

ANNOUNCEMENT

Ensign Learning Center, Inc.  
2755 Decker Lake Ln  
West Valley City, UT 84119

NOTICE OF  
REQUEST FOR PROPOSAL  
TO  
PROVIDE FOOD SERVICE MEALS, SNACK  
FOR FEDERAL CHILD NUTRITION PROGRAMS (CNP)

Ensign Learning Center, Inc. invites written proposals from qualified companies who wish to provide nutritious meals for Federal Child Nutrition Programs. Ensign Learning Center, Inc. is in application to participate in the following programs, which includes, but is not limited to National School Lunch Program (NSLP), School Breakfast Program (SBP). The following additional programs may be added during the scope of the agreement: Afterschool Snack Program (ASP), USDA Foods in Schools, Fresh Fruit and Vegetable Program Grant, and Seamless Summer.

In order to be considered, three (3) copies of the proposal must be delivered by 8:00 AM MST on 7/3/2024 to the following location:

Ensign Learning Center Inc. – Lunch Program  
Attn: Jackie Kingston  
2755 Decker Lake Ln  
West Valley City, UT 84119

For any questions regarding this RFP please send them in writing by June 27<sup>th</sup>, 2024 at 12 pm to Jackie Kingston at [jackie.k@ensignlearningcenter.org](mailto:jackie.k@ensignlearningcenter.org) and cc Katherine Mitchell at [katherine.m@ensignlearningcenter.org](mailto:katherine.m@ensignlearningcenter.org). Questions and answers will be posted on the Utah Procurement Place, <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfUtah> after that time. Further information or copies of this Request for Proposal (RFP) may be obtained by emailing Jackie Kingston.

ANNOUNCEMENT  
Ensign Learning Center, Inc.  
2755 Decker Lake Ln  
West Valley City, UT 84119

NOTICE OF  
REQUEST FOR PROPOSAL  
TO  
PROVIDE FOOD SERVICE MEALS, SNACK, MILK  
FOR FEDERAL CHILD NUTRITION PROGRAMS (CNP)

Ensign Learning Center, Inc. is requesting proposals for vended school meal services. The vendor would provide school meals/snacks complying with the National School Lunch Act, USDA Food and Nutrition Services regulations and policy\* as well as the State of Utah and Utah State Office of Education policies and guidelines. A pre-proposal meeting will not be scheduled.

\*Code of Federal Regulations (CFR) 225, 7 CFR parts 15, 15a, 15b, 210, 215, 220, 225, 226, 240, 245, 250, 2 CFR 200, 2 CFR 400, 2 CFR 415, 2 CFR 416, 2 CFR 417

Catalogue of Federal Domestic Assistance (CFDA) numbers 10.553, 10.555, 10.556, 10.558, 10.559, 10.582  
NSLP 10.555

#### I. BACKGROUND OF REQUESTOR

It is not within the capability of Ensign Learning Center, Inc. to prepare specified meals under the National School Lunch Program (NSLP), School Breakfast Program (SBP), Afterschool Snack Program (ASP), USDA Foods in Schools, Fresh Fruit and Vegetable Program Grant, and Seamless Summer.

Ensign Learning Center, Inc. (hereafter referred to as the Local Educational Authority (LEA) is a political subdivision created under Utah law. The LEA has the power to sue and be sued, to make rules and regulations for its own government consistent with the laws of the State of Utah and the regulations of the State Board of Education. The school board/board of directors consists of eight (8) members, and has decision-making authority, the power to designate management, the ability to significantly influence operations and primary accountability for fiscal matters.

Ensign Learning Center, Inc. is a private elementary school serving students 2<sup>nd</sup> to 6th grade. Expected student enrollment for the 2024-25 academic year is approximately 800 regular and special education students. The LEA will employ approximately 50 persons of which approximately 35 will be directly involved in the instruction process. The remainder will provide auxiliary support such as general administration, repair and maintenance, transportation, etc. The regular school term normally begins in late August and runs through early June and includes 176 school days.

The LEA currently provides meals through a food preparation and delivery system as follows: **hires a food vendor to prepare and deliver the food.**

#### II. PURPOSE OF REQUEST

The purpose of this solicitation is to seek a responsible vendor who will enter into an agreement with the Local Educational Authority (LEA) for the preparation and delivery of meals without milk to be claimed for reimbursement under the National School Lunch Program (NSLP), School Breakfast Program (SBP). The Vendor must be willing to provide such services to the LEA at a fixed price basis.

The program will include the use of federally donated commodities. If the Vendor chooses to receive and process federally donated USDA Foods directly, it must meet the requirements found within 7 CFR Part 250.30, which sets forth  
Revised 04/2024

the terms and conditions under which distributing agencies, sub-distributing agencies, or recipient agencies may enter into processing agreements.

### III. TIME SCHEDULE

The LEA will use the following timeline to select a Vendor:

<u>Date/Time (MST)</u>	<u>Task</u>
6/4/2024 / 5:00 PM	Advertise Request for Proposal
7/3/2024 8:00 AM	Deadline for receipt of Proposals
7/3/2024 9:00 AM	Proposal opening
7/3/2024 / 5:00 PM	Contract negotiation
7/4/2024 / 9:00 AM	Contract Review
7/4/2024	Award of Contract by Board of Education/LEA

### IV. INSTRUCTIONS

Notice: By submitting a proposal in response to this RFP, the offeror is acknowledging that the requirements, scope of work, and the evaluation process, outlined in the RFP are fair, equitable, not unduly restrictive, understood and agreed to. Any exceptions to the content of the RFP must be protested to the Business Manager, Kathrine Mitchell via email [katherine.m@ensignlearningcenter.org](mailto:katherine.m@ensignlearningcenter.org) prior to the closing date and time for submission of the proposal.

- A. Sealed proposals will be received by Jackie Kingston located at 2755 Decker Lake Ln., West Valley City, Utah 84119. In accordance with competitive contracting procedures the proposals will be opened publicly. Proposals are due at 8:00 AM on 7/3/2024. Proposals will be opened at 9:00 AM on 7/3/2024.
- B. Proposals must be in sealed envelopes or containers or submitted electronically, marked plainly and prominently as follows: "Proposal to Provide Food Service for Ensign Learning Center, Inc."
- C. Hard copy proposals should be addressed to Jackie Kingston - 2755 Decker Lake Ln., West Valley City, Utah 84119.
- D. It is the responsibility of the submitter of the proposal to ensure that the proposal is in the office the time it is due. No proposals will be accepted after the announced due time.
- E. The LEA reserves the right to reject any and all proposals and to waive any "informalities" in the proposals received whenever such action, rejection or waiver is in its best interests.
- F. The LEA reserves the right to solicit best and final offers from the three (3) most responsive proposers after a joint conference with these proposers.
- G. No pleas of ignorance relating to any data encountered under this contract will be accepted as a result of failure or omission on the part of the Vendor to fulfill in every respect all the requirements, nor will the same be accepted as a

basis for any claim whatsoever for extra charges for food services. Pre-proposal conferences to review the contents of the Request for Proposal and to arrange inspection visits will be held as requested.

H. Please ensure that your package contains the following:

1. Completed Exhibit A, Debarment and Suspension Certification U.S Department of Agriculture.
2. If applicable, completed Exhibit B, Certification Regarding Lobbying.
3. Completed Sealed Exhibit C, Pricing Schedule (This must be separate from other criteria and sealed so as to review after all other requirements have been reviewed)
4. If applicable, completed Exhibit D, Vendor Receipt and Use of USDA Foods.
5. Completed Exhibit E, Statement of Non-Collusion
6. Annual Financial Budget Projection for the current fiscal year.
7. Responses to Section VI of this Agreement.
8. Signed Attestation Statement, section XI of this agreement.

I. Award or Rejection:

1. The LEA shall inform the Vendor whether the bid has been accepted or rejected by the phone number and/or the email address submitted with the application on the day of awarding mentioned above.

#### V. EVALUATION CRITERIA

A. The final selection will be subject to review and approval by the school board. Each area of the evaluation criteria must be addressed in detail in proposal (see Attachment 3 RFP Evaluation Score Sheet). Selection of not more than three (3) firms for special consideration, and one (1) for the ultimate work will be based on the following criteria (as appropriate):

1. The price per meal – The offeror with the lowest total cost will receive the maximum points of 300 points. Points assigned to each Offeror's cost proposal will be based on the lowest total cost. The Offeror with the lowest total cost will receive 300 points, or 100% of the total cost points. The formula to compute the points is:  $\text{Cost Points} \times (\text{Lowest Proposed Price} / \text{Proposed Price})$ .
2. Meal Pattern and all menus submitted meet the applicable meal pattern per USDA regulations, including designation of component contribution and portion size. Vendor demonstrates the ability to comply with USDA regulations in meeting meal pattern and menu compliance.
3. Ingredients - Meals Include the use of fresh fruits and vegetables on a regular basis. Compliance with the meal patterns and nutrition standards for school meals/milk/snack.
4. Proposal Responsiveness and compliance with submitting all requested documentation, including menus, product specifications, recipes, health inspections, business license and other required documentation.
5. Additional services – the Vendor will supply all condiments; the Vendor will provide adult meals and additional food items for students and staff. Vendor will complete and submit nutrient analysis (as applicable).

#### VI. MINIMUM REQUIREMENTS

All proposers are requested to respond briefly to the following questions. Please limit your response to one page per question.

A. General Information Regarding the Company

1. Address of company headquarters.

2. Number and location of offices.
3. Number of employees.
4. Number of food service professionals.
5. Phone Number
6. Email

Note: If company has diversified activities, please present data in total and as related to food services.

#### B. School Food Service Experience

1. Evidence demonstrating an ability to provide nutritious and high quality meals to school food service programs, including, if applicable, a list of any and all schools, districts, or other similar organizations which you have served during the past three (3) years (indicate whether these past clients are still active clients). A summary of your past experience over at least three (3) years of successfully providing quality meals and services.
2. The name, title, address, and phone numbers of three (3) food service clients who can be contacted as references.
3. List of all schools or districts where your services have been discontinued or terminated for any reason during the past five (5) years and reasons why. List name and phone number of district administrator capable of commenting on your company's performance.

#### C. Personnel and Management Team

1. Provide resumes showing the experiences and qualifications of those individuals with your firm who will be directly involved in the food service program and describe their role.
2. Describe how your company is organized.

#### D. Menu Cycle

The Vendor will submit with the proposal a 4-week cycle menu and a daily menu pattern format indicating the number and frequency of menu choices for the Elementary school. The Vendor must adhere to this cycle for the first 25 days of the meal service. Changes thereafter may only be made with the approval of the LEA. The menu standard, as presented in the first 25 day menu and daily menu pattern, must be maintained as to the type and quality of meal service. The proposed menus for meals and snacks must meet all USDA guidelines pertaining to National School Lunch Program (NSLP), School Breakfast Program (SBP) as prescribed in 7 *CFR* sections 210.10, 210.10a, 220.8, and/or 220.8a, whichever is applicable. See Attachments 1-2 for meal pattern requirements.

Please note that the Vendor is responsible for any reclaims that may result from a Federal and/or State review resulting from inadequate portion sizes or missing meal components. Therefore, it is critical that all meals provided include all meal components in the exact portion size.

#### E. Per Meal Cost

Complete Exhibit C, Proposed Pricing Schedule to describe prices by grade group and/or age by program. The proposed pricing schedule must indicate if pricing will exclude USDA half pint milk types required to be provided for a reimbursable meal. The LEA will obtain its milk through another vendor.

### VII. PAST PROGRAM INFORMATION

A. Program participation and revenue during the most recent school year 2023-24, can be found in Attachment 4, Participation and Revenue Report.

B. Prices

Meal prices during the most recent school year, were as follows:

<b>Grade Group</b>	<b>Price</b>
2 <sup>nd</sup> - 6th Grade Lunch	\$2.90 per meal
2 <sup>nd</sup> - 6th Grade Breakfast	\$1.85 per meal

C. Prior Year Financial Information

Financial Operating Statements for the past three (3) years are attached. See Attachment 7 Financial Operating Statements.

D. School/District Support to School Foodservice Program

The LEA Food Service Director currently verifies all program requirements are being followed and will verify the performance of any vendor.

## VIII. SPECIAL PROGRAM TERMS AND CONDITIONS

A. Food Services

The Vendor agrees to prepare specified meals in bulk for delivery without milk to the site(s) specified in Paragraph C of this section per the meal patterns for school meals as specified in Paragraph G of this section. The LEA will approve the menu, which will be incorporated into this Agreement by reference.

The Vendor will provide lunch during the designated time frame.

The Vendor agrees to use the USDA food Buying Guide, CN Labels, or manufacturer's specifications to determine that adequate amounts of food are provided to meet the meal pattern in Paragraph G. See

<https://foodbuyingguide.fns.usda.gov/>; See also [https://portal.ct.gov/-/media/sde/nutrition/cacfp/crediting/using\\_cn\\_labels\\_cacfp.pdf](https://portal.ct.gov/-/media/sde/nutrition/cacfp/crediting/using_cn_labels_cacfp.pdf)

The Vendor agrees to provide healthy whole grain meals with fresh fruits and vegetables, and little or no processed foods or ingredients. For example: food should not include processed meats, processed sugar or corn syrup, should include wheat flour instead of white flour.

A sample menu will be attached to the Contract, prior to final signatures, and will be part of the Contract.

B. Meal Substitutions and Modifications for Special Dietary Needs

The Vendor will substitute food or beverage items or modify food items for qualifying students as required by Federal and State law as described in VIII(B)1 below and, if required, by any LEA policies, as described in VIII(B)2 and VIII(B)3 below.

If the Vendor incurs additional costs for substitutions in accordance with Sections VIII(B)1 through VIII(B)3 per 7 CFR 210.10(m) that exceed the regular meal payments, the Vendor may request reimbursement from LEA for the additional costs, in accordance with meal prices as listed in Exhibit C, Proposed Pricing Schedule. Neither the Vendor nor the LEA may charge any additional amounts to students who qualify for substitutions.

1. **Substitutions or Modifications for Students with Disability—Federal Requirement 7 CFR 15b.3 and 7 CFR 210.10 (m)(1)**  
 The Vendor will provide substitutions to, or modifications of, LEA meals required by Federal law for students who are documented by a physician to be unable to consume the regular program meals due to a disability, which is defined as a physical or mental impairment which substantially limits one or more major life activities (SP59-2016). A physician’s statement must identify the student’s major life activities, or bodily functions affected by the disability, the food or foods to be omitted from the student’s diet, and the food or choice of foods that must be substituted. The statement must be signed and dated by the physician and maintained on file by both the LEA and the Vendor.
  
2. **Meal Substitutions for Students without Disability—Optional per 7 CFR 210.10 (m)(2)**  
 The LEA has established a policy, as allowed by School Nutrition Programs, to offer meal substitutions for students who do not have a disability but who are unable to eat the regular meals due to medical or special dietary needs. The Vendor will provide substitutions for *students who do not have a disability* upon the written request of a recognized medical authority, authorized to write medical prescriptions under state law (SP59-2016) (physician, physician’s assistant, or certified nurse practitioner). The request must specify the food or foods to be omitted from the student’s diet and the food or choice of foods that must be substituted; be signed and dated by the recognized medical authority; and be maintained on file by both the LEA and the Vendor.
  
3. **Non-Dairy Fluid Milk Substitutes—Optional per 7 CFR 210.10 (m)**  
 The LEA has established a policy, as allowed by School Nutrition Programs, to offer one or more *non-dairy fluid milk substitutes that are nutritionally equivalent to cow’s milk* to students with a medical or other special dietary need. The Vendor will provide non-dairy fluid milk substitute(s) in accordance with the LEA’s policy. A request for a non-dairy fluid milk substitute must be in writing; identify the medical or other special dietary need that restricts the student’s diet; be signed and dated by the parent/legal guardian or a medical authority (physician, physician’s assistant, certified nurse practitioner, registered dietitian, or registered nurse); and be maintained on file. Product information must be maintained on file to document that the non-dairy product(s) offered to students meet School Nutrition Programs standards for non-dairy fluid milk substitutes.

C. Service Site

For the purpose of this Agreement, the Vendor shall make and deliver meals that comply with the requirements of the National School Lunch Program (NSLP), School Breakfast Program (SBP) and this Agreement to the food service site at the following location(s):

Site	Address
Ensign Learning Center Lunchroom Kitchen	2755 Decker Lake Ln., West Valley City, Utah 84119

D. Delivery Requirements

The Vendor shall make deliveries of the meals only within the hours and only on the days designated below. The Vendor agrees to forfeit payment for meals which are not ready within one hour of the agreed upon delivery time, are unsafe, spoiled, damaged, or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this Agreement. The Vendor shall make deliveries meeting all county and state health department rules related to the transport of prepared food, as well as following and documenting all food safety guidelines throughout transportation of food. Time and temperature of all food items when leaving Vendor facilities shall be recorded on transport records and provided with food at delivery to LEA.

Site	Delivery Days	Delivery Time (Range)
Ensign Learning Center Lunchroom Kitchen	Monday-Friday	Breakfast 6am-8am, Lunch from 6am-10am

E. Price

Price per meal is based on pricing described in Exhibit C, Proposed Pricing Schedule. Pricing Schedule does not include the value of USDA Foods. All pricing must be guaranteed for (i.e., 6 months, 1 year). Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least 30 days prior to the effective date. Requests for price adjustment must include sufficient documentation supporting the request. When USDA Foods are utilized in the meal, a price adjustment will credit the value of the USDA Foods based on the CPI index for Western Region based on the rate for the month the adjustment is requested.

F. Menu Preparation and Approval

The proposed menus must meet all USDA guidelines pertaining to National School Lunch Program (NSLP), School Breakfast Program (SBP) as prescribed in 7 CFR sections 210.10, 210.10a, 220.8, and/or 220.8a, whichever is applicable. The Vendor shall provide the LEA, for approval, with a proposed 4 week cycle menu for the operational period, at least ten (10) business days prior to the beginning of the period to which the menu applies. Any changes to the menu made after LEA approval must be agreed upon by the LEA and documented on the menu records. Menu items may be adjusted in writing by mutual consent of both parties. However, the Vendor shall adjust the menus at the request of the LEA whenever the LEA determines certain items to be unacceptable. Such items can be determined to be unacceptable because of (1) a monotonous diet resulting from items served frequently or the similarity to other items; (2) susceptibility to spoilage; and (3) excessive waste resulting from unpopularity of items with students. Such adjustments shall be made at the earliest convenience of both parties, but in no instance later than one week after request, except that in the case of spoilage adjustment shall be made in such a manner that the children in attendance on the day spoilage is discovered shall receive acceptable meals meeting meal requirements.

G. Food Preparation

The Vendor shall assure that each meal provided to the LEA under this Agreement meets the component, nutrition, food safety and all other requirements as specified in the Title 7 Code of Federal Regulations (CFR) Part pertaining to each specific program. Regulations for parts 210, 215 and 220 are available at <http://www.fns.usda.gov/cnd/governance/regulations.htm>. Part 225 regulation is available at <http://www.fns.usda.gov/cnd/summer/Administration/regulations.html>. FFVP information is available online at <http://www.fns.usda.gov/sites/default/files/NSLA.pdf>.



CFR Part	Program
210	National School Lunch Program (NSLP); After School Snack Program (ASSP); Seamless Summer Option (SSO)
220	School Breakfast Program (SBP)
225	Summer Food Service Program (SFSP)
<b>Richard B. Russell National School Lunch Act, P.L. 113-79, Enacted February 07, 2014, Sec. 19</b>	Fresh Fruit and Vegetable Program (FFVP)

#### H. Recordkeeping

The Vendor shall maintain full and accurate transport records/production worksheets that document: (1) the menus provided to the LEA during the term of this Agreement, (2) a listing of all components of each meal, and (3) an itemization of the quantities and portion sizes of each component in each meal. The Vendor agrees to provide food preparation documentation by using yield factors for each food item as listed in the United States Department of Agriculture (USDA) Food Buying Guide, Child Nutrition labels or manufacturer’s product statements when calculating and recording the quantity of food prepared for each meal. The Vendor shall also maintain and make available:

1. Recipes, ingredient lists, nutrition facts labels, and any necessary child nutrition (CN) labels or product specification sheets/manufacturer product formulation statements related to the menus served.
2. On a daily basis, an accurate count of the number of meals, by meal type, prepared for and delivered to the LEA. Meal count documentation must include the number of meals requested by the LEA in writing.
3. Transport Records will be completed daily. Transport records must be completed with all required information as outlined by USDA Food and Nutrition Service and the LEA. Transport records must verify reimbursable meals/snacks/milk were planned and delivered to the LEA. Sample Transport record located in Attachment 11.
4. All HACCP plan and temperature logs will be recorded and maintained to show compliance with applicable Federal, State, and local program and health department requirements.

#### I. Record Retention and Availability

The Vendor shall retain LEA records for a period of 3 years after submission of the final Claim for Reimbursement for the fiscal year. In either case, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit. See 7 CFR 210.23(c). The Vendor shall provide all accounts and records pertaining to the Agreement to representatives of the LEA on an annual basis. The Vendor shall provide all accounts and records pertaining to the Agreement upon request to the Utah State Board of Education (USBE), United States Department of Agriculture (USDA), the U.S. General Accounting Office, and the USDA Office of Inspector General for audits or administrative reviews at a reasonable time and place per 7 CFR 210.9 (b)(17).

#### J. Meal Ordering

The Vendor shall allow the LEA to increase or decrease the number of meals ordered, as needed, when the request is made within 24 hours of the scheduled delivery time. Student meal eligibility is confidential and the meal ordering system must not disclose free, reduced-price, or paid meal eligibility to the Vendor. Payments from parents must be made to the non-profit school foodservice account. The Vendor shall invoice the school as outlined in the RFP and contract for vended meals.

K. Invoicing

The Vendor shall present to the LEA an invoice accompanied by reports no later than the 20th day of each month which itemizes the previous month's delivery. The Vendor agrees to forfeit payment for meals which are not ready within one hour of the agreed-upon delivery time, are damaged, spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this Agreement. In cases of nonperformance or noncompliance on the part of the Vendor, the Vendor shall pay the LEA for any excess costs the LEA incurs by obtaining meals or food items from another source.

L. Food Safety and Sanitation

The Vendor shall provide the LEA with a copy of the current health certifications for the food service facility in which it prepares meals for National School Lunch Program (NSLP), School Breakfast Program (SBP). The Vendor will also submit a copy of its HACCP or food safety plan to the LEA. The Vendor will follow health department regulations. The Vendor also agrees to notify the LEA of the results of any health inspection that is made during the duration of this Agreement. The Vendor will make needed changes as a result of any health inspections or audits as defined by the inspecting agency. The Vendor shall maintain proper sanitation practices and health standards in conformance with all applicable local, State, and Federal laws and regulations. The Vendor shall assure that wholesome ingredients are used and that all food is properly stored, prepared, packaged, transported, disposed. In addition, any substance with which the food comes in contact or which is used in conjunction with the food shall be handled so as to assure that it does not cause contamination. 7 CFR 210.13.

M. Subcontracting

The Vendor shall not subcontract any portion of this Agreement.

N. USDA Foods (Commodities)

The LEA shall use donated foods as far as practical in school meals served to school children. The LEA will always retain ownership of donated foods. See Exhibit D, Vendor Receipt and Use of USDA Foods (which must be completed) for detailed information regarding the delivery, use and crediting of USDA Foods and responsibilities of each party in relation to USDA Foods. Crediting of USDA Foods must be credited at the current year commodity file price in effect at the time of use and a detail of this crediting must be provided to the LEA using the invoice example in Attachment 5.

O. Buy American Provision

The Vendor shall comply with the Buy American provision as described in 7 CFR Part 210.21 and 7 CFR 220.16.

IX. LEA RESPONSIBILITIES

A. LEA will ensure fair and open competition and maintain all RFP and contract documentation.

B. Unacceptable Meals

The LEA shall be responsible for informing the Vendor in writing of its reasons for determining that a meal is unacceptable within 48 hours of meal delivery.

C. Meal Ordering

The LEA shall provide in writing, no later than 30 days before the first day of operation, a reasonably accurate estimate of the number of meals to be delivered to the LEA each day. The LEA shall notify the Vendor in writing of necessary increases or decreases in the number of meal orders within 24 hours of the scheduled delivery time. Errors in meal order counts made by the LEA shall be the sole responsibility of the LEA.

D. LEA Representative Duties

The LEA shall ensure that an LEA representative is available at each delivery site, at the specified time on each specified delivery day to receive, inspect, and sign for the requested number of meals. This individual will verify the time, temperature, quality, and quantity of each meal delivery on the Transport Record (refer to Attachment 11). The LEA assures the Vendor that this individual will be trained and knowledgeable in the record keeping and meal requirements of the National School Lunch Program (NSLP), School Breakfast Program (SBP) and with local health and safety codes.

E. Cleaning

The LEA shall be responsible for cleaning the meal storage, preparation, and eating and food service areas daily following HACCP plans and Standard Operating Procedures.

F. Approval of Menus

The LEA shall notify the Vendor in writing within 10 days of receipt of the next month's proposed cycle menu, as well as any changes, additions or deletions.

G. Meal Pattern Compliance

The LEA shall assure that the Vendor has a copy of 7 CFR Part 210, Part 215, Part 220 and Part 225, the Food Buying Guide (<http://www.fns.usda.gov/tn/food-buying-guide-school-meal-programs>), SP38-2019 <https://www.fns.usda.gov/cn/meal-requirements-under-national-school-lunch-program-and-school-breakfast-program>, and all other technical assistance materials and policy pertaining to the National School Lunch Program (NSLP), School Breakfast Program (SBP). Nutrition Standards for School Meals information is also posted on the USDA Food and Nutrition website at <http://www.fns.usda.gov/school-meals/nutrition-standards-school-meals>. The LEA will notify the Vendor in writing of any changes in the food service requirements resulting from either a Federal or State review or policy change within 24 hours of receipt from the USBE Child Nutrition Programs.

H. Payment

The LEA shall pay the Vendor within 30 days of receipt of the invoice the full amount as presented on the monthly itemized invoice except as noted in VIII(K). The LEA shall notify the Vendor within 48 hours of receipt of any discrepancy in the invoice. The LEA shall pay the Vendor for all meals delivered in accordance with the agreement. **Neither the Utah State Board of Education (USBE) nor the USDA will assume any liability for**

**payment of the difference between the number of meals prepared and delivered by the Vendor and the number of meals served by the LEA that are eligible for reimbursement. In addition, neither the USBE nor the USDA will be responsible for resolving issues of partial or non-payment per the terms of this agreement.**

I. USDA Foods (Commodities)

The LEA shall use donated foods as far as practical in school meals served to school children. The LEA will always retain ownership of donated foods. See Exhibit D, Vendor Receipt and Use of USDA Food (which must be completed) for detailed information regarding the delivery, use and crediting of USDA Foods and responsibilities of each party in relation to USDA Foods. See 7 CFR 250.

X. OTHER TERMS AND CONDITIONS

A. Employment

The Vendor shall comply with all applicable Federal, State, and local laws and regulations pertaining to wages, hours, conditions of employment, and nondiscrimination in employment as stated in 2 CFR 200.318-326

B. LEA Responsibilities

The Local Education Agency (LEA) is responsible for all contracts awarded by the agency. This responsibility includes ensuring that contracts comply with applicable laws, regulations, and policies; that they are in the best interest of the LEA and its stakeholders; and that they are properly executed and managed throughout their duration. The LEA must also ensure that contractors meet their obligations under the contracts and that any disputes or issues that arise are addressed promptly and appropriately. By taking these responsibilities seriously, the LEA can help ensure that its contracts are effective, efficient, and transparent.

C. Payroll Taxes and Costs

The Vendor shall pay its employees directly and shall withhold and pay all applicable Federal and State employment taxes and payroll insurance with respect to its employees, including applicable income, insurance, Social Security, Medicare and employment taxes and workers compensation costs.

D. Indemnity

1. The Vendor shall indemnify, defend and hold the LEA harmless against any loss of damage (including attorney's fees and costs of litigation) caused by the Vendor's negligent act or omission, theft by the Vendor's employees, or the negligent or intentional acts or omissions of the Vendor's agents or employees. The Vendor shall defend any suit against the LEA alleging personal injury or property damage arising out of the transportation of meals or other items to the Site(s) or out of the acts of the Vendor's employees, and any suit alleging bodily injury, sickness, or disease arising out of the consumption of the meals delivered by the Vendor to the Food Service Site(s), and shall be liable for any damages agreed to by the parties or awarded as a result of such litigation.
2. The LEA shall promptly notify the Vendor in writing of any claims against the Vendor or the LEA and, in the event a suit is filed, shall promptly forward to the Vendor all papers in connection therewith. The Vendor shall not incur any expense or make any settlement without the LEA's consent. However, if the Vendor refuses or neglects to defend any such suit, the LEA may defend, adjust, or settle any such claim,

and the costs of such defense, adjustment, or settlement, including reasonable attorney's fees, shall be charged to the Vendor.

#### E. Agreement Modification

This Agreement constitutes the entire understanding between the Vendor and the LEA with respect to the subject matter hereof, and there is no other written or oral understanding or agreement with respect hereto. No variation or modification of the Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of the LEA and the Vendor. No assignment or transfer of this Agreement may be made, in whole or in part, without the prior written consent of the LEA.

#### F. Nonperformance Clause

1. Should nonperformance of contractual requirements and/or a material breach of any term or condition of this contract occur, resulting in loss or potential loss of reimbursement of federal and/or state funds by the LEA, the vendor may be held financially liable for these losses. The process by which lost funds or potentially lost funds are recuperated by the LEA must be stipulated in the LEA/Vendor Agreement.

#### G. Default and Remedies

1. Any of the following events will constitute cause for the LEA to declare Vendor in default of the contract:
2. Nonperformance of contractual requirements;
3. A material breach of any term or condition of this contract.
4. The LEA will issue a written notice of default providing a period in which Vendor liability for liquidated or other damages. If the default remains, after Vendor has been provided the opportunity to cure, the LEA may do one or more of the following:
  - i. Exercise any remedy provided by law;
  - ii. Terminate this contract and any related contracts or portions thereof;
  - iii. Impose liquidated damages, if liquidated damages are listed in the contract;
  - iv. Suspend Vendor from receiving future bid/proposal solicitations.

#### H. Duration and Termination

1. This Agreement shall become effective on the date that both parties sign it. The Vendor shall provide meals during the period starting on the Effective Date and ending on 5/28/2025.
2. The LEA and the Vendor may mutually agree to renew the contract up to four one-year terms, with financial terms for each renewal adjusted using the economic index described below. The contract will not automatically renew.
  - i. Annual Escalator Clause: Per meal prices for a renewed contract may be adjusted from the previous contract year's prices by a percentage *not to exceed* the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), Food Away from Home in the Midwest Region (U.S. Bureau of Labor and Statistics <http://www.bls.gov/cpi>) for March preceding the contract renewal year compared to the same index for the previous year. Proposed per-meal price adjustments must have supporting documentation to support the price change. The LEA has the right to accept or reject any proposed price changes.
3. However, either party may, at any time during the life of this Agreement, terminate this Agreement by giving thirty (30) days' notice in writing to the other party of its intention to do so.
4. The LEA may, upon written notice of default to the Vendor, terminate the whole or any part of this Agreement in any one of the following circumstances:

- i. If the Vendor fails to make delivery of meals, other agreed-upon items (e.g., eating utensils, supplies, storage equipment), or to perform the services within the time specified herein.
  - ii. If the Vendor fails to perform any of the other provisions of this Agreement in accordance with its terms and does not correct such failure within 48 hours after being requested to do so.
5. All notices to the LEA shall be addressed to the LEA at the address listed on the signature page, and all notices to the Vendor shall be addressed to the Vendor at the address listed on the signature page.
6. Final Payments: Upon termination of this Agreement, the LEA will pay for all meals received up to the effective date of termination. The Vendor shall submit all required reports and other information.

#### H. Force Majeure

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

#### I. Taxes

The LEA has tax-exempt status.

#### J. Food Recall

Vendor shall comply with all federal, state, and local mandates regarding the identification and recall of foods from the commercial and consumer marketplace. Vendor shall have a process in place to effectively respond to a food recall; the process must include accurate and timely communications to the LEA and assurance that unsafe products are identified and removed from LEA sites in an expedient, effective, and efficient manner. Vendor shall maintain all paperwork required for immediate and proper notification of recalls for full and split cases.

#### I. Biosecurity

Vendor must have a written policy regarding biosecurity and the food supply, in accordance with the Bioterrorism Act 2002 under the U.S. Department of Health and Human Services, Food and Drug Administration and under the USDA, Food Safety and Inspection Service.

#### J. Applicable Law

The law of the State of Utah shall govern this Agreement.

#### K. Unavailability of Funds

The LEA may terminate this Agreement without penalty if the USDA fails to appropriate funds in subsequent fiscal years to support the program that is the subject of this Agreement. The LEA shall give the Vendor prompt written notice after it knows that funding will not be available.

#### L. Non-Discrimination

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex

(including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity. The Vendor agrees to comply with all applicable Federal and State laws, rules, regulations, and executive orders relating to non-discrimination, affirmative action and equal employment opportunity. "This institution is an equal opportunity provider and employer."

M. Insurance

The Vendor shall maintain, during the term of this Agreement, insurance policies described below issued by companies licensed in Utah with a current A.M. Best rating of A or better. The Vendor shall also name the LEA as additional insured under the liability policy for the duration of the contract. Upon request, the Vendor will provide the LEA with a certificate evidencing such insurance coverage.

- a. Commercial General Liability insurance with a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Agreement; and
- b. Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Vendor's owned, hired, and non-owned vehicles.

N. Protected Information

The Government Records Access and Management Act (GRAMA), Utah Code Ann., Subsection 63G-2-305, provides in part that:

*the following records are protected if properly classified by a government entity:*

*(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309 (Business Confidentiality Claims);*

*(2) commercial information or non-individual financial information obtained from a person if:*

*(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;*

*(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and*

*(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;*

\* \* \* \* \*

*(6) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except that this Subsection (6) does not restrict the right of a person to see bids submitted to or by a governmental entity after bidding has closed; ....*

GRAMA provides that trade secrets, commercial information or non-individual financial information may be protected by submitting a Claim of Business Confidentiality.

To protect information under a Claim of Business Confidentiality, the offeror must:

- 1. Provide a written Claim of Business Confidentiality *at the time the information (proposal) is provided to the LEA*, and

2. Include a concise statement of reasons supporting the claim of business confidentiality (Subsection 63G-2-309(1)).
3. Submit an electronic “redacted” (excluding protected information) copy of your proposal response. Copy must clearly be marked “Redacted Version.”

A Claim of Business Confidentiality may be appropriate for information such as client lists and non-public financial statements. **Pricing and service elements may not be protected.** The claim of business confidentiality must be submitted with your proposal.

All materials submitted become the property of the LEA. Materials may be evaluated by anyone designated by the LEA as part of the evaluation committee. Materials submitted may be returned only at the LEA’s option.

#### O. Assignment

This Agreement may not be assigned by either party without the prior written consent of the other party.

#### P. Construction and Effect

A waiver of any failure under this Agreement shall neither be construed as, nor constitute a waiver of, any subsequent failure. This Agreement supersedes all prior negotiations, representations, or agreements. The Article and Paragraph headings are used solely for convenience and shall not be deemed to limit the subject of the Articles and Paragraphs or be considered in their interpretation. The Exhibits and Attachments referred to herein are made part of this agreement by the respective references to them. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

#### Q. Amendments to the Agreement

The parties cannot alter any provision in this Agreement that is required by any law, rule or regulation. The parties cannot otherwise amend or alter this Agreement, except as to minor, non-substantive provisions or issues that do not materially affect the scope of work or the cost of the Agreement. The parties must mutually agree, in a written document signed by both parties and attached to this Agreement, to amend, add, or delete an Article or Appendix. Any amendment to this Agreement shall become effective at the time specified in the amendment.

#### R. Late Bids/Proposals

Any bid/proposal submitted after the date and time designated in the IFB/RFP will not be accepted. This regulation does not allow for exceptions, thereby preserving the agencies policy of equal treatment toward all vendors.

#### S. Protests

Concerns regarding a solicitation, specifications or an award should first be discussed with the appropriate purchasing agent of the agency. If the concern is not resolved by the purchasing agent/school representative, vendors have the ability to formally protest to the contact information on the signature page. Any protest regarding specifications must be filed in writing prior to the solicitation closing date and time. Protests relative to the contract award must be filed in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto. Protests and appeals of LEA actions must be pursuant to Federal Regulations 2 CFR 200.318(K) and any State or local requirements.



- T. **LAWS AND REGULATIONS:** Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including CFR Appendix II to Part 200 and applicable licensure and certification requirements.
- U. If this Contract is in excess of \$100,000, the LEA and vendor shall comply with all applicable standards, orders, and regulations, including but not limited to:
- The Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Clean Water Act (33 U.S.C. § 1311–1330, § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. § 1.1 *et seq.*);
  - *Certificate Regarding Lobbying* pursuant to 31 U.S.C. 1352 (Appendix A: 7 C.F.R. Part 3018); and
  - *Disclosure of Lobbying Activities* pursuant to 31 U.S.C. 1352 (Appendix A: 7 C.F.R. Part 3018).
- V. The vendor certifies compliance with:
- Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871);
  - The Department of Labor regulations (29 C.F.R. Part 5); and
  - Executive Order 11246, entitled *Equal Employment Opportunity*, as amended by Executive Order 11375 and Department of Labor Regulation (41 C.F.R. Chapter 6

XI. ATTESTATION STATEMENT

To be signed by the Vendor.

By submission of this bid, the Vendor acknowledges it has carefully read all terms and conditions set forth in the Request for Proposal (RFP) in the bid document/solicitation issued by Ensign Learning Center on 9/21/23. The Vendor acknowledges that the Local Educational Authority (LEA) reserves the right to accept or reject any and all bids, to waive irregularities, and to accept the bid which, in the LEA's opinion, is in the LEA's best interest.

By submitting a bid, and if selected, the Vendor agrees to execute a contract with the LEA, and to perform services in accordance with the finalized contract documents.

The vendor also understands if there are concerns regarding a solicitation, specifications or an award should first be discussed with the appropriate purchasing agent/school representative of the school. If the concern is not resolved by the purchasing agent/school representative, vendors have the ability to formally protest to the contact information above. Any protest regarding specifications must be filed in writing prior to the solicitation closing date and time. Protests relative to the contract award must be filed in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto. Protests and appeals of agency actions are governed by the Utah Procurement Code.

The Vendor also understands that it provides meals/snacks only and does not manage or administer any aspect of the school food service program.

\_\_\_\_\_  
Signature of Vendor Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Vendor Company

## Exhibit A—Debarment Certification and Instructions

**[The debarment form on the next page must be signed by Vendor if the contract is for \$25,000 or more.]**

### INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT FORM

1. By signing and submitting this form, the prospective lower-tier participant is providing the certification set out on the certification form in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower-tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower-tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower-tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower-tier covered transaction," "participant," "person," "primary-covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted to obtain a copy of those regulations.
5. The prospective lower-tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower-tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower-tier Covered Transactions," without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower-tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Excluded Parties List System (EPLS) at <https://www.epls.gov/>.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower-tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal

government, the department or agency with which this transaction originated may pursue available remedies as appropriate, including suspension and/or debarment.

**Exhibit A—Debarment Certification and Instructions *Continued***

**[This debarment form must be signed by Vendor if the contract is for \$25,000 or more.]**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION—LOWER-TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Executive Order 12689, and 31 U.S.C. 6101; Debarment and Suspension, 7 CFR Part 3017, Subpart C, Responsibilities of Participants Regarding Transactions.

**(Please read instructions on previous page before completing Certification.)**

- (1) The prospective lower-tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

---

**Organization Name**

---

**Award Number or Project Name**

---

**Name and Title of Authorized Representative**

---

**Signature**

---

**Date**

**Exhibit B—Certification Regarding Lobbying**

**[This certification must be signed annually by Vendor if the contract is for \$100,000 or more.]**

**CERTIFICATION REGARDING LOBBYING**

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

- (1) No Federally 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 any 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 Federally 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 contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions;
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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. Certification and disclosure 7 CFR 3018.110.

\_\_\_\_\_  
**Organization Name**

\_\_\_\_\_  
**Award Number or Project Name**

\_\_\_\_\_  
**Name and Title of Authorized Representative**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**Exhibit C—Proposed PRICING SCHEDULE**

**Proposed Pricing Schedule  
[To be completed by Vendor]**

**BREAKFAST**

Pricing			
Grade Groups	Offer versus Serve (OVS)	Serve Only	Special Diet Meals
K-5			
6-8			
9-12			
Adult/Non-reimbursable			

**LUNCH**

Pricing			
Grade Groups	Offer versus Serve (OVS)	Serve Only	Special Diet Meals
K-5			
6-8			
9-12		NA (OVS required)	
Adult/Non-reimbursable			

**SNACK**

Pricing			
Ages	Offer versus Serve (OVS)	Serve Only	Special Diet Snacks
6-12	NA (OVS prohibited)		
≥ 12			

**SPECIAL MILK**

Pricing			
Grade Group			Milk Substitution
K-12			

**FRESH FRUIT AND VEGETABLE**

Pricing			
Grade Group		Serve Only	Special Diet
K-6			

**SFSP**

Pricing			
NSLP Grade Groups or SFSP Ages	Offer versus Serve (OVS)	Serve Only	Special Diet Meals
K-5			
6-8			
9-12		NA (OVS required)	
Ages 0-18			
Infant			
Ages 1-6			
Ages 12-18			
Adult/Non-reimbursable			

**SSO**

Pricing			
Grade Groups	Offer versus Serve (OVS)	Serve Only	Special Diet Meals
K-5			
6-8			
9-12		NA (OVS required)	
Adult/Non-reimbursable			

## Exhibit D—Vendor Receipt and Use of USDA Foods (Commodities)

### Vendor Receipt and Use of USDA Foods [To be completed by Vendor]

If the Vendor uses U.S. Department of Agriculture (USDA) Foods (commodities) on behalf of the Local Educational Authority (LEA), as indicated in Section VIII(N) of the Notice of Request for Proposal to Provide Food Service for Child Nutrition Programs (CNP), this Exhibit D must be completed and incorporated into the Contract for Vended Meals.

#### I. VENDOR RESPONSIBILITIES

- A. The Vendor will perform the specific activities relating to USDA-donated foods that are indicated below (check all that apply). The Vendor must assure the LEA that such activities will be performed in accordance with the applicable requirements in 7 CFR 250.
- Preparing meals using USDA Foods.
  - Delivering meals.
  - Serving meals.
  - Storing USDA Foods in accordance with 7 CFR 250.52.
  - Payment of processing fees or submittal of refund requests to a processor on behalf of the recipient agency, or remittance of refunds for the value of USDA Foods in processed end products to the recipient agency, in accordance with the requirements in 7 CFR 250 subpart C.
  - Additional activities: [Click here to describe](#)
- B. The Vendor will comply with the storage and inventory requirements for USDA-donated foods in 7 CFR 250.52. Upon termination of the contract, the Vendor will return all unused USDA-products or give credit for the remaining balance using the price list currently in effect.
- C. The Contractor shall recognize and comply with all mandatory standards and policies related to energy efficiency contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-165). The Contractor shall ensure that all equipment, materials, and methods used in the performance of this contract meet or exceed the energy efficiency standards set forth in the State Energy Plan.
- D. USDA defines “processor” and “processing” in 7 CFR 250.3, as a commercial enterprise that uses donated foods to prepare meals at a commercial facility. A processor is subject to the processing requirements in Subpart C of Part 250. The processing requirement ensure that LEAs receive the full benefit and value of the donated foods sent to such commercial enterprises for processing into end product, or in the preparation of meals, at their commercial facilities (FD-80 Q.34). The Vendor assures the LEA that the procurement of processed end products on behalf of LEA, as applicable, will comply with 7 CFR 250 and with provisions of LEA processing agreements. All processing agreements must be approved by the Utah State Office of Education Child Nutrition Programs. The Vendor will ensure crediting of LEA for the value of USDA-donated foods contained in such end products at the processing agreement value. The Vendor will not itself enter into a processing agreement with a processor.
- E. The Vendor assures that all commercially purchased foods (non-USDA Foods) will be of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods in the LEA’s food service.
- F. The Vendor shall maintain accurate and complete records with respect to the use, disposition, storage and inventory of donated foods and in accordance with 7 CFR 250.54. Failure by the Vendor to maintain records required under the contract shall be deemed as evidence of improper use of donated foods. The LEA will obtain restitution from the



Vendor in connection with any claim for improper distribution, use, loss, or damage to donated foods.

- G. The Vendor shall invoice all items in this agreement net of any purchase incentives, discounts, rebates, or credits received in relation to the purchase of goods or services for this agreement in order for the LEA to return or credit those items to its non-profit Child Nutrition account as required by law.
- H. The Vendor shall provide access, upon request, to duly authorized representatives of the LEA, State Agency, United States Department of Agriculture (USDA), or Comptroller General to any books, documents, papers, and records of the contract which are directly pertinent to all negotiated contracts. Such access shall be provided during normal business hours and at a location specified by the requesting party. The Vendor shall cooperate fully with the authorized representatives and provide any assistance or information requested in relation to the contract. This provision shall survive the termination or completion of the contract and shall apply to all Vendor subcontractors involved in the performance of this contract.
- I. Vendor must retain records of this agreement for six years after the later of the final payment under this agreement, termination or expiration of this agreement, or any other pending matter such as an audit is closed.

## II. LEA RESPONSIBILITIES

- A. The LEA shall only order those USDA Foods that the Vendor can reasonably incorporate into the meals.
- B. The LEA will ensure that the Vendor is in compliance with the requirements of 7 CFR 250 through its monitoring of the food service operation as required in 7 CFR 210 and 225, as applicable.
- C. The LEA will maintain the following records relating to the use of donated foods: the donated foods and processed end products received and provided to the Vendor for use in school food service; documentation that the Vendor has credited it for the value of all donated foods used in the school food service during the school year, including the value of donated foods contained in processed end products; and documentation of its procurement of processed end products on behalf of the LEA, as applicable. Records will be maintained in accordance with 7 CFR 250.54.
- D. The LEA will conduct, at least annually, an inventory of USDA Foods being stored by the Vendor on its behalf.
- E. The LEA will be responsible for any freight charges or excess storage fees assessed.
- F. The LEA, the Utah State Board of Education (USBE), the USDA, the Comptroller General, or their authorized representatives may perform onsite reviews of the Vendor's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA-donated foods.

## III. CREDITING AND INVOICING

The Vendor will credit the LEA for the value of all USDA Foods used by the Vendor during the term of the contract, including both entitlement and bonus foods and the value of USDA-donated foods contained in processed end products, in accordance with the contingencies in 7 CFR 250.51(a). Refer to sample crediting statement in Attachment 10.

On each monthly invoice, the Vendor will identify the types, amounts, and cash values of USDA Foods used during the month and credit LEA for those values. Cash values of USDA Foods will be established by the most current documentation available from the Utah State Board of Education (USBE) at the time of crediting.

The LEA will conduct an annual reconciliation after completion of the school year, based on the year-end commodities-

received report supplied by the USBE, to ensure that the Vendor has credited the LEA for all USDA Foods used by the Vendor during the preceding year. If the annual reconciliation demonstrates that the LEA was credited in excess of the value of USDA Foods received by the Vendor, the LEA will reimburse Vendor for the excess credits. If the Vendor has not credited the LEA enough for the USDA Foods used throughout the year, the Vendor will credit or reimburse the LEA the difference.

**Signatures**

LEA Name: Ensign Learning Center, Inc.      Authorized Representative: Jackie Kingston  
Title: Vice Principal

Signature of Authorized Representative: \_\_\_\_\_  
Date

Vendor Name: [Click here to enter vendor name](#)      Authorized Representative: [Click here to enter name](#)  
Title: [Click here to enter title](#)

Signature of Authorized Representative: \_\_\_\_\_  
Date

**Exhibit E—Statement of Non-Collusion**

To Whom It May Concern,

I, \_\_\_\_\_ hereby declare that I am authorized to represent this LEA if awarded the bid and that I have not engaged in any collusion or conspiracy with any other party in relation to this food service contract and/or in the preparation and submission of a bid.

I affirm that all proposals and bids submitted by me the Vendor were made independently and without consultation, communication, or agreement with any other competitor for the purpose of restricting competition. Furthermore, I certify that all information provided in the bidding process was accurate and truthful to the best of my knowledge.

I understand that any false statement made herein may result in legal action against me the Vendor by the LEA. I acknowledge that this statement is made under penalty of perjury.

Sincerely,

Vendor Name: [Click here to enter vendor name](#)  
Title: [Click here to enter title](#)

Authorized Representative: [Click here to enter name](#)

Signature of Authorized Representative: \_\_\_\_\_

Date

Table 1 to Paragraph (c) Introductory Text—Lunch Meal Pattern

	Lunch meal pattern		
	Grades K-5	Grades 6-8	Grades 9-12
Food components	Amount of Food <sup>a</sup> per Week		
	(minimum per day)		
Fruits (cups) <sup>b</sup>	2 <sup>1</sup> / <sub>2</sub> (1 <sup>1</sup> / <sub>2</sub> )	2 <sup>1</sup> / <sub>2</sub> (1 <sup>1</sup> / <sub>2</sub> )	5 (1)
Vegetables (cups) <sup>b</sup>	3 <sup>3</sup> / <sub>4</sub> (3 <sup>3</sup> / <sub>4</sub> )	3 <sup>3</sup> / <sub>4</sub> (3 <sup>3</sup> / <sub>4</sub> )	5 (1)
Dark green <sup>c</sup>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>
Red/Orange <sup>c</sup>	3 <sup>3</sup> / <sub>4</sub>	3 <sup>3</sup> / <sub>4</sub>	1 <sup>1</sup> / <sub>4</sub>
Beans and peas (legumes) <sup>c</sup>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>
Starchy <sup>c</sup>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>
Other <sup>c d</sup>	1 <sup>1</sup> / <sub>2</sub>	1 <sup>1</sup> / <sub>2</sub>	3 <sup>3</sup> / <sub>4</sub>
Additional Vegetables to Reach Total <sup>e</sup>	1	1	1 <sup>1</sup> / <sub>2</sub>
Grains (oz eq) <sup>f</sup>	8-9 (1)	8-10 (1)	10-12 (2)
Meats/Meat Alternates (oz eq)	8-10 (1)	9-10 (1)	10-12 (2)
Fluid milk (cups) <sup>g</sup>	5 (1)	5 (1)	5 (1)
<b>Other Specifications: Daily Amount Based on the Average for a 5-Day Week</b>			
Min-max calories (kcal) <sup>h</sup>	550-650	600-700	750-850
Saturated fat (% of total calories) <sup>h</sup>	<10	<10	<10
Sodium Interim Target 1 (mg) <sup>h</sup>	≤1,230	≤1,360	≤1,420
Sodium Interim Target 1A (mg) <sup>h i</sup>	≤1,110	≤1,225	≤1,280
<i>Trans fat</i> <sup>h</sup>	Nutrition label or manufacturer specifications must indicate zero grams of <i>trans fat</i> per serving.		

<sup>a</sup> Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup.

<sup>b</sup> One quarter-cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

<sup>c</sup> Larger amounts of these vegetables may be served.

<sup>d</sup> This category consists of "Other vegetables" as defined in paragraph (c)(2)(iii)(E) of this section. For the purposes of the NSLP, the "Other vegetables" requirement may be met with any additional amounts from the dark green, red/orange, and beans/peas (legumes) vegetable subgroups as defined in paragraph (c)(2)(iii) of this section.

<sup>e</sup> Any vegetable subgroup may be offered to meet the total weekly vegetable requirement.

<sup>f</sup> At least 80 percent of grains offered weekly (by ounce equivalents) must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched.

<sup>g</sup> All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored, provided that unflavored milk is offered at each meal service.

<sup>h</sup> Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, *trans* fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent are not allowed.

<sup>i</sup> Sodium Interim Target 1A must be met no later than July 1, 2023 (SY 2023-2024).

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Table 1 to Paragraph (c) Introductory Text—Breakfast Meal Pattern

	Breakfast meal pattern		
	Grades K-5	Grades 6-8	Grades 9-12
Food Components	Amount of Food <sup>a</sup> per Week		
	(minimum per day)		
Fruits (cups) <sup>bc</sup>	5 (1)	5 (1)	5 (1)
Vegetables (cups) <sup>bc</sup>	0	0	0
Dark green	0	0	0
Red/Orange	0	0	0
Beans and peas (legumes)	0	0	0
Starchy	0	0	0
Other	0	0	0
Grains (oz eq) <sup>d</sup>	7-10 (1)	8-10 (1)	9-10 (1)
Meats/Meat Alternates (oz eq) <sup>e</sup>	0	0	0
Fluid milk (cups) <sup>f</sup>	5 (1)	5 (1)	5 (1)
<b>Other Specifications: Daily Amount Based on the Average for a 5-Day Week</b>			
Min-max calories (kcal) <sup>gh</sup>	350-500	400-550	450-600
Saturated fat (% of total calories) <sup>h</sup>	<10	<10	<10
Sodium Target 1 (mg) <sup>h</sup>	≤540	≤600	≤640
<i>Trans fat</i> <sup>h</sup>	Nutrition label or manufacturer specifications must indicate zero grams of <i>trans fat</i> per serving.		

<sup>a</sup> Food items included in each group and subgroup and amount equivalents. Minimum creditable serving is 1/8 cup.

<sup>b</sup> One-quarter cup of dried fruit counts as 1/2 cup of fruit; 1 cup of leafy greens counts as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full-strength.

<sup>c</sup> Schools must offer 1 cup of fruit daily and 5 cups of fruit weekly. Vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans/peas (legumes), or “Other vegetables” subgroups, as defined in § 210.10(c)(2)(iii) of this chapter.

<sup>d</sup> At least 80 percent of grains offered weekly must meet the whole grain-rich criteria specified in FNS guidance, and the remaining grain items offered must be enriched. Schools may substitute 1 oz. eq. of meat/meat alternate for 1 oz. eq. of grains after the minimum daily grains requirement is met.

<sup>e</sup> There is no meat/meat alternate requirement.


<sup>f</sup> All fluid milk must be fat-free (skim) or low-fat (1 percent fat or less). Milk may be unflavored or flavored, provided that unflavored milk is offered at each meal service.

<sup>g</sup> The average daily calories for a 5-day school week must be within the range (at least the minimum and no more than the maximum values).

<sup>h</sup> Discretionary sources of calories (solid fats and added sugars) may be added to the meal pattern if within the specifications for calories, saturated fat, trans fat, and sodium. Foods of minimal nutritional value and fluid milk with fat content greater than 1 percent milk fat are not allowed.

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**The Vendor is responsible to keep up to date and follow meal patterns as they are released. If Vendor and LEA elect to renew this contract then Vendor shall follow meal patterns as they are released in the Code of Federal Regulations.**

[https://www.fns.usda.gov/cn/school-nutrition-standards-updates#:~:text=USDA%27s%20Food%20and%20Nutrition%20Service,\(CNP\)%2C%20as%20well%20as](https://www.fns.usda.gov/cn/school-nutrition-standards-updates#:~:text=USDA%27s%20Food%20and%20Nutrition%20Service,(CNP)%2C%20as%20well%20as)

## Attachment 2—ASSP/SMP/FFVP Requirements

### AFTER SCHOOL SNACK PROGRAM (ASSP)

Serve a minimum of two of the four food components per snack as outlined in quantities by age group.	<u>1-5 yrs</u>	<u>6-12 yrs</u>	<u>&gt;12 yrs</u>
Milk	1/2 cup	1 cup	> 1 cup
Juice, Fruit, or Vegetable	1/2 cup	3/4 cup	> 3/4 cup
Meat, Meat Alternates	1/2 oz.	1 oz.	> 1 oz.
Bread, Bread Alternates, or Cereal	1/2 slice or 1/4 - 1/3 cup	1 slice or 1/2 - 3/4 cup	> 1 slice or >1/2 - 3/4 cup

<http://www.fns.usda.gov/school-meals/afterschool-snacks>; See also [https://www.ecfr.gov/current/title-7/part-210/section-210.10#p-210.10\(o\)\(2\)](https://www.ecfr.gov/current/title-7/part-210/section-210.10#p-210.10(o)(2))

### FRESH FRUIT AND VEGETABLE PROGRAM (FFVP)

Serve a variety of fresh fruits and vegetables. FFVP does not allow the following as part of the program: processed or preserved fruits and vegetables, (i.e., canned, frozen, or dried), dip for fruit, fruit or vegetable juice, snack type fruit products such as fruit strips, fruit drops, fruit leather, jellied fruit, trail mix, nuts, cottage cheese, fruit or vegetable pizza, smoothies, fruit with added flavorings (included injected with flavoring), carbonated fruit. The FFVP limits dips to serve with vegetables to be low-fat yogurt-based or other low-fat or non-fat dips limited to 1-2 tablespoons. Fresh vegetables that are cooked are limited to once per week and must include a nutrition education lesson with the prepared item. If a child's disability prevents them from consuming fresh fruits and vegetables as prepared, the school must provide accommodations as they would for other school meals. <https://www.fns.usda.gov/ffvp/fresh-fruit-and-vegetable-program>.



Attachment 3  
Ensign Learning Center, Inc.  
RFP EVALUATION SCORESHEET

**Score will be assigned as follows:**

- 0 = Fail, the proposal fails to address the requirements or criteria described in the RFP or cannot be assessed due to missing information
- 1 = Poor, the proposal inadequately addresses the requirements or criteria described in the RFP or cannot be assessed due to incomplete information
- 2 = Unsatisfactory, the proposal addresses the requirements or criteria described in the RFP in an unsatisfactory manner
- 3 - Satisfactory, the proposal addresses all requirements or criteria described in the RFP in a minimum satisfactory manner
- 4 = Good, the proposal addresses all requirements or criteria described in the RFP and in some respects exceeds them
- 5 = Excellent, the proposal addresses and exceeds all of the requirements or criteria described in the RFP

Firm Name: \_\_\_\_\_

Evaluator: \_\_\_\_\_

Date: \_\_\_\_\_

Stage 1: Minimum Mandatory Requirements		RFP Section	Evaluation (Pass/Fail)
1	Offerer certifies that Offerer will be responsive with communications with vendor to ensure that the school food	RFP	
2	Proposal contains a cost proposal worksheet.	RFP	
3	Offeror certifies that Offeror has experience working on a project of this scope and complexity.	RFP	
4	Proposal must meet all requirements in the RFP.	RFP	

Stage 2: Scoreable Technical Criteria		RFP Section	Evaluator Score (0-5)	Criteria Weight	% of Tech Criteria	Points Possible	Points Earned
1	Technical Category #1 (40 Points): The price per meal - Lowest price per meal that meets provisions in the Request for Proposal AND that meets the meal pattern requirements and USDA regulatory provisions for meals served as part of the National School Lunch Program (NSLP)	RFP		8	40.0%	40.0	0.0
2	Technical Category #2 (20 Points): Meal Pattern and all menus submitted meet the applicable meal pattern per USDA regulations, including designation of component contribution and portion size. Caterer demonstrates the ability to comply with USDA regulations in meeting meal pattern and menu compliance.	RFP		4	20.0%	20.0	0.0
3	Ingredients. Meals include the use of fresh fruits and vegetables on a regular basis.	RFP		4	20.0%	20.0	0.0
4	Technical Category #4 (10 Points): Proposal Responsiveness and compliance with submitting all requested documentations, including menus, product specifications, recipes, health inspection, business license and other required documents.	RFP		2	10.0%	10.0	0.0
5	Technical Category #5 (10 Points): Additional services - Caterer will supply all condiments; Caterer will provide adult meals and additional food items for students and staff. Caterer will complete and submit nutrient analysis (as applicable).	RFP		2	10.0%	10.0	0.0
					100.0%	100.0	0.0

Required Technical Point Threshold		RFP Section	Min Percent	Min Points Required	Points Earned	Percent Earned	Evaluation
		RFP	75%	75	0.0	0.0	

Final Stage: Cost		RFP Section	Low Cost Option	Offered Cost	Percent of Total	Points Possible	Points Earned
		RFP			30.0%	300.0	0.0

**Cost**

The offeror with the lowest total cost will receive the maximum points of 300 points. Points assigned to each Offeror's cost proposal will be based on the lowest total cost. The Offeror with the lowest total cost will receive 300 points, or 100% of the total cost points. The formula to compute the points is: Cost Points x (Lowest Proposed Price/Proposed Price).

Total Evaluation Points	Percent of Total	Points Possible	Points Earned
Total Technical Evaluation Points	30%	100.0	0.0
Total Cost Evaluation Points	70%	300.0	0.0
<b>Total Evaluation Points</b>	<b>100%</b>	<b>400.0</b>	<b>0.0</b>

**Attachment 4-Annual Contract Evaluation**

To be completed as stated in the RFP and contract each year the contract is in effect. LEA will keep the evaluation with contract documents. Any items requiring corrective action were completed with 45 days once the error was identified.

Scope of Work	Outcome	Comments
Meals were delivered on the dates specified in the contract.	€ Satisfactory € Unsatisfactory	
Meals were delivered in the timeframes specified in the contract.	€ Satisfactory € Unsatisfactory	
Food safety practices and procedures were followed. All applicable sanitation and licensing requirements were met.	€ Satisfactory € Unsatisfactory	
Health inspections and documentation showed compliance with health department regulations. If corrective action was required, it was completed as defined by the health department.	€ Satisfactory € Unsatisfactory	
Meals/snacks/milk delivered met the program minimum requirements. Vendor provided LEA with documentation showing meal compliance when requested.	€ Satisfactory € Unsatisfactory	
Transport/delivery sheets were completed daily. Substitutions and special diets were documented on transport/delivery documents.	€ Satisfactory € Unsatisfactory	
Temperature logs maintained. Food temperatures taken following HACCP plan.	€ Satisfactory € Unsatisfactory	
USDA Foods were utilized and the LEA was credited the value of the foods.	€ Satisfactory € Unsatisfactory	
Invoices submitted to the LEA as outlined in RFP and contract. All invoiced costs were net of all discounts, rebates, and other applicable credits.	€ Satisfactory € Unsatisfactory	
Payments to the Vendor were made as outlined in the RFP and contract.	€ Satisfactory € Unsatisfactory	

No materials changes were made during the duration of the contract by either party.	€ Satisfactory € Unsatisfactory	
Civil Rights compliance was met.	€ Satisfactory € Unsatisfactory	
Complete documentation to audit findings was submitted to the LEA/auditor within the timeframes outlined.	€ Satisfactory € Unsatisfactory	
Cost and quality of food met the needs of the LEA and were compliant to the contract between the LEA and the Vendor.	€ Satisfactory € Unsatisfactory	

Signature/Date of LEA: \_\_\_\_\_

Signature/Date of Vendor: \_\_\_\_\_

Attachment 5: USDA Donated Foods Crediting Statement

## Vended Meals Invoice and Monthly USDA Donated Foods Crediting Statement

Entity: John Smith Elementary

Statement Period: 10/1/09-10/31/09

<u>Date of Service</u>	<u># of Meals Sold</u>	<u>Per Meal Cost</u>	<u>Extension</u>
10/1/2009	128	\$3.00	\$384.00
10/2/2009	133	\$3.00	\$399.00
10/5/2009	134	\$3.00	\$402.00
10/6/2009	134	\$3.00	\$402.00
10/7/2009	106	\$3.00	\$318.00
10/8/2009	148	\$3.00	\$444.00
10/9/2009	137	\$3.00	\$411.00
10/14/2009	144	\$3.00	\$432.00
10/15/2009	143	\$3.00	\$429.00
10/16/2009	104	\$3.00	\$312.00
10/17/2009	137	\$3.00	\$411.00
10/18/2009	137	\$3.00	\$411.00
10/21/2009	140	\$3.00	\$420.00
10/22/2009	140	\$3.00	\$420.00
10/23/2009	125	\$3.00	\$375.00
10/24/2009	125	\$3.00	\$375.00
10/25/2009	125	\$3.00	\$375.00
10/28/2009	140	\$3.00	\$420.00
10/29/2009	160	\$3.00	\$480.00
10/30/2009	125	\$3.00	\$375.00

Totals:		2665					\$7,995.00

Subtotal:		\$7,995.00
Total Donated Foods Credit:	see inventory	- \$471.02
Total Balance Due:		\$7,523.98

Attachment 6: Transport Record

LUNCH TRANSPORT RECORD	Date:										FINAL MEAL COUNTS					
											STUDENT MEALS		ADULT	Total Meals Served	Indiv. Mills/A la Carte	
School:	<input type="checkbox"/> Serve Only <input type="checkbox"/> Offer vs Serve															
Grades Served:																
Menu (include name of recipe/recipe # or product/brand name)	PLANNING					PREP					TRANSPORT			MEAL SUMMARY		
	K-5	6-8	9-12	Adult # Meals	Adult # Meals	#1	#2	#3	#1	#2	#3	# Delivered per Menu Item	# Served per Menu Item	Amount Served and Leftover Information	# Leftover/Notes	per Menu Item
Example - Chicken Nuggets (Item 3504)	1.5 or eq/MMA 4/NUGETS	2 or eq MMA 5/NUGETS	2 or eq MMA 5/NUGETS	20	55	5/10	30	30	30	30						
Specialized Diets:																
MILK:																
1% White Milk																
Nonfat Chocolate Milk																
PRODUCTION NOTES: (include special diets delivered and served, milk substitutions, shortages, substitutions)																

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

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