

**CHILD NUTRITION PROGRAM - FOOD**  
**CF-2024 Cafeteria Food, Beverage, Pizza, Snack & Commodity Products**  
**SECTION B**  
**SPECIAL CONDITIONS & INSTRUCTIONS**

**1. INTENT OF INVITATION**

In accordance with the attached specifications, it is the intent of this solicitation to receive bids from qualified bidders in order to establish a twelve (12) month contract for the purchase of 'Cafeteria Food, Beverage, Pizza, Snack & Commodity Products' by member districts and schools of the Unified Purchasing Cooperative.

**2. UNIFIED PURCHASING MEMBERSHIP**

The Unified Purchasing Cooperative membership is comprised of educational entities, both public and non-public, within Brown, Butler, Clermont, Hamilton counties (OH); Boone, Campbell, Kenton counties, and the Diocese of Covington (KY); and Dearborn, Ohio, Ripley counties (IN). **A membership listing is available on-line at [www.upcdrv.org](http://www.upcdrv.org).** The membership listing is provided for informational purposes only and is not to be used for any other purpose, including solicitations and/or vendor calls, unless prior permission has been granted by a specific school district or school.

The Unified Purchasing Cooperative Cafeteria Food Child Nutrition Program is comprised of the School Food Authorities (SFA's) listed in Section H. Please note that not all the members on the list utilize UPC's food contracts.

**3. ESTIMATED QUANTITIES**

It is estimated that member districts and schools of the Unified Purchasing Cooperative anticipate spending approximately \$13,450,000.00 against contracts resulting from this bid solicitation. The breakdown per product classification is as follows:

Cafeteria Food Products & Supplies	\$7,300,000.00
Beverage Products	\$ 750,000.00
Pizza Products	\$1,000,000.00
Snack Products	\$1,400,000.00
Commodity Products	\$3,000,000.00

These estimates are provided for planning purposes only and the Unified Purchasing Cooperative makes no guarantee that this amount can or will be ordered by this proposed contract. Any quantities shown are given as a guideline only in preparing bids as they are estimates and may be increased or decreased. Quantities can be affected by U.S.D.A. donated commodities or other unforeseen circumstances. **\*\*Please note: Quantities represent usage amounts from 1 August – 29 February.\*\***

**4. CONTRACT TYPE**

This is a fixed price contract. It provides for fulfilling all actual purchase requirements of Cafeteria Food, Beverage, Pizza, Snack & Commodity Products from the successful bidder(s) during the contract period. Actual quantities and delivery times will be on the basis of timely orders placed by member districts and schools of the Unified Purchasing Cooperative.

**5. PERIOD OF CONTRACT**

Any contract(s) awarded by this bid shall be in effect for a twelve (12) month period from the effective date of award. It is anticipated that this contract will be awarded not later than June 21, 2024 with an effective date of August 1, 2024 through July 31, 2025.

**6. CONTRACT AWARD**

Award shall be made to the low responsive, responsible bidder as determined by the Cafeteria Food Services Catalog Committee, unless otherwise qualified in this solicitation. If it is determined to be in the best interest of the Unified Purchasing Cooperative, individual line items may be grouped together for award purposes. Service, as well as quality of product and price, will be taken into consideration for award determination. The Unified Purchasing Cooperative reserves the right to limit the number of contracts awarded against this invitation to a maximum of two (2) vendors.

In the event one bidder receives an amount in excess of 75% of the potential contract, based upon the value of the awarded items and/or the number of items awarded, the Unified Purchasing Cooperative reserves the right to award a "prime vendor" contract to that bidder.

Award shall be made in the best interest of the Unified Purchasing Cooperative and its members.

## **7. BID PROTESTS**

An unsuccessful bidder may protest the bid award by submitting in writing said protest within five business days of the bid award. The protest must state the nature and grounds of the protest. The Board of Directors will review the protest and communicate the findings of the Board to the protesting bidder within 30 business days. All administrative remedies with Unified Purchasing Cooperative must be exhausted before the bidder may pursue a protest at the state or federal level.

## **8. CONTRACTS IN EXCESS OF \$100,000**

Contracts in excess of \$100,000 shall comply with the following or applicable updated version thereof:

Section 306 of the Clean Air Act (42 U.S.C. 1857) (h)  
Section 508 of the Clean Water Act (33 U.S.C. 1368)  
Executive Order 117389  
Environmental Protection Agency Regulation (40 CFR Part 15)

## **9. PRICING**

Successful vendor(s) agree not to offer products sold under the resulting price contract with Unified Purchasing Cooperative at equal or lower prices to other schools who are not a part of the Unified Purchasing Cooperative in Brown, Butler, Clermont, Hamilton counties (OH); Boone, Campbell, Kenton counties, and the Diocese of Covington (KY); and Dearborn, Ohio, Ripley counties (IN) during the duration of this contract.

Pricing shall remain firm for the term of the contract.

Do not rely on current State of Ohio contract pricing in your response. The successful bidder will be expected to fulfill the obligations of the contract without reference to an expiration date inconsistent with the Unified Purchasing Cooperative's contract expiration. **PRICES SHALL BE F.O.B. DELIVERED.**

## **10. CONTRACT EXTENSION**

The Unified Purchasing Cooperative reserves the option to extend this contract for one (1) additional contract period. Extension of the contract shall be by mutual agreement in writing.

## **11. TERMINATION FOR CAUSE AND CONVENIENCE**

**Termination for Cause:** Except as may be otherwise provided by this document, the awarded contract may be terminated in whole or in part to the awarded contract in the event of failure by the other party to fulfill its obligations under the awarded contract through no fault of the terminating party; provided that no such termination may be implemented unless and until the other party is given:

- at least thirty (30) days written notice (delivered by certified mail, return receipt requested), from the Director of Unified Purchasing Cooperative, of intent to terminate, and
- an opportunity for consultation with the terminating party, followed by a reasonable opportunity, of not more than ten (10) business days or such other reasonable amount of time as may be required under the circumstances, to rectify the defects in products or performance, prior to termination.

**Termination for Convenience:** Unified Purchasing Cooperative reserves the right to terminate the awarded contract prior to the expiration of the term, without cause and without penalty, upon thirty (30) days' written notice, from the Director of the Unified Purchasing Cooperative, to the Selected Distributor.

## **12. CONTRACT ASSIGNMENT**

Contract(s) resulting from this Invitation for Bid shall not be assigned in whole or part without written consent of the Director of the Unified Purchasing Cooperative.

### **13. FORCE MAJEURE**

Except to the obligation to make payment, any delay in or failure of performance by either party to this contract shall not constitute a default under this contract nor give rise to any claim for damage, cost, or expense if and to the extent such delay or failure is caused by an act of God, flood, fire, earthquake or explosion, war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest, government order or law, actions, embargoes or blockades, national or regional emergency, or other similar event beyond the control of the delayed or non-performing party. Notwithstanding the foregoing, a party that is delayed in or prevented from performing for any reason shall promptly notify the other party in writing of the reason for the non-performance and the anticipated extent of any delay or non-performance and shall take diligent steps to minimize the adverse impact of the delay or non-performance.

### **14. VENDOR PRESENCE ON MEMBER PROPERTY**

Vendor agrees that persons working for or on behalf of the vendor whose duties bring them on member property shall obey the rules and regulations that are established by the Unified member and shall comply with the reasonable directions of the Unified member. Vendor's employees shall not use existing areas where not required to perform the work.

Vendor shall be responsible for the acts of his/her employees and agents while on Unified member property. Accordingly, vendor agrees to take all necessary measures to prevent injury and loss to persons or property located on the Unified member property. Vendor shall be responsible for all damages to persons or property cause by vendor or any of his/her agents or employees. Vendor shall promptly repair any damage that he/she or his/her employees or agents may cause to the Unified member property or equipment.

### **15. INSURANCE**

The vendor at his/her own cost shall secure and maintain the following minimum insurance coverage:

- Worker's Compensation sufficient to cover all vendor's employees pursuant to Ohio, Indiana and Kentucky statutes.
- Commercial General Liability insurance with the Cooperative named as an additional insured, in the minimum amount of \$500,000 per occurrence with a \$1,000,000 aggregate.
- Comprehensive Automobile Liability insurance including owned, hired and non-owned vehicles, with the Cooperative named as an additional insured in the amount of \$500,000 for a combined single limit per occurrence.
- Professional Liability insurance with the Cooperative named as an additional insured, in the minimum amount of \$500,000 per occurrence.

The vendor shall furnish the Cooperative the Certificates of Insurance or other evidence that insurance is effective, and guarantee the maintenance of such coverage during the term of the contract.

### **16. HOLD HARMLESS**

The successful vendor agrees to jointly and severally indemnify and hold Unified Purchasing Cooperative and its members, its agents, successors and assigns harmless from and against all liability, loss damage or expense, including reasonable attorney's fees which may be incurred or sustained by reason of failure of the vendor to fully perform and comply with the terms and obligation of any contract resulting from the Invitation for Bid.

### **17. CHOICE OF LAW AND VENUE**

The resulting contract shall be construed under the laws of the State of Ohio and venue in any action to enforce the contract shall be in Hamilton County, Ohio.

### **18. SUBMISSION OF BID DOCUMENTS**

Unless approved prior to submission, all bid pricing must be submitted to [bids@upcorg.org](mailto:bids@upcorg.org). Any bids submitted using spreadsheets that are not UPC-issued (protected) may be disqualified.

All documents requiring signatures must be either submitted with the bid pricing to [bids@upcorg.org](mailto:bids@upcorg.org) or submitted to the Unified Purchasing Cooperative office before the bid opening time and date.

Bidders electing to submit documents requiring signatures to [bids@upcov.org](mailto:bids@upcov.org) must also submit original signed documents in a sealed envelope to the Unified Purchasing Cooperative office within three (3) business days after the bid opening date. Failure to do so will invalidate the bid. These documents shall remain sealed until the date and time of the bid opening.

## **19. SPECIAL ORDER ITEMS**

Under no circumstances shall bidders submit bid pricing on “special order” products.

## **20. PRODUCT AVAILABILITY / PENALTY**

The successful bidder(s) shall maintain inventory of awarded items in sufficient quantity to meet all order requirements in a timely manner. Failure to do so may result in contract cancellation.

## **21. PRODUCT BRANDS**

Bidders must submit their bids stating the exact brand, label, size and packaging for each product. Brand names, label, size, packaging and respective order numbers must be indicated on the Bid Proposal Form or the bid may not be considered. Any exceptions to the specifications MUST be clearly noted on the Bid Proposal Form (i.e., portion size, drained or net weight, brand, label, packaging, et cetera). All canned goods must be free from preservatives and conform in every respect to the provision of the Federal Food, Drug and Cosmetic Act, and regulations promulgated thereunder. All submitted bids must be for products, which are properly labeled as to the contents according to all USDA requirements, regulations and guidelines.

## **22. SUSPENSION & DEBARMENT FORM**

Any person submitting a bid/proposal in response to this invitation must execute the enclosed ‘Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions’ and enclose it with his/her bid/proposal. If a person is submitting a bid/proposal on behalf of dealers or suppliers who will ship commodities and receive payment from the resulting contract, it is his/her responsibility to see that copies of the form are executed by the dealers or suppliers and are included with his/her bid/proposal. Corrections to the form will not be allowed after the bid/proposal opening time and date. Failure to complete the form in every detail will result in immediate disqualification of the bid/proposal.

## **23. BUY AMERICAN PROVISION**

Bidder(s) awarded a contract as a result of the Invitation for Bid shall comply with Federal Regulation 7 CFR 210.21D21 or applicable updated revisions thereof.

School Food Authorities (SFAs) are required to purchase, to the maximum extent practicable, domestic commodities or products. The National School Lunch Act (NSLA) Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the U.S. and a food product that is processed in the U.S. substantially using agricultural commodities produced in the U.S. The term "substantially" means that over fifty-one (51) percent from American products by weight or volume. Therefore, when school foodservice funds are used to acquire foods, schools must ensure that the items are in compliance with this requirement.

- Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when:
  - the product is not produced or manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple; and
  - competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.
- **ALL products that are normally purchased by Distributor as non-domestic and proposed as part of this solicitation must be identified with the country of origin.** Distributor shall outline their procedures to notify Schools when products are purchased as non-domestic.
  - Any substitution of a non-domestic product for a domestic product (which was originally a part of the solicitation), must be approved, in writing, by the Food Service Director, prior to the delivery of the product to the School.
  - Any non-domestic product delivered to the School, without the prior, written approval of the Food Service Director, will be rejected.

Distributor must affirm their willingness to assert their best and reasonable efforts to ensure compliance with this federal rule.

**Bidders shall indicate whether pasta, peanut butter, canned and frozen fruits and vegetables are domestic or imported.** If a domestic pasta, peanut butter, or fruit/vegetable line item price is more than ten percent (10%) higher than an imported line item price, the Cooperative reserves the right to award the line to the bidder offering the imported line item.

**24. MODIFICATIONS**

Modifications, additions or changes to the terms and conditions of this Invitation for Bid may be a cause for rejection of a bid.

**25. BRAND NAMES**

The brand names specified in the Bid Proposal Form have been found to be acceptable to the Food Service Catalog Committee on the basis of actual use in their respective School Food Service Programs. Their use in the Invitation does not preclude your bidding on an "or approved equal" product, unless otherwise specified. Products bid as "equal" will be inspected for conformance with the salient features of the brand names cited.

**26. SAMPLES**

The Unified Purchasing Cooperative reserves the right to request samples of any and all products quoted or later proposed for substitution in order to determine their quality and marketability. Such samples, when required, must be submitted at no expense to the Unified Purchasing Cooperative, and it is anticipated they will be used or consumed during the testing procedure.

Bidders must submit samples for line items for which the "Sample Required" column contains a YES.

DISTRIBUTORS must deliver all samples in one delivery. Multiple deliveries from the same distributor are not allowed.

**27. PACKAGING AND MARKING**

Standard high commercial packaging and markings are acceptable. Designation of the refrigerated state of the product, i.e., chilled or frozen, should appear on the top of the master container.

**28. DELIVERY**

**PROMPT DELIVERY IS A PRIME CONCERN.** The successful bidder will be expected to replenish stock levels on a weekly basis, and respond to emergency or unforeseen shortages in a prompt manner. **Deliveries must be arranged between vendors and individual food service personnel as is most advantageous to both parties.**

All articles, materials and papers shall be delivered to the site specified by the purchase order. The successful bidder shall package and label all deliveries as specified on the purchase order.

Separate purchase orders **MUST** not be combined.

All deliveries must be made "inside" the designated building, as arranged between the successful bidder and the Food Service Director and must take place within the hours of 6:30 a.m. and 1:30 p.m. unless otherwise arranged by the Food Service Director, Monday through Friday with the exception of school closings and holidays. If the normal delivery day happens to fall on a holiday or on a day the school is closed, an alternate delivery date must be approved by the Food Service Director.

**29. DELIVERY VEHICLES**

Suppliers shall use only clean sanitary vehicles for delivery of any product. Food items and supply items must be separated on the vehicle to preclude any possibility of contamination of food product(s).

For items requiring, suppliers shall use only properly insulated mechanical or thermostatic temperature controlled refrigeration equipment. Such equipment must be capable of maintaining temperature to protect the product. In addition, Unified Purchasing Cooperative reserves the right to reject the use of any equipment used by a supplier or carrier that is not clean and sanitary and suitable for hauling and maintaining product in a wholesome condition.

### **30. SHORTAGES OR SUBSTITUTIONS**

Food Service Directors and personnel MUST be informed immediately if an order will be shorted or if an item requires substitution. Before a substituted product can be issued, prior approval from the Food Service Director or their designated representative must be obtained. Any substituted item(s) must meet or exceed the specification(s) of the originally ordered product. All substitutions must be made at the contracted price. Any out of stock item(s) will be delivered at no extra charge as soon as the product is received by the contracted vendor, unless otherwise arranged by the Food Service Director or their authorized representative.

Any items discontinued must be reported to the Unified Purchasing Cooperative, in writing, prior to any substitution or discontinuance of product delivery taking place. The Unified Purchasing Cooperative, in conjunction with the Food Service Catalog Committee, may within thirty (30) days after receipt of a contractors written notification of product change cancel, without liability to either party, any portion of the contract affected by the requested notice of change and undelivered at time of cancellation.

### **31. PRICE ADJUSTMENTS**

As indicated, prices are to be firm for the term of the contract; however, it is understood that vendor costs may increase on certain items during the contract period.

In the event of a price increase passed to the vendor from the manufacturer, the vendor has two options:

- (a) The vendor may absorb the cost and retain the contracted item(s) for the term of the contract.
- (b) The vendor may request that the Cooperative rebid the items in question and the vendor will risk losing the items for the remaining term of the contract.

If rebidding is requested, the items to be rebid will be included in the Cooperative's "Mid Year Bid for New Products". This will be the only time items can be rebid during the contract period. To have items included in the mid year bid, the vendor shall submit a list of items not later than October 1, 2023.

### **32. RECEIVING, INSPECTION AND TESTING**

The receiving Unified Purchasing Cooperative member reserves the right to reject any and all product delivery, which in the opinion of the Unified Purchasing Cooperative member or authorized representative, does not comply with all bid requirements. All material so rejected shall be removed and replaced promptly by the bidder at no cost to the Unified Purchasing Cooperative member.

### **33. QUALITY AND SHELF LIFE OF PRODUCT**

To ensure consistent quality of all products received and used by member districts and schools of the Unified Purchasing Cooperative, it is required that all products received MUST have a remaining shelf life of at least six months, as expressed by the expiration date on the product at time of receipt by the member district or school.

It is understood that any 'Cafeteria Food, Beverage, Pizza, Snack & Commodity Products' not meeting stated specifications or of defective or inferior quality will be returned to the contracted vendor at the vendors expense. The vendor shall then be responsible for immediately replacing the product.

Nutritional Data Sheets must be made available, upon request, to all Unified Purchasing Cooperative members for all items awarded by the Unified Purchasing Cooperative. All requests for Nutritional Data Sheets must be provided to the requesting member within ten (10) days the request is received.

All non-food products will be properly labeled in accordance with accepted industry standards and where applicable, meet OSHA requirements. **MANUFACTURER SAFETY DATA SHEETS (MSDS) WILL BE REQUIRED FROM THE SUCCESSFUL BIDDER FOR ALL ITEMS AWARDED AND MUST BE DELIVERED WITH EACH ORDER PLACED BY MEMBER DISTRICTS AND/OR SCHOOLS OF THE UNIFIED PURCHASING COOPERATIVE.**

#### **34. MINIMUM ORDER REQUIREMENTS**

The Unified Purchasing Cooperative considers a \$425.00 dollar minimum delivery for elementary schools / K-8 buildings and \$600.00 dollar minimum for middle & high schools to be fair and reasonable. In addition, the vendor may assess a \$35.00 minimum delivery charge on orders not meeting the minimum delivery requirement. The minimum delivery requirement will not be imposed on shortages or backordered items or on orders that do not meet the minimum requirement as a result of shortages or backorders, as these situations are beyond the control of the Unified Purchasing Cooperative members. It will be the responsibility of the successful bidder to promptly deliver any shortages or backordered items with no additional costs imposed.

#### **35. SALES REPRESENTATION**

Both service and cost are an important part of the award process. All members are entitled to a designated sales representative. The sales representative shall call on the member as satisfactorily arranged between the representative and the food service director or their designee.

#### **36. MEMBER REBATES**

Vendor(s) shall be required to rebate **one percent (1%)** of the net sales resulting from these contracts to Unified Purchasing Cooperative members on a semi-annual basis (March and September). In the event that a "Prime Vendor" contract is awarded, the rebate shall increase to 1.5%. The rebates shall be in the form of checks. Vendors shall maintain accurate records and submit usage reports along with the rebate checks.

To reduce administrative costs, rebate checks shall be issued to the districts and not the individual schools within a district. Vendors shall issue checks directly to all other non-public schools and institutions that are Unified members.

#### **37. ADMINISTRATIVE FEE**

Vendor(s) shall be required to pay a one percent (1%) contract administrative fee to the Cooperative, based on net sales.

Vendor(s) shall maintain accurate records and submit quarterly usage reports along with the check for the administrative fee. The check shall be payable to the Unified Purchasing Cooperative and mailed to 1007 Cottonwood Drive, Loveland, OH 45140, not later than twenty (20) working days after the end of the contract quarter.

#### **38. REPORTS**

Successful bidder(s) will be required to provide quarterly reports, to the Unified Purchasing Cooperative, listing all member schools and their purchase activity for each period along with a running total (year-to date) beginning with the effective contract date of August 1, 2024 through July 31, 2025.

#### **39. MULTIPLE BIDS**

Unless otherwise specified, only one price, brand or item number may be proposed for each item on this Invitation for Bid. Bidders must determine their single best offering based on the quality specified. Each line item bid not conforming to this requirement will be rejected.

#### **40. REBATE/ALLOWANCE/INCENTIVE PROCEDURE**

Describe in detail how you will source and apply all available manufacturer rebates due Unified Purchasing Cooperative members. Indicate your procedure of tracking coupon dollars and how you will administer these incentives. Clearly explain how you will communicate and report these activities to Unified Purchasing Cooperative and Unified Purchasing Cooperative members.

#### **41. ACCESS TO RECORDS**

All contracts over \$10,000 must include a provision to the effect that the SFA, the State agency, USDA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making an audit, examination, excerpts, and transcriptions.

**42. MAINTENANCE OF RECORDS**

The successful bidder(s) agree to retain all records and documents pertaining to this Invitation for Bid for three (3) years after final payment has been received.

**43. SERVICE TO NEW MEMBERS**

The successful bidder(s) shall be required to service all members that join Unified Purchasing Cooperative during the contract period or any extension thereof.

**44. FOOD SAFETY PLAN**

Bidders shall include a letter with the submitted bid stating that the bidder's company has a food safety plan in the facilities.

**45. NON-DISCRIMINATION**

In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call toll free (866) 632-9992 (Voice). Individuals who are hearing impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer.

**46. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB)**

Per 2 CFR §200.321 contracting with Minority & Women's Business Enterprise (MWBE), Small Business Enterprise (SBE), and Labor Surplus Area (LSA) firms both as prime and subcontractors is encouraged.

- 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:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources
  - iii. 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
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises
  - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
  - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i.) through (v.) of this section.

The prime contractor must take the affirmative steps outlined above. It will be the responsibility of the prime contractor to pre-qualify subcontractors offered as Small and Minority Business, Women's Business Enterprise, and Labor Surplus Area Firm participants. These entities must meet the same minimum standards and requirements as the prime contractor. Proposers shall indicate on their submitted proposals whether they are a Small and Minority Business, Women's Business Enterprise, or Labor Surplus Area Firm and with whom they are certified, e.g. City, State, Federal, and include a copy of the certificate(s)/documentation with the proposal response, this includes Historically Underutilized Business (HUB) Certificates issued by the State of Ohio's Minority Business Enterprise program, or State equivalent.

**47. OHIO ETHICS**

Contractor represents that it and its employees engaged in the administration or performance of this Contract are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Contractor further represents that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

**48. NUTRITIONAL INFORMATION**

Manufacturer's nutritional information labels shall be furnished on all items awarded to the successful bidder(s). If requested, the successful bidder(s) shall submit this information to the Cooperative in a PDF format, on a "thumb drive", not later than August 1, 2024. The information shall be in sequential order using the Unified Purchasing Cooperative Product Code. The Cooperative will upload this information onto its website (upcdrv.org) for member access.

**49. SILENCE OF SPECIFICATIONS**

The apparent silence of specifications and any supplemental specifications as to any detail or the omission from the specifications of a detailed description concerning any point shall be regarded as meaning that only the best commercial practices are to prevail and correct type, size and design. All interpretations of these specifications shall be made on the basis of this statement.

**50. COMPLIANCE WITH LAWS**

Vendor shall comply with all Federal, State and local laws, statutes, ordinances, rules, and regulations, including, if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations. For the entire duration of this contract/agreement, Vendor shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Agreement. When required or requested by Unified Purchasing Cooperative, Vendor shall furnish the Cooperative with satisfactory proof of Vendor's compliance with this provision.

**51. EQUAL EMPLOYMENT OPPORTUNITY**

To the extent applicable, the successful vendor must comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**52. DAVIS-BACON ACT**

As amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

**53. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C 3701-3708)**

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 supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**54. 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 subrecipient 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 subrecipient 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.

**55. FOOD RECALL, MARKET WITHDRAWALS & SAFETY ALERT & CITATIONS REQUIREMENT TO NOTIFY PROCEDURES**

Vendor must comply with all federal, state and local requirements relating to food safety and food recalls. Vendor must have procedures in place to respond effectively to a food recall. The procedures must include accurate and timely communications to SFAs as well as mechanisms to identify and remove recalled products from SFA sites in an expedient, effective and efficient manner. Vendor must maintain all documentation required for immediate and proper recall notification with regard to full and split cases. Vendor must also ensure that any storage facilities it uses are in compliance with all federal, state and local requirements relating to food safety and health (including obtaining any required health inspections) and to procedures for responding to a food recall, as applicable. *The successful vendor must submit their food recall procedures and identify two points of contact for the AGENCIES.* In the event of a recall, AGENCIES’ points of contact are:

Linda Eichenberger	Rich Pingilley
<a href="mailto:linda@upcdrv.org">linda@upcdrv.org</a>	<a href="mailto:rich@upcdrv.org">rich@upcdrv.org</a>
513-674-4598	513-674-4599

The Unified Purchasing Cooperative requires all awarded vendors to provide immediate written notice for any bid product that has been recalled, withdrawn from the market, or subject to a safety recall by any local, state or federal agency. In addition, any written sanitation citation issued by any local, state or regulatory agency in a production facility where a bid product is processed shall be provided to the Unified Purchasing Cooperative. The Unified Purchasing Cooperative reserves the right to immediately terminate a vendor contract for failure to disclose a citation, recall, market withdrawal or safety alert.