve Policy Memo and Memo Attachment	7/21/15	https://drive.google.com/file/d/1P5DaMqH_Z7H3kSJ9hb3WkfCKKu0l2RYj/view?usp=sharing https://drive.google.com/file/d/1tFYV9mVbn_2TEJBxb7coUCRkN7cdxjMC/view?usp=sharing
19	USDA Guidance	Afterschool Snack Program Fact Sheet	9/2013	https://drive.google.com/file/d/1hXsuKFPI6rxMB4NR6MhN2K4MG9BCkwAY/view?usp=sharing
20	USDA Guidance	CACFP At-Risk Afterschool Handbook	4/2017	https://drive.google.com/file/d/1INZa8fpGncDpRwLSnJaXKA7PQm9vJgLG/view?usp=sharing
21A& B	USDA Guidance	Summer Food Service Program Administration Guide and Nutrition Guide	2016 and May 2018	https://drive.google.com/file/d/1ba9r1V7UQywIr_78rb2VSvfGPM5MT7WD/view?usp=sharing https://drive.google.com/file/d/1RI8nFj8HYRUx-rd27gdBzI1MHXYHl4-s/view?usp=sharing
22	USDA Guidance	Accommodating Children with Special Dietary Needs in the School Meal Programs	7/25/17	https://drive.google.com/file/d/13Hnd-wz9qvtjaGTFtJwgnuzCf3LBfdj1/view?usp=sharing
23	USDA Guidance	Smart Snacks Final Rule	7/29/2016	https://drive.google.com/file/d/1zps4JfY4SrHOsTsyZ5v9QQsHHZA8ZpcE/view?usp=sharing
24	USDA Guidance	Professional Standards for School Nutrition	12/01/2020	https://drive.google.com/file/d/1NyXg3DxHB-uxNVYD4HGv15C_WeoVJWfP/view?usp=sharing
25	Internal Policy	DCPS FSMC Invoice Template	12/18/21	https://docs.google.com/spreadsheets/d/17yDz4F3GG1DS2PFPU-

				0EmdAmmVWMdb34/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
26	Proposal Checklist	DCPS School Proposal/Pricing Template	2021	https://docs.google.com/spreadsheets/d/10A94ZacIaGZJI92xxV8OpoEc1LHtScoZ/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
27	Teamsters Local 639	Collective Bargaining Agreement Between SodexoMAGIC, LLC and Teamsters Local 639 for The DC Public School System	10/1/19 thru 9/30/22	https://drive.google.com/file/d/15uMv5Rz9KdB-bojiM7UzOx_C21Qjtce-/view?usp=sharing
28	DCPS Reference	DCPS Good Food Purchasing Program (GFPP) Baseline Assessment	11/30/2018	https://drive.google.com/file/d/1LYABSFEf0mGpl1TqZnsROp1HIEBCYE-E/view?usp=sharing
29	DCPS Reference	DCPS FNS Nutrition Standards	3/15/2022	https://docs.google.com/document/d/1vfCM02JVYH WI3G0_d_-Kn53FcjfhBsv3/edit?usp=sharing&oid=109909928282979206758&rtpof=true&sd=true
30	DCPS Reference	DCPS SY 21-22 Planned Assistance Level	12/13/2021	https://drive.google.com/file/d/1Z8dWRjttAT0lzbnDC TEEK5wvT71D8ASa/view?usp=sharing
31	DCPS Reference	DCPS Local Wellness Policy	09/01/2017	https://drive.google.com/file/d/1InjaY4I2jEED8INrFq5j3Mhvh57Tcou9/view?usp=sharing
32	DCPS Reference	FNS Staffing Matrix	01/13/2022	https://docs.google.com/spreadsheets/d/13iuFmwboH5buE5UrqaI9lLoBZH1XvdgG/edit#gid=1267191968
33	DC Regulation	Zero Waste Omnibus Amendment		

C.5 DCPS RESPONSIBILITIES AND OBLIGATIONS

The DCPS Contract Administrator and the CA's Authorized Designee(s) shall monitor the performance of the Contractor and ensure adherence to the following:

C.5.1 DCPS shall retain control of the quality, extent, and general nature of its Food Service Program per 7 CFR210.16(a)(4).

C.5.2 DCPS will make the final determination of the opening, closing, and operating dates of all sites.

C.5.3 DCPS shall provide the facilities from which the Contractor will distribute and/or prepare the meals to the students and shall be responsible for reporting all repairs to the cooking equipment, temperature-controlled holding equipment and the physical plant immediately upon discovery.

C.5.4 DCPS shall monitor the food service through routine on-site reviews to include the inspection of meals, food preparation, storage and service areas, sanitation practices, and procedures for accurately counting and claiming meals provided that nothing in this paragraph shall be construed as to relieve the Contractor of its independent obligation to provide proper oversight and supervision of its operations or to otherwise comply with State and Federal rules and/or regulations.

C.5.5 DCPS shall approve the menus and recipes for meals and other food to be served or sold to students to ensure compliance with the rules and regulations of the District of Columbia and the United States Department of Agriculture.

C.5.6 DCPS shall inform the Contractor of any adjustments to menus and monitor implementation of adjustments.

C.5.7 If applicable, DCPS shall approve all a la carte items and the prices charged for those items in advance of sale by the Contractor. DCPS does not currently operate an a la carte program.

C.5.8 DCPS shall establish internal controls which ensure the accuracy of meal counts prior to the submission of each *Monthly Claim for Reimbursement* including:

C.5.8.1 On-site reviews of the meal counting and claiming system,

C.5.8.2 Reviews of meal count data for each site, and

C.5.8.3 Edit checks of meal count data against the product of the eligibility data times and attendance factor.

C.5.9 DCPS shall ensure USDA Foods received for use by DCPS are made available to the Contractor and utilized within the specified Term of the contract in the food service operation for the preparation and service of meals and for other allowable uses in accordance with the Code of Federal Regulations, 7 CFR Part 250.

C.5.10 Contractor shall maintain and post, in a publicly visible location, all reports on the most recent food safety inspection, and provide a copy of the food safety inspection reports to DCPS FNS; to members of the public upon request.

C.5.11 DCPS shall provide the Contractor with telephone and data service within the DCPS facilities.

C.5.12 DCPS shall provide the Contractor with an initial inventory of necessary on-site equipment for the fulfillment of the contract. Contractor shall be responsible for ensuring equipment has been identified to be adequately repaired or reported to DCPS as in need of repair prior to the execution. Equipment that requires repair must be communicated to Food & Nutrition Services immediately upon discovery. The Contractor will be responsible for any necessary equipment for the off-site preparation and/or transportation of the meals.

C.5.13 DCPS shall notify the Contractor as soon as possible of any interruption in utility service of which it has knowledge.

C.5.14 DCPS shall notify the Contractor as soon as possible of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations.

C.5.15 DCPS shall retain final menu and product approval authority for all schools, including those intended for the start of the contract. DCPS shall inform the Contractor if/when products or recipes are not approved. DCPS shall retain control of the Child Nutrition Program (CNP) nonprofit food service account and overall financial responsibility for the CNP, including the filing of federal and local reimbursements.

C.5.17

All income accruing as a result of payments by children and adults, federal and local reimbursements, and all other program income sources including a la carte sales and vending shall be deposited daily in DCPS' nonprofit food service account. Any profit or guaranteed return shall remain in DCPS' nonprofit food service account. Catering services are independent of the contract; however, should the Contractor provide such service for DCPS schools or other DCPS programs they shall ensure the receipt of a valid purchase order prior to rendering services.

C.5.18 DCPS shall approve all selling prices, including price adjustments, for all reimbursable and adult meals/milk and a la carte sales (including adult meals, contract meals, and catering) prices. (Exception: The non-pricing programs of breakfast, snack, supper, and FFVP need not establish a selling price for reimbursable meals or food items.)

C.5.19 If applicable, DCPS shall retain the right to add specialty meal programs and initiatives which it shall procure through a competitive procurement process and shall result in an amendment to the contract.

C.5.20 DCPS shall retain signatory authority on the FSP annual renewal contract including the policy statement for free and reduced-price meals and on all documentation submitted in writing to the SA, including monthly claim forms.

C.5.21 DCPS shall be responsible for the development, distribution, collection, processing, and verification of the parent /guardian letter and application for free and reduced-price meals and shall conduct any hearings related to determinations regarding program eligibility. In accordance with USDA regulations, the Contractor shall not be responsible for the free and reduced meal application process.

C.5.22 DCPS shall be responsible for requesting a direct certification list from the OSSE each month for use to determine eligibility for free meals without obtaining an application from the parent or guardian.

C.5.23 DCPS shall be responsible for maintaining an accurate list of students eligible for free or reduced-price meals and will provide lists by school, either in print and/or electronically, for use in administering the food service program.

C.5.24 DCPS shall own the point-of-sale system (currently Mosaic) including all software, hardware, and data stored therein. Program data, including student eligibility, will reside exclusively on DCPS owned servers.

C.5.25 DCPS shall not disclose confidential information to the Contractor that is not needed for meal counts from free and reduced-price meal application and/or the direct certification list, if used, as required under 7 CFR 210.16(a), the Children's Online Privacy Protection Act (COPPA), or the Family Educational Rights and Protection Act (FERPA).

C.5.26 At its discretion, during the course of this agreement DCPS shall certify schools under Provision 2 and/or Community Eligibility and/or return certified schools to standard operating procedure.

C.5.27 Any information transmitted through OSSE to DCPS impacting contractual services shall be disseminated to the Contractor through DCPS.

C.5.28 DCPS retains the right to reassign and school assignments at any time and shall provide a 60-day notice to the incumbent of such changes. This will be done by issuing a modification which will be executed by DCPS CO.

C.5.29 DCPS' internal controls shall include regular site visits to ensure compliance with all program regulations, product requirements, and service expectations, 7 CFR 210.16(a)(2) and 210.16(a)(3). Additionally, District administrative and school staff shall, from time to time, observe Contractor performance and report to DCPS Food Services. If the visits are a requirement of the OSSE, they shall follow a program review timeframe as determined by the OSSE. Review findings and any requests for corrective action from these site visits shall be transmitted to the Contractor in a timely manner.

C.5.30 DCPS shall be responsible for ensuring the resolution of OSSE program review and audit findings in collaboration with the Contractor. However, if any financial penalties assessed against DCPS, including fines or retention or recovery of reimbursements, are a result of any errors or violations committed by the Contractor, DCPS shall withhold from Contractor payment equal to the penalty.

C.5.31 DCPS school custodial and maintenance staff shall be responsible for cleaning cafeteria floors, maintaining kitchen bathroom facilities, disposing of all refuse, and ordering pest control visits.

C.6 CONTRACTOR DELIVERABLES

C.6.1 The Contractor shall adhere to all deliverables as outlined in section F.3.

SECTION D: PACKAGING AND MARKING

D.1 The packaging and marking requirements for the contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated July 2010. (Attachment J.1)

SECTION E: INSPECTION AND ACCEPTANCE

E.1 The inspection and acceptance requirements for the contract shall be governed by clause number (6), Inspection of Service of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated July 2010. (Attachment J.1).

E.1.1 INSPECTION OF FACILITY

E.1.1.1 The District, the State Agency, and the US Department of Agriculture reserve the right to inspect the Contractor's preparation facilities prior to award and without notice at any time during the contract period, including the right to be present during preparation and delivery of meals.

E.1.1.2 The Contractor's facilities shall be subject to periodic inspections by USDA, state and local health departments, or any other agency designated to inspect meal quality for the State. This will be accomplished in accordance with U. S. Department of Agriculture regulations.

E.1.1.3 The Contractor shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being served. Such levels shall conform to the standards, which are applied by the local health authority with respect to the level of bacteria, which may be present in meals served by other establishments in the locality.

SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the contract shall be for a period of one year from July 1, 2023 through September 30, 2023. The term of the contract(s) shall be for a period of three months.

F.1.1 7 CFR § 210.16(d) requires that any contract award based on this solicitation must include a termination clause whereby either party to the contract may cancel for cause with a 60-day notification to the other party. However, recognizing the practical difficulties that cancellation within a 60-day timeframe will impose on the District, the USDA has confirmed for the District that it may instead include a 120-day notification, instead of the regulatory required 60-day notification, to meet this requirement in any contract award based on this solicitation. Accordingly, any contract award based on this solicitation will include a termination clause whereby party to the contract may cancel for cause with a 90-day notification to the other party.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT: NOT APPLICABLE.

F.2.1 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.2.2 If multiple Contracts are awarded, the District retains the right to reassign individual schools among other Contractor at the conclusion of each contract term based on Contractor performance, substantive feedback from stakeholders as described in C.1.4.1.1, and/or facility updates such as modernizations, closures, consolidations, or new schools, to better serve the schools and students or interests of DCPS and the District of Columbia. This reassignment will be effectuated through a contract modification.

F.2.3 Pricing for the option period(s) shall be as specified in Section B of the contract.

F.2.4 The total duration of the contract, including the exercise of any options under this clause, shall not exceed three years.

F.3 DELIVERABLES

The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the Contract Administrator (CA) identified in section G.9 in accordance with the following:

Item No.	Deliverable (Section)	Frequency	Format/Method of Delivery	Due Date
1	Initial 21-day cycle menu submittal (C.3.16.4)	Upon any edit	Electronically	Menus must be submitted 60 days prior to service each year.
2	Initial 21-day cycle menu submittal (C.3.16.4)	Initially and upon any edit	Electronically	60 days prior to start of service each school year
3	Recipe Book (C.3.17.4)	Initially and upon any edit	Electronically	60 days prior to start of service each school year
4	Product CN Labels, PFS, or RAW (C.3.17.1)	As Needed	Electronically	60 days prior to start of service each school year
5	Tasting of any menu items (C.3.17.2)	Monthly	Electronically	60 days prior to serving
6	Proposed Menus/Menu Cycles/Proof of Compliance with menu planning regulations (C.3.17.1)	Initially and upon any edit	Electronically	60 days or more prior to service
7	Final Menus and Nutrition Information, Meal Ingredients, final CN Labels, and Food Origin Reports (C.3.17.1)	Quarterly (based on school calendar terms) & Summer	Electronically to FNS and Hard Copies to all Schools	5 business days or more prior to service
8	Invoice Submittals (G.2)	As Needed	Electronically	Immediately Upon Receipt Submit
9	DC Health Violations (C.3.6.3)	Daily	Hard Copy and Electronically	Daily Weekly Monthly
10	Reconciliation of Meals Served (C.3.5)	As Requested	Electronically	As Requested
11	Proof of Compliance with Healthy Schools Act (C.3.2.2.1)	As Needed	Electronically	Immediately to DCPS upon Discovery
12	Food Recalls (C.3.15.4, C.3.15.5)	As Needed	Electronically	Immediately to DCPS upon Discovery

13	Any incidents requiring closure or non-service (C.3.6.2)	Monthly	Hard Copy and Electronically	For Approval to DCPS prior to execution
14	Marketing and promotions campaigns (C.3.25)	Monthly or quarterly as agreed upon by DCPS and Contractor	Electronically	30 days prior to planned distribution
15	Accounting for USDA commodities utilized (C.3.19)	As Needed	Hard Copy and Electronically	Immediately in writing to DCPS
16	Equipment repair needs (C.3.11.2)	Bi-Annually	Hard Copy and Electronically	60 days prior to start of service each school year
17	Fingerprinting Clearance Report (H.11)	Twice a week	Electronically	Ongoing throughout contract term
18	USDA Foods Usage Report (C.3.19)	Monthly	Electronically	Ongoing throughout contract term

F.3.1 The Contractor shall submit to the District, as a deliverable, the report described in section H.5.5 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to section G.3.2.

SECTION G: CONTRACT ADMINISTRATION

G.1 INVOICE PAYMENT

G.1.1 DCPS will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.

G.1.2 Weekly, the Contractor shall submit a summary invoice with pdf attachments of all signed delivery tickets and/or invoices for proper review and approval before submission to the vendor portal. Account statements should also be sent monthly or as otherwise specified in Section G.2.

G.1.3 DCPS will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 INVOICE SUBMITTAL

G.2.1 The Contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>.

G.2.2 The Contractor shall also simultaneously submit all invoice packets referenced in G.1.2 to the assigned DCPS Contract Administrator and Invoicing Designee for review. Payment shall be made within 30 days of DCPS submitting the invoice to DC OCFO for payment.

A. The address of the Contract Administrator is:

Robert M. Jaber
Executive Director, Food and Nutrition Services
Office of the Chief Operating Officer
1200 First Street, NE, 9th Floor
Washington, DC 20002
Robert.Jaber@k12.dc.gov

B. The address of the Invoicing Designee:

Steven Lenz
Coordinator, Finance, Strategy and Technology – Food and Nutrition Services
Office of the Chief Operating Officer
1200 First Street, NE, 9th Floor
Washington, DC 20002
devon.moore@k12.dc.gov

C. The address of the Program Designee:

Kelsey Weisgerber
Specialist, Field Operations – Food and Nutrition Services
Office of the Chief Operating Officer
1200 First Street NE, 9th Floor
Washington, DC 20002
Kelsey.Weisgerber@k12.dc.gov

G.2.3 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4.

G.2.4 To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor's profile.

G.2.4.1 Contractor's name, federal tax ID and invoice date (Contractors shall date invoices as of the date of mailing or transmittal).

G.2.4.2 Contract number and invoice number.

G.2.4.3 Description, price, quantity and the date(s) that the supplies or services were delivered or performed.

G.2.4.4 Other supporting documentation or information, as required by the Contracting Officer.

G.2.4.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent.

Glenda Cognevich, CFO, 202-266-2019 (the Contractor is paid via ACH through the DC Vendor Portal), but “mailing address is”: (2121 First St. SW, Washington DC, 20024)

G.2.4.6 Name, title, phone number of person preparing the invoice.
Annie Nash, Controller, 202-400-2810

G.2.4.7 Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and

G.2.4.8 Authorized signature.

G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

G.3.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.5.5.

G.3.2 The District shall not make final payment to the Contractor until the agency CFO has received the CO’s final determination or approval of waiver of the Contractor’s compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

G.4 PAYMENT

G.4.1 PAYMENTS ON PARTIAL DELIVERIES OF GOODS

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

G.4.2 PAYMENTS ON PARTIAL DELIVERIES OF SERVICES

Unless otherwise specified in this contract, payment will be made on partial deliveries of services accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

G.4.3 PARTIAL PAYMENTS

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods and services accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is in accordance with the following:
 - "Payment will be made on completion and acceptance of each item for which the price is stated in the Schedule in Section B".
 - Presentation of a properly executed invoice.

G.4.5. PAYMENT FOR REIMBURSABLE ITEMS AND SERVICES

Payment for approved reimbursable items and services provided on an hourly labor rate basis will be made based on submitted, approved documentation, including verified timesheets and receipts. Hourly rates shall be computed by multiplying the appropriate hourly rates in Section B by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis. Fixed hourly rates shall be fully loaded and include wages, overhead, general, and administrative expenses and profit.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

G.5.1 In accordance with 27 DCMR 3250, the Contractor may assign to a bank, trust company, or other financing District funds due or to become due because of the performance of this contract.

G.5.2 Any assignment shall cover all unpaid amounts payable under this contract and shall not be made to more than one party.

G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

“Pursuant to the instrument of assignment dated _____, make payment of this invoice to (name and address of assignee).”

G.6 THE QUICK PAYMENT ACT

G.6.1 Interest Penalties to Contractors

G.6.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of at least 1.5% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the required payment date. The required payment date shall be:

G.6.1.1.1 The date on which payment is due under the terms of the contract;

G.6.1.1.2 Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;

G.6.1.1.3 Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or

G.6.1.1.4 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.

G.6.1.2 No interest penalty shall be due to the Contractor if payment for the completed delivery of goods or services is made on or after:

G.6.1.2.1 3rd day after the required payment date for meat or a meat food product;

G.6.1.2.2 5th day after the required payment date for an agricultural commodity; or

G.6.1.2.3 15th day after any other required payment date.

G.6.1.3 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.6.2 Payments to Subcontractors

RESERVE

G.7 CONTRACTING OFFICER (CO):

Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

Ms. LaVeta Hilton
Chief Procurement Officer
Office of Contracts and Acquisitions
District of Columbia Public Schools
1200 First St. NE, 9th Floor
Washington, DC 20002
Email: laveta.hilton@k12.dc.gov

Contract Specialist:

Ms. Joan Aird
Senior Contract Specialist
Office of Contracts and Acquisitions
District of Columbia Public Schools
1200 First St. NE, 9th Floor
Washington, DC 20002
Email: joan.aird@k12.dc.gov

G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.8.1 The CO is the only person authorized to approve changes in any of the requirements of the contract, notwithstanding provisions contained elsewhere in the Contract.

G.8.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of the contract, unless issued in writing and signed by the CO, or pursuant to specific authority otherwise included as part of the Contract.

G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.9 CONTRACT ADMINISTRATOR (CA)

G.9.1 The CA is responsible for general administration of the contract and advising the CO as to the Contractor's compliance or noncompliance with the contract. The CA has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

G.9.1.1 Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

G.9.1.2 Coordinating site entry for Contractor personnel, if applicable;

G.9.1.3 Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

G.9.1.4 Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and

G.9.1.5 Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, and equipment) and invoice or vouchers.

G.9.2 The address and telephone number of the CA is:

Robert Jaber
Executive Director
Food & Nutrition Services
Office of the Chief Operating Officer
1200 First Street, NE, 9th Floor
Washington, DC (20002)
Email: robert.jaber@k12.dc.gov

G.9.3 The CA shall NOT have the authority to:

G.9.3.1 Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments, or modifications;

G.9.3.2 Grant deviations from or waive any of the terms and conditions of the contract;

G.9.3.3 Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,

G.9.3.4 Authorize the expenditure of funds by the Contractor;

G.9.3.5 Change the period of performance; or

G.9.3.6 Authorize the use of District property, except as specified under the contract.

G.9.4 The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.10 ORDERING CLAUSE

G.10.1 Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders or task orders by the CO. Such orders may be issued during the term of this contract.

G.10.2 All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of a conflict between a delivery order or task order and this contract, the contract shall control.

G.10.3 If mailed, a delivery order or task order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

G.11 COST REIMBURSEMENT CEILING

G.11.1 COST REIMBURSEMENT CEILING FOR THIS CONTRACT IS SET FORTH ANNUALLY BY THE SFA.

G.11.2 The costs for performing this contract shall not exceed the cost reimbursement ceiling specified in Section B.

G.11.3 The Contractor agrees to use its best efforts to perform the work specified in this contract and to meet all obligations under this contract within the cost reimbursement ceiling.

G.11.4 The Contractor must notify the CO, in writing, whenever it has reason to believe that the total cost for the performance of this contract will be either greater or substantially less than the cost reimbursement ceiling.

G.11.5 As part of the notification, the Contractor must provide the CO a revised estimate of the total cost of performing this contract.

G.11.6 The District is not obligated to reimburse the Contractor for costs incurred in excess of the cost reimbursement ceiling specified in Section B and the Contractor is not obligated to continue performance under this contract (including actions under the Termination clauses of this contract), or otherwise incur costs in excess of the cost reimbursement ceiling specified in Section B until the CO notifies the Contractor, in writing, that the estimated cost has been increased and provides revised cost reimbursement ceiling for performing this contract.

G.11.7 No notice, communication, or representation in any form from any person other than the CO shall change the cost reimbursement ceiling. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the costs reimbursement ceiling, whether such costs were incurred during the course of contract performance or as a result of the termination.

G.11.8 If any cost reimbursement ceiling specified annually is increased, any costs the Contractor incurs before the increase that is in excess of the previous cost reimbursement ceiling shall be allowable to the same extent as if incurred afterward, unless the CO issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

G.11.9 A change order shall not be considered an authorization to exceed the applicable cost reimbursement ceiling specified in Section B unless the change order specifically increases the cost reimbursement ceiling.

G.11.10 Only costs determined in writing to be reimbursable in accordance with the cost principles set forth in rules issued pursuant to Title V of the D.C. Procurement Practices Reform Act of 2010 shall be reimbursable.

THIS SECTION INTENTIONALLY LEFT BLANK.

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

H.1.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:

H.1.1.1 At least 51 percent of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

H.1.2 The Contractor shall negotiate an Employment Agreement with the Department of Employment Services

(DOES) for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No.: CBA-October 01, 2020, through September 30, 2022, Revision No.: 0, dated 04/12/2018 issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and incorporated herein as Section J.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the District of Columbia Standard Contract Provisions dated March 2007 (SCP). If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

H.2.1 DISPLACED WORKERS ACT

The Contractor must comply with the District of Columbia Displaced Workers Protection Act of 1994, D.C. Official Code § 32-101 *et seq.* ("Displaced Workers Act"). Under the Displaced Workers Act, the Contractor must generally retain the prior Contractor's food service workers at each school where the Contractor will provide food services. Respondents should review the Displaced Workers Act to determine their specific obligations under the act.

H.3 PREGNANT WORKERS FAIRNESS

H.3.1 The Contractor shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 *et seq.* (PPWF Act).

H.3.2 The Contractor shall not:

- (a) Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the Contractor can demonstrate that the accommodation would impose an undue hardship;
- (b) Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:
 - (1) Pay;
 - (2) Accumulated seniority and retirement;
 - (3) Benefits; and
 - (4) Other applicable service credits;
- (c) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;
- (d) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;

- (e) Require an employee to take leave if a reasonable accommodation can be provided; or
- (f) Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

H.3.3 The Contractor shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to the PPWF Act to:

- (a) New employees at the commencement of employment;
- (b) Existing employees; and
- (c) An employee who notifies the employer of her pregnancy, or other condition covered by the PPWF Act, within 10 days of the notification.

H.3.4 The Contractor shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.

H.3.5 Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

H.4 UNEMPLOYED ANTI-DISCRIMINATION

H.4.1 The Contractor shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code §32-1361 *et seq.*

H.4.2 The Contractor shall not:

- (a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or
- (b) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:
 - (1) Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or
 - (2) Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

H.4.3 Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

H.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

Delete Article 35, 51% District Residents New Hires Requirements and First Source Employment Agreement, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following Section **H.5 51% DISTRICT**

RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT in its place:

H.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

H.5.1 For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).

H.5.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:

- (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and
- (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

H.5.3 The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

H.5.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.

H.5.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.

H.5.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.

H.5.7 If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.

H.5.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.

H.5.9 The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in **clause 14 of the SCP, Disputes**.

H.5.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

H.6 RESERVED

H.7 RESERVED

H.8 RESERVED

H.9 RESERVED**H.10 FAIR CRIMINAL RECORD SCREENING**

H.10.1 The Contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) (the “Act” as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.

H.10.2 Prior to making a conditional offer of employment, the Contractor shall not require an applicant for employment, or a person who has requested consideration for employment by the Contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.

H.10.3 After making a conditional offer of employment, the Contractor may require an applicant to disclose or reveal a criminal conviction.

H.10.4 The Contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.

H.10.5 This section and the provisions of the Act shall not apply:

- (a) Where a federal or District law or regulation requires the consideration of an applicant’s criminal history for the purposes of employment;
- (b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;
- (c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or
- (d) To employers that employ less than 11 employees.

H.10.6 A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the Contractor.

H.11 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

H.12 AUDITS AND RECORDS

H.12.1 As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

H.12.2 Examination of Costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price

predeterminable contract, or any combination of these, the Contractor shall maintain and the CO, or an authorized representative of the CO, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in the performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

H.12.3 Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the CO, or an authorized representative of the CO, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

- a) The proposal for the contract, subcontract, or modification.
- b) The discussions conducted on the proposal(s), including those related to negotiating.
- c) Pricing of the contract, subcontract, or modification; or
- d) Performance of the contract, subcontract, or modification.

H.12.4 Comptroller General

H.12.4.1 The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

H.12.4.2 This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

H.12.5 Reports. If the Contractor is required to furnish cost, funding, or performance reports, the CO or an authorized representative of the CO shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating:

- a) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and
- b) the data reported.

H.12.6 Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in clauses H.X.1 through H.X.5, for examination, audit, or reproduction, until three years after final payment under this contract or for any shorter period specified in the solicitation, or for any longer period required by statute or by other clauses of this contract. In addition:

- a) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and
- b) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

H.12.7 The Contractor shall insert a clause containing all the terms of this clause, including this section H.12.7, in all subcontracts under this contract that exceed the small purchase threshold of \$100,000, and:

- a) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price predeterminable type or any combination of these;
- b) For which cost or pricing data are required; or
- c) That requires the subcontractor to furnish reports as discussed in H.12.5 of this clause.

H.13 CRIMINAL BACKGROUND AND TRAFFIC RECORDS CHECKS FOR CONTRACTORS THAT PROVIDE DIRECT SERVICES TO CHILDREN OR YOUTH

H.13.1 A contractor that provides services as a covered child or youth services provider, as defined in section 202(3) of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 et seq.), as amended (in this section, the “Act”), shall obtain criminal history records to investigate persons applying for employment, in either a compensated or an unsupervised volunteer position, as well as its current employees and unsupervised volunteers. The Contractor shall request criminal background checks for all positions staffed that pertain to this procurement.

H.13.2 The Contractor shall also obtain traffic records to investigate persons applying for employment, as well as current employees and volunteers, when that person will be required to drive a motor vehicle to transport children in the course of performing his or her duties. The Contractor shall request traffic records for the following positions:

- Contractor staff accessing DCPS locations.
- Contractor staff with direct contact with DCPS students.

H.13.3 The Contractor shall inform all applicants requiring a criminal background check that a criminal background check must be conducted on the applicant before the applicant may be offered a compensated position or an unsupervised volunteer position.

H.13.4 The Contractor shall inform all applicants requiring a traffic records check that a traffic records check must be conducted on the applicant before the applicant may be offered a compensated position or a volunteer position.

H.13.5 The Contractor shall obtain from each applicant, employee, and unsupervised volunteer:

- (A) a written authorization which authorizes the District to conduct a criminal background check;
- (B) a written confirmation stating that the Contractor has informed him or her that the District is authorized to conduct a criminal background check;
- (C) a signed affirmation stating whether or not they have been convicted of a crime, pleaded nolo contendere, are on probation before judgment or placement of a case upon a stet docket, or have been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District or their equivalent in any other state or territory, or for any of the following felony offenses or their equivalent in any other state or territory:
 - (i) Murder, attempted murder, manslaughter, or arson;

- (ii) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;
 - (iii) Burglary;
 - (iv) Robbery;
 - (v) Kidnapping;
 - (vi) Illegal use or possession of a firearm; soliciting or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;
 - (viii) Child abuse or cruelty to children; or
 - (ix) Unlawful distribution of or possession with intent to distribute a controlled substance;
- (D) a written acknowledgement stating that the Contractor has notified them that they are entitled to receive a copy of the criminal background check and to challenge the accuracy and completeness of the report; and
- (E) a written acknowledgment stating that the Contractor has notified them that they may be denied employment or a volunteer position or may be terminated as an employee or volunteer based on the results of the criminal background check.

H.13.6 The Contractor shall inform each applicant, employee, and unsupervised volunteer that a false statement may subject them to criminal penalties.

H.13.7 Prior to requesting a criminal background check, the Contractor shall provide each applicant, employee, or unsupervised volunteer with a form or forms to be utilized for the following purposes:

- (A) To authorize the Metropolitan Police Department (MPD), or designee, to conduct the criminal background check and confirm that the applicant, employee, or unsupervised volunteer has been informed that the Contractor is authorized and required to conduct a criminal background check;
- (B) To affirm whether or not the applicant, employee, or unsupervised volunteer has been convicted of a crime has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity for any sexual offenses or intra-family offenses in the District or their equivalent in any other state or territory of the United States, or for any of the felony offenses described in paragraph H.X.5(C);
- (C) To acknowledge that the applicant, employee, or unsupervised volunteer has been notified of his or her right to obtain a copy of the criminal background check report and to challenge the accuracy and completeness of the report;
- (D) To acknowledge that the applicant may be denied employment, assignment to, or an unsupervised volunteer position for which a criminal background check is required based on the outcome of the criminal background check; and
- (E) To inform the applicant or employee that a false statement on the form or forms may subject them to criminal penalties pursuant to D.C. Official Code § 22-2405.

H.13.8 The Contractor shall direct the applicant or employee to complete the form or forms and notify the applicant or employee when and where to report to be fingerprinted.

H.13.9 Unless otherwise provided herein, the Contractor shall request criminal background checks from the Chief, MPD (or designee), who shall be responsible for conducting criminal background checks, including fingerprinting.

H.13.10 The Contractor shall request traffic record checks from the Director, Department of Motor Vehicles (DMV) (or designee), who shall be responsible for conducting traffic record checks.

H.13.11 The Contractor shall provide copies of all criminal background and traffic check reports to the CA within one business day of receipt.

H.13.12 The Contractor shall pay for the costs for the criminal background and traffic record checks, pursuant to the requirements set forth by the MPD and DMV. The District shall not make any separate payment for the cost of criminal background and traffic record checks.

H.13.13 The Contractor may make an offer of appointment to, or assign a current employee or applicant to, a compensated position contingent upon receipt from the CO of the CA's decision after his or her assessment of the criminal background or traffic record check.

H.13.14 The Contractor may not make an offer of appointment to an unsupervised volunteer whose position brings him or her into direct contact with children until it receives from the contracting officer the CA's decision after his or her assessment of the criminal background or traffic record check.

H.13.15 The Contractor shall not employ or permit to serve as an unsupervised volunteer an applicant or an employee who has been convicted of or has pleaded nolo contendere to, is on probation before judgment or placement of a case on the stet docket because of, or has been found not guilty by reason of insanity for any sexual offenses involving a minor.

H.13.16 Unless otherwise specified herein, the Contractor shall conduct periodic criminal background checks upon the exercise of each option year of this contract for current employees and unsupervised volunteers in the positions listed in sections H.X.1 and H.X.2.

H.13.17 An employee or unsupervised volunteer may be subject to administrative action including, but not limited to, reassignment or termination at the discretion of the CA after his or her assessment of a criminal background or traffic record check.

H.13.18 The CA shall be solely responsible for assessing the information obtained from each criminal background and traffic records check report to determine whether a final offer may be made to each applicant or employee. The CA shall inform the CO of its decision, and the CO shall inform the Contractor whether an offer may be made to each applicant.

H.13.19 If any application is denied because the CA determines that the applicant presents a present danger to children or youth, the Contractor shall notify the applicant of such determination and inform the applicant in writing that she or he may appeal the denial to the Commission on Human Rights within thirty (30) days of the determination.

H.13.20 Criminal background and traffic record check reports obtained under this section shall be confidential and are for the exclusive use of making employment-related determinations. The Contractor shall not release or otherwise disclose the reports to any person except as directed by the CO.

H.14 PUBLICITY

The Contractor shall not use the logo of DCPS, the District government, or any District agency in any way without first obtaining approval from the CA. In addition, the Contractor shall not use the name of DCPS, the

District government or any District agency in any statement, promotional materials (including on the Contractor's web site) or in any published materials in a manner which states or implies support for or an endorsement of Contractor by DCPS. The Contractor shall at all times obtain the prior written approval from the CA before it, any of its officers, agents, employees, or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under the contract.

H.15 FREEDOM OF INFORMATION ACT

H.15.1 The District of Columbia Freedom of Information Act, at D.C. Official Code §2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the CA who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. The FOIA Officer for the agency with programmatic responsibility will determine the reliability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the D.C. Municipal Regulations.

H.16 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

H.16.1 During the performance of the contract, the Contractor and any of its subcontractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded programs and activities. See 29 U.S.C. § 794 *et seq.*

H.17 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

H.17.1 During the performance of the contract, the Contractor and any of its subcontractor shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 *et seq.*

H.18 WAY TO WORK AMENDMENT ACT OF 2006

H.18.1 Except as described in H.8.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective January 1, 2018 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.* ("Living Wage Act of 2006"), for contracts for services in the amount of \$100,000 or more in a 12-month period. The living wage rate has been adjusted to \$13.84 per hour, effective as of January 1, 2016.

H.18.2 The Contractor shall pay its employees and subcontractor who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.

H.18.3 The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

H.18.4 The DOES may adjust the living wage annually, and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.

H.18.5 The Contractor shall provide a copy of the Fact Sheet attached as J.6 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.5 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

H.18.6 The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three years from the payroll date and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

H.18.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

H.18.8 The requirements of the Living Wage Act of 2006 do not apply to:

H.18.8.1 Contracts or other agreements that are subject to higher wage level determinations required by federal law;

H.18.8.2 Existing and future collective bargaining agreements, provided that the future collective bargaining agreement results in the employee being paid no less than the established living wage;

H.18.8.3 Contracts for electricity, telephone, water, sewer, or other services provided by a regulated utility;

H.18.8.4 Contracts for services needed immediately to prevent or respond to a disaster or imminent threat to public health or safety declared by the Mayor;

H.18.8.5 Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act of 2006;

H.18.8.6 An employee under 22 years of age employed during a school vacation period or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;

H.18.8.7 Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided that the tenant or retail establishment did not receive direct government assistance from the District;

H.18.8.8 Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

H.18.8.9 Medicaid provider agreements for direct care services to Medicaid recipients provided that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and

H.18.8.10 Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.18.9 The Mayor may exempt a Contractor from the requirements of the Living Wage Act of 2006, subject to the approval of the Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

H.19 INSURANCE REQUIREMENTS

The Contractor shall provide evidence of current insurance coverage. If awarded the contract, and Contractor's current coverage does not meet the requirements stated in Section I.8, Contractor shall identify gaps in insurance and provide list of proposed specific coverages to address these gaps upon award.

H.20 2 CFR PART 200 APPENDIX II

In addition to other contractual provisions required by the District, the contract(s) related to this solicitation must address the following provisions from 2 CFR Part 200 Appendix II:

H.20.1 Federal Water Pollution Contract Act Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H.20.2 Byrd Anti-Lobbying Amendment Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

H.21 DISTRICT RESPONSIBILITIES

District responsibilities will consist of monitoring the successful performance of this contract as outlines in the contract.

H.22 CONTRACTOR RESPONSIBILITIES

The Contractor responsibilities shall be complete compliance with terms and conditions, federal, state, local, and the DCPS contractual laws and regulations for the successful performance of this contract.

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SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated July 2010 (“SCP”) are incorporated as part of the contract. To obtain a copy of the SCP go to <http://ocp.dc.gov>, under Quick Links click on “Required Solicitation Documents”.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of the contract beyond the current fiscal year is contingent upon future fiscal appropriations.

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by Contractor relating to any employee or customer of the District will be kept in absolute confidence and shall not be used by Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.3.1 The Contractor shall keep all information relating to any employee or customer of the District in absolute confidence in accordance with the District and federal laws governing the confidentiality of records and shall not use the information in connection with any other matters; nor shall it disclose any such information to any other person, firm, or corporation.

I.3.2 The Contractor is required to provide an institutional service or function on behalf of DCPS under the contract. The Contractor's ability to provide such institutional service or function requires DCPS to disclose personally identifiable information from education records ("PII") to the Contractor, and DCPS has determined Contractor has legitimate educational interests in such disclosure. All PII must be shared and safeguarded in accordance with the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA"), a federal law that protects the privacy of student educational records. Accordingly, pursuant to 34 CFR § 99.31(a)(1)(i)(B), Contractor acknowledges that (i) it has been outsourced an institutional service or function of DCPS under the contract; (ii) it is considered a "school official" for purposes of providing such institutional service or function under the contract; (iii) it is under the direct control of DCPS with respect to the use and maintenance of all PII it will have access to under the contract; and (iv) it is subject to the requirements of 34 CFR § 99.33(a) with respect to the use and disclosure of all PII under the contract. According to 34 CFR § 99.33(a), the Contractor must (1) not disclose any PII it may have access to under the contract to another party without first obtaining prior written consent from the affected parent (or student if the student has reached the age of 18); and (2) ensure that its officers, employees and agents receiving PII under the contract only use such information for purposes of providing an institutional service or function on behalf of DCPS. The Contractor, its officers, employees, and agents shall be required to comply with the FERPA and District laws and regulations at all times, including when responding to subpoenas for education records.

I.4 TIME

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.5 RIGHTS IN DATA

Delete Article 42, Rights in Data, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following Article 42, Rights in Data) in its place:

A. Definitions

1. "Products" - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, and drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.
2. "Existing Products" - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to the commencement of work, or else will be presumed to be Custom Products.
3. "Custom Products" - Products, preliminary, final, or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers, or agents for the District under the contract.
4. "District" – The District of Columbia and its agencies.

B. Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the District to perform services detailed in the contract. The District shall have ownership and rights for the duration set forth in the contract to use, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products shall remain with the Contractor or third party proprietary owner, who retains all rights, titles, and interests (including patents, trademarks, or copyrights). Effective upon payment, the District shall be granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, or adapt (unless Contractor advises the District as part of Contractor's bid that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District's satisfaction), and distribute Existing Products to District users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose of the project or work plan or contract. Licenses shall be granted in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.
2. Custom Products: Effective upon Product creation, the Contractor hereby conveys, assigns, and transfers to the District the sole and exclusive rights, title, and interest in Custom Product(s), whether preliminary, final or otherwise, including all patents, trademarks, and copyrights. The Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction, and marketing by or through the Contractor.

C. Transfers or Assignments of Existing or Custom Products by the District

The District may transfer or assign Existing or Custom Products and the licenses thereunder to another District agency. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a project or work plan in the course of the Contractor's business.

D. Subcontractor Rights

Whenever any data, including computer software, are to be obtained from a subcontractor under the contract, the Contractor shall use this clause, Rights in Data, in the subcontract, without alteration, and no other clauses shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

E. Source Code Escrow

1. For all computer software furnished to the District with the rights specified in section B.2, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to the District with the restricted rights specified in section B.1 of this clause, the District, if the Contractor either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided by the District under the contract or any paid-up maintenance agreement, or if the Contractor should be declared insolvent by a court of competent jurisdiction shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

2. If the Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in section B.1 of this clause offers the source code or source code escrow to any other commercial customers, the Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third-party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named the beneficiary of an established escrow arrangement with its designated escrow agent, who shall be named and identified to the District, which shall be directed to release the deposited source code in accordance with the terms of escrow.

3. The Contractor shall update the source code, as well as any corrections or enhancements to the source code for each new release of the Product in the same manner as provided above and certify such updating of escrow to the District in writing.

F. Indemnification and Limitation of Liability

The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

I.6 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District Contractor or by any District employee.

I.7 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of the contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.8 INSURANCE

A. GENERAL REQUIREMENTS. The Contractor at its sole expense, shall procure and maintain, during the

the entire period of performance under this contract, the types of insurance are specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance are signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher. Should the Contractor decide to engage a subcontractor for segments of the work under this contract and wish to propose different insurance requirements than outlined below, then, prior to commencement of work by the subcontractor, the Contractor shall submit in writing the name and brief description of work to be performed by the subcontractor on the Subcontractors Insurance Requirement Template provided by the CA, to the Office of Risk Management (ORM). ORM will determine the insurance requirements applicable to the subcontractor and promptly deliver such requirements in writing to the Contractor and the CA. The Contractor must provide proof of the subcontractor's required insurance prior to the commencement of work by the subcontractor. If the Contractor decides to engage a subcontractor without requesting from ORM specific insurance requirements for the subcontractor, such subcontractor shall have the same insurance requirements as the Contractor.

General liability, commercial auto, workers' compensation, and property insurance policies (if applicable to this agreement) shall contain a waiver of the subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation and professional liability insurance) as an additional insured for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be affected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. All of the Contractor's and its subcontractors' liability policies (except for workers' compensation and professional liability insurance) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance, or self-insurance, including any deductible or retention maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured. If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor and subcontractors.

B. INSURANCE REQUIREMENTS

1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation

sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.

2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed, and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor's commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.

3. Workers' Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease, and \$500,000 for policy disease limit.

All insurance required by paragraphs 1,2 and 3 shall include a waiver of subrogation endorsement for the benefit of the Government of the District of Columbia.

4. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, as well as credit monitoring expenses with limits sufficient to respond to these obligations. Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to the Office of Risk Management (ORM) for compliance review.

5. Sexual/Physical Abuse & Molestation - The Contractor shall provide evidence satisfactory to the Contracting Officer, with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate of affirmative abuse and molestation liability coverage. Coverage should include physical abuse, such as sexual or other bodily harm, and non-physical abuse, such as verbal, emotional or mental abuse; any actual, threatened, or alleged act; errors, omission or misconduct. This insurance requirement will be considered met if the general liability insurance includes an affirmative sexual abuse and molestation endorsement for the required amounts. So-called "silent" coverage or "shared" limits under a commercial general liability or professional liability policy will not be acceptable. Limits may not be shared with other lines of coverage. The applicable policy may need to be submitted to the Office of Risk Management (ORM) for compliance review.

6. Spoilage/Perishable Goods/Consequential Damage Coverage – The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to services performed that it carries this coverage to pay for loss to perishable goods due to the breakdown of covered equipment and/or power interruption. Specific coverage language should agree to:

- Pay for the spoilage damage to raw materials, property in the process, or finished products,

provided all of the following conditions are met:

- (a) The raw materials, property in the process, or finished products must be in storage or in the course of being manufactured;
- (b) You must own or be legally liable under written contract for the raw materials, property in process or finished products; and
- (c) The spoilage damage must be due to the lack or excess of power, light, heat, steam or refrigeration.

- \$1,500,000 Limit of Insurance

7. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$15,000,000 per occurrence and \$15,000,000 in the annual aggregate, following the form and in excess of all liability policies. All liability coverages, must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance, or reinsurance maintained by the District, and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

C. PRIMARY AND NONCONTRIBUTORY INSURANCE

The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by the Government of the District of Columbia.

D. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.

E. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. However, the required minimum insurance requirements provided above will not in any way limit the contractor's liability under this contract.

CONTRACTOR'S PROPERTY. The Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

G. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

H. NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.

I. **CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia Public Schools

And mailed to the attention of:

Office of Contracting and Acquisitions
1200 First Street, NE, 9th Floor
Washington, DC 20002

The CO may request, and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

J. **DISCLOSURE OF INFORMATION.** The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants, or subcontractors in the performance of this contract.

K. **CARRIER RATINGS.** All Contractor's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least AVII (or the equivalent by any other rating agency) and licensed in the District.

EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Section J.3. An award cannot be made to any offeror who has not satisfied the equal employment requirements.

I.10 ORDER OF PRECEDENCE

The contract awarded as a result of this RFP will contain the following clause:

ORDER OF PRECEDENCE

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) An applicable Court Order, if any
- (2) Contract document
- (3) Standard Contract Provisions
- (4) Contract attachments other than the Standard Contract Provisions
- (5) RFP, as amended

- (6) BAFOs (in order of most recent to earliest)
- (7) Proposal

I.11 DISPUTES

Delete Article 14, Disputes, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following Article 14, Disputes, in its place:

14. Disputes

All disputes arising under or relating to the contract shall be resolved as provided herein.

(a) Claims by the Contractor against the District: Claim, as used in paragraph (a) of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant

(1) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the CO for a decision. The Contractor's claim shall contain at least the following:

- (i) A description of the claim and the amount in dispute;
- (ii) Data or other information in support of the claim;
- (iii) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
- (iii) The Contractor's request for relief or other action by the CO.

(2) The CO may meet with the Contractor in a further attempt to resolve the claim by agreement.

(3) The CO shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

(4) The CO's written decision shall do the following:

- (i) Provide a description of the claim or dispute;
- (ii) Refer to the pertinent contract terms;
- (iii) State the factual areas of agreement and disagreement;
- (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
- (v) If all or any part of the claim is determined to be valid, determine the amount of the monetary settlement, the contract adjustment to be made, or other relief to be granted;
- (vi) Indicate that the written document is the CO's final decision; and
- (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(5) Failure by the CO to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim and will authorize the commencement of an appeal to the Contract Appeals Board as provided by D.C. Official Code § 2 360.04.

(6) If a contractor is unable to support any part of its claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim. Liability under this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

(7) Pending the final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with the performance of the contract in accordance with the decision of the CO.

(b) Claims by the District against the Contractor: Claim as used in paragraph (b) of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

(1) The CO shall decide all claims by the District against a contractor arising under or relating to a contract.

(2) The CO shall send written notice of the claim to the contractor. The CO's written decision shall do the following:

- (i) Provide a description of the claim or dispute;
- (ii) Refer to the pertinent contract terms;
- (iii) State the factual areas of agreement and disagreement;
- (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
- (v) If all or any part of the claim is determined to be valid, determine the amount of the monetary settlement, the contract adjustment to be made, or other relief to be granted;
- (vi) Indicate that the written document is the CO's final decision; and
- (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(3) The CO shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.

(4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.

(5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.

(6) This paragraph shall not authorize the CO to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(c) Decisions of the CO shall be final and not subject to review unless the Contractor timely commences an administrative appeal for review of the decision by filing a complaint with the Contract Appeals Board, as authorized by D.C. Official Code § 2-360.04.

(d) Pending the final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

I.12 CHANGES

Delete clause 15, Changes, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following clause 15, Changes in its place:

15. Changes:

(a) The CO may, at any time, by written order and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10)

days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in clause 14 Disputes.

(b) The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of this contract, unless the CO:

- (1) Agrees with Contractor, and if applicable, the subcontractor on a price for the additional work;
- (2) Obtains a certification of funding to pay for the additional work;
- (3) Makes a written, binding commitment with the Contractor to pay for the additional work within 30-days after the Contractor submits a proper invoice; and
- (4) Provides the Contractor with written notice of the funding certification.

(c) The Contractor shall include in its subcontracts a clause that requires the Contractor to:

- (1) Within 5 business days of its receipt of notice the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
- (2) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within 10 days of receipt of payment from the District; and
- (3) Notify the subcontractor and CO in writing of the reason the Contractor withholds any payment from a subcontractor for the additional work.

(d) Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays, until the parties to agree on a price for the additional work.

I.13 NON-DISCRIMINATION CLAUSE

Delete clause 19, Non-Discrimination Clause, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following clause 19, Non-Discrimination Clause, in its place:

19. Non-Discrimination Clause:

(a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1401.01 et seq.) (“Act”, as used in this clause). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, the Contractor agrees, and any subcontractor shall agree, to post in conspicuous places, available to employees and applicants for employment, a notice setting forth the provisions of this non-discrimination clause as provided in section 251 of the Act.

(b) Pursuant to Mayor’s Order 85-85 (6/10/85), Mayor’s Order 2002-175 (10/23/02), Mayor’s Order 2011-155 (9/9/11) and the rules of the Office of Human Rights, Chapter 11 of Title 4 of the D.C. Municipal Regulations, the following clauses apply to the contract:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above-protected categories is prohibited by the Act.

(2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading, or transfer;
- (b) recruitment, or recruitment advertising;
- (c) demotion, layoff, or termination;
- (d) rates of pay or other forms of compensation; and
- (e) selection for training and apprenticeship.

(3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided by the contracting agency, setting forth the provisions in paragraphs 19(b)(1) and (b)(2) concerning non-discrimination and affirmative action.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the nondiscrimination requirements set forth in paragraph 19(b)(2).

(5) The Contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor agrees to permit access to its books, records, and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of the Office of Human Rights or designee, for purposes of investigation to ascertain compliance with the Act, and to require under terms of any subcontractor agreement, each subcontractor to permit access to such subcontractors' books, records, and accounts for such purposes.

(7) The Contractor agrees to comply with the provisions of the Act and with all guidelines for equal employment opportunity applicable in the District adopted by the Director of the Office of Human Rights, or any authorized official.

(8) The Contractor shall include in every subcontract the equal opportunity clauses, i.e., paragraphs 19(b)(1) through (b)(9) of this clause, so that such provisions shall be binding upon each subcontractor.

(9) The Contractor shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

I.14 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

Any contract in excess of \$1,000,000.00 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the CO.

I.15 GOVERNING LAW

The contract, and any disputes arising out of or related to the contract, shall be governed by, and construed in accordance with the laws of the District of Columbia.

I.16 CONTINUITY OF SERVICES

I.16.1 The Contractor recognizes that the services provided under this contract are vital to the District and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District or another contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:

I.16.1.1 Furnish phase-out, phase-in (transition) training; and

I.16.1.2 Exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

I.16.2 The Contractor shall, upon the CO's written notice:

I.16.2.1 Furnish phase-in, phase-out services for up to 90 days after this contract expires and

I.16.2.2 Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in and phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan and shall be subject to the CO's approval.

I.16.3 The Contractor shall provide sufficient experienced personnel during the phase-in and phase-out periods to ensure that the services called for by this contract are maintained at the required level of proficiency.

I.16.4 The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate the transfer of their earned fringe benefits to the successor.

I.16.5 Only in accordance with a modification issued by the CO the Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in and phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.

I.17 ESTIMATED QUANTITIES

It is the intent of the District to secure a contract for all of the needs of the designated agencies for items specified herein that may occur during the contract term. The District agrees that it will purchase its requirements of the articles or services included herein from the Contractor. Articles or services specified herein have a history of repetitive use in the District agencies. The estimated quantities stated in the RFP reflect the best estimates available. They shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of his obligation to fill all such orders. Orders will be placed from time to time if and when needs arise for delivery, all charges prepaid, to the ordering agency. The District does not guarantee to order any specific quantities of any item(s) or work hours of service.

I.18 TERMINATION

a) Neither the Contractor nor the SFA shall be responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any acts not within the control of either the Contractor or the SFA, respectively, and which by the

exercise of due diligence it is unable to prevent.

- b) The District reserves the right to terminate this contract if the Contractor fails to comply with any of the requirements of this contract. The District shall notify the Contractor, in writing, of specific instances of noncompliance. In instances where the Contractor has been notified of non-compliance with the terms of the contract and has not taken immediate corrective action, the District shall have the right, upon written notice, to immediately terminate the contract, and the contractor shall be liable for any damages incurred by the District. The District shall negotiate a re-purchase contract on a competitive basis to arrive at a fair and reasonable price.
- c) The District shall give written notice to the Contractor and terminate the right of the Contractor to proceed under this contract if the District finds that gratuities in the form of entertainment, gifts, or otherwise, were offered or given by the contractor to any officer or employee of the District with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending of the contract; provided that the existence of the facts upon which the District makes such findings shall be an issue and may be reviewed in any competent court.
- d) In the event this contract is terminated, as provided in paragraph (d) hereof, the District shall be entitled:
- i. To pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and
 - ii. As a penalty in addition to any other damages in an amount which shall not be less than three, nor more than three times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.
- e) The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

I.18.1 TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT

DCPS has the right to terminate the contract for the convenience of the government, DCMR 27, Section 3702 -- Termination for Convenience of the Government (Fixed-Price) (Short Form).

I.18.2 TERMINATION FOR DEFAULT

I.18.2.1 DCPS has the right to terminate the contract for default of the contractor on satisfactory performance in accordance with the terms and conditions of the contract, 27 DCMR Section 3710 -- Default (Fixed-Price Supply and Service) (Apr 1984).

I.18.2.2 DCPS reserves the right to terminate the contract for default without advance notice in the event the contractor is closed for the reasons cited in C.5.2.

I.19 CONTRACT WORK HOURS AND SAFETY STANDARDS

I.19.1 The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C §327-330, as supplemented by the Department of Labor regulations, 29 CFR Part 5. Under Section 103 of the Act, the Contractor shall be required to compute the wages of every laborer on the basis of a standard workday of eight hours and a standard workweek of 40 hours. Work in excess of the standard workday or standard workweek is permissible, provide that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in any work week.

SECTION J: ATTACHMENTS

The following list of attachments is incorporated into the solicitation by reference.

<i>Attachment Number</i>	<i>Document</i>
J.1	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (July 2010) available at www.ocp.dc.gov click on “Solicitation Attachments”
J.2 J.5 DCCK Price Proposal dated June 22, 2022	Wage Determination No.: CBA-October 01, 2020, through September 30, 2022, Revision No.: 0, dated 04/12/2018
J.3	Way to Work Amendment Act of 2006 - Living Wage Notice
J.4	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet
J.5	DCCK Price Proposal dated June 22, 2022

END OF THE DOCUMENT.