

CBS Food Program

Invitation for Bid

Round 2

CBS Food Program is issuing the following Invitation for Bid and contract for dairy, dry goods, frozen, meat, produce, snacks, baby food, and bakery products, paper products, and other similar goods, for use in its service to schools, daycares, after school programs, adult day cares, and summer food programs for the year running **November 15th, 2024, through September 30th, 2025.**

Contact:

Kim Hopkins

Phone: 215-938-0201 x 115

CBS Food Program Distribution Center

85 Tomlinson Rd, Unit D
Huntingdon Valley PA 19006

BIDS DUE

11/01/2024 | 5:00pm

Winning Bids Announced

On or before 11/08/2024

Bids are Due by: **Friday, November 1, 2024 | 5:00pm**

1. Introduction

CBS Food Program exists to provide excellent, nutritious and dependable food to the children of Greater Philadelphia, so each child has one less barrier to a future full of possibility. CBS Food Program services day cares, schools, after school programs, summer camps and other non-profit organizations throughout the region, delivering fresh and delicious meals and snacks at low, or no cost.

CBS accomplishes its mission through the administration of CACFP and SFSP. As such, CBS Food Program is governed by, among other things, the Federal Procurement Standards. Moreover, CBS is subject to audits and reviews by PDE in order to ensure compliance with Child Nutrition Program requirements.

Through its administration of CACFP and SFSP, CBS provides meals to thousands of children & seniors every day throughout the year.

2. Statement of Work

The purpose of this IFB is to acquire Food Products for use in the Child Nutrition Programs in a manner that encourages open and free competition. CBS Food Program is looking to obtain the highest quality Food Products at the lowest cost. CBS Food Program will be distributing solicitation documents to any Vendor that is interested in participating. CBS Food Program may issue Awards to Bids from multiple Vendors across all Food Products. Multiple Vendor Bids may receive an Award for the same Line-Item Product. Awards will constitute a one-year fixed price contract with CBS Food Program, subject to the terms and conditions more particularly described in this IFB. The contract will have a term starting on **November 15, 2024, and ending on September 30, 2025** (the “Term”).

3. Bid Submission

Bidders shall submit their completed Bid no later than 5:00pm Friday November 1, 2024 (“**Bid Submission Date**”). A completed Bid shall include the following:

- Exhibit 1: Completed Food Products Pricing Form
- Attachment B: Signatory Authority Form
- Attachment C: Certificate Regarding Lobbying (if applicable)
- Attachment D: Non-Collusion Affidavit

Bids received after the Bid Submission Date will be considered non-responsive and shall be rejected.

Completed Bids shall be submitted to the Procurement Portal

Bidders may, upon written notice, withdraw previously submitted Bids prior to Bid Submission Date. Bidders will be responsible for any and all costs associated with the completion and submission of a Bid in response to this IFB.

3a. Food Products Pricing Form

Bidders must complete a Food Products Pricing Form attached hereto and made a part hereof as **Exhibit 1**. Bidders shall provide price quotes for each Line-Item Product. CBS Food Program highly recommends that each Bidder provide a price quote to as many Line-Item Products as possible.

All quantities are estimates and do not constitute a commitment of purchasing volume by CBS Food Program. By bidding on a Line-Item Product, the Bidder is stipulating that such products are in stock and available for delivery after an order is placed. If a product being bid on is not readily available or requires additional lead time after an order is placed, then it should be indicated as such, on the line item notes section of the Procurement Portal.

Any brand names that appear in the Food Products Pricing Form are for reference purposes only. Bidders may offer an alternative manufacturers product. Bidder shall indicate the alternative manufacturers product in their Bid. CBS reserves its rights, in its sole discretion, to determine whether or not the offering is of equal quality.

Bidders shall provide price quotes with the understanding that CBS Food Program is exempt from all state sales tax and federal excise tax. State sales and use tax certificate of exemption forms will be issued upon request.

Bidders must include any additional information requested by CBS Food Program to properly review their completed Food Products Pricing Form including CN Labels, Product Formulation Statements, Kosher Certifications or other acceptable indication of Kosher Designation.

3b. Pack Size

Where a Bidder's pack size specification differs from the pack size listed, or no pack size specification is listed in in the Food Products Pricing Form, Bidder shall include pack size specification.

3c. Kosher Indication and Preference

Bidders shall indicate each Line-Item Product that is 100% Certified Kosher. A Bidder may note that all their items are 100% Certified Kosher. Line-Item Products noted as 100% Certified Kosher will receive a 10% price preference. Any Bidder seeking to receive 10% Kosher Preference must submit evidence of Kosher designation including Kosher certification or hechsher information.

3d. Geographic Indication and Preference.

Bidders shall indicate each Line-Item Product that is grown, cultivated, or raised within a 100-mile radius of the CBS Food Program Distribution Center. Line-Item Products noted as locally grown will receive a 5% price preference.

3e. Homemade Preference

Bidders shall indicate whether they will be preparing the food product in a kitchen owned, operated, or substantially controlled by the Bidder. In each case, the Food Product with the Homemade Designation will receive a 10% Pricing Preference. Bidder must submit evidence sufficient to substantiate a Homemade Pricing Preference. A Determination of the sufficiency of such evidence will be made by CBS Food Program, in its sole discretion.

3f. Bid Prompts

Bidders shall provide responses to the prompts listed below.

3g. Bid Questions

Bidders who have questions concerning this IFB are asked to direct their questions to:

Kim Hopkins – Kim@cbsfoodprogram.com

Please provide all questions by email wherever possible. Questions will be answered, and the questions and answers will be shared with all known Bidders participants

If CBS receives what it perceives as a large number of questions, CBS Food Program will schedule a Bidder conference call where questions can be asked and answered in a group setting and provide written responses to all known Bidders.

Questions may be asked no later than three (3) days prior to the Bid Submission Date listed at the beginning of this document.

4. Bid Evaluation

CBS Food Program’s Procurement Committee shall review each Bid and will notify each Vendor of their Award on November 8, 2024 (the “**Award Date**”).

5. Award

CBS Food Program reserves the right to grant an Award to a single Vendor or to multiple Vendors. Awards are determined based on the lowest price, quality of food and responses to the below listed questions. CBS Food Program reserves the right to reject any or all responses in whole or in part, and to waive informalities permitted by law.

Following the grant of an Award, Vendors shall execute and return an Agreement to Terms within ten (10) business days of the Award Date. The Agreement to Terms shall indicate that both CBS Food Program and the Vendor intend to be bound by the terms and conditions herein in connection with the Award.

6. Term

The Term of the Award shall commence on October 1, 2024, and continue thereafter for a period of one (1) year, ending on September 30, 2025, unless otherwise terminated pursuant to Section 11 below. Term may be renewed for an additional one (1) year (“**Additional Term**”) by written agreement of CBS Food Program and Vendor on or before 5:00pm, July 31, 2025.

7. Price

CBS Food Program shall remit, and Vendor shall accept as payment, the Price Quote identified for each Line-Item Product contained in such Vendor’s Award. The Price Quote shall not be subject to Escalation or De-escalation within the first one-hundred eighty (180) days of the Term (the “**Set Price Period**”). Vendor and CBS Food Program may agree to change Price Quote in accordance with Section 8.

8. Price Adjustments

Vendor will allow CBS Food Program to take advantage of any “special pricing” options including but not limited to early pay discounts, rebates, bulk order pricing or priority purchaser pricing.

Question 8.1: Please provide a description of any available “special pricing” options and details on how CBS Food Program can take advantage of the “special pricing.”

Following the Set Price Period, Vendor or CBS Food Program may request Price Quote Escalation or De-Escalation (“Escalation Request” or “De-Escalation Request”, as the case may be). Any Escalation or De-Escalation must be made according to a nationally recognized index such as the Consumer Price Index for all Urban Consumers (“CPI-U”). Escalation may not exceed 5% of the Price Quote. Vendors shall provide relevant industry information supporting an Escalation Request or De-Escalation Request by either party. No Escalation or De-Escalation shall take effect without written consent by both Vendor and CBS Food Program. CBS Food Program shall have the right to solicit additional bids for any Line-Item Product identified in an Escalation Request.

9. Delivery

CBS Food Program and Vendor shall agree on a Delivery Date at the time of each Order. Unless otherwise agreed to in writing, Vendors shall make all deliveries to CBS Food Program Distribution Center on the Delivery Date between **7:00 AM & 2:00 PM**. Timely delivery of all Food Products is paramount to CBS Food Program’s ability to administer the Child Nutrition Programs. The Vendors acknowledge that failure to deliver any Food Products in accordance with this section may result in financial harm to CBS Food Program including overtime wages, cost of replacement Food Products, missed reimbursable meal revenue as defined in the Child Nutrition Programs.

Question 9.1: Please explain any limitation Bidder may have in meeting the 2:00 PM delivery restriction.

10. Payment

CBS Food Program shall remit payment in the amount of the Award for each Line-Item Product delivered by Vendor within 45 days of successful delivery. Vendor will accept payment in the form of Credit Card or Check.

Question 10.1: Can you provide Invoices on a Net 45 basis? If not, please describe standard payment terms.

Question 10.2: Do you have an online payment system for CBS to make any required payments? If so, please describe the nature of your online payment system.

11. Termination

(a) *Mutual*. The Award will terminate at the end of the Term unless renewed by mutual agreement on or before July 31, 2025. Either Party may, after providing sixty (60) days’ written notice, terminate the Award.

(b) *By CBS Food Program.* CBS Food Program may terminate the Award in whole or in part upon the occurrence of a whole or partial Default *provided* CBS Food Program gives Vendor written notice of the Default specifying the nature of the default and a reasonable opportunity to cure.

(c) *By Vendor.* Vendor may terminate the Award in whole or in part upon the occurrence of whole or partial Default *provided* Vendor shall provide CBS Food Program written notice of the Default specifying the nature of the default and a reasonable opportunity to cure.

12. Alternatives, Substitutions, Modifications, and Recalls

(a) *Alternatives.* CBS Food Program may seek to procure Food Products not previously listed in the Food Products Pricing Form. Vendors shall have the right to bid for any alternative product in connection with CBS Food Program procurement efforts.

(b) *Substitutions.* Vendor shall provide the Awarded Line-Item Product. Vendor may substitute the Awarded Line-Item Product when the Vendor is unable to deliver the Awarded Line-Item Product. Any substitute product must (1) be of equal or great quality as determined by CBS Food Program in its sole discretion, and (2) be of equal or lesser cost to CBS Food Program, of the Awarded Line-Item Product.

Question 12.1: How would you propose to communicate shortages, substitutions, etc.?

(c) *Recalls.* In the event Vendor receives information that any product should be recalled for any reason, Vendor shall immediately disseminate information to CBS Food Program and make all commercially reasonable efforts to ensure recalled product is taken out of CBS Food Program's supply. The health and well-being of the children CBS Food Program serves is a top priority and CBS Food Program needs to effectively manage the recall situation.

Question 12.2: Please describe in detail how you would propose to manage a recall situation with CBS. This should include the original notification of the recall, how that communication is to be made, how CBS is to identify the product in question, how it is to be returned to the contracted vendor(s) and how the customer will receive credit for the recalled product.

13. Affirmative Covenants of Vendor

Vendor agrees that from submission of their Bid through the end of the Term, Vendor shall:

1. Acquire and maintain any necessary professional certifications, licenses, and other approvals required to produce and deliver Food Products. Vendor is qualified and capable of meeting all the necessary requirements of this IFB.

Question 13.1- Please provide a narrative as to the qualifications of your company with regard to your ability to serve the size and needs of our program. For example, this can be done in terms of number of years in business, total volume of food products sold and delivered annually, entities of our size that are served currently.

2. Maintain policies and procedures in place to reduce the risk of food borne illness from its vendor community as well as within its control and handling of food products through delivery to CBS

Food Program Distribution Center. Vendor shall provide CBS Food Program a copy of its HACCP Food Safety Plan.

Question 13.2: Please provide an explanation of what sanitation and safety certifications you can provide to CBS.

3. Provide a representative employed by the Vendor, intimately familiar with Vendors capabilities to meet the terms of this agreement and is familiar with the goals and objectives of CBS Food Program, assigned specifically to CBS Food Program, to whom CBS Food Program may direct any questions pertaining to ordering, product research and availability, product information such as Safety Data Sheets, CN Labels, Formulation Statements, etc.

Question 13.3: Do you agree to provide a support person to serve in this capacity?

Question 13.4: Please provide the name and contact details of any assigned representative.

Question 13.5: Please also provide a narrative as to your expectations of these staff members in terms of their interactions with CBS Food Program. Ex: response time to phone calls and or emails, frequency of communication with membership, any visitation with CBS Food Program Distribution Center.

4. Retain all books, records, and other documents relative to this agreement for three years after final payment. Vendor shall make all books, records and other documents available for review and examination by CBS Food Program and State Auditors, or their authorized agents, for three years after final payment.

Question 13.6: Does the Vendor have a proper record retention policy and corresponding operational ability to ensure compliance with this Section 13.4?

5. Vendor shall maintain insurance as required by Section 18 of this IFB and shall provide notice of any lapse or termination of coverage as soon as commercially reasonable.
6. Vendor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Vendor of this Award has been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Award is valid obligation of such Vendor, enforceable against Vendor in accordance with its terms.

14. Default

Each of the following shall constitute a Default of this Agreement:

- a) Vendor fails to honor Award Price on item Food Product, or CBS Food Program fails to pay Award Price for any Food Product in accordance with the Payment Terms associated therewith;
- b) Vendor fails to deliver any Food Product in accordance with a Purchase Order for the same, including but not limited to a failure to deliver on a stated delivery date, at the stated delivery time, and failing deliver proper quantity or weight of any Food Product;
- c) Vendor fails to deliver Food Product that meets CBS Food Programs quality assurance requirements, including but not limited to, delivering spoiled, moldy or inedible Food Products,

delivering Food Products that do not meet visual or taste preferences of the Centers CBS Food Program serves;

- d) Vendor fails to provide any of the required documentation requested by CBS Food Program, including but not limited to, any CN Label, Product Formulation State, Kosher Certification, Evidence of Homemade Meals, Evidence of Kosher Designation, or any other Record required pursuant to this Agreement.
- e) Any other breach of any term in this Agreement.

Following any default under this Agreement, in the first instance, the Default Party shall be notified via telephone or email and provided an opportunity to correct any error, in the second instance, the Defaulting Party shall be given written notice of the Default with an opportunity to cure the Default within a reasonable and agreed upon time period. And in the third instance, the Defaulting Party may lose any Award connected with any or all Food Products. Any Default pursuant to Section 14(b), (c), or (d) of this Agreement shall constitute a Material Breach of this Agreement.

15. Assignment

Vendor shall not assign or transfer an Award, or any rights or obligations herein, in whole or in part, including but not limited to the obligation of the Vendor to directly perform the work herein through its employees, without prior written approval from CBS Food Program.

16. Contracting with Small, Minority, Woman Owned Business

CBS Food Program shall adhere to the Federal Procurement Standards including those regulations pertaining to contracting with small and minority business more particularly described as follows:

“a. The Non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

b. Affirmative steps must include:

1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprise;
5. Using the services and assistance, as appropriate of such organizations as the Small Business Administration and Minority Businesses Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are allowed to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.”

If Bidder is a Certified Small Disadvantaged Business, HUB Zone Business, Woman Owned Business, Veteran/Service-Disabled Business, or Minority Owned Business, please provide evidence of the type of certification you enjoy in response to this IFB.

When responding to line items in the procurement portal, please mark the appropriate column where the manufacturer you are offering is a qualified minority, woman owned or disadvantaged business entity.

Question 16.1: Are you as a respondent to this solicitation a small, minority, and woman owned or disadvantaged business? Please provide detail as to your classification and certification.

17. Conflicts of Interest

CBS Food Program, its employees and agents, shall comply with all internal policies related to Conflict of Interest and shall take every commercially reasonable action necessary to ensure CBS, its employees and agents shall remain in compliance with any regulations specifically described in 2CFR200.318(c)(1) with regard to conflicts of interest.

18. Insurance

Vendor shall maintain all necessary insurance, for the necessary amounts, and for the entire Term of the contract. Vendor's required insurance coverage is as follows:

(1) Professional liability insurance coverage with minimum limits of \$1,000,000.00. CBS Food Program shall be named as an additional insured by endorsement.

(2) Motor Vehicle Insurance in an amount of not less than \$1,000,000 for public liability and \$1,000,000 for property damage. The Motor Vehicle Insurance shall include commercial automobile insurance that provides coverage for all Vendor's vehicles including vehicles that are owned by Vendor, leased by Vendor, not owned or leased by Vendor but contract or hired for the purpose of delivering Food Products. Motor Vehicle Insurance policies shall include coverage for loading and unloading, and shall contain coverage for the operation of mobile equipment and mechanical devices that are attached to vehicles.

(3) Where any insurance policy obtained, owned or held by Vendor in connection with this IFB that are "claims made" policies, in the event at any time any such policies are cancelled or not renewed, the Vendor shall provide a substitute insurance policy(ies) with terms and conditions and in amounts which comply with the terms of this IFB and which provide for retroactive coverage to the date of cancellation or nonrenewal of any prior insurance policy to fill any gaps in insurance coverage which may exist due to the cancellation or non-renewal of the prior "claims made" policy(ies). With respect to all "claims made" policies, which are renewed, the Vendor shall provide coverage retroactive to the date of commencement of work under the Award. Any substitute or renewed "claims made" policies shall be maintained in full force and effect for three (3) years from the end of the Term.

(4) The Vendor shall purchase and maintain proper Workmen's Compensation Insurance for all the employees employed by Vendor throughout the Term. Such Workers' Compensation Insurance shall provide limits not less than that which is required by Pennsylvania Statute and Employers Liability Limits and not less than \$100,000 for each Accident, \$100,000 for disease of each Employee and a \$500,000 Disease Policy Limit.

The Vendor shall provide a certificate of insurance attesting to the above coverage and naming CBS Food Program as additional insured before November 15, 2024. The Vendor further certifies that it

shall continuously maintain such insurance for the duration of this contract. Vendor shall notify CBS in writing of any changes to insurance coverage within 30 days. Such notice shall be evidenced by new certification of coverage.

19. Non- disclosure of Confidential Information

During the performance of the contract certain technical and cost information will be disclosed by one party (“**Disclosing Party**”) to the other party (“**Receiving Party**”) and will be deemed proprietary and confidential unless otherwise indicated below (“**Confidential Information**”). The Receiving Party will use not less than the same efforts to prevent the disclosure of Confidential Information received hereunder as it used to protect its own Confidential Information, in no event, however, will less than a reasonable degree of care be used. Confidential Information shall not include information that is:

- (a) independently developed by the Receiving Party without the benefit or use of the Confidential Information furnished by the Disclosing Party;
- (b) Obtained from a third party who to the knowledge of the Receiving Party, received the Confidential Information without any restriction on its further disclosure.
- (c) Publicly known through no breach of this IFB;
- (d) Disclosed by the Disclosing Party to a third party without restriction; or
- (e) Obligated to be disclosed pursuant to applicable law, regulation or legal process, provided that the Receiving Party shall give the Disclosing Party advance notice and will provide reasonable assistance at the Disclosing Party’s expense in contesting such legal process if requested by the Disclosing Party.

This non-disclosure of confidential information provision shall survive termination of the contract for a period of three (3) years.

20. Non-solicitation

Vendor shall not provide any Food Product directly to any Center serviced by CBS Food Program during the Term of the Award and for one (1) year following the termination of the Award. Vendor may continue to provide to the extent any provision of the same began prior to the Term.

During the Term of the Award, including any extensions or modifications thereto the parties agree that neither shall directly or indirectly solicit for employment or, otherwise seek to induce to leave the employ of the other party any employees of the other, without the prior written agreement of the party whose employee is being considered for employment.

21. Force Majeure

Neither party will be liable for any breach or failure to perform under this agreement or any other documents incorporated by reference herein if such breach or failure to preform is due to acts beyond the reasonable control of such party, which include by way of illustration, but not limitation, acts of God or public enemy, acts of Federal, State or local government, either in its sovereign, or contractual capacity, fire, floods, civil disobedience, strikes, lock-outs, freight embargoes, inclement weather or any other cause or condition beyond such party’s reasonable control; provided, however, that the party which has been so affected will (i) promptly give written notice to the other of the fact that it is unable to so perform

and the cause(s) therefore; and (ii) resume its performance under this agreement immediately upon the cessation of such cause(s).

22. Indemnification & Hold Harmless

To the fullest extent permitted by law, the Vendor shall indemnify and hold harmless CBS Food Program, its participating members, its and their respective successor, assigns, employees and agents from and against all claims, damages, losses, and expenses, including without limitation attorney's fees and legal costs, arising out of or resulting from the Vendor's performance of the contract, including, without limitation claims, damages, losses or expenses attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of property, including loss of use resulting therefrom, caused in whole or in part by acts or omissions or negligence of the Vendor, a subcontractor, anyone directly or indirectly employed by them or for anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by CBS Food Program.

The Vendor further agrees to indemnify, defend and hold harmless CBS Food Program, its participating members, its and their respective successors, assigns, employees and agents from and against any and all claims, costs, expenses, damages, and; liabilities, including reasonable attorney's fees, arising out of (1) the negligent acts or willful misconduct of the Vendor and/or its officers, directors, employees, agents, or subcontractors; (2) any breach of the terms of the Award by the Vendor; (3) any violation of applicable local, state and/or Federal law, regulation, ordinance or requirement; or (4) any breach of any representation or warranty by the Vendor under the Award. The Vendor agrees to notify CBS Food Program by certified mail, return receipt requested, immediately upon knowledge of any claim, suit, action, or proceeding for which CBS Food Program may be entitled to indemnification under this Contract.

The Vendor further agrees to indemnify, save and hold CBS Food Program, its participating members, its and their respective successor, assigns, employees and agents harmless from and against any and all claims brought by the agents, workers, servants, or employees of the awarded vendor for any alleged negligence or condition caused or created, in whole or in part, by CBS Food Program.

The Vendor further represents and warrants that it is in compliance in all material respects with all currently applicable laws respecting employment, employment taxes, employee benefits, discrimination in employment, terms and conditions of employment, worker classification (including the proper classification of workers as independent contractors and consultants), wages, hours and occupational safety and health and employment practices, including the Immigration Reform and Control Act and Affordable Care Act, and is not engaged in any unfair labor practice. The Vendor shall be solely responsible, at the Vendor's sole cost and expense, for compliance with all currently applicable laws respecting employment, employment taxes, employee benefits, discrimination in employment, terms and conditions of employment, worker classification (including the proper classification of workers as independent contractors and consultants), wages, hours and occupational safety and health and employment practices, including the Immigration Reform and Control Act and Affordable Care Act. The awarded vendor further agrees to indemnify, save and hold CBS Food Program, its and their respective successor, assigns, employees and agents harmless from and against any and all claims brought by the agents, workers, servants, employees, or independent contractors of the awarded vendor for any violation or alleged violation of laws respecting employment, employment taxes, employee benefits, discrimination

in employment, terms and conditions of employment, worker classification (including the proper classification of workers as independent contractors and consultants), wages, hours and occupational safety and health and employment practices, including the Immigration Reform and Control Act and the Affordable Care Act, and unfair labor practices.

The indemnification obligations under this paragraph shall not be limited in amount or type of damages, compensation or benefits payable by or for the Vendor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. Nothing in this agreement shall be construed to expand the liability of CBS Food Program, its participating members, its and their respective successors, assigns, employees and agents, either in tort, contract, or otherwise, beyond the limits of liability imposed by the "Political Subdivisions Tort Claim Act" if they were along liable, see Act of Oct 5, 1980, Pub, L, No 1980-142, sec 221(i), ch. 85, subchs, A&C, 1980 pg. laws 739-5, (codified as amended 42 pg. Cons. Stat. 8501-8564 (west). Nor shall this agreement be construed to waive or reduce the immunities from civil liability granted by or enlarge the limitations on immunity imposed by said Act. This provision shall take precedence over any conflicting provision within this agreement. Further, nothing in this indemnification provision is intended to waive or extinguish the immunity protections of the district, its agents or employees as set forth in the Pennsylvania's Political Subdivision Torts Claims Act. Service Provider's indemnity obligations shall be in addition to any insurance requirements under the Award and any other indemnity obligations under the contract and shall survive the expiration or earlier termination of the Award.

23. Civil Rights Act 1964

The Vendor shall comply with the Civil Rights Act of 1964 as amended. In connection with the Vendor's performance of work under this contract, the Vendor shall not discriminate against any employee(s) or applicant(s) for employment because of age, race, religious creed, sex, national origin or handicap. The Vendor shall also comply with other Civil Rights laws as amended including Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-6, "Civil Rights Compliance and Enforcement in School Nutrition Programs".

24. Miscellaneous

The Award shall be governed by and construed according to Federal Procurement Standard and applicable food products purchasing and distribution. To the extent that Federal Procurement Standard does not resolve a particular issue, the laws of the Commonwealth of Pennsylvania shall apply.

The Award is the entire contract between the parties and supersedes any and all prior oral and written agreements, commitments, understandings or communications with respect to the subject matter of the contract. The Award may not be modified except in writing and signed by a duly authorized representative of each party.

If any provision of the Award is held invalid, void or unenforceable by a court of competent jurisdiction, the remaining provisions of the contract nevertheless will continue in full force and effect without being impaired or invalidated in any way.

CBS's delay or failure to require performance by a Vendor of any term, condition or provision hereof shall not affect CBS's right to require such performance at any time thereafter; nor shall the waiver by CBS pose a breach of any provision of the contract be taken or held to be a waiver of the provision itself.

Any and all notices required or permitted under the contract shall be addressed to the attention of: Kim Hopkins, Purchasing Specialist, and shall be deemed effective when personally delivered, three (3) days after being sent by Certified U.S. Mail, postage pre-paid, Return Receipt Requested, when sent via electronic fax with confirmation of successful transmission, or when sent by a nationally recognized delivery service providing receipt of delivery.

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of food products or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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 sub grants 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)

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

25. Definitions

“**Award**” shall mean a Bid accepted by CBS Food Program whereby Vendor shall provide Food Products at the Price Quote provided in the Bid subject to the terms and conditions of this IFB.

“**Bid**” shall mean a completed offer by a Bidder to enter into a contract with CBS Food Program for the purpose of delivering Food Products to be used in CBS Food Program’s Child Nutrition Programs.

“**Bidder**” shall mean any supplier, distributor, aggregator, or wholesaler of Food Products submitting a Bid in connection with this IFB.

“**CBS Food Program**” or “**CBS**” shall mean Community Benefit Solutions d/b/a CBS Food Program, a Pennsylvania nonprofit corporation, and a CACFP and SFSP sponsoring organization.

“**CBS Food Program Distribution Center**” shall mean the warehouse located at 85 Tomlinson Road, Suite D, Huntingdon Valley, PA 19006.

“**CACFP**” shall mean the Child and Adult Care Food Program.

“**Child Nutrition Programs**” shall mean both CACFP and SFSP.

“**Default**” shall mean those occurrences specifically described in Section 14.

“**Delivery Date**” means the date as determined by CBS Food Program and Vendor on which any Line-Item Product shall be at the CBS Food Program Distribution Center.

“**Distributor**” shall mean any entity that responds to this solicitation and if awarded, delivers food products. The term is interchangeable with “vendor”, “supplier”, and “contracted vendor”.

“**Federal Procurement Standards**” shall mean those requirements more particular described in Title 2 CFR Part 2 as they relate to the procurement of goods or services required under a Federal award or subaward by Non-Federal entities.

“**Food Products**” shall mean any dairy, dry goods, meat, meat alternatives, fruits, vegetables, snacks, baby food, and bakery products, whether fresh or frozen, prepared or raw more particularly described in the Food Products Pricing Form.

“**Food Products Pricing Form**” shall mean Exhibit 1 of this IFB.

“**IFB**” shall mean this Invitation for Bid.

“**Line-Item Product**” shall mean any single Food Product listed in the Food Products Pricing Form.

“**PDE**” shall mean the Pennsylvania Department of Education.

“**Prime Distributor**” shall mean an awarded Vendor to whom CBS Food Program will acquire any given Line-Item where multiple Awards have been issued.

“**Procurement Specialist**” shall mean Kim Hopkins.

“**Recipient Agency**” shall mean a participant in Child Nutrition Programs.

“**SFSP**” shall mean the Summer Food Service Program or SUN Meals.

“**Vendor**”: A contracted entity that provides food products to recipient agency intended for use in the child nutrition programs it offers. For the purposes of this solicitation, the term vendor, distributor, supplier, and contracted vendor are used interchangeably.

25. Check List for Submission to This Invitation for Bid

The following document submissions are required for a complete response to this solicitation.

- Responses to Questions (updated in Procurement Portal)
- Pricing information entered in CBS Procurement Portal
- Attachment B: Completed, signed authorized signatory form. (Scan & Upload to Procurement Portal)
- Attachment C: Certificate Regarding Lobbying (if applicable) (Scan & Upload to Procurement Portal)
- Attachment D: Non-Collusion Affidavit Signed and **Notarized** (Scan & Upload to Procurement Portal)

ATTACHMENT B – SIGNATORY AUTHORITY FORM

Certificate of Authorization

By signing this, I certify that I am an authorized representative of the Vendor (or individual) and that information contained in this proposal is accurate, true, and binding upon this Vendor.

Requires the signature of a duly authorized Corporate Officer, Partner or Owner. A completed form is required for contract award.

Vendor Name: _____

Name and Title of Authorized Representative: _____

Vendor Address: _____

Vendor Phone Number: _____

Contact Phone Number: _____

Contact email: _____

Date Response is Due: _____

Signature

Date

ATTACHMENT C – CERTIFICATE REGARDING LOBBYING

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub recipients shall certify and disclose accordingly.

Name of Vendor _____

Name of Authorized Representative _____

Title of Authorized Representative _____

Signature _____ Date: _____

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known</i> : Congressional District, if known:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, <i>if applicable</i> : _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether sub awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use of SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub award recipient. Identify the tier of the sub awardee; e.g., the first sub awardee of the prime is the 1st tier. Sub awards include but are not limited to subcontracts, sub grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub awardee", then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) Number, Invitation for Bid (IFB) Number; grant announcement number; the contract, grant or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check all that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check all that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether a SF-LLL-A Continuation Sheet(s) is attached. List number of sheets, if yes.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-00046), Washington, DC 20503.

ATTACHMENT D – NON-COLLUSION AFFIDAVIT

State of: _____

County of: _____

I state that I am _____ of _____
(Title) (Vendor Name)

and that I am authorized to make this Affidavit on behalf of my firm, and its owners, Directors and Officers. I am the person responsible in my firm for the price(s) and the amounts of this Bid.

I state that:

1. The price(s) and amount of this Bid have been arrived at independently and without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening of this advertised bid directly or indirectly to any other Bidder or to any competitor.
3. No attempt has been made or will be made by the Bidder to induce any firm or person to refrain from proposing on this contract, or to submit a Proposal higher than this Bid, or to submit any intentionally high or noncompetitive Bid or other form of complementary Bid.
4. _____, its affiliates, subsidiaries, officers,
(Vendor Name)
directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal Law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract except as follows:

(Attestation on following page)

I state that _____ understands
(Vendor Name)

and acknowledges that the above representations are material and important and will be relied on by CBS Food Program and its participating members in awarding the contract(s) for which this Proposal is submitted. My firm and I understand that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from CBS Food Program and its participating members of the true facts relating to the submission of Proposals for this contract.

<p>SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20____</p> <hr/> <p>Notary Public</p> <hr/> <p>My Commission Expires</p>	<p>Signature: _____</p> <p>Name: _____</p> <p>Title: _____</p>
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