

ANNE ARUNDEL  
COUNTY PUBLIC SCHOOLS

2644 Riva Road, Annapolis, MD 21401 | 410-222-5000 · 301-970-8644 (WASH) · 410-222-5500 (TDD) | [www.aacps.org](http://www.aacps.org)

April 1, 2020

Jim Humphrey, Branch Manager  
Hershey Creamery Company  
7435 Roosevelt Blvd  
Elkridge, MD 21075

Reference: Solicitation #20CM-140, Ice Cream and Ice Cream Freezers/Insulated Freezer Bags

Dear Mr. Humphrey:

Your company has been awarded contract #20CM-140, Ice Cream and Ice Cream Freezers/Insulated Freezer Bags. A copy of the signed contract is enclosed. If you have any questions, please contact Lindsay Unitas at 410-222-5163 or [lunitas@aacps.org](mailto:lunitas@aacps.org).

***Please remember that this contract award does not authorize you to place orders on behalf of AACPS. You may not place orders without a request from an authorized AACPS representative and a signed purchase order, if one is required.***

Anne Arundel County Public Schools looks forward to working with your company.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Jo Childs".

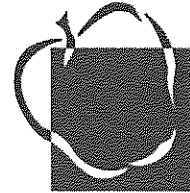
Mary Jo Childs, Esq., CPPO, CPCU  
Supervisor of Purchasing

MJC/jc

cc: Lindsay Unitas

Contract File 20CM-140

Anne Arundel County Public Schools  
Purchasing Office  
2644 Riva Road  
Annapolis, Maryland 21401



ANNE ARUNDEL  
COUNTY PUBLIC SCHOOLS

### Request for Bid #20CM-140

Title: Ice Cream and Ice Cream Freezers/Insulated Freezer Bags

Issued: February 11, 2020 Buyer: Lindsay Unitas / 410-222-5164 / lunitas@aacps.org

**Bid Due Date:** Bids are due no later than March 10, 2020 at 12:00 p.m. Eastern Time in the Purchasing Office. The opening is public and is conducted in the Bid Room at the address shown above. **NOTE: If the Central Office Building (address above) is closed due to inclement weather, bids shall be due on the next business day that the building is open. The bid opening time remains the same regardless of the opening day. Call 410-222-5000 to determine if the building is closed. ALSO NOTE: The closing of schools does not always constitute the closing of the Central Office Building.**

NOTE: MINORITY & SMALL BUSINESS ENTERPRISES AND VETERAN-OWNED BUSINESSES ARE ENCOURAGED TO RESPOND TO THIS RFB.

This bid must be signed by a bidder authorized to make a binding commitment for the firm submitting the bid. By submitting a bid in response to this RFB, the bidder selected for award agrees that it shall comply with all federal, State, and local laws, and AACPS policies and regulations applicable to its activities under the resulting contract. Any bidder selected for award, including businesses outside of the State, must comply with registration/verification requirements of the Maryland Department of Assessments and Taxation. [www.dat.maryland.gov](http://www.dat.maryland.gov)

Your signature on this page provides AACPS your acknowledgment and acceptance of the terms and conditions contained in the Request for Bids. When this page is executed by an authorized officer of Anne Arundel County Public Schools, these specifications, terms and general conditions, and price bid shall become a legally binding contract between the successful bidder and AACPS.

Name of Bidder: Hershey Creamery Company  
Address: 7435 Roosevelt BLVD ELKridge Md 21075  
Phone: 410-766-5420 Fax: 410-373-1343 Email: humphreyj@hersheyicecream.com  
Federal ID or Social Security Number: 23-0691670  
MDOT MBE Certification #, if any \_\_\_\_\_ DGS Small Business Registration #, if any: \_\_\_\_\_  
Web Address: WWW.hersheyicecream.com MD Dept. of Assess. & Taxation # \_\_\_\_\_  
Date Bid Submitted: 3-10-2020 Signature of Bidder: [Signature]  
Printed Name and Title: Jim Humphrey Branch Manager  
Accepted by AACPS Supervisor of Purchasing [Signature] 4/2/2020  
(Date)  
Award Limitations:

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### Attachment: Electronic Funds Transfer Request Authorization

Attachment 1:	Bid Worksheet
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Attachment 3:	Smart Snack Calculator
Attachment 4:	Allergen & Sensitive Ingredient Form
Attachment 5:	Product Hold/Recall Contact Information
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## **Section I: GENERAL INFORMATION**

### **1. GENERAL**

The Board of Education of Anne Arundel County, also referred to as Anne Arundel County Public Schools or AACPS, is soliciting competitive sealed bids for ice cream and ice cream freezers/insulated freezer bags as more fully described herein.

**A pre-bid conference will be held at 9:00 AM Eastern Time on Thursday, February 20, 2020** in the Bid Room of the Purchasing Office, located at the Parham Board of Education Building, 2644 Riva Road, Annapolis, MD 21401. Attendance is strongly recommended. AACPS is not responsible for communicating to bidders any information that may be discussed during the conference. However, if AACPS makes changes to the RFB as a result of the meeting, all bidders properly registered on the AACPS website for this RFB will receive a notice of the amendment.

Bidders are responsible for understanding this solicitation. To that end, prospective bidders may submit questions to the AACPS Buyer named above.

- Questions must be in writing and submitted via hard-copy or email.
- Questions must be received in the Purchasing Office by Tuesday, February 18, 2020.
- Questions received after this date will be answered only if time permits.
- The Buyer will distribute a written summary of responses to timely-received questions to all prospective bidders known to have received a copy of this RFB.
- Oral communications are not binding.

### **2. NO OBLIGATION**

This solicitation implies no obligation on the part of AACPS.

### **3. BID INSTRUCTIONS**

Bidders are responsible for properly labeling their bid envelope with the company name, address, bid number and due date. AACPS is not responsible for a bid that may be inadvertently opened before the bid due date unless it is submitted with proper labeling.

### **4. REJECTION/CANCELLATION OF RFB**

This solicitation is subject to cancellation when determined by the Supervisor of Purchasing to be in the best interest of AACPS. Additionally, to ensure fair competition and to permit a determination of the lowest responsive bid from a responsible bidder, AACPS may reject bids that include omissions, alterations of form, or that are conditional or irregular in any respect, or reject non-responsible bidders that show a risk of default.

### **5. PRICE GUARANTEE**

The bidder warrants that the bid price shall be effective for a period of not less than 120 days from the date bids are due. NOTE: For the successful bidder, prices shall remain firm over the duration of the contract.

### **6. EXCEPTIONS**

If a bidder takes any exceptions to the terms and conditions of the RFB, a bidder shall notify AACPS in writing not later than seven calendar days (Saturdays and Sundays included) before bids are due.

Failure to take exceptions within the timelines indicated shall be construed by AACPS as full acceptance of the stated terms and conditions.

#### **7. SUBMITTALS**

The submittals for this solicitation shall include the signed, original, unaltered solicitation documents including any addenda issued by AACPS, financial statement, completed Qualifications Affidavit, completed Bid Work Sheet, and any other additional documents requested. Failure to do so may result in rejection of the bid. Acceptable documents for compliance with the Financial Statement requirement include bidder's:

- Latest Balance Sheet and Income Statement prepared by an independent accounting firm;
- Annual Report;
- Dun & Bradstreet complete Business Report; or
- Other financial documents determined to be acceptable by the Supervisor of Purchasing.

#### **8. LATE BIDS**

Late bids will not be accepted. It is the sole responsibility of the bidder to ensure that their bid is submitted on or before the bid due date and time specified in the solicitation. Late bids will be refused, returned unopened, or destroyed at the bidder's request.

**NOTE: Bids sent next-day delivery via USPS are delivered to the nearest post office – not the AACPS Central Office. AACPS then retrieves deliveries from the Post Office the next day. Bidders using this USPS shipment method should allow at least one extra business day for delivery to the Central Office.**

#### **9. BID WITHDRAWAL**

No bid can be withdrawn after it is submitted to AACPS unless the bidder makes a written request to the buyer, before the bid due date, or if the bidder provides clear and convincing evidence that a mistake in the bid calculation has been made *and only then with the approval of the AACPS Supervisor of Purchasing.*

#### **10. COST OF BIDDING**

AACPS does not accept responsibility for any expenses incurred in the bid preparation and presentation requirements, if any. Such expenses are the sole responsibility of the bidder.

#### **11. COOPERATIVE PURCHASING CLAUSE**

In accordance with State Finance and Procurement Article, Sect. 13-110, Maryland Annotated Code, AACPS reserves the right to extend the terms of any contract resulting from this bid to public bodies, subdivisions, school districts, community colleges, colleges, and universities including nonpublic schools. The Contractor agrees to notify AACPS of those entities that request to use any contract resulting from this bid and provide usage information to AACPS, if requested.

Anne Arundel County Public Schools assumes no authority, liability, or obligation, on behalf of any other public or non-public entity that may enter into a cooperative agreement associated with the contract resulting from this bid. All purchases and payment transactions will be made directly between the contractor and the requesting entity.

**12. PROTESTS**

This contract shall be subject to the provision of the Board of Education of Anne Arundel County Policies and Regulation DEC-RA.

**13. REGISTRATION**

Pursuant to the Corporations and Associations Article of the Annotated Code of Maryland, businesses created in a state other than Maryland may have to register or qualify with the State Department of Assessments and Taxation (SDAT) before doing business in Maryland. Bidders should contact the SDAT directly to determine their registration requirements:

[http://dat.maryland.gov/businesses/Pages/Non-Maryland-\(Foreign\)-Business-Entities.aspx](http://dat.maryland.gov/businesses/Pages/Non-Maryland-(Foreign)-Business-Entities.aspx)

Bidders that are Maryland businesses must be in good standing with the State Department of Assessments and Taxation. Your business status can be verified at

<https://egov.maryland.gov/BusinessExpress/EntitySearch>.

Bidders that fail to comply with these requirements may be rejected as not responsible.

**14. COMPETITIVE SEALED BID PROCESS**

- Bidders shall submit all requirements set forth in the RFB.
- Bidders shall submit one paper copy, including all attachments on or before the bid due date and time specified on the title page. Bidders shall also submit one electronic copy of the bid on a flash drive.
- Any bids received after the date and time specified are considered late and will be rejected on that basis.
- A bidder may not offer more than one price on each line item.
- The buyer will review each bid submission for responsiveness. If the bid is determined to be not responsive or the bidder not responsible, the bid will be rejected and the bidder notified in writing accordingly.
- AACPS may award contract(s) based on groups, individual line items, lots, or any combination thereof, at the sole option of the AACPS, and will be made to the bidder(s) offering the lowest favorable bid price.

**15. ANTI-BRIBERY**

The Contractor warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery or conspiracy to bribe under the laws of any state or of the federal government.

**16. TAXES**

AACPS is exempt from federal excise taxes [52-73-0144K] and State and local sales or use taxes [3000110-2]. Bidders may not include these taxes in their bid price. If a contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the

contractor pays Maryland sales tax and exemption does not apply.

#### **17. MOST FAVORED CUSTOMER**

Contractor represents and warrants that the prices for the products/services shall not be less favorable than prices applicable to sales by Contractor to any other customer purchasing like quantities of substantially comparable products. If at any time during the term of this Contract, Contractor accords to any other such customer more favorable prices, Contractor shall immediately offer to sell the products to AACPS at equivalent prices accorded to such other customer.

#### **18. TOBACCO PRODUCTS**

**The use of drugs, alcohol, and tobacco products is not permitted on school property.** AACPS Board Policy and Regulation GAC-RA and COMAR 13A.02.04 require AACPS to maintain drug, alcohol, and tobacco-free work environments. Failure to comply with this clause is considered a material breach of contract that may result in termination

#### **19. IRREGULARITIES**

AACPS reserves the right to waive any minor irregularities in the solicitations or bids. AACPS reserves the right to negotiate or modify any element of the bid to ensure that the best possible arrangements for achieving the stated purpose are obtained.

#### **20. SUBCONTRACTORS**

AACPS shall enter into an agreement with the selected Contractor(s) only. The selected Contractor(s) shall be responsible for all services required by this RFB.

#### **21. NON-HIRING OF OFFICIALS AND EMPLOYEES**

No official or employee of AACPS whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall during the pendency and term of this contract and while serving as an official or employee of AACPS become or be an employee of the contractor or any entity that is a subcontractor on this contract.

#### **22. SEX OFFENDER NOTIFICATION**

Maryland Law requires sex offenders to register with the local law enforcement agency in the county in which they will reside, work, or attend school. See *Criminal Procedure Article, §11-707, Annotated Code of Maryland*. An AACPS contractor may not knowingly employ an individual to work at a school if the individual is a registrant. A contractor violating this Law is guilty of a misdemeanor and may be subject to imprisonment not exceeding five years or a fine not exceeding \$5,000, or both. See *Section 11-722 of the Criminal Procedure Article, Annotated Code of Maryland*.

#### **Other Crimes**

An AACPS contractor or subcontractor may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of:

- Section 3-307 of the Criminal Law Article, Maryland Annotated Code, *Sexual Offense in the Third Degree*;
- Section 3-308 of the Criminal Law Article, Maryland Annotated Code, *Sexual Offense in the Fourth Degree*;
- An offense under the laws of another state that would constitute a violation of Sections 3-307 or 3-308 of the Criminal Law Article if committed in Maryland;

- Child sexual abuse under Section 3-602 of the Criminal Law Article, Annotated Code of Maryland;
- An offense under the laws of another state that would constitute child sexual abuse under Section 3-602 of the Criminal Law Article if committed in Maryland;
- A crime of violence as defined in Section 14-101 of the Criminal Law Article, Annotated Code of Maryland; or
- An offense under the laws of another state that would constitute a crime of violence under Section 14-101 of the Criminal Law Article if committed in Maryland.

*See Education Article, §6-113, Annotated Code of Maryland*

- A. AACPS contractors shall ensure compliance with the requirements in Sections A and B above for their workforce. Workforce means all of the contractor's direct employees, subcontractors, and independent contractors.
- B. Violations of any of these provisions may result in immediate termination for cause.

Each contractor shall screen their workforce to ensure that a Registered Sex Offender does not perform work at a county public school and also ensure that a subcontractor and independent contractor conducts screening of its personnel who may work at a school. The term workforce is intended to refer to all of the contractor's direct employees and subcontractors and/or independent contractors it uses to perform the work. Violations of this provision may cause AACPS to take action against the contractor up to and including termination of the contract.

### **23. CONTRACTOR SCREENING OF EMPLOYMENT APPLICANTS HAVING DIRECT CONTACT WITH MINORS**

In addition to the requirements of Section 22 above, Contractors shall comply with the requirements of Section 6-113.2 of the Education Article, Maryland Annotated Code, regarding screening of applicants for employment.

### **24. ACCESS TO PUBLIC RECORDS**

Bidder should identify those portions of its bid that it considers confidential, proprietary commercial information, or trade secrets, and provide, upon request, justification why such materials, if requested, should not be disclosed by the AACPS under the Maryland Public Information Act. Bidders are advised that the Supervisor of Purchasing may be required to make an independent determination whether the information may be disclosed.

### **25. GIFTS**

In accordance with Board Policy BAF, contractors are notified that the giving or offering a gift or series of gifts to a Board official or employee is improper and may result in disqualification from future work on the grounds that the donor/bidder is no longer a responsible bidder or vendor. Board officials and employees may not "solicit any gift, or accept any gift or series of gifts exceeding \$20 in value in a calendar year from any person, entity, or employee of an entity that is under the authority of the school system or has or is negotiating a contract with the school system, except where such gifts would not present a conflict of interest as determined by the Board Ethics Panel.

### **26. eMARYLAND MARKETPLACE ADVANTAGE REGISTRATION**



Contractors are required to register on eMaryland Marketplace Advantage at <https://procurement.maryland.gov> within five days following notice of award. Maryland law requires

local and state agencies to post award notices on eMaryland Marketplace Advantage. This cannot be done without the contractor's self-registration in the system. Registration is free. Failure to comply with this requirement may be considered grounds for default. It is recommended that any interested bidder register with eMaryland Marketplace Advantage regardless of the award outcome for this procurement as it is a valuable resource for bid notification for municipalities throughout Maryland.

**27. TIE BIDS**

Tie bids are responsive bids from responsible bidders that are identical in price, terms, and conditions. In the event of a tie bid, award shall be made to the in-State business if identical favorable bids are received from an in-State and out-of-State bidder.

If both low bids are from in-State businesses, the award may be made to the in-State low bidder that is an MDOT certified minority business enterprise or State certified small business. If none of the tie-breaking rules apply, a drawing shall be conducted. A witness shall be present to verify the drawing and shall certify the results on the bid tabulation sheet.

**28. CHECKLIST** for requirements in your bid response, provided for your convenience:

- a. **Return entire, original RFB document, including title page, bid work sheet, and amendments, if any.** One paper copy and one electronic copy provided on a flash drive is required.
- b. Qualifications Affidavit
- c. Financial Statement
- d. Completed Electronic Funds Transfer Request Authorization
- e. Bid Worksheet
- f. Smart Snack Calculator
- g. Allergen & Sensitive Ingredient Form
- h. Product Hold/Recall Contact Information

**Failure to provide all of the requirements may be cause for rejection of your bid.**

This section is intentionally left blank.

**Section II: QUALIFICATIONS AFFIDAVIT**

Submitted By: \_\_\_\_\_

AACPS reserves the right to contact additional references not contained in the Affidavit. Information obtained from the references provided herein, and any additional references not listed in this Affidavit, will assist AACPS in making the determination on bidder responsibility. If AACPS, in its sole discretion, determines that a bidder's references are inadequate, AACPS reserves the right to determine a bidder is not responsible which may be cause for rejection of the bid.

Bidder shall have at least five years of experience in providing ice cream and ice cream freezers/insulated freezer bags similar in scope and complexity to those described herein. AACPS may consider the experience of the bidder's key personnel toward the experience requirement.

1. How many years has your firm been in the business of providing similar products/services? Company 126 years  
 \_\_\_\_\_ Years of relevant experience School 10 years +
2. List at least three contracts/references similar to the work described herein, which your organization has completed within the last three years. (Include company names, school district or government agency, address, and contact person and phone number).

A. Date of Substantial Completion: \_\_\_\_\_

Project Description: delivery of ice creamAddress: 1340 Braddock Place room 220-6Agency or School District: Alexandria city schoolsContact Person: Cynthia NormelPhone Number: 703-619-8406

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

Open Punch List: Yes \_\_\_\_\_ No \_\_\_\_\_

Value: \$ 40,000.00

B. Date of Substantial Completion: \_\_\_\_\_

Project Description: delivery of ice creamAddress: 8401 Turkey Thicket DriveAgency or School District: Montgomery County Public schoolsContact Person: Mary Ann Gabriel

Phone Number: 301-284-4943

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

Open Punch List: Yes \_\_\_\_\_ No \_\_\_\_\_

Value: \$ 200,000.00

C. Date of Substantial Completion: \_\_\_\_\_

Project Description: delivery of ice creamAddress: 1101 Market St Philadelphia PA 19107

Agency or School District: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: 800-999-8989Company Name: Aramark

Open Punch List: Yes \_\_\_\_\_ No \_\_\_\_\_

Value: \$ \_\_\_\_\_

3. List two additional professional references not including those cited above. Provide project name, address, phone, email, and point of contact.

Project Name	Address	Phone	Email	Point of Contact
Allstar Dairy Association	Lexington KY 40591	Ph 800-930-3644 Fax 859-255-3647		Mindy Henderson
Green Bay PKG	Hunt Valley Md 21031			Angie Amis

4. What is your Dunn and Bradstreet Rating? 1 R 2

5. How many people does your company presently employ on a:

A. Full-time basis? 420

B. Part-time basis? 130

6. Has your organization performed any contract for any unit of the State of Maryland or Anne Arundel County Government over the last five years other than those listed in Section 2? (Please list names, addresses, dates and the government employee responsible for accepting the work). no

7. Has your company or any of its officers or employees ever been found guilty of any criminal act in regard to the performance of a government contract or subjected to any penalty, termination for cause, or liquidated damages arising out of poor or non-performance? Explain.

no

8. Has your company ever been suspended or debarred from bidding on local, school, state or federal contracts for any reason? Explain.

no

9. Has your company ever filed for bankruptcy/receivership or any other similar defalcation? Explain.

no

10. Are any officers or employees of your company also employees of Anne Arundel County Public Schools? Do any officers or employees of your company have immediate family members who are employees of Anne Arundel County Public Schools? Explain.

no

The signatory of this form hereby affirms that the information as set forth is accurate, truthful and complete, to the best of his/her knowledge and belief.

Dated this 5 day of March 2020

Name of Organization: Hershey Ice Cream

By: [Signature]

Jim Humphrey  
(Print Name)

Title: Branch Manager

## Section III: SPECIFICATIONS

### 1. SCOPE

AACPS is contracting for all labor, supervision, materials, and equipment, necessary to furnish and deliver ice cream and ice cream freezers/insulated freezer bags in accordance with the attached terms, specifications, and general conditions.

AACPS is acting as the lead agency for this contract. Baltimore County Public Schools, Carroll County Public Schools, Charles County Public Schools, Frederick County Public Schools, Montgomery County Public Schools, and St. Mary's County Public Schools may award contracts to the successful contractor in accordance with Section 1: General Terms, Clause 11, Cooperative Purchasing Clause.

The quantities on the Bid Worksheet are estimates from all seven school districts, including AACPS, and are as accurate as practicable based on past usage.

Each school district will independently award and administer their contract. They will be responsible for providing delivery location information and ice cream freezer requirements to the selected contractor.

### 2. CONTRACTOR'S RESPONSIBILITY

#### 2.1 General

The specifications contained herein are intended to cover the furnishing and delivery of ice cream and ice cream freezers/insulated freezer bags on an as-needed basis for AACPS cafeterias listed in Attachment 2, Ice Cream Delivery Sites during school years 2020/2021 and 2021/2022. Shipments are F.O.B. destination, freight included.

**Bidders must bid on all items on the Bid Sheet to be considered for award.**

Each bid shall include the following:

- Complete written bid document and worksheet
- Two USB thumb drives:
  - One containing an Excel worksheet with pricing (Attachment 1)
  - One containing digital copies of the following:
    - Ingredient statement for each item on bid
    - Nutrition fact label for each item on bid
    - Smart Snack Compliance Documentation for each item on bid (Attachment 3)
    - Allergen & Sensitive Ingredient Form for each item on the bid (Attachment 4)
    - Product Hold/Recall Letter (Attachment 5)

#### 2.2 Buy American Provision

AACPS participates in the National School Lunch and School Breakfast Programs and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities and or products for Program meals. A "domestic commodity or product" is defined as one that is produced in the U.S. and 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).

Each bid response for a product that is not produced in the United States shall include a written statement that the product is either not produced in the United States, or that the price is significantly higher for a product that is produced in the United States.

### **2.3 Farm to School (Local Ingredients/Commodities)**

AACPS intends to offer locally sourced ingredients/commodities as often as price, availability and quality are acceptable. AACPS defines local ingredients/commodities as any item that is sourced within a two hundred-fifty (250) mile radius of Anne Arundel County, Maryland. Contractor shall use local ingredients/commodities to the maximum extent possible. Contractor shall provide a monthly report electronically including the farm name, case count and poundage of all local ingredients/commodities purchased. For the purposes of this bid, "farm" is defined as the location where the food product is from, not the address of the packing house or the aggregation point.

### **2.4 Standards**

Contractor shall insure that all food items listed herein shall be processed, packaged, and delivered in a manner that adheres to applicable regulations of the Maryland Department of Health, United States Department of Agriculture, Anne Arundel County Department of Health, and the requirements of the Federal Food, Drug and Cosmetic Act.

### **2.5 Certification**

Inspection certificates may not be required. However, products shall be as specified.

### **2.6 Nutritional Requirements**

Contractor shall ensure that allergens are clearly identified for each item on the bid. Contractor shall use the Allergen & Sensitive Ingredient statement (Attachment 4) to clearly identify allergens. Contractor shall ensure that the Allergen & Sensitive Ingredient statement is updated whenever the manufacturer changes the ingredients of a product. Contractor shall ensure that all food items provided for AACPS are produced in a Peanut and Tree Nut Free facility. Written notification shall be provided to AACPS for any product that is not produced in a Peanut and Tree Nut Free facility. In addition, Contractor shall ensure that products provided to AACPS do not contain any of the following ingredients:

- Monosodium glutamate (MSG)
- Artificial trans fat
  - A food is considered to contain artificial trans-fat if the food label lists it as an ingredient or contains any kind of partially hydrogenated vegetable oil.
- Artificial colorings:
  - Blue 2
  - Green 3
  - Red 3
  - Yellow 5
  - Yellow 6
- Aspartame or Acesulfame Potassium
- Butylated Hydroxyanisole (BHA)
- Potassium Bromate
- Propyl Gallate
- Saccharin
- Sodium Tripolyphosphate (STPP) – fish products

- Tert-Butylhydroquinone (TBHQ)

## **2.7 Samples and Testing Period**

2.7.1 Contractor shall provide a sample of any proposed products that are not the Specified Brand on the Bid Work Sheet. The sample shall be exactly as it would be provided if awarded the Contract. All samples shall be clearly marked with the Bid Number and Bid Title. All samples shall include the following documentation:

- Product Specification Sheet
  - Ingredient label
  - Nutrition label
  - Smart Snack Compliance Documentation
  - Allergen & Sensitive Ingredient statement

2.7.2 Samples shall be delivered to AACPS Food and Nutrition Services Office, 2666 Riva Road, Suite 100, Annapolis, MD 21401. Samples shall be submitted, Tuesday, February 18, 2020 through Friday, February 21, 2020, between the hours of 8:00 a.m. and 1:30 p.m. Deliveries will only be accepted during the above stated dates and hours.

2.7.3 AACPS will notify bidders which samples are approved via an RFB Addendum. Failure to provide samples as outlined above may be cause for rejection of any proposed product. Samples delivered for evaluation and approval become the property of AACPS.

2.7.4 All items accepted and approved as determined by AACPS personnel during this testing period shall be items used for the contract term.

## **2.8 New Items and Omissions**

Contractor shall be responsible for supplying new items if a need is found for an item after the award of the Contract. This could be a result of an inadvertent omission of an item normally included in this type or bid or through the development of new menu items. In this event, the Purchasing Office may negotiate price with the Contractor consistent with the market price of the item.

## **2.9 Ordering and Delivering**

2.9.1 Contractor shall have the capability to accept online orders. The online order system is limited to products approved by AACPS.

2.9.2 The initial order for the school year will be placed online, before the end of the current school year. The Contractor shall adjust the delivery date to accommodate AACPS requested delivery date that coincides with the start of the upcoming school year.

2.9.3 Contractor shall notify AACPS of all shortages before delivery at a mutually agreed upon time in order to make substitutions.

2.9.4 Contractor shall deliver once a week for all listed schools on the Ice Cream Delivery Sites (Attachment 2). The weekly delivery day shall be mutually agreeable between AACPS and the Contractor.

2.9.5 Contractor shall make deliveries between 8:00 a.m. and 1:00 p.m. Earlier and later delivery times may be mutually agreeable between AACPS and the Contractor. If a



delivery is delayed for any reason, the Contractor must contact AACPS to determine a mutually agreeable delivery schedule.

2.9.6 Contractor shall deliver to any new schools or programs that may develop over the school year subject to all terms and conditions of the contract.

2.9.7 Contractor's delivery trucks shall be temperature controlled to maintain correct temperature for all contract products.

2.9.8 Contractor's delivery trucks shall be equipped with a back-up alarm and shall comply with Maryland's Idling law (Transportation Article 22-402, Annotated Code of Maryland) when making deliveries.

2.9.9 Delivery shall be considered complete once items have been placed in the cafeteria in the area designated by the cafeteria manager and the invoice has been signed by an authorized representative of AACPS.

2.9.10 Contractor shall ensure that any shortages on orders placed are delivered to the school, by the Contractor, in sufficient time to meet menu requirements and schedules.

2.9.11 Contractors shall ensure that invoices show the complete order placed, any item that the Contractor is shorting, as well as the total items shipped.

2.9.12 Contractors shall ensure that identified shortages, damaged and/or refused products are clearly noted on the invoice and initialed by the driver and authorized AACPS personnel.

2.9.13 Contractors shall ensure that their employees wear a company shirt clearly marked with a logo on the front, front pocket, or back of the shirt.

## **2.10 Scheduled and Unscheduled School Closings**

Contractor is solely responsible for ascertaining scheduled closings. Contractor is also solely responsible for being aware of unscheduled closings due to inclement weather or other causes beyond the control of AACPS. Unscheduled closings are posted on the AACPS website at [www.aacps.org](http://www.aacps.org). AACPS will forward other adjustments in the calendar year to the Contractor as they occur. Contractors are encouraged to register for emergency notification via email or text messages by the Connect Ed system or to visit AACPS's website at [www.aacps.org](http://www.aacps.org) to verify closings. In the event of a closing, the Contractor shall contact AACPS to determine a mutually agreeable delivery schedule.

## **2.11 Product Cancellation**

Products under contract may be canceled during the contract period due to modifications in Food & Nutrition Service's programs.

## **2.12 Product Complaints**

Contractor shall execute this contract with a strong emphasis on customer service. The Comment-Complaint form shall be used to measure the performance of the Contractor. AACPS cafeteria managers will complete a Comment-Complaint Form (Attachment 6) every time they receive unsatisfactory customer service; defective or deficient products; or otherwise irregular deliveries, including continued shortages. Contractor shall respond to the submitted Comment-Complaint form in writing within two business days. Contractor's failure to comply with the

specifications contained herein is considered evidence of unsatisfactory performance. If a pattern of unsatisfactory performance continues, it may be cause for termination of the contract. AACPS reserves the right to return any damaged items and receive full credit. A signed invoice shall indicate that the items were received, however this does not indicate the items were received in good condition.

### **2.13 Product Recalls**

Contractor assumes full responsibility for prompt notification to AACPS of any product recalls. Contractor is required to maintain a detailed, written plan on how they will handle product recalls. AACPS may request a copy of the written plan. Contractor shall first immediately contact key AACPS staff via phone regarding any product recalls; 24 hours a day 7 days a week with an email follow-up. Contractor shall complete a Product Hold/Recall Letter (Attachment 5).

### **2.14 Price Adjustment**

Contractor shall hold all prices firm against any increase for the first two years of the contract. Before commencement of the third year of the contract and any subsequent renewal terms, AACPS will consider a written request for a price adjustment only if submitted by contractor at least 60 days before the contract renewal date. Such a request shall include at a minimum:

- The reason for the price adjustment
- Proposed effective date
- Amount of the change requested
- Documentation to support the requested adjustment:
  - Appropriate Bureau of Labor Statistics
  - Consumer Price Index (CPI-U)
  - Change in the manufacturer's price

The total increase of unit price in a Contract made under this clause at the time of renewal may not exceed *five percent of the current price at the time the request for a price increase is made*. Any approved price increase will not apply to orders submitted by AACPS before the effective date of the increased unit price.

Unit price increases are not effective until a contract modification is executed by both parties.

Within 30 calendar days after receipt of a Contractor's written request, the AACPS Purchasing Office may cancel, without liability to AACPS, any portion of the contract affected by the requested increase and undelivered at the time of such cancellation.

### **2.15 Payments, Billing and Reporting**

2.15.1 Contractor shall furnish two copies of the invoice with each delivery. Each invoice shall contain the following information:

- Name of the Contractor
- Name of School
- Date of Delivery
- Name of Item
- Item Number
- Price of Item
- Pack Size of Item

- Quantity Delivered
- Managers Full Signature

2.15.2 Contractor shall furnish monthly statements to:

Senior Accountant for Food & Nutrition Services  
 Anne Arundel County Public Schools  
 2666 Riva Road, Suite 100  
 Annapolis, MD 21401

Monthly statements shall be furnished by the seventh day of each month for the preceding month. Statements shall be verified for correctness and AACPS will pay statement by approximately the twentieth day of the following month. Statements shall reflect category subtotals as directed, at the discretion of AACPS.

2.15.3 Contractor shall furnish usage reports to AACPS Food and Nutrition Services Office by the seventh of each month for the preceding month. These reports shall include a monthly product usage by school locations; a monthly county product usage; and a year-to-date county product usage. These reports shall be furnished in an Excel spreadsheet or other format determined by AACPS personnel.

2.15.4 Contractor shall furnish a monthly report of local purchases to AACPS Food and Nutrition Services Office by the seventh of each month for the preceding month. This report shall include the farm name, case count and poundage of all local ingredients/commodities purchased. This report shall be furnished in an Excel spreadsheet or other format determined by AACPS personnel.

## 2.16 Quantities

Quantities indicated are approximate and are not to be construed as a minimum or maximum. Quantities indicated are equal to amounts purchased over a period similar to the contract term. AACPS reserves the right to increase or decrease quantities as required. Unit prices bid shall remain firm regardless of any increase or decrease in estimated quantities shown herein. **Any bid attempting to commit AACPS to a specific quantity to be purchased shall be rejected.** Quantities indicated may be influenced by the availability of Government commodities.

## 2.17 Liquidated Damages – Reimbursement for Loss

AACPS is reimbursed for each meal sold, providing the meal meets certain requirements; therefore, if any supplier fails to deliver on time or delivers for use, any items which do not meet the Bid Specifications and subsequently AACPS is determined to be ineligible for reimbursement by any authority having jurisdiction, the Contractor shall be responsible to reimburse AACPS for the amount of the loss incurred.

## 2.18 F.O.B. Destination

All contract pricing shall include shipping. Contractor assumes ownership and all responsibilities and costs up to the point of destination, including insurance and transportation.

## 2.19 Contractor Equipment Provided to AACPS

Contractor shall provide ice cream freezers for all schools that sell ice cream during the contract

period. At the sole discretion of AACPS, insulated freezer bags may be an acceptable alternative to an ice cream freezer. All freezers must be in good working order and free of damage or blemishes. Contractor shall provide a locking mechanism for ice cream freezers. Contractor shall be able to provide replacement locking mechanisms in case of loss or damage.

It is the responsibility of the contractor to meet all County Health Department regulations for maintenance and refrigeration service on ice cream freezers. Contractor shall ensure that repairs and/or replacement of ice cream freezers occur within seven calendar days following a report of an ice cream freezer that is not working properly.

Contractor shall be responsible for the replacement of one half of any ice cream lost due to equipment mechanical failure.

## **2.20 Contractor ID Badges**

Contractors shall ensure that all drivers that will make deliveries to AACPS cafeterias acquire an AACPS Contractor ID Badge. Contractor shall provide the full name and date of birth to the AACPS Food and Nutrition Services Office. The information provided will be reviewed by the AACPS Office of School Security. The contractor shall be supplied a schedule of when their drivers can report to have their AACPS Contractor ID Badges created and issued.

AACPS Contractor ID Badges **must be worn at all times** in any AACPS building. The AACPS Contractor ID Badge is specific to the driver, not the vehicle. **If a driver forgets their AACPS Contractor ID Badge, they must report to each school's main office during the school's office hours and be processed as a visitor before proceeding to the cafeteria to make their delivery.**

Loss of the AACPS Contractor ID Badge must be reported immediately to 410-222-5000. If a driver is terminated or resigns their position from the awarded Contractor, it is the responsibility of the Contractor to collect and return the AACPS Contractor ID Badge. All AACPS Contractor ID Badges must be returned to AACPS at the end of the contract.

## **2.21 Contractor Employee Conduct**

Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor will not permit employment of any unfit person or persons not skilled in tasks assigned to them. AACPS reserves the right to direct the Contractor to remove from the project site, any employee of the Contractor for misconduct, violations of the provisions of the Contract, or for any inappropriate interactions with students, faculty or staff of AACPS. Such removal may, at the option of AACPS, be for the duration of the contract and shall occur at no increase to the contract amount or contract performance period.

## **2.22 Confidentiality**

Contractor shall ensure the complete confidentiality of any and all information provided by AACPS and gathered and developed by contractor in the performance of this Contract. The material gathered, used and developed will not be provided to any other party without written approval of the Supervisor of Purchasing.

## **2.23 Fort George G. Meade**

Heightened Security has gone into effect at Fort Meade. The Anne Arundel County Schools that are located at Fort Meade are:

Manor View Elementary School  
2900 MacArthur Road  
Ft. George G. Meade MD 20755  
410-222-6504

West Meade Early Education Center  
7722 Ray Street  
Ft. George G. Meade MD 20755  
410-222-6545

Pershing Hill Elementary School  
7600 29th Division Road  
Ft. George G. Meade MD 20755  
410-222-6519

MacArthur Middle School  
3500 Rockenbach Road  
Ft. George G. Meade MD 20755  
410-674-0032

Contractors who work on Fort Meade or who would require access to facilities during emergency conditions or periods of restricted access are required to register your vehicle(s). For information on ID requirements, call the **Visitor Control Center at 301-677-1063**. All vehicles must be registered to gain entry onto Fort Meade. The Provost Marshal encourages registration during OFF-PEAK (non-rush hour) times. Decals issued by other military installations ARE honored on Fort Meade.

Security measures may change and as they do, contractors are solely responsible for any expense and to remain updated on all new procedures.

### **3. QUANTITIES**

AACPS reserves the right to increase or decrease quantities as required. Quantities are approximate and unit prices bid shall apply regardless of any increase or decrease in the estimated quantities shown herein.

### **4. DURATION OF CONTRACT**

Once awarded, the Contract shall remain in force and effect for a period not to exceed two years from the date of award. Upon completion of this initial term, AACPS reserves the right to rebid or, at its sole option, to extend this contract for three, one-year periods.

### **5. INSURANCE REQUIREMENTS**

Unless otherwise specified in this RFB, the Contractor shall be required to purchase and maintain during the life of the Contract, commercial general liability insurance, business automobile liability insurance, and workers' compensation insurance with limits of not less than those set forth below. The Contractor shall require similar coverage from any of its subcontractors.

#### **Commercial General Liability**

At least \$1,000,000 combined single limit coverage written on an occurrence basis covering all premises and operations and including Personal Injury, Independent Contractor, Contractual Liability and Products and Completed Operations. The general aggregate limit is to apply per project. On all Commercial General Liability Insurance policies the Board of Education of Anne Arundel County (the BOARD) AKA Anne Arundel County Public Schools (AACPS) and all AACPS parties, administrators, executives, employees and volunteers shall be named as an additional insured, which shall be shown on the insurance certificates furnished to AACPS under this Section.

#### **Business Automobile Liability Insurance**

At least \$1,000,000 Combined Single Limit any one accident to include owned, non-owned, and hired vehicles.

**Workers' Compensation Insurance**

Statutory benefits as required by Maryland law and/or, when required, the U.S. Longshoremen's and Harbor Workers' Compensation Act including standard Other States coverage; Employers' Liability coverage with limits of at least \$100,000 each accident/\$100,000 each employee disease/\$500,000 disease policy limit.

The Contractor shall provide AACPS with a Certificate of Insurance evidencing the coverage required above within 10 days of the date of the notice of award. While under contract if the Contractor receives an insurer's non-renewal or cancellation notice the Contractor shall send a copy within two business days of its receipt to the AACPS Purchasing Office. The Contractor, if requested by AACPS, shall provide certified true copies of any, or all, insurance policies.

Providing any insurance required herein does not relieve the contractor of any of the responsibilities or obligations assumed by the Contractor in any resulting contract or for which the contractor may be liable by law or otherwise.

Failure to provide and continue in force such insurance as required herein shall be deemed a material breach of any resulting contract and shall operate as an immediate termination thereof.

**6. WAIVER OF SUBROGATION**

To the fullest extent permitted by law, the Contractor and its invitees, employees, officials, volunteers, agents and representatives waive any right of recovery against the AACPS Parties, including the Board of Education of Anne Arundel County (the Board), administrators, executives, employees or volunteers for any and all claims, liability, loss, damage, costs or expense (including attorney's fees) arising out of the services provided by Contractor under this Contract. Such waiver shall apply regardless of the cause of origin of the injury, loss or damage, including the negligence of the Board and its elected and appointed officials, officers, volunteers, consultants, agents and employees. The Contractor shall advise its insurers of the foregoing and such insurance shall waive any right of subrogation by endorsement or otherwise.

This section is intentionally left blank.

## **Section IV: MANDATORY TERMS AND CONDITIONS**

The following are mandatory terms and conditions to be included in all contracts.

### **1. COMPLIANCE WITH LAWS**

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- C. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract

### **2. MINORITY AND SMALL BUSINESS ENTERPRISES**

Minority and Small Business Enterprises are encouraged to respond to this solicitation.

### **3. RETENTION OF RECORDS**

The Contractor shall retain and maintain all records and documents relating to this contract for five years after final payment by the AACPS hereunder or any applicable statute of limitation, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the AACPS, including the Supervisor of Purchasing or the Supervisor of Purchasing's designee, at all reasonable time.

### **4. TERMINATION**

#### **4.1 TERMINATION FOR DEFAULT**

Should a Contractor fail to perform fully, faithfully and promptly any obligation owed to AACPS under this contract, then AACPS may, at its election, consider the breach material and, notwithstanding any requirement of notice, terminate the contract in its entirety. Failure on the part of the Contractor to fulfill contractual obligations shall be considered just cause for termination of the contract, and the Contractor is not entitled to recover any cost incurred by the Contractor up to the date of termination. Such termination, or failure to terminate, by AACPS shall not be construed as a waiver of any other right or remedy afforded by law or by agreement between the parties which AACPS may have against Contractor. No failure of AACPS to utilize a remedy afforded by law or contract upon any breach by Contractor shall be construed as a waiver of the right to insist upon full, prompt and faithful performance of the particular obligation, and all other obligations of Contractor in the future.

#### **4.2 TERMINATION FOR CONVENIENCE**

The performance of work under this contract may be terminated by AACPS in accordance with this clause in whole, or from time to time in part, whenever AACPS shall determine that such termination is in the best interest of AACPS. AACPS shall pay all reasonable costs associated with the contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the contract; provided, however, that the Contractor shall not be reimbursed for

any anticipatory profits that have not been earned as of the date of termination.

#### **4.3 NONAVAILABILITY OF FUNDING**

If the County Council fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this contract succeeding the first fiscal period, this contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this shall not affect either AACPS's rights or the Contractor's rights under any termination clause in this contract. The effect of termination of the contract hereunder shall be to discharge both the Contractor and AACPS from future performance of the contract, but not from their rights and obligations existing at the time of termination.

#### **5. MARYLAND LAW PREVAILS**

The law of Maryland shall govern the interpretation and enforcement of this Contract.

#### **6. ASSIGNMENT**

Contractor may not assign this contract to successors, associated companies, or any other parties for any reason without written approval of AACPS.

#### **7. PAYMENT**

Subject to the performance of the work and its acceptance by the AACPS, contractor may invoice the AACPS for all appropriate charges for services performed during the billing period. All such charges shall be derived in accordance with the prices originally bid on the BID WORK SHEET, found in Section V attached hereto and made a part hereof. In the event that contractor is not in default of any of the contract terms and conditions, then AACPS shall cause said invoice to be timely paid.

Contractor agrees to include on the face of all invoices billed to the AACPS, its Taxpayer Identification Number, which is the Social Security Number for individuals and sole proprietors and the Federal

Employer Identification Number for all other types of organizations, and the purchasing document number; such as the purchase order.

#### **Payments by EFT**

By submitting a response to this solicitation, the Bidder agrees to accept payments by electronic funds transfer, unless the AACPS Supervisor of Purchasing grants an exemption. Unless previously registered, the e selected Bidder shall register using the form titled, *Electronic Funds Transfer Request Authorization*, included as an Attachment to this RFB. The original, completed EFT form should be sent to the Buyer.

#### **8. INDEMNIFICATION OF ANNE ARUNDEL COUNTY PUBLIC SCHOOLS**

To the fullest extent permitted by law the Contractor shall indemnify and save harmless the AACPS Parties, including its Board of Education, administrators, executives, employees and volunteers, against and from all suits, actions, claims, demands, damages, losses, expenses and/or costs of every kind and description to which the AACPS may be subjected or put, including but not exclusively so, by reason of injury (including death) to persons or damage to property, in any way resulting from Contractor's performance of the work specified herein or performed under this contract, or any part thereof, or by or on account of any act or omission of the Contractor, its agents or employees, whether such suits, actions, claims, demands, damages, losses, expenses and/or costs be against, suffered or sustained by the AACPS Parties, including its Board of Education, administrators, executives, employees and volunteers,



or be against, suffered or sustained by other corporations and persons to whom the AACPS Parties, including its Board of Education, administrators, executives, employees and volunteers, may become liable therefore, except that Contractor shall not indemnify and save harmless the AACPS Parties, including its Board of Education, administrators, executives, employees and volunteers, against and from all suits, actions, claims, demands, damages, losses, expenses and/or costs arising from or due to the negligence of the AACPS Parties, including its Board of Education, administrators, executives, employees and volunteers. The whole, or so much of the moneys due, or to become due the Contractor under the contract, as may be considered necessary by the Supervisor of Purchasing, may be retained by the AACPS until such suits or claims for damages shall have been settled, or otherwise disposed of, and satisfactory evidence to that effect furnished to the Supervisor of Purchasing.

#### **9. CODE OF ETHICS**

This solicitation is governed by the Board of Education of Anne Arundel County Vendor Relations Policy DEC and Vendor Relations Administrative Regulation DEC-RA. Also, in accordance with the Board's

Ethics and Conflict of Interest Policy BAF, if an AACPS employee has a financial interest in a company, that company may not submit a bid for an AACPS contract.

#### **10. HIRING OF AACPS EMPLOYEES**

Bidders are advised that Board of Education of Anne Arundel County Policy BAF provides, in part, that an AACPS employee *may not own or have a financial interest in* an entity that has negotiated or entered into a contract with the School System or Board.

The Board Policy can be found in its entirety at <http://aacps.org/boardpolicies/wp-content/uploads/bsk/-pdf-manager/2016/08/BAF-Ethics-and-Conflict-of-Interest.pdf>.

#### **11. DISPUTES**

This contract shall be subject to the provision of the Board of Education of Anne Arundel County Policies and Regulation DEC-RA. Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the Supervisor of Purchasing's decision

#### **12. REGULATIONS**

The policies established by the Board of Education of Anne Arundel County and administration regulations in effect on the date of execution of this Contract are applicable to this Contract.

#### **13. WAIVER**

No provision of these Contract Documents shall be deemed to have been waived unless such waiver is in writing. Any waiver shall extend to the particular case only and only in the manner specified and shall not be construed in any way to be a waiver of any further or other rights in the same or different circumstances.

#### **14. NON-DISCRIMINATION CLAUSE**

Anne Arundel County Public Schools prohibits discrimination in matters affecting employment or in providing access to programs on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, sexual orientation, genetic information, gender identity, or disability.

#### **15. MODIFICATIONS AND AMENDMENTS**

Modifications to this contract may be made only with the written agreement of both parties unless an express unilateral right is identified herein.

**16. FORCE MAJEURE**

Force Majeure is defined as an occurrence beyond the control of the affected party and not avoidable by reason of diligence. It includes the acts of nature, war, riots, strikes, fire, floods, epidemics, or other similar occurrences. If either party is delayed by force majeure, said party shall provide written notification to the other within 48 hours. Delays shall cease as soon as practicable and written notification of same provided. The time of contract completion may be extended by contract modification, for a period of time equal to that delay caused under this condition. AACPS may also consider requests for price increase for raw materials that are directly attributable to the cause of delay. AACPS reserves the right to cancel the contract and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Contractor shall have no recourse against AACPS. Further, except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract, if and to the extent that such party's performance of this contract is prevented by reason of force majeure as defined herein.

This section is intentionally left blank.

**Section V: BID WORK SHEET (see Attachment 1)**Bidder: Hershey's Ice cream

Bid prices shall be submitted as follows and shall include all costs associated with the performance of this RFB. This includes, but is not limited to salaries/wages, materials, equipment, transportation, overhead, taxes, profit and any other related costs:

**NOTE: Amendments to solicitations that may affect pricing often occur before bid opening. It is the bidder's sole responsibility to obtain amendments once they have been posted.**

Price Bid Compiled by: Jim HumphreyJim Humphrey  
(Print Name of Individual Signing Form)

## DEFINITIONS

- (1) **"Day"**: Calendar day unless otherwise indicated
- (2) **"Equivalent Item"**: An item of equipment, material, or supply, the quality, design, or performance characteristics of which are functionally equal or superior to an item specified in a solicitation.
- (3) **"FOB Destination"**: The term "F.O.B." is an abbreviation for "free on board" and means that seller will deliver subject matter contracted for, on certain conveyance, without expense to buyer. The seller assumes all responsibilities and costs up to the point of delivery, including insurance, transportation, etc.
- (4) **"Responsible Bidder"**: One who is capable financially and competent to complete the job for which he is bidding. A responsible bidder is one who is not only financially responsible, but who is possessed of a judgement, skill, ability, capacity and integrity requisite and necessary to perform a public contract according to its terms.
- (5) **"Responsive Bid"**: A bid submitted in response to a request for bids that conforms in all material respects to the requirements contained in the request for bids.