



ROANOKE COUNTY

FINANCE & MANAGEMENT SERVICES DEPARTMENT PURCHASING DIVISION

REQUEST FOR PROPOSALS Non Professional Services

RFP # 2021-110
Roanoke County Public Schools In-School Beverage Sales

OPENING DATE: June 4, 2021
OPENING TIME: 2:00 P.M.

The Request for Proposal and related documents may be obtained during normal business hours from the Purchasing Division, at the Roanoke County Administration Building, 5204 Bernard Drive SW, Suite 300F, Roanoke, VA 24018. This document may be viewed and/or downloaded from the County of Roanoke Purchasing Division's website at <https://www.roanokecountyva.gov/bids.aspx>. If you have any problems accessing the documents, you may contact Purchasing at (540) 772-2061.

**THIS PUBLIC BODY DOES NOT DISCRIMINATE
AGAINST FAITH-BASED ORGANIZATIONS**

DATE of RFP: May 21, 2021

REQUEST FOR PROPOSAL

RFP No. 2021-110

Issue Date: May 21, 2021

Title: **Roanoke County Public Schools In-School Beverage Sales**

Issued By: **County of Roanoke**
Roanoke County Administration Building
Purchasing Division
5204 Bernard Drive, SW, Suite 300-F
Roanoke, VA 24018-0798
Phone (540) 772-2061
Email: KHoyt@roanokecountyva.gov

Sealed proposals will be received on or before 2:00 P.M., June 4, 2021 for furnishing the services and/or items described herein. The time of receipt shall be determined by the time clock stamp in the Purchasing office.

All questions must be submitted before 5:00 p.m. on May 28, 2021. If necessary, an addendum will be issued and posted to the County website on the Current Bids/RFP Requests tab at <https://www.roanokecountyva.gov/bids.aspx>.

If proposals are hand delivered or mailed, send directly to the Purchasing Division at the address listed above. If the Roanoke County Administration Building is closed for business at the time scheduled for the proposal opening, the sealed proposal will be accepted and opened on the next business day of the County, at the originally scheduled hour.

THIS PUBLIC BODY DOES NOT DISCRIMINATE AGAINST FAITH-BASED ORGANIZATIONS.

The County reserves the right to cancel this RFP and/or reject any or all proposals and to waive any informalities in any proposal.

This section is to be completed by the Offeror and this page must be returned with the proposal. In compliance with this request for proposal and subject to all terms and conditions imposed herein, which are hereby incorporated herein by reference, the undersigned offers and agrees to furnish the services and/or items requested in this solicitation if the undersigned is selected as the successful Offeror. Unless the proposal is withdrawn, the Offeror agrees that any prices or terms for such proposal shall remain valid for sixty (60) days after opening. Notices of proposal withdrawal must be submitted in writing to the Purchasing Division.

Legal Name and Address of Firm:

Date: _____

By: _____

(Signature in Ink)

_____ Zip: _____

Name: _____

(Please Print)

Phone: _____

Title: _____

FAX: _____

Email: _____

Business License# _____

Virginia State Corporation Commission Identification Number: _____

Project: 2020-110

RFP for Beverage Sales
Revised 8/2019

TABLE OF CONTENTS
REQUEST FOR PROPOSAL NO. 2021-110
Roanoke County Public Schools In-School Beverage Sales

Contents

INTRODUCTION.....	4
SECTION 1. PURPOSE.....	6
SECTION 2. BACKGROUND.....	6
SECTION 3. INSTRUCTIONS TO OFFERORS.....	6
SECTION 4. MISCELLANEOUS.....	9
SECTION 5. PROTESTS.....	11
SECTION 6. SERVICES AND/OR ITEMS REQUIRED.....	11
SECTION 7. EVALUATION CRITERIA.....	12
SECTION 8. SELECTION PROCESS.....	13
SECTION 9. COOPERATIVE PROCUREMENT.....	14
SECTION 10. INFORMATION ON CONTRACT TO BE AWARDED.....	15
SECTION 11. BUY AMERICAN PROVISION.....	15
ATTACHMENT A: SAMPLE CONTRACT.....	16
EXHIBIT 1: SAMPLE CONTRACTOR'S INSURANCE AND BOND REQUIREMENTS	30
EXHIBIT 2: SCOPE OF WORK/FEE SCHEDULE.....	35
ATTACHMENT B: PROPOSAL RESPONSE AND CHECKLIST	36
ATTACHMENT C: Direct Contact with Students Form.....	41
ATTACHMENT D: CERTIFICATION REGARDING LOBBYING	42
ATTACHMENT E: CERTIFICATION REGARDING DEBARMENT	44

COUNTY OF ROANOKE, VIRGINIA
REQUEST FOR PROPOSAL
FOR
ROANOKE COUNTY PUBLIC SCHOOLS IN-SCHOOL BEVERAGE SALES
RFP NUMBER 2021-110

INTRODUCTION

The County of Roanoke, Virginia, on behalf of Roanoke County Public Schools Nutrition Services Department, is seeking proposals and qualifications from Offerors to provide beverages for sales in school locations in accordance with all terms, conditions and specifications as set out in this Request for Proposal (RFP). The RFP and related documents may be obtained during normal business hours from the Purchasing Division, (540) 772-2061. This document may be viewed and/or downloaded from the County of Roanoke Purchasing Division's Current Bid Opportunities website at <https://www.roanokecountyva.gov/bids.aspx>. If you have any problems accessing the documents, you may contact Purchasing at (540) 772-2061 or KHoyt@roanokecountyva.gov.

Offerors must adhere to the included Buy American provision and debarment certification (see attachments).

Proposals, to be considered and evaluated, must be sealed and received on or before 2:00 p.m. on June 4, 2021 in the Purchasing Division, County of Roanoke, and 5204 Bernard Drive SW, Suite 300- F Roanoke VA 24018. Proposals appropriately received will be opened at this time. **Proposals received after 2:00 p.m. will not be accepted or considered.** The time of receipt shall be determined by the time clock stamp in the Purchasing Office, or if it is not working, such time shall be determined by the Purchasing official who is to open the proposals. Faxed or e-mailed proposals are not acceptable.

Each proposal, one (1) **original, marked as such** and **three (3) copies, marked as such**, must be appropriately signed by an authorized representative of the Offeror, and must be submitted in a sealed envelope or package. A removable media storage device containing two (2) digital copies of the proposal, one as submitted, and one **redacted to remove all confidential and proprietary material**, must be included in the proposal packet. The notation "**RCPS In-School Beverage Sales**", **RFP No. 2021-110** and the specified opening time and date must be clearly marked on the front of that sealed envelope or package. If the Roanoke County Administration Building is closed for business at the time scheduled for the proposal opening, the sealed proposal will be accepted and opened on the next business day of the County, at the originally scheduled hour.

The County of Roanoke, Virginia, and its officers, employees or agents will not be responsible for the opening of a proposal envelope or package prior to the scheduled opening if that envelope or package is not appropriately sealed and marked as specified.

The County of Roanoke, Virginia reserves the right to cancel this RFP and/or reject any or all proposals, to waive informalities in any proposal, to award any whole or part of a proposal, and to award to the Offeror whose proposal is, at the sole discretion of the County of Roanoke, determined to be in the best interest of the County.

Project evaluation and award will be accomplished in accordance with this RFP and Section **10.9** of the County of Roanoke Procurement Policy & Procedures Manual. If an award of a contract is made, notification of such award will be posted for public review on the County of Roanoke Purchasing Division's website under Current Bid Opportunities at <https://www.roanokecountyva.gov/bids.aspx> or you may contact Purchasing directly at (540) 772-2061 to request a copy of the award notification.

Unless the proposal is withdrawn, the Offeror agrees that any prices or terms for such proposal shall remain valid for sixty (60) days after opening. Notices of proposal withdrawal must be submitted in writing to the Purchasing Manager.

Inquiries regarding this RFP should be directed to Kate Hoyt, at (540) 283-8149 or via email at KHoyt@roanokecountyva.gov. Inquiries for information regarding procurement procedures and/or proposal submission shall be directed to the Purchasing Division.

This RFP consists of this Introduction, eleven (11) numbered sections, and the attachments hereto.

Each Offeror is solely responsible for ensuring that such Offeror has the current, complete version of the RFP documents, including any addenda, before submitting a proposal. The County is not responsible for any RFP obtained from any source other than the County. Contact Purchasing by phone at (540) 772-2061, or by email at KHoyt@roanokecountyva.gov.

Respectfully,

Kate Hoyt
Senior Buyer

Date: May 21, 2021

County of Roanoke, Virginia
Request for Proposal No. 2021-110
Roanoke County Public Schools In-School Beverage Sales

SECTION 1. PURPOSE.

The purpose of this Request for Proposal (RFP) is the procurement of a contract for delivery of beverages for sale in school locations, which must meet Smart Snack guidelines, consistent with the terms and conditions herein set forth. Final scope of services will be negotiated with the successful Offeror.

SECTION 2. BACKGROUND.

NOT USED

SECTION 3. INSTRUCTIONS TO OFFERORS.

- A. Proposals must be submitted in accordance with the instructions and requirements contained in this RFP, including the Introduction. Failure to do so may result in the proposal being considered non-responsive and it may be rejected. An Offeror must promptly notify the Purchasing Division of any ambiguity, inconsistency, or error which may be discovered upon examination of the RFP. An Offeror requiring clarification or interpretation of this RFP should contact Kate Hoyt at (540) 283-8149.
- B. Until such time that an award is published, direct contact with any County employee without the express permission of the Purchasing Manager or designated representative, on the subject of this proposal, is strictly forbidden. Violation of this Instruction may result in disqualification of Offeror's proposal.
- C. Prospective Offerors, sometimes referred to as providers, operators, contractors, consultants, or vendors, are to address the criteria below at a minimum as part of their submitted proposal. Each proposal should include a transmittal letter and management overview of the proposal. Proposals are to include and may be evaluated on the following factors, together with such other factors as will protect and preserve the interests of the County of Roanoke, which may also be considered.
 1. Organizational structure of firm and qualifications of management personnel.

Prospective Offerors should submit at a minimum the length of time in the business, corporate experience, strengths in the industry, business philosophy, and a description of the organizational structure of the firm; a description of the organizational structure for the management and operation

of the services requested and/or provision of the items referred to in this RFP, including an organizational chart denoting all positions and the number of personnel in each position. (See Attachment B)

2. Financial condition of the firm and ability to perform all obligations of any resultant contract.

The sufficiency of the financial resources and the ability of the Offeror to comply with the duties and responsibilities described in this RFP. Each Offeror shall provide a current annual financial report and the previous year's report and a statement regarding any recent or foreseeable mergers or acquisitions. Financial statements may be marked as "confidential" in accordance with the requirements set out in Section 4(A) of this RFP. (See Attachment B)

3. Each Offeror is to state whether or not any of Offeror's owners, officers, employees, or agents, or their immediate family members, is currently, or has been in the past year, an employee of the County of Roanoke or has any responsibility or authority with the County that might affect the procurement transaction or any claim resulting therefrom. If so, please state the complete name and address of each such person and their connection to the County of Roanoke. Each Offeror is advised that the Ethics in Public Contracting and Conflict of Interests Act of the Virginia Code, as set forth in Section 4 of this RFP, apply to this RFP. (See Attachment B)
4. Experience in providing the services and/or items requested by this RFP. (See Attachment B)
5. Price.

Prospective Offerors must submit the price such Offeror proposes to charge the County for providing the required services and/or items, including all fees and costs and how they are calculated, together with all benefits and/or revenue payments they propose to make to the County if appropriate. (See Attachment B)

6. The ability, capacity, and skill of the Offeror to provide the services and/or items described in this RFP and in a prompt and timely manner without delay or interference.
7. The character, integrity, reputation, judgment, experience, efficiency and effectiveness of the Offeror.
8. The quality and timeliness of performance of previous contracts or services of the nature described in this RFP.
9. Compliance by the Offeror with laws and ordinances regarding prior contracts, purchases, or services. (See Attachment B)

10. The conditions, if any, of the proposal. (See Attachment B)
11. Marketing and effectiveness of the firm.

Prospective Offerors should submit, at a minimum, a description of the marketing approach and promotions they intend to pursue to maximize revenues generated from the services or items requested in this RFP. Provide examples of any promotions or promotional materials. (See Attachment B)

12. Revenue Control.

Prospective Offerors will explain the method of controlling, securing and maximizing revenues at the locations described in this RFP.

- D. Each Offeror should provide the names, addresses, and telephone numbers of at least three (3) references in connection with supplying the services or items requested in this RFP, especially from other **local government** operations similar to those being requested in this RFP by the County. Each reference should include organizational name, official address, contact person, title of contact, and phone number. (See Attachment B)
- E. Also include any other materials you may want to submit as part of your proposal response.
- F. Responses to this RFP must be in the prescribed format (Attachment B – Proposal Response and Checklist).

Offeror shall provide one redacted copy of its proposal fit for public dissemination, in the event the County must respond to a Freedom of Information Act request. A removable media storage device containing two (2) digital copies of the proposal, one as submitted, and one **redacted to remove all confidential and proprietary material**, must be included in the proposal packet. Offeror shall not mark its entire proposal as confidential and/or redact the entire proposal; doing so may result in the disqualification of Offeror's proposal.

- G. The County may request additional information, clarification, or presentations from any of the Offerors after review of the proposals received.
- H. The County has the right to use any or all ideas presented in reply to this RFP, subject only to the limitations regarding proprietary/confidential data of Offeror.
- I. The County is not liable for any costs incurred by any Offeror in connection with this RFP or any response by any Offeror to this RFP. The expenses incurred by Offeror in the preparation, submission, and presentation of the proposal are the sole responsibility of the Offeror and may not be charged to the County.
- K. Only the County will make news releases pertaining to this RFP or the proposed award of a Contract.
- L. Each Offeror who is a stock or nonstock corporation, limited liability company, business trust, or a limited partnership or other business entity shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign

business entity if required by law. Each such Offeror shall include in its proposal response the Identification Number issued to it by the Virginia State Corporation Commission (SCC) and should list its business entity name as it is listed with the SCC. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a domestic or foreign business entity as required by law shall include in its proposal response a statement describing why the Offeror is not required to be so authorized. (See Va. Code Section 2.2-4311.2).

- M. Each Offeror is required to disclose if it has ever been debarred, fined, had a contract terminated, or found not to be a responsible bidder or Offeror by any federal, state, or local government, and/or private entity. If so, please give the details of each such matter and include this information with the proposal response.

SECTION 4. MISCELLANEOUS.

- A. Ownership of Material - Ownership of all data, materials, and documentation originated and prepared for the County pursuant to the RFP shall belong exclusively to the County and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by the Offeror shall not be subject to public disclosure under the *Freedom of Information Act*, unless otherwise required by law. **However, the Offeror must invoke the protection of Section 2.2-4342(F) of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must SPECIFICALLY identify the data or materials to be protected and state the reason why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information.** The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary, or trade secrets, is NOT ACCEPTABLE and may result in REJECTION of the proposal.
- B. As this is a RFP, no information regarding the proposal records or the contents of responses will be released except in accordance with Section 2.2-4342 of the Code of Virginia. Once an award has been made, all proposals will be open to public inspection subject to the provisions set forth above.

C. IMPORTANT NOTICE - ADDENDUMS AND NOTICES OF AWARD

Any interpretation, correction, or change of the RFP will be made by an addendum. The County Purchasing Division or its designee will issue Addenda that will be posted to the County website on the Current Bid Opportunities tab at <https://www.roanokecountyva.gov/bids.aspx>.

Interpretations, corrections or changes of this RFP made in any other manner will not be binding and Offerors must not rely upon such interpretations, corrections, or changes.

Vendors may visit <http://roanokecountyva.gov/list.aspx> to sign up via 'Notify Me' to receive emails or text message notices about bids, proposals, addendums, bid tabulation and awards. Vendors can sign up to receive notification in selected commodity/service categories. It is the vendor's responsibility to keep information current in the system in order to receive the notifications. The sign up only requires an email address and/or a cell phone number for receiving text messages (if your phone is capable) and your choice of categories. **However, each Offeror is solely responsible for ensuring that such Offeror has the current, complete version of the RFP documents, including any addenda, before submitting a proposal. The County is not responsible for any RFP obtained from any source other than the County.**

Although 'Notify Me' will be the only way to receive automatic notification, all BIDS/RFP Information will continue to be posted on our website, and can be picked up at the Purchasing Division, 5204 Bernard Drive, Suite 300F, Roanoke, VA 24018. Phone # (540) 772-2061.

The County is not responsible for any RFP obtained from any source other than the County. Contact Kate Hoyt by phone at 540-283-8149, or by email at KHoyt@roanokecountyva.gov.

- D. No Offeror shall confer on any public employee having official responsibility for a purchasing transaction any payment, loan, subscription, advance, deposit or money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.
- E. The County may make investigations to determine the ability of the Offeror to perform or supply the services and/or items as described in this RFP. The County reserves the right to reject any proposal if the Offeror fails to satisfy the County that it is qualified to carry out the obligations of the proposed contract.
- F. The successful Offeror must comply with the nondiscrimination provisions of Virginia Code Section 2.2-4311, which are incorporated herein by reference.
- G. The successful Offeror must comply with the drug-free workplace provisions of Virginia Code Section 2.2-4312, which are incorporated herein by reference.
- H. It is the policy of the County of Roanoke to maximize participation whenever possible by minority and women owned business enterprises in all aspects of County contracting opportunities.
- I. The successful Offeror shall comply with all applicable County, State, and Federal laws, codes, provisions, and regulations. The successful Offeror shall not during the

performance of any resultant contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

- J. Providers of any outside services shall be subject to the same conditions and requirements as the successful Offeror in regards to law, code, or regulation compliance. The County reserves the right of approval for any subcontract work, including costs thereof.
- K. Ethics in Public Contracting. The provisions, requirements, and prohibitions as contained in Sections 2.2-4367 through 2.2-4377, of the Virginia Code, pertaining to bidders, offerors, contractors, and subcontractors are applicable to this RFP.
- L. Conflict of Interests Act. The provisions, requirements, and prohibitions as contained in Sections 2.2-3100, et seq., of the Virginia Code are applicable to this RFP.
- M. The procurement provisions of the Virginia Public Procurement Act as well as the County Procurement Manual, apply to this RFP, unless specifically modified herein. The County's Procurement Manual can be reviewed on the County's electronic procurement website.
- N. Insurance Requirements:
Successful Offeror, and any of its subcontractors, shall, at its sole expense, obtain and maintain during the life of the resulting Contract the insurance policies and/or bonds required. Any required insurance policies and/or bonds shall be effective prior to the beginning of any work or other performance by successful Offeror, or any of its subcontractors, under any resultant Contract. The policies and coverages required are those as may be referred to in the sample contract and/or the terms and conditions attached to this RFP. All such insurance shall be primary and noncontributory to any insurance or self-insurance the County may have.

SECTION 5. PROTESTS.

Any Offeror who wishes to protest or object to any award made or other decisions pursuant to this RFP may do so only in accordance with the provisions of Sections 2.2-4357, 4358, 4359, 4360, 4363, and 4364 of the Code of Virginia, and only if such is provided for in such Code section. Any such protest or objection must be in writing signed by a representative of the entity making the protest or objection and contain the information required by the applicable Code Sections set forth above. Such writing must be delivered to the County Purchasing Manager within the required time period.

SECTION 6. SERVICES AND/OR ITEMS REQUIRED.

A description and/or listing of the services and/or items that the successful Offeror will be required to provide to the County under this RFP are those that are set forth
RFP#: 2021-110

Revised 4/2019

in this RFP, below, referred to in any way in the sample contract, in any terms and conditions, and/or in any attachments to this RFP.

Each Offeror should carefully read and review all such items and should address such items in its proposal. However, the final description of the services and/or items to be provided to the County under this RFP is subject to negotiations with the successful Offeror, and final approval by the County.

The following are the services and/or items that the successful Offeror will be required to provide to the County, and should be addressed in each Offeror's proposal.

Offeror shall provide delivery and refrigeration of beverages for sale in school locations, under the purview of the Nutrition Services a la carte program. All products provided must meet Smart Snack guidelines for sale in schools. Offeror should provide with their proposal response: product details, confirmation of adherence to Smart Snack guidelines, and unit pricing for all proposed items. Offeror shall also indicate minimum order amounts for delivery, if applicable.

The successful Offeror shall deliver to the following locations:

Cave Spring Middle School
Hidden Valley Middle School
Northside Middle
William Byrd Middle
Cave Spring High
Glenvar High
Hidden Valley High
Northside High
William Byrd High

Offeror must provide sufficient and appropriate refrigeration equipment for delivered beverages to each location. Branding on such equipment must reflect products that meet Smart Snack guidelines. Offerors should provide all relevant details of such equipment as a part of their proposal response.

Offeror shall provide clear details of any rebates, discounts, or similar programs offered.

Estimated volume is unknown at this time, due to recent suspension of sales due to Covid-19. Roanoke County Public Schools intends to resume daily sales of a la carte items during the 2021-2022 school year.

SECTION 7. EVALUATION CRITERIA.

Offerors will be evaluated for selection on the basis of those most qualified to meet the requirements of this RFP. The County of Roanoke does not use a numerical or weighted

scoring system when evaluating selection criteria. Major criteria to be considered in the evaluation may include, but shall not necessarily be limited to, the items referred to above and those set forth below:

- A. The background, education and experience of the Offeror in providing similar services or items elsewhere, including the level of experience in working with municipalities and the quality of services performed or items supplied.
- B. Reasonableness/competitiveness of proposed fee and/or benefits to the County, although the County is not bound to select the Offeror who proposes the lowest fees or most benefits for services. The County reserves the right to negotiate fees and/or benefits to the County with the selected Offeror(s).
- C. The Offeror's responsiveness and compliance with the RFP requirements and conditions.
- D. Determination that the selected Offeror has no contractual relationships which would result in a conflict of interest with the County's contract.
- E. The Offeror's ability, capacity and skill to fully and satisfactorily provide the services and/or items required in this RFP.
- F. The quality of Offeror's performance in comparable and/or similar projects.
- G. Whether the Offeror can provide the services and/or deliver the items in a prompt and timely fashion.
- H. Offeror's willingness to accept the County's sample contract (Attachment A).

SECTION 8. SELECTION PROCESS.

- A. Pursuant to Section 2.2-4302.2 (A)(4) of the Code of Virginia, selection of the Offeror will be as follows:
 1. The County's designee, shall engage in individual discussions with two or more Offerors, if there be that many deemed fully qualified, responsible and suitable on the basis of initial responses with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed projects as well as alternative concepts. These discussions may encompass nonbinding estimates of total project costs including, where appropriate, design, construction, life cycle cost, nonbinding estimates of price for services, and other matters. Methods to be utilized in arriving at a price for services may also be discussed. Properly designated proprietary

information from competing Offerors shall not be disclosed to the public or competitors, except as may be required by law.

2. At the conclusion of discussions, outlined in the paragraph above, on the basis of evaluation factors published in the RFP and all information developed in the selection process to this point, the two (2) or more Offerors whose professional qualifications and proposed services are deemed most meritorious shall be ranked in order of preference.
3. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the County determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror.

B. All proposals submitted in response to this RFP will be reviewed by the Purchasing Division or its designee for responsiveness prior to referral to a selection committee or person. A committee consisting of County personnel and/or others and/or an appropriate individual will then evaluate all responsive proposals, conduct the negotiations, and make recommendations to the County as appropriate. The award of a contract, if made, will be made to the Offeror whose proposal best furthers the interest of the County. The County reserves the right to reject any and all proposals, to waive any informality or irregularity in the proposals received, and to make the award to the Offeror whose proposal is deemed to be in the best interest of the County.

C. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the selection committee or person. This provides an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. Oral presentations are strictly at the option of the County and may or may not be conducted.

D. The County reserves the right to make multiple awards as a result of this solicitation.

SECTION 9. COOPERATIVE PROCUREMENT.

The procurement of goods and/or services provided for in this Contract is being conducted pursuant to Virginia Code Section 2.2-4304 and on behalf of other public bodies in Virginia. Unless specifically prohibited by the Awarded Offeror, any resultant

contract may be used by other public bodies in Virginia as allowed by Section 2.2-4304. The Awarded Offeror shall deal directly with each public agency or body seeking to obtain any goods and/or services pursuant to this Contract or from this procurement and in accordance with Virginia Code Section 2.2-4304. The County of Roanoke shall not be responsible or liable for any costs, expenses, or any other matters of any type to either the Contractor or the public agency or body seeking to obtain any goods and/or services pursuant to this cooperative procurement provision.

SECTION 10. INFORMATION ON CONTRACT TO BE AWARDED.

The Sample Contract marked as Attachment A to RFP # 2021-110 contains terms and conditions that the County will include in any contract that may be awarded, but such terms and conditions may be changed, added to, deleted, or modified as may be agreed to between the County and the Offeror during negotiations. However, if an Offeror has any objections to any of the terms or conditions set forth in the Sample Contract or any changes or additions thereto that the Offeror wants to discuss during negotiations, the Offeror should set forth such objections, changes, or additions in such Offeror's proposal submitted in response to this RFP. Otherwise, submission of a proposal by an Offeror will obligate such Offeror, if it is the successful Offeror, to enter into a contract containing the same or substantially similar terms and conditions as contained in such Sample Contract. Other terms and conditions, if necessary, will be negotiated with the successful Offeror.

SECTION 11. BUY AMERICAN PROVISION

Roanoke County Public Schools participate in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A 'domestic commodity or product' is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d).

END



ATTACHMENT A: SAMPLE CONTRACT

COUNTY OF ROANOKE, VIRGINIA SAMPLE CONTRACT BETWEEN COUNTY OF ROANOKE AND FOR ROANOKE COUNTY PUBLIC SCHOOLS IN-SCHOOL BEVERAGE SALES

This Contract # 2021-110 is dated _____, between the County of Roanoke, Virginia, hereinafter referred to as the "County" or "Owner", and legal name/address of contractor, hereinafter referred to as the "Contractor." Choose an item. .

WITNESSETH:

WHEREAS, Contractor has been awarded this nonexclusive Contract by the County for furnishing all equipment, materials, goods, labor, and services necessary for delivery and sale of beverages at in-school locations under the purview of the Nutrition Services a la carte program, and associated work in accordance with this Contract and the documents referred to herein, all such items or services also being referred to hereinafter as the Work or Project.

NOW, THEREFORE, THE COUNTY AND THE CONTRACTOR AGREE AS FOLLOWS:

SECTION 1. WORK/ SERVICES TO BE PROVIDED AND DOCUMENTS.

For and in consideration of the money hereinafter specified to be paid by the County to the Contractor for the Work provided for in this Contract to be performed by the Contractor, the Contractor hereby covenants and agrees with the County to fully perform the services, provide any materials called for to construct, and complete the Work called for by this Contract in a good and workmanlike manner in accordance with this Contract and the documents referred to herein in order to fully and properly complete this Contract within the time stipulated, time being made of the essence for this Contract. It is also agreed by the parties hereto that the documents to this Contract consist of this Contract and the following documents listed below (Contract Documents), all of which are and constitute a part of this Contract as if attached hereto or set out in full herein, viz:

1. Insurance Requirements (Exhibit 1).
2. Scope of Work/Fee Schedule (Exhibit 2).
3. Proposal response submitted by Contractor and dated _____ (Exhibit 3). **(To be provided after selection of Successful Offeror.)**
4. List of Locations (Exhibit 4).
5. Request for Proposal No. 2021-110, which is incorporated herein by reference.

The parties agree that if there are any differences between the provisions of the above referenced documents, the provisions of the County documents and this Contract will control over any Contractor supplied documents or information.

SECTION 2. CONTRACT AMOUNT.

The County agrees to pay the Contractor for the Contractor's complete and satisfactory performance of the Work/ Service, in the manner and at the time set out in this Contract, as provided for in this Contract and that this Contract amount may be increased or decreased by additions and/or reductions in the Work as may be authorized and approved by the County, and the Contract amount may be decreased by the County's assessment of any damages against the Contractor, as may be provided for in this Contractor or by law, and the County retains the right of setoff as to any amounts of money the Contractor may owe the County. However, Contractor further acknowledges and agrees that any request for Contractor to perform Work under this Contract is in the sole discretion of the County and that there is no guarantee of any minimum amount of Work that may be requested by the County and that no Work may be requested.

SECTION 3. TERM OF CONTRACT.

- A. The term of this Contract shall be for one (1) year, from _____, through _____, at which time it will terminate, unless sooner terminated pursuant to the terms of the Contract or by law or unless extended as set forth herein at the option of the County.
- B. By mutual agreement of the parties, the contract may be renewed for up to four (4) additional one (1) year periods of any combination thereof. If either party wants to renew the Contract that party shall give a written request to renew to the other party before the expiration of the original term or any renewal term of the Contract. The party receiving such request shall either accept or reject in writing such request within ten (10) days of receipt of that request, provided, however, if the party receiving the request to renew fails to respond within ten (10) days, the request to renew shall be deemed to be rejected, unless the parties mutually agree otherwise.
- C. All terms and conditions shall remain in force for the term of this Contract and for any renewal period unless modified by mutual agreement of both parties. Prices shall not be increased during the initial term of this Contract.

SECTION 4. TIME OF PERFORMANCE.

The Contractor shall commence the Work to be performed under this Contract on such date as is established and fixed for such commencement by written notice (which may be initially given verbally in an emergency situation) to proceed given by the County representative to the Contractor, and the Contractor covenants and agrees to fully construct, perform, and complete the Work and/or provide the goods called for by this Contract established by such notice. The Contractor further agrees that the Work shall be started promptly upon receipt

of such notice and shall be prosecuted regularly, diligently, and uninterrupted at a rate of progress that will ensure full completion thereof in the shortest length of time consistent with the Contract Documents and that Contractor will cooperate and coordinate with the other County contractors or employees doing other work or using the area where Contractor is working.

SECTION 5. PAYMENT.

- A. The County and Contractor agree that the County/Schools will only pay the Contractor for time actually spent and materials actually provided on the Project requested and accepted by the County/Schools. Invoices for services rendered and accepted shall be submitted by Contractor directly to the payment address of the requesting County/Schools department/division. Payment of such invoices shall be the responsibility of the department/division.
- B. The County/School agrees to pay Contractor for the Contractor's complete and satisfactory performance of the Work, in the manner and at the time set out in this Contract. The County retains the right to setoff as to any amounts of money Contractor may owe the County. A written progress report may be requested by the County to accompany payment request and, if so, such progress report shall detail the work completed. Also, sufficient documentation of all costs, expenses, materials supplies, and/or hours worked may be requested by the County and, if so, may be required prior to the processing of any such request for payment. Payment will only be made for work actually performed, services actually supplied, and/or materials or goods furnished to the County, all of which need to be approved and accepted by the County prior to such payment, unless otherwise provided for in the Contract documents. Once a payment request has been received by the County, the County will process such payment request. If there are any objections or problems with the payment request, the County will notify the Contractor of such matters. If the payment request is approved and accepted by the County, payment will be made by the County to the Contractor not more than 30 days after such request has been approved.
- C. The services the Contractor may be requested to provide the County are those items set forth in Exhibit 2 (Scope of Work) and/or Exhibit 3 (Contractor Proposal), which list of services may be amended by the mutual agreement of the parties. The prices to be paid to the Contractor for such services provided to and accepted by the County under the provisions of this Contract shall be the current price(s) as set forth in Exhibit 3 (Contractor Proposal). Unless otherwise stated in this Contract, the price(s) shall include all applicable charges such as pick up, delivery, printing, packaging, shipping, and other charges.

SECTION 6. SALES TAX EXEMPTION.

The County is exempt from payment of State Sales and Use Tax on all tangible personal property purchased or leased for the County's use or consumption. The Virginia Sales and

Use Tax Certificate of Exemption number is 217-074292-9. The County's tax-exempt status shall not inure to the benefit of Vendor. Vendor shall be liable for all applicable local, state and federal taxes that may arise or be due under this Agreement.

SECTION 7. FREE ON BOARD, RISK OF LOSS, AND TITLE.

All prices include F.O.B Destination, inside delivery, unless otherwise noted in this Contract. The risk of loss from any casualty, regardless of cause, shall be on the Contractor until the items have been delivered to County personnel making the request and accepted by the County. The risk of loss shall also be on the Contractor during the return of any items to the Contractor. Title to the items shall pass to the County upon receipt and acceptance of such items by the County.

SECTION 8. INSPECTION.

The County shall have a reasonable time after receipt of items / services provided and before payment to inspect all items for conformity to this Contract. If all or some of the items delivered to the County do not fully conform to the provisions hereof, the County shall have the right to reject and return such nonconforming items, at the sole cost of the Contractor.

SECTION 9. WARRANTY OF MATERIAL AND WORKMANSHIP.

Contractor agrees that all items provided to the County will be new, or if an item is refurbished or remanufactured, such item will meet the industry standards for such item and the item shall be clearly labeled as refurbished or remanufactured, and that all such items include such warranties as may be provided by Virginia law together with any warranties provided by the manufacturer of the item. Contractor shall use reasonable commercial efforts to assist the County in processing warranty claims against a manufacturer. Contractor also agrees that the services provided under this Contract shall be completed in a professional, good and workmanlike manner, with the degree of skill and care that is required by like contractors in Virginia. Further, Contractor warrants that such services shall be completed in accordance with the applicable requirements of this Contract and shall be correct and appropriate for the purposes contemplated in this Contract. Contractor agrees that Contractor shall repair or replace, at Contractor's sole expense, and to the satisfaction of the County, any items, material, equipment, or part of the item that is found by the County to be defective or not in accordance with the terms of this Contract.

SECTION 10. PAYMENTS TO OTHERS BY CONTRACTOR.

The Contractor agrees that Contractor will comply with the requirements of Section 2.2-4354 of the Virginia Code regarding Contractor's payment to other entities and the Contractor will take one of the two actions permitted therein within 7 days after receipt of amounts paid to Contractor by the County. Contractor further agrees that the Contractor shall indemnify and hold the County harmless for any lawful claims resulting from the failure of the Contractor to make prompt payments to all persons supplying the Contractor equipment, labor, tools, or material in connection with the work provided for in the Contract.

In the event of such claims, the County may, in the County's sole discretion, after providing written notice to the Contractor, withhold from any payment request or final payment the unpaid sum of money deemed sufficient to pay all appropriate claims and associated costs in connection with the Contract and make such payment, if the County determines it to be appropriate to do so.

SECTION 11. HOLD HARMLESS AND INDEMNITY.

Contractor shall indemnify and hold harmless the County and its officers, agents, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Contractor's or its employees, agents, or subcontractors actions, activities, or omissions, negligent or otherwise, on or near County's property or arising in any way out of or resulting from any of the work or items to be provided under this Contract, and this includes, without limitation, any fines or penalties, violations of federal, state, or local laws or regulations, personal injury, wrongful death, or property damage claims or suits. Contractor agrees to and shall protect, indemnify, and hold harmless all the parties referred to above from any and all demands for fees, claims, suits, actions, causes of action, settlement or judgments based on the alleged or actual infringement or violation of any copyright, trademark, patent, invention, article, arrangement, or other apparatus that may be used in the performance of this Contract.

SECTION 12. COMPLIANCE WITH LAWS AND REGULATIONS, AND IMMIGRATION LAW.

Contractor agrees to and will comply with all applicable federal, state, and local laws, ordinances, and regulations, including, but not limited to all applicable licensing requirements, environmental regulations, and OSHA regulations. Contractor further agrees that Contractor does not and shall not during the performance of its Contract; knowingly employ an unauthorized alien as defined in the Federal Immigration Reform & Control Act of 1986.

SECTION 13. INDEPENDENT CONTRACTOR.

The relationship between Contractor and the County is a contractual relationship. It is not intended in any way to create a legal agency or employment relationship. Contractor shall, at all times, maintain its status as an independent contractor and both parties acknowledge that neither is an agent, partner or employee of the other for any purpose. Contractor shall be responsible for causing all required insurance, workers' compensation (regardless of number of employees) and unemployment insurance to be provided for all of its employees and subcontractors. Contractor will be responsible for all actions of any of its subcontractors, and that they are properly licensed.

SECTION 14. REPORTS, RECORDS, AND AUDIT.

Contractor agrees to maintain all books, records, electronic data, and other documents relating to this Contract for a period of five (5) years after the end of each fiscal year covered by this Contract. The County, its authorized employees, agents, representatives, and/or state auditors shall have full access to and the right to request, examine, copy, and/or audit any such materials during the term of the Contract and such retention period, upon prior written notice to Contractor. This includes the County's right to audit and/or examine any of the Contractor's documents and/or data as the County deems appropriate to protect the County's interests.

SECTION 15. INSURANCE REQUIREMENTS.

Contractor and any of its subcontractors involved in this Contract shall maintain the insurance coverage's set forth in Exhibit 1 to this Contract and provide the proof of such insurance coverage as called for in Exhibit 1, including workers' compensation coverage regardless of the number of Contractor's employees. Such insurance coverage shall be obtained at the Contractor's sole expense and maintained during the life of the Contract and shall be effective prior to the beginning of any work or other performance by the Contractor under this Contract. Additional insured endorsements, if required, must be received by the County within 30 days of the execution of this Contract or as otherwise required by the County's Risk Manager.

SECTION 16. DEFAULT.

If Contractor fails or refuses to perform any of the terms of this Contract, including poor services, work or materials, the County may, by written notice to Contractor, terminate this Contract in whole or in part. In addition to any right to terminate, the County may enforce any remedy available at law or in equity in connection with such default, and Contractor shall be liable for any damages to the County resulting from Contractor's default. The County further reserves the right to immediately obtain such work or services from other entities in the event of Contractor's default.

SECTION 17. NONWAIVER.

Contractor agrees that the County's waiver or failure to enforce or require performance of any term or condition of this Contract or the County's waiver of any particular breach of this Contract by the Contractor extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by the Contractor and does not bar the County from requiring the Contractor to comply with all the terms and conditions of the Contract and does not bar the County from asserting any and all rights and/or remedies it has or might have against the Contractor under this Contract or by law.

SECTION 18. FORUM SELECTION AND CHOICE OF LAW.

This Contract shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without application of Virginia's conflict of law provisions. Venue for any litigation, suits, and claims arising from or connected with this Contract shall only be proper in the Roanoke County Circuit Court, or in the Roanoke County General District Court if the amount in controversy is within the jurisdictional limit of such court, and all parties to this Contract voluntarily submit themselves to the jurisdiction and venue of such courts, regardless of the actual location of such parties. The provisions of this Contract shall not be construed in favor of or against either party, but shall be construed according to their fair and customary meaning as if both parties jointly prepared this Contract.

SECTION 19. SEVERABILITY.

If any provision of this Contract, or the application of any provision hereof to a particular entity or circumstance, shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Contract shall not be affected and all other terms and conditions of this Contract shall be valid and enforceable to the fullest extent permitted by law.

SECTION 20. NONDISCRIMINATION.

- A. During the performance of this Contract, Contractor agrees as follows:
 - i. Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state or federal law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - ii. Contractor in all solicitations or advertisements for employees placed by or on behalf of Contractor will state that Contractor is an equal opportunity employer.
 - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- B. Contractor will include the provisions of the foregoing Section A (i, ii, and iii) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

SECTION 21. DRUG-FREE WORKPLACE.

- A. During the performance of this Contract, Contractor agrees to (i) provide a drug-free workplace for Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- B. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

SECTION 22. FAITH BASED ORGANIZATIONS.

Pursuant to Virginia Code Section 2.2-4343.1, be advised that the County does not discriminate against faith-based organizations.

SECTION 23. DATA ON CONVICTIONS FOR CERTAIN CRIMES

The Vendor certifies that none of the persons who will provide services requiring direct contact with students on school property during school hours or during school-sponsored activities has been convicted of any of the following felony or misdemeanor offenses: felony sex or violence offenses, other felony offenses or misdemeanor sex offenses within the past ten years. Upon request by the Schools, Vendor shall provide specific documentation to verify that it has conducted requisite criminal conviction checks on its employees, agents, sub-contractors, and assigns. Schools reserve the right to remove or deny entrance to any employee, agent, sub-contractor, or assign of Vendor when School determines, in its sole discretion, that such person poses a risk to health or safety of others on School property.

The Consultant further understands and acknowledges (1) that if he makes a materially false statement regarding any of the above offenses, he will be guilty of a Class 1 misdemeanor and may forfeit profits derived from the contract. Further, the Consultant understands and acknowledges that before any person is permitted to provide such services subsequent to this certification, he must complete a new certification regarding such person in a form satisfactory to Roanoke County and the Roanoke County School Board. Data and Convictions information will be requested before the County of Roanoke/Schools enters into a contract / when required.

SECTION 24. ASSIGNMENT.

Contractor may not assign or transfer this Contract in whole or in part except with the prior written consent of the County, which consent shall not be unreasonably withheld. If consent to assign is given, no such assignment shall in any way release or relieve the Contractor from any of the covenants or undertakings contained in this Contract and the Contractor shall remain liable for the Contract during the entire term thereof.

SECTION 25. CONTRACTUAL DISPUTES.

Contractual claims, whether for money or for other relief, including any disputes as to change orders or extra work, shall be submitted, in writing, no later than sixty (60) calendar days after final payment or payment designated as a final payment; however, written notice of the Contractor's intention to file such claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such notice is a condition precedent to the assertion of any such claim by the Contractor. A written decision upon any such claims will be made by the Board of Supervisors or its designee (hereafter "BOS"). The Contractor may not institute legal action prior to receipt of the County's decision on the claim unless the BOS fails to render such decision within ninety (90) calendar days from submittal of its claim. The decision of the BOS shall be final and conclusive unless the Contractor within six (6) months of the date of the final decision on a claim or from expiration of the 90 day time limit, whichever occurs first, initiates legal action as provided in Section 2.2-4364 of the Code of Virginia. Failure of the County to render a decision within said ninety (90) calendar days shall not result in the Contractor being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of the County's failure to render a decision within said ninety (90) calendar days shall be Contractor's right to immediately institute legal action. No administrative appeals procedure pursuant to Section 2.2-4365 of the Code of Virginia has been established for contractual claims under this Contract.

SECTION 26. SUCCESSORS AND ASSIGNS.

The terms, conditions, provisions, and undertakings of this Contract shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

SECTION 27. HEADINGS.

The captions and headings in this Contract are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of this Contract.

SECTION 28. COUNTERPART COPIES.

This Contract may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

SECTION 29. AUTHORITY TO SIGN.

The persons who have executed this Contract represent and warrant that they are duly authorized to execute this Contract on behalf of the party for whom they are signing.

SECTION 30. NOTICES.

All notices must be given in writing and shall be validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, with a receipt, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To RCPS: Roanoke County Public Schools
Nutrition Services
5937 Cove Road
Roanoke, Virginia 24019
Email: @rcps.us

Copy to: County of Roanoke
Purchasing Division
Attn: Kate Hoyt
5204 Bernard Drive, SW, Suite 300-F
Roanoke, Virginia 24018-2020
Email: KHoyt@ronaokecountyva.gov

If to Contractor:
Attn: _____, President/CEO

Email Address: _____
Phone: _____

Notices shall be deemed to be effective one day after sending if sent by overnight courier or three (3) days after sending it by certified mail, return receipt requested.

SECTION 31. PROTECTING PERSONS AND PROPERTY.

The Contractor expressly undertakes both directly and through its subcontractors, to take every reasonable precaution at all times for the protection of all persons and property at the location of the Work or in the vicinity of the Work or that may be affected by the Contractor's operation in connection with the Work. The Contractor will maintain adequate protection of all Contractor's Work to prevent damage to it and shall protect the County's property from any injury or loss arising in connection with this Contract and to protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. Contractor agrees to be responsible for the entire Work and will be liable for all damages to the Work, including,

but not limited to, damages to any property of the County or to any property in the vicinity or adjacent to the Work. All damage with respect to the Work caused by vandalism, weather, or any other cause, other than resulting from the sole negligence of the County shall be the responsibility of the Contractor. Contractor shall also be responsible for any inventory shortages and discrepancies of any type.

SECTION 32. CONTRACT SUBJECT TO FUNDING.

This Contract is subject to funding and/or appropriations from federal, state, and/or local governments and/or agencies. If any such funding is not provided, withdrawn, or otherwise not made available for this Contract, the Contractor agrees that the County may terminate this Contract on seven (7) days written notice to Contractor, without any penalty or damages being incurred by the County. Contractor further agrees to comply with any applicable requirements of any grants and/or agreements providing such funding.

SECTION 33. SUSPENSION OR TERMINATION OF CONTRACT BY COUNTY.

The County, at any time, may order Contractor to immediately stop work on this Contract, and/or by seven days (7) written notice may terminate this Contract, with or without cause, in whole or in part, at any time. Upon receipt of such notice, the Contractor shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the County all data (including electronic data), drawings, specifications, reports, project deliverables, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this Contract whether completed or in process (unless otherwise directed by the notice).

1. If the termination or stop work order is due to the failure of the Contractor to fulfill any of its Contract obligations, the County may take over the Work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the County for any damages allowed by law, and upon demand of County shall promptly pay the same to County.
2. Should the Contract be terminated or work is stopped not due in any way to the fault of the Contractor, the Contractor shall only be entitled to compensation for services actually performed and materials actually supplied prior to notice of termination or to stop work and which are approved by the County and any applicable federal or state approving agency. No profit, overhead, or any other costs of any type are allowed after the date of such notice of termination or stop work order.
3. The rights and remedies of the County provided in this Section are in addition to any other rights and remedies provided by law or under this Contract and County may pursue any and all such rights and remedies against Contractor as it deems appropriate.

SECTION 34. ETHICS IN PUBLIC CONTRACTING.

The provisions, requirements, and prohibitions as contained in Sections 2.2–4367 through 2.2-4377, of the Va. Code, pertaining to bidders, offerors, contractors, and subcontractors are applicable to this Contract.

SECTION 35. COMPLIANCE WITH STATE LAW; FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.

Contractor shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. The County may void the Contract if the Contractor fails to remain in compliance with the provisions of this section.

SECTION 36. OWNERSHIP OF REPORTS AND DOCUMENTS.

Contractor agrees that all reports and any other documents (including electronic data) prepared for, obtained in connection with, and/or required to be produced in connection with this Contract shall be delivered by the Contractor to the County and all such items shall become the sole property of the County. The Contractor agrees that the County shall own all rights of any type in and to all such items, including but not limited to copyrights and trademarks, and the County may reproduce, copy, and use all such items as the County deems appropriate, without any restriction or limitation on their use and without any cost or charges to the County from Contractor. Contractor hereby transfers and assigns all such rights and items to the County. Contractor further agrees Contractor will take any action and execute any documents necessary to accomplish the provisions of this Section. The Contractor also warrants that Contractor has good title to all materials, equipment, documents, and supplies which it uses in the Work or for which it accepts payment in whole or in part.

SECTION 37. BUY AMERICAN PROVISION

Roanoke County Public Schools participate in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practicable, to buy domestic commodities or products for Program meals. A 'domestic commodity or product' is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d).

SECTION 38. ENTIRE CONTRACT.

This Contract, including any attachments, exhibits, and referenced documents, constitutes the complete understanding between the parties. This Contract may be modified only by written agreement properly executed by the parties.

SIGNATURE PAGE TO FOLLOW.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, the parties hereto have signed this Contract by their authorized representatives.

(Full Legal Name of Vendor)

By _____

Printed Name and Title

COUNTY OF ROANOKE, VIRGINIA

By _____

Printed Name and Title

Approved as to execution:

County Attorney/Assistant County Attorney

CONTRACT 2021-110
BETWEEN COUNTY OF ROANOKE AND [VENDOR NAME]
FOR ROANOKE COUNTY PUBLIC SCHOOLS IN-SCHOOL BEVERAGE SALES

EXHIBIT 1: SAMPLE CONTRACTOR'S INSURANCE AND BOND REQUIREMENTS

REFERENCE: RFP # 2021-110

INSURANCE REQUIREMENTS SECTION

The Contractor shall comply with the insurance requirements set forth in the Contract, including the items set forth below:

- A. Neither the Contractor nor any subcontractor shall commence work under this Contract until the Contractor has obtained and provided proof of the required insurance coverages to the County, and such proof has been approved by the County. The Contractor confirms to the County that all subcontractors have provided Contractor with proof of such insurance, or will do so prior to commencing any work under this Contract.
- B. Contractor, including all subcontractors, shall, at its and/or their sole expense, obtain and maintain during the life of this Contract the insurance policies and/or coverages required by this section. The County and its officers, employees, agents, assigns, and volunteers shall be added as an additional insureds, by endorsement, to the general liability and automobile coverages of any such policies and such insurance coverages shall be primary and noncontributory to any insurance and/or self-insurance such additional insureds may have. The Contractor shall immediately notify in writing the County of any changes, modifications, and/or termination of any insurance coverages and/or policies required by this Contract. The Contractor shall provide to the County with the signed Contract an Acord certificate of insurance which states in the description of operations section one of the two paragraphs below:
 - (1) The County and its officers, employees, agents, assigns, and volunteers are additional insureds by endorsement as coverage under this policy includes ISO endorsement CG 20 33 which provides that the insured status of such entities is automatic if required by a contract or a written agreement. (If additional insured status is automatic under a different coverage form, Contractor must attach a copy of the coverage form to its certificate. Any required insurance policies shall be effective prior to the beginning of any work or other performance by Contractor and any subcontractors under this Contract).

OR

(2) ISO endorsement CG 20 10 will be issued, prior to the beginning of any work or other performance by Contractor under this Contract, to the County and its officers, employees, agents, assigns, and volunteers naming them as an additional insured under the general liability coverage. (A copy of the binder confirming the issuance must be attached to the certificate. Any required insurance policies shall be effective prior to the beginning of any work or other performance by Contractor and any subcontractors under this Contract).

However, if B (1) or (2) cannot be provided, the County's Risk Manager, in such Manager's sole discretion, may approve such other certificate of insurance or insurance document(s) that the Risk Manager deems acceptable. The County of Roanoke shall also be named as the Certificate Holder.

C. **The following insurance coverages and limits are required in order to provide services or materials to Roanoke County general government agencies and the Roanoke County Public Schools. These limits may be adjusted depending on the type of service or materials being provided and the exposure to risk.**

The Successful Offeror shall carry Liability Insurance in the amount specified below, including contractual liability assumed by the Successful Offeror, and shall deliver a Certificate of Insurance from carriers acceptable to the owner specifying such limits. The Certificate shall show the County of Roanoke and Roanoke County Public Schools, their supervisory boards and members thereof, officers, agents, employees and volunteers as additional insureds, by endorsement, on the Commercial General Liability, Automobile Liability and Excess/Umbrella Liability coverage. The additional insured status shall be endorsed to the coverage with the provision that this coverage "is primary to all other coverage the County of Roanoke and/or Roanoke County Public Schools may possess." A Certificate of Insurance evidencing the additional insured status must be presented to the County of Roanoke and/or Roanoke County Public Schools along with a copy of the Endorsement prior to work or services beginning.

The coverage shall be provided by a carrier(s) rated "Excellent" by A.M. Best. In addition, the insurer shall agree to give the County 30 days' notice of its decision to cancel coverage.

(1) Workers' Compensation

Statutory Virginia Limits

Employers' Liability Insurance

- \$100,000 for each Accident by employee
- \$100,000 for each Disease by employee
- \$500,000 policy limit by Disease

(2) Commercial General Liability - Combined Single Limit

- \$1,000,000 each occurrence including contractual liability for specified agreement

- \$2,000,000 General Aggregate (other than Products/Completed Operations)
- \$2,000,000 General Liability-Products/Completed Operations
- \$1,000,000 Personal and Advertising injury
- \$ 100,000 Fire Damage Legal Liability

Coverage must include Broad Form property damage and (XCU) Explosion, Collapse and Underground Coverage

(3) **Business Automobile Liability** – including owned, non-owned and hired car coverage

- Combined Single Limit - \$1,000,000 each accident

Compliance by the Contractor with the foregoing requirements as to carrying insurance shall not relieve the Contractor of their liabilities provisions of the Contract

D. Contractual Liability covers the following indemnity agreement: "The Successful Offeror agrees to indemnify, defend and hold harmless the County of Roanoke and Roanoke County Public Schools, their supervisory boards and members thereof, officers, agents, employees and volunteers from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, arising from or caused by the provision of any services, the failure to provide any services or the use of any services or materials furnished (or made available) by the Successful Offeror, provided that such liability is not attributable to the County or School Division's sole negligence."

E. The continued maintenance of the insurance policies and coverages required by the Agreement is a continuing obligation, and the lapse and/or termination of any such policies or coverages without approved replacement policies and/or coverages being obtained shall be grounds for termination of the Consultant/Contractor for default.

F. Nothing contained in the insurance requirements is to be construed as limiting the liability of the Consultant/Contractor, and/or its subcontractors, or their insurance carriers. The County does not in any way represent that the coverages or the limits of insurance specified are sufficient or adequate to protect the Consultant/Contractor's interest or liabilities, but are merely minimums. The obligation of the Consultant/Contractor, and its subcontractors, to purchase insurance shall not in any way limit the obligations of the Consultant/Contractor in the event that the County or any of those named above should suffer any injury or loss in excess of the amount actually recoverable through insurance.

G. The classification code numbers appearing on the Commercial General Liability coverage parts shall not exclude the symbols "X-C-U".

- H. The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Business Automobile Liability and Commercial General Liability, the total amount of coverage can be accomplished through any combination of primary and excess/umbrella insurance. However, the total insurance protection provided for Commercial General Liability or for Business Automobile Liability, either individually or in combination with the Excess/Umbrella Liability, must total \$1,000,000 per occurrence. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded the County of Roanoke and Roanoke County Public Schools. This policy shall be endorsed to be primary with respect to the additional insured.
- I. The certificate holders on the Accord form Certificates of Insurance shall be:

Roanoke County School Board
5937 Cove Road,
Roanoke, VA 24019
Attn: Purchasing Dept.

- J. **Claims Made Policies**

If the liability insurance has been issued on a "claims made" basis, the Successful Offeror must either:

- (1) Agree to provide certificates of insurance evidencing the above coverage for a period of three (3) years after final payment under the Agreement for General Liability policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Offeror's work; or
- (2) Purchase the extended reporting period endorsement for the policies and provide certificates of insurance and a copy of the endorsement.

BOND REQUIREMENTS SECTION

The Contractor shall comply with the bond requirements set forth in the Contract, including the items set forth below:

- A. Except in cases of emergency, all bids for construction contracts shall be accompanied by a bid bond from a surety company selected by the bidder, which is legally authorized to do business in Virginia.
 - (1) A bid, payment or performance bond for contracts for goods or services other than construction may be required if provided in the Invitation for Bid.

- (2) The amount of the bid bond shall not exceed five percent (5%) of the total amount of the bid.
- (3) In lieu of a bid bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.
- (4) Upon award of any public construction contract exceeding \$100,000 awarded to any prime contractor, such contractor shall furnish:
 - i. Performance bond in the sum of the contract amount.
 - ii. Payment bond in the sum of the contract amount.
- (5) Performance and/or payment bonds may be required for construction contracts below \$100,000 at the discretion of the County.
- (6) In cases of emergency performance bonds/payment bonds are required within ten (10) calendar days of notice to proceed/project commencement.

END

**CONTRACT 2021-110
BETWEEN COUNTY OF ROANOKE AND VENDOR NAME
FOR ROANOKE COUNTY PUBLIC SCHOOLS IN-SCHOOL BEVERAGE SALES**

EXHIBIT 2: SCOPE OF WORK/FEE SCHEDULE

REFERENCE: RFP# 2021-110

The services, work, and/or items that the Contractor shall provide in a timely and proper manner in accordance with the Contract include, but are not necessarily limited to, the following: Reference RFP 2021-110 and included specifications.

The final scope of services will be negotiated with the Selected Offeror.

ATTACHMENT B: PROPOSAL RESPONSE AND CHECKLIST

Fully complete the following pages and submit along with Page 2 (Signature Page) of the RFP and all applicable attachments.

I. General Information

Offeror's (Legal Business) Name: _____

Doing Business As (If Different Name): _____

Person to Contact Regarding this RFP (Name): _____

Telephone Number: _____

Email Address: _____

Check type of organization:

Corporation Partnership

Sole Proprietor (Individual) Other (describe) _____

If Sole Proprietor (individually owned), number of years in business: _____

Have you ever operated under another name? Yes No

If yes -

Other name: _____

Number of years in business under this name: _____

State license number under this name: _____

II. Organization of Firm

The Offeror should submit as **Attachment 1** to their proposal, at a minimum the length of time in the business, corporate experience, strengths in the industry,

business philosophy, and a description of the organizational structure of the firm; a description of the organizational structure for the management and operation of the services requested and/or provision of the items referred to in this RFP, including an organizational chart denoting all positions and the number of personnel in each position.

III. Financial Condition of Offeror

The sufficiency of the financial resources and the ability of the Offeror to comply with the duties and responsibilities described in this RFP.

The Offeror shall submit as **Attachment 2**, a current annual financial report and the previous year's report and a statement regarding any recent or foreseeable mergers or acquisitions. Financial statements may be marked as "confidential" in accordance with the requirements set out in Section 3(G) of this RFP.

IV. Experience

The Offeror shall submit as **Attachment 3**, a narrative of their firm's experience in providing the services and/or items in this RFP, including type of business, business location, and number of years in business.

V. References

Each Offeror should provide as **Attachment 4**, the names, addresses, and telephone numbers of at least three (3) references in connection with supplying the services or items requested in this RFP, especially from other local government operations similar to those being requested in this RFP by the County. Each reference should include organizational name, official address, contact person, title of contact, and phone number.

VI. Conditions of Offeror's Proposal

Offeror shall submit as **Attachment 5**, any conditions to the Offeror's proposal or exceptions to the sample contract (Attachment A to the RFP).

VII. Conflict of Interest

____ Offeror, owner, officer, employees, agents and immediate family members are not now, and have not been in the past year, an employee of the County of Roanoke or has no responsibility or authority with the County that might affect the procurement transaction or any claim resulting therefrom. (Initial above.)

OR

State the complete name and address of each such person and their connection to the County of Roanoke. Each Offeror is advised that the Ethics in Public

Contracting and Conflict of Interests Act of the Virginia Code, as set forth in Section 4 (L) of the RFP, apply to this RFP.

Name	Address
_____	_____
_____	_____

VIII. Convictions and Debarment

If you answer yes to any of the following, state on **Attachment 6** the person or entity against whom the conviction or debarment was entered, give the location and date of the conviction or debarment, describe the project involved, and explain the circumstances relating to the conviction or debarment, including the names, addresses and phone numbers of persons who might be contacted for additional information.

1. In the last ten years, has your organization or any officer, director, partner, owner, project manager, procurement manager or chief financial officer of your organization:
 - a. ever been found guilty on charges relating to conflicts of interest?
Yes No

2. a. Is your organization or any officer, director, partner or owner currently debarred or enjoined from doing federal, state or local government work for any reason?
Yes No

b. Has your organization or any officer, director, partner or owner ever been debarred or enjoined from doing federal, state or local government work for any reason?
Yes No

IX. Compliance

If you answer yes to any of the following, give the date of the termination order, or payment, describe the project involved, and explain the circumstances relating to same, including the names, addresses and phone numbers of persons who might be contacted for additional information on **Attachment 7**.

1. Has your organization:

a. ever been terminated on a contract for cause?
Yes No

X. Confidential & Proprietary Information

Identify the section and page number of any information in your proposal that has been identified as confidential, proprietary or a trade secret (see Section 4(A) of the RFP).

Page Number Information	Section	Description of Confidential and/or Proprietary
----------------------------	---------	--

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Offeror shall provide one redacted copy of its proposal fit for public dissemination, in the event the County must respond to a Freedom of Information Act request. The redacted copy of Offeror's proposal shall be provided on USB Drive or other electronically transferable media and shall be redacted to protect any confidential and/or proprietary information and shall be labeled as such. Offeror shall not mark its entire proposal as confidential and/or redact the entire proposal; doing so may result in the disqualification of Offeror's proposal.

Attachments:

The following items should be included with your RFP response. Place a check mark on the line next to each applicable item submitted with your proposal. Write N/A (not applicable) on the line next to those items that do not apply to your response. Offerors shall provide one (1) unbound original, and three (3) full copies of their proposal response.

Signature Page (Pg. 2) of RFP _____

Removable Media Containing
Redacted Version of Proposal _____

Attachment B (Proposal Response
And Checklist) to RFP 2021-110 _____

1. Organization of Firm _____

2. Financial Reports	_____
3. Experience	_____
4. References (3)	_____
5. Conditions of the Proposal (If Applicable)	_____
6. Debarment Explanation (If Applicable)	_____
7. Compliance Explanation (If Applicable)	_____

Direct Contact with Students Form (Attachment C) _____

Certification Regarding Lobbying (Attachment D) _____

Certification Regarding Debarment (Attachment E) _____

RFP # 2021-110

ATTACHMENT C: Direct Contact with Students Form

Name of Bidder: _____

Pursuant to Va. Code § [22.1-296.1](#), as a condition of awarding a contract for the provision of services that require the contractor, his employees or subcontractors to have **direct contact with students** on school property during regular school hours or during school-sponsored activities, the school board shall require the contractor to provide certification that all persons who will provide such services have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child.

Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor and, upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and, when relevant, the revocation of any license required to provide such services.

I further understand and acknowledge (1) that if I make a materially false statement regarding any of the above offenses, I will be guilty of a Class 1 misdemeanor and (2) that before any person is permitted to provide such services subsequent to this certification, I must complete a new certification regarding such person.

As part of this submission, I certify that the employees of, or subcontractors to, the above mentioned contractor that will be providing services that require direct contact with students to the School Board under the resulting contract will have not been convicted of a felony or any offense involving the sexual molestation or physical or sexual abuse or rape of a child. Furthermore, I understand that the duty to certify is ongoing and extends to future employees and employees of subcontractors for the duration of the contract.

Signature of Authorized Representative

Printed Name of Authorized Representative

*Printed Name of Vendor
(If different than Representative)*

Date

ATTACHMENT D: CERTIFICATION REGARDING LOBBYING

CERTIFICATION REGARDING LOBBYING - CONTRACTS, GRANTS LOANS AND COOPERATIVE AGREEMENTS

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

Organization Name

Award or Agreement Number

Name (s) and Title (s) of Authorized Representatives

Signature

Date

NOTICE TO APPLICANTS - CERTIFICATION/DISCLOSURE REQUIREMENTS RELATED TO LOBBYING

Section 319 of Public Law 101-121 (31 U.S.C.), signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. Certain provisions of the law also apply to Federal commitments for loan guarantees and insurance; however, it provided exemptions for Indian tribes and tribal organizations.

Effective December 23, 1989, current and prospective recipients (and their sub-tier contractors and/or sub-grantees) will be prohibited from using Federal funds other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement or loan. In addition, for each award action in excess of \$100,000 (or \$150,000 for loans) on or after December 23, 1989, the law requires recipients and their sub-tier contractors and/or sub-grantees to: (1) certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their sub-tier contractors or sub-grantees will pay with profits or **non-appropriated** funds on or after December 23, 1989; and (3) file quarterly updates about the use of lobbyists if materials changes occur in their use. The law establishes civil penalties for noncompliance.

If you are a current recipient of funding or have an application, proposal, or bid pending as of December 23, 1989, the law will have the following immediate consequences for you:

- You are prohibited from using appropriated funds (other than profits from Federal contracts) on or after December 23, 1989, for lobbying Congress or any Federal agency in connection with a particular contract, grant, cooperative agreement, or loan;
- you are required to execute the attached certification at the time of submission of an application or before any action in excess of \$100,000 is awarded; and
- you will be required to complete the lobbying disclosure form if the disclosure requirements apply to you.

Regulations implementing Section 319 of Public Law 101-121 have been published as an Interim Final Rule by the Office of Management and Budget as Part III of the February 26, 1990, **Federal Register** (pages 6736-6746).

ATTACHMENT E: CERTIFICATION REGARDING DEBARMENT

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (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 of this proposal.

Organization Name

Award or Agreement

Number Name (s) and Title (s) of Authorized Representatives

Signature

Date

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side 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 which 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 which this proposal is submitted for assistance in obtaining 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 Transaction," without modification, in all lower tier covered transaction 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 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 Nonprocurement List.
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, including suspension and/or debarment.