CHOICE PARTNERS
The Right Resources. Right Now.

Harris County Department of Education
6300 Irvington Blvd., Houston, Texas 77022-5618

RFP #27/005LT

Request for Proposals
For
Waste Disposal and Recycling Services

Submittal Deadline and Proposal Opening Deadline:

Wednesday, December 2, 2026
at
2 p.m., Central Time

Proposals received after the date and time stated above will not be considered.

Questions regarding this RFP must be submitted via HCDE eBid System online **no later** than **ten (10) business days** prior to the submittal deadline date. All questions and answers will be posted online to HCDE eBid at http://hcdeebid.ionwave.net

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1.0 NOTICE OF INTENT

Contracts awarded pursuant to this RFP shall comply with the Education Department General Administrative Regulations (EDGAR), 2 C.F.R. §§ 200.318-326. It is the intent of Harris County Department of Education (HCDE) and Choice Partners (CP), a division of HCDE, (collectively, "HCDE"), to award one or more contract(s) as a result of this RFP for use by HCDE and/or CP members. Product(s) and/or services considered for award shall equal or exceed a minimum quality level of industry standard(s) as defined within this RFP, including **Section 6.0 Scope of Proposal**, and shall comply with all applicable federal, state and local technical, environmental, and performance standards and specifications.

Further, it is the intent of HCDE to allow CP members to use contract(s) between HCDE and Vendor entered into pursuant to this RFP. Accordingly, pursuant to HCDE's membership agreements with CP members (as permitted under the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, Chapter 271, Subchapter F of the Texas Local Government Code, and similar statutes in other states), CP members are authorized to enter into separate and independent contracts with Vendor that employ the same negotiated terms and conditions contained in an existing contract(s) between HCDE and Vendor. Further, it is the intent of HCDE to comply with the most restrictive federal (EDGAR) or state (FASRG) rule or regulation, and HCDE intends to conduct an independent estimate and cost or price analysis in connection with every procurement action using federal funds.

1.1 **The initial base term of the prospective contract is a period of one calendar year, with up to four additional one-year automatic renewal terms; either party may elect not to renew the contract by providing written notice at least thirty (30) days prior to expiration of the then-current term. At HCDE's option, there may be an additional 90-day transitional period added to the end of the initial term or any renewal term. Contract prices, terms and conditions are to remain in force during the transitional period. Should the Contract with Vendor terminate during the initial or any renewal term for any reason, HCDE reserves the right to have the same transitional period, prices, terms and conditions as if the Contract terminated at the expiration of that term.**

1.2 In this RFP and in the Contract, the following terms shall mean as follows:

1.2.1 "**HCDE**" means the Harris County Department of Education and includes HCDE's cooperative purchasing division, Choice Partners, when such term is used. HCDE is a county school district and political subdivision established under the laws of the State of Texas, and its main administrative office is located at 6300 Irvington Blvd., Houston, Texas 77022.

1.2.2 "**CP**" means Choice Partners cooperative, a national cooperative purchasing program and division of HCDE.

1.2.3 "**CP member(s)**" means the non-profit entities, public and private schools (including independent school districts and charter schools), education service centers, colleges, universities, municipalities, counties, political subdivisions, and other governmental entities and agencies throughout the United States that have followed local governing authority allowing them to utilize contracts procured and administered by HCDE, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, Chapter 271, Subchapter F of the Texas Local Government Code, and similar statutes in other states.

1.2.4 "**Vendor(s)**" means the proposer(s) responding to this RFP and vendor(s) to whom a contract has been awarded as a result of this RFP by HCDE. A responsible vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the product(s) /service(s) listed herein.

1.2.5 "**Contract**" means the contract terms and conditions in **Section 5.0 Contract Terms and Conditions**, as further defined in the Entire Agreement provision of Section 5.0. A contract is exclusively between HCDE and Vendor. Under no circumstances shall Vendor submit for approval or otherwise utilize the Contract via the Statewide Procurement Division's Texas Multiple Award Schedule (TXMAS) Program and/or Texas SmartBuy without prior written permission from CP. All existing contracts shall be made available to CP members to review and copy. Further, all records, reports, and other documents related to HCDE's competitive procurement of existing contracts shall also be made available to CP members to review and copy.

1.2.6 **"Supplemental Contract"** means a separate, supplemental contract entered into between a CP member and the Vendor, which utilizes the negotiated terms and conditions contained in the existing competitively-procured contract(s) between HCDE and Vendor (for example, Vendor's Master Service Agreement (MSA), End-User License Agreement (EULA), etc. are Supplemental Contracts between the CP member and the Vendor, and HCDE is not a party to those Supplemental Contracts). Supplemental Contracts may further define the level of service and/or product requirements over and above the minimum defined in the Contract and the RFP, including, without limitation, invoice requirements, ordering requirements, on-campus service, specialized delivery, discounted pricing, etc. Supplemental Contracts may be a Purchase Order issued by a CP member. Supplemental Contracts are exclusively between a CP member and Vendor.

1.2.7 **"Best Value"** means the method by which a contract, if any, is awarded, in accordance with applicable laws, rules, and regulations. Best Value includes multiple parameters, including experience, references, quality of the Vendor's product(s)/service(s), and price, as detailed in **Section 4.0 Evaluation and Award**.

1.2.8 **"HCDE/CP Administrative Fee" or "HCDE/CP Fee"** means the fee paid by Vendors to HCDE/CP for the limited purpose of funding the total administrative costs of the HCDE/CP program. HCDE/CP will invoice the Vendor for the HCDE/CP Administrative Fee of 2 percent.[1] *See* Section 5.29. The HCDE/CP Fee must not be charged to CP members. All rebates, discounts, and other applicable credits from the Vendor resulting from Supplemental Contract(s) shall accrue exclusively to CP members.

1.2.9 **"Purchase Order" or "PO"** means the agreed-upon purchase order between HCDE's or the CP member and the Vendor. Special terms and conditions agreed to by the Vendor and HCDE or the CP member may be added as addendums to the PO, including such items as requirements concerning certificates of insurance, bonding, and small or disadvantaged business goals.

1.2.10 **"Premium Hours"** means those hours not included in Regular Hours or federal holidays. Premium Hours must be approved by HCDE or the CP member for each Purchase Order.

1.2.11 **"Regular Hours"** means the hours between 7 a.m. and 6 p.m. Monday thru Friday, excluding the following holidays: Presidents' Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and New Year's Day.

[1] The HCDE/CP Administrative Fee is expressly separate from and is not a part of the pricing paid by CP members; the HCDE/CP Administrative Fee is paid exclusively by the awarded Vendors and must not be passed on or charged to CP members by the Vendor. All pricing from any contract awarded pursuant to this RFP is fixed pricing. No pricing structure that charges the cost of the product or service plus a percentage of cost is allowed.

1.3 Timetable

HCDE/CP anticipates following the timetable listed below for this job. The table below is only an estimate and may vary.

TIMETABLE		
Item	**Activity**	**Date**
1	RFP Advertised - 1st run	Friday, November 6, 2026
2	RFP Advertised - 2nd run	Monday, November 9, 2026
3	Pre-Proposal Meeting	Wednesday, November 11, 2026 @ 10:00AM CT, (Virtual per Section 3.2.1)
4	Questions Due – via HCDE eBid	Wednesday, November 18, 2026 @ 2:00PM CT
5	Proposals Due / Public Bid Opening	Wednesday, December 2, 2026 @ 2:00PM CT (Virtual per Section 3.2.2)
6	Anticipated Award Date	Wednesday, February 17, 2027

2.0 INTRODUCTION TO CHOICE PARTNERS COOPERATIVE

2.1 Description of CP members

2.1.1 Contract Availability

Contract(s), if any, awarded as a result of this RFP will be available for use by HCDE. Additionally, contract(s) awarded as a result of this RFP will also be available for use by CP members. HCDE, a local governmental entity, currently has more than 2,000 members and keeps growing every day. Many CP members constitute "school food authorities," as that term is defined by USDA/TDA.

Contract(s), if any, awarded as a result of this RFP will be available to CP members to review and copy on an "as needed" basis from a list of contracts that have been competitively procured and awarded to Vendors based on the selection criteria set forth in Section 4.0 Evaluation and Award. All related records, reports, and documents related to the competitive procurement of any contract(s) awarded as a result of this RFP will also be available to CP members to review and copy on an "as needed" basis.

2.1.2 Cooperative Procurement

By allowing eligible entities to piggyback onto existing contract(s) between HCDE and Vendors, those entities can accomplish the legally required competition for contracts of commonly purchased products and services, thereby saving the individual entity the cost of going through the procurement process. Vendors benefit as well by having a multi-year contract and by saving the time and expense of going through the procurement process for each individual participating governmental entity. The specific scope of work for each Supplemental Contract/Purchase Order shall be determined in advance and in writing between the CP member and the Vendor.

2.1.3 Interlocal Cooperation Act

Pursuant to TEX. GOV'T. CODE Chapter 791, the Interlocal Cooperation Act, and similar statutes of other states, as well as directives issued by the Texas Department of Agriculture and the United States Department of Agriculture, HCDE and CP members participate in an Interlocal Contract to provide governmental functions and services, including procurement services, which permits CP members to make purchases using contracts procured by HCDE[2]. **A local government that purchases products and services under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of the products and services.** TEX. GOV'T. CODE § 791.025(c). An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services. TEX. GOV'T. CODE § 791.011(h).

[2] See, e.g., TEX. EDUC. CODE § 44.031(a)(4) ("all school district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at $50,000 or more in the aggregate for each 12-month period shall be made by the method…that provides the best value for the district[, including] an interlocal contract"); TEX. EDUC. CODE § 51.9335(a)(4) (each institution of higher education, as that term is defined by Tex. Educ. Code § 61.003, including each public junior college to the extent possible, "may acquire goods or services by the method that provides the best value to the institution, including… a group purchasing program."); TEX. EDUC. CODE § 73.115(a)(4) (University of Texas at Houston "may acquire goods or services by the method that provides the best value to the institution, including… a group purchasing program."); TEX. EDUC. CODE § 74.008(a)(4) (University of Texas Medical Branch at Galveston "may acquire goods or services by the method that provides the best value to the medical branch, including…a group purchasing program."); TEX. LOCAL GOV'T. CODE Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments); TEX. LOCAL GOV'T. CODE Chapter 262 (Purchasing and Contracting Authority of Counties); 2 C.F.R. § 200.318(e) General Procurement Standards ("To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be applied to documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements"); United States Department of Agriculture Memorandum SFSP02-2017.

2.1.4 Contracts Involving Federal Funds

Because at the time of procurement, HCDE is unable to determine which of its procurements/contracts will be used by CP members using federal funds, HCDE intends to competitively procure each and every contract awarded by HCDE under Section 44.031 of the Texas Education Code and intends to comply with the federal Uniform Guidance, 2 CFR Part 200 (also known as "EDGAR") for every procurement action. To comply with the Uniform Guidance, HCDE will make an independent estimate of the value of goods or services in the current market before receiving bids or proposals. After HCDE receives bids and proposals but before awarding a contract, HCDE will also conduct a price or cost analysis and document its findings. For contracts at or above the simplified acquisition threshold, CP members must verify that HCDE fulfilled its requirement to conduct a cost or price analysis in order to benefit from the ability to purchase goods and services from CP directly without the need for additional procurement activities or documentation. HCDE will provide its Independent Estimate Determination Form and Determination of Cost or Price Reasonableness Form to a CP member upon request, but HCDE recommends that when circumstances necessitate separate evaluation of lump-sum pricing (i.e., when a CP member is purchasing at or above the simplified acquisition threshold), CP members also conduct an independent evaluation of cost or price reasonableness tailored to the CP member's specific purchases so that the CP member can independently determine the reasonableness of the cost/price of the particular purchase. Stated differently, if the CP member's verification of CP's compliance with EDGAR reveals that the lump-sum price includes goods or services for which CP could not have performed a cost or price analysis, the CP member should conduct an independent cost or price analysis.

HCDE maintains and uses documented procedures for procurement transactions under a Federal award or subaward, including for the acquisition of property or services. HCDE's documented procurement procedures are consistent with State, local and tribal laws and regulations, and federal standards in 2 CFR §§ 200.317 through 200.327 of subpart D—Post Federal Award Requirements.

2.2 Financing of HCDE/CP

2.2.1 Member Fees

HCDE/CP does not charge membership fees to CP members.

2.2.2 HCDE/CP Fees

The total cost of the HCDE/CP program is funded through the HCDE/CP Administrative Fee paid to HCDE/CP by Vendors. The HCDE/CP Fee is based on a percentage of vendor sales, less special insurance and required bonding, if applicable.

2.2.3 HCDE/CP Assistance

HCDE/CP will provide limited oversight in assisting both CP members and Vendors in marketing to CP members, training (education), and provide, at a minimum, an annual review of each Vendor. This service will be paid for out of the HCDE/CP Fee. HCDE/CP will not market or sell directly for Vendors.

2.2.4 CP Member Credits

All rebates, discounts, and other applicable credits that are granted by Vendors as a result of Supplemental Contracts shall accrue exclusively to CP member(s).

2.2.5 Pricing Disclosure

Vendor expressly agrees that HCDE/CP may disclose Vendor's proposal, including, but not limited to, pricing information, to other governmental entities/CP members.

2.3 HCDE/CP Procedures

2.3.1 Compliance with Applicable Procurement Rules and Regulations

Contracts are awarded through fair and open competition in compliance with applicable procurement rules and regulations. All prices charged to CP members are firm, fixed prices and under no circumstances are cost-plus-percentage-of-cost pricing structures allowable under this Contract when federal funds are being expended.

2.3.2 Proposal Request Process

2.3.2.1 The CP member sends a proposal request to the Vendor.

2.3.2.2 The Vendor prepares and sends to the CP member its proposal. The CP member conducts an evaluation of cost or price reasonableness, if the CP member is using $250,000 or more of federal funds and an independent cost/price evaluation is necessary.

2.3.2.3 The Vendor and the CP member agree on a Purchase Order/Supplemental Contract.

2.3.2.4 The Vendor delivers product(s)/service(s) directly to the CP member and then invoices the CP member.

2.3.2.5 The Vendor receives payment directly from CP member.

2.3.2.6 Individual CP members upload an activity purchasing report to the HCDE/CP rebate portal, and Vendors email an activity sales report to the designated CP contact.

3.0. INSTRUCTIONS TO VENDORS

3.1 Proposal Response Format

To qualify for evaluation, a proposal must have been submitted on time and must materially satisfy all mandatory requirements identified in this RFP. Vendors must follow the format instructions detailed below in preparing and submitting their proposals.

3.1.1 Required Format

Vendors shall submit proposals online in the HCDE/CP eBid system at the following address: hcdeebid.ionwave.net. The Vendor is responsible for ensuring that HCDE/CP has the appropriate company name, authorized representatives, and contact information on file for the purpose of receiving notices, changes, addenda or other critical information.

3.1.2 Required Documents

The following items must be completed, executed, and dated by the authorized bidder. Scan and upload electronically signed documents (ex DocuSign) in the Response Attachments section in the HCDE eBid System or if using a wet signature document, it must be scanned and uploaded in the Response Attachments section of your proposal in the HCDE eBid System and the originals MUST be mailed or hand delivered within 5 business days of the bid closing to: Choice Partners, 6005 Westview Drive, Houston, TX 77055 with the RFP number and title clearly marked on the outside of the envelope.
Failure to include/upload these items may result in non-award.

- **a.** Completed eBid Attributes section
- **b.** Completed 10.0 Attachment Packet
- **c.** Completed Texas Ethics Commission Form 1295
- **d.** Previous Client History (References from government entities of orders completed within the past 5 years and non-government orders completed within the past 10 years)
- **e.** Organization Chart
- **f.** Financial Capability (ex. financial statement, balance sheet, etc.) for the last 3 years; stamped CONFIDENTIAL.
- **g.** QA/QC Program
- **h.** Environmental Policy & Green Initiative
- **i.** Pricing; Electronic Catalog/Price Lists
- **j.** Insurance Coverage Certification
- **k.** Vendor's logo in JPEG format
- **l.** Marketing Plan
- **m.** Link to Vendor's website
- **n.** Any applicable certificates (i.e., HUB, SWBE, licenses)
- **o.** Exceptions to the contract MUST be redlined in the Terms and Conditions Section 5.0 and uploaded in the Response Attachments section of eBid submissions.

Vendor shall provide an electronic version of its logo for use on the CP website upon Contract award, submit records (including pricing information, electronic catalogs, and price lists) in a form desired by Vendor to be uploaded to CP's website, and provide other information as reasonably requested by HCDE/CP to help ensure that the CP website is current and consistently updated.

3.1.3 Proposal Response Location

Proposals shall be received no later than the submittal date and time deadline in the HCDE/CP eBid System.

3.1.4 Submission of Proposals

HCDE/CP will only accept bids and proposals submitted online. Faxed or electronically transmitted proposals will not be accepted. Deviations from any terms, conditions and/or specifications shall be conspicuously noted in writing by the Vendor and shall be included with the proposal. Withdrawal of proposals will not be allowed for a period of 180 days following the opening. Withdrawal of proposals prior to the submission deadline is permitted. Copyrighted proposals are unacceptable and may be disqualified.

3.1.5 HCDE / CP Reservations

HCDE/CP reserves the right to:

- **a.** Cancel this solicitation in whole or in part, at the sole discretion of HCDE/CP.
- **b.** Accept, reject, or negotiate modifications in any terms of the Vendor's proposal or any parts thereof.
- **c.** Conduct oral interviews/discussions or presentations necessary to select the best value Vendor and/or to obtain competitive pricing.
- **d.** Reject and/or disqualify any or all proposals received, to award contracts for individual products or services as may appear advantageous, and to negotiate separately in any manner necessary to serve the best interest of HCDE/CP and/or CP members.
- **e.** Waive any formalities, technicalities, or other defects if deemed in the best interest of HCDE/CP and/or CP members.
- **f.** Request clarification and/or correction of Vendor(s) for the purpose of eliminating minor errors, clerical errors, and/or non-substantive irregularities.
- **g.** Be the sole judge of quality and equality.
- **h.** Award one or more contracts, in part or in whole, to a single or to multiple Vendors, in HCDE/CP sole discretion.
- **i.** Make all decisions regarding this RFP, including, without limitation, the right to decide whether a proposal substantially complies with the requirements of this RFP.

3.1.6 Financial Responsibility

HCDE/CP assumes no financial responsibility for any costs incurred by Vendors in developing and submitting a proposal or any amendments or addenda, participating in pre-proposal meetings, participating in any negotiation sessions or discussions, or any other costs incurred by Vendors pursuant to this RFP.

3.1.7 Compliance with Specifications and Contract

Vendors are requested to submit a proposal offering their total line of available products and services that are commonly purchased by governmental entities, school districts, and other public, not-for-profit agencies and organizations. Proposals shall be deemed responsive if they comply with all material and administrative aspects of this RFP. Vendors are required to respond to all requests identified in this RFP and indicate their acceptance or objection to the terms of the RFP and the Contract terms in section 5.0 - Terms and Conditions. Any exceptions to the terms and conditions in the RFP or the Contract must be clearly indicated in the Vendor's submitted proposal. Deviations or exceptions stipulated in a Vendor's response may result in disqualification. Any language to the effect that the Vendor does not consider this RFP to be part of a contractual obligation may result in the Vendor's proposal being disqualified. Each Vendor, by making its proposal, represents that the Vendor has read and understands the RFP and the Contract.

3.2 Public Meetings

3.2.1 Pre-Proposal Meeting (non-mandatory)

HCDE/CP has set up a virtual pre-proposal meeting for responding vendors to call, ask questions and listen while we explain the e-Bid submission process.

3.2.1.1 Invite link, Meeting ID and Passcode will be published in HCDE eBid system to all invited vendors.

3.2.2 Public Bid Opening Meeting (non-mandatory)

HCDE/CP has set up a virtual bid opening meeting to announce the submitted responders.

3.2.2.1 Invite link, Meeting ID and Passcode will be published in HCDE eBid system to all invited vendors.

4.0 EVALUATION AND AWARD

4.1 Award of Contract

In accordance with applicable laws, rules, and regulations for public procurement, award(s) will be made to the responsible Vendor(s) whose proposal(s) is/are determined after evaluation by HCDE/CP to be the best value to HCDE/CP and to CP members. To qualify for evaluation, a proposal must have been submitted on time and must materially satisfy all mandatory requirements identified in this document. HCDE shall comply with the Texas Public Information Act in the event HCDE receives an open records request for information relating to proposals submitted in response to this RFP.

4.2 Competitive Range

It may be necessary for HCDE/CP to establish a competitive range of acceptable proposals as part of the evaluation process. Proposals not in the competitive range are unacceptable and will not receive further award consideration.

4.3 Conflict of Interest – EDGAR

In accordance with federal EDGAR requirements, 2 CFR § 200.318(c)(1), no employee, officer, agent, or board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by a federal award. A conflict of interest includes when the employee, officer, agent, board member, or any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

An officer, employee, agent, or board member of HCDE may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors. However, through HCDE's written procedures, HCDE has set a de minimis amount of less than $50 per year for items that are unsolicited and of minimal value and promotional items.

Violations of this standard by an employee will be reported to the Superintendent's Office and addressed through HCDE's personnel policies. **Violations of this standard by an officer or the Superintendent shall be addressed to the Board President and addressed through HCDE Board policies.**

4.4 Deviations and Exceptions to Requirements/Contract Terms

Deviations or exceptions stipulated in a Vendor's response may result in disqualification. Any language to the effect that the Vendor does not consider this RFP to be part of a contractual obligation may result in the Vendor's proposal being disqualified. **ANY DEVIATIONS/EXCEPTIONS TO SECTION 5.0 CONTRACT TERMS AND CONDITIONS MUST BE CLEARLY INDICATED VIA TRACK CHANGES/REDLINE DIRECTLY BELOW EACH OF THE RESPECTIVE TERMS AND CONDITIONS AND UPLOADED INTO THE RESPONSE ATTACHMENTS SECTION OF THE EBID SUBMISSION.**

4.5 Clarification and/or Discussions

HCDE/CP may request clarification from Vendor(s) for the purpose of eliminating minor errors, clerical errors, and/or non-substantive irregularities. Clarification does not give a Vendor the opportunity to revise, change, or modify its proposal in any way except to the extent of correction of the error. Discussion between HCDE/CP and Vendor can also take place after the initial receipt of proposals. HCDE/CP reserves the right to conduct discussions with all, some, or none of the Vendor submitting proposals. HCDE/CP will not assist the Vendor in the revision or modification of its proposal, nor will HCDE/CP assist the Vendor in bringing its proposal to the same level of other proposals received by HCDE/CP. Negotiations or discussions, if any, will not consist of a back-and-forth exchange resulting in contract, but rather will seek clarification or obtain equivalent elements.

Questions related to the RFP can be submitted online at http://hcdeebid.ionwave.net no later than five (5) business days prior to the submittal deadline date. All submitted questions and answers will be listed online. Questions will not be answered verbally or by phone.

4.6 No Guarantee of Quantities

HCDE/CP makes no guarantee or commitment of any kind concerning quantities that will actually be purchased under this RFP and the resulting contract, if any. HCDE/CP makes no guarantee or commitment of any kind regarding usage

of any contracts resulting from this RFP. Vendors, however, are expected to carry sufficient inventories to service the needs of HCDE and CP members and shall furnish all required goods and/or services to HCDE and CP members at the stated price, when and if required. Because all commodities will be provided on an "as needed" basis, HCDE makes no representation either orally or in writing to the amount of commodities, services, or related items HCDE or CP members will use during the Term of the Contract.

4.7 Minority and Women's Business Enterprise (MWBE), Historically Underutilized Business (HUB), Small Business Enterprise (SBE), Veteran-Owned, and Labor Surplus Firms Participation

HCDE/CP encourages the use of HUB, MWBE, and SBE both as prime and subcontractors. However, these entities must meet the same minimum standards and requirements as the prime contractor. It will be the responsibility of the prime contractor to pre-qualify any subcontractors offered as HUB, MWBE and SBE participants. Some CP members have specific goals for subcontracting requirements and will require that a plan be attached to meet their goals. The Vendor shall also indicate on their submitted proposals whether or not they are a HUB, MWBE, or SBE vendor and with whom they are certified, e.g., State, City, Federal, and attach a copy of the certificate(s) under "Response Attachments" section of the eBid system.

When federal funds are expended by HCDE or a CP member, Vendor is required ensure when possible, that small, minority, women's business enterprises, veteran-owned businesses, and labor surplus area firms for any subcontracting opportunities are considered as set forth in 2 CFR 200.321 and below. Such consideration means:

(1) These business types are included in solicitation lists;
(2) These businesses types are solicitated whenever deemed eligible potential sources;
(3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
(4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types; and
(5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

4.8 Formation of Contract (Execution of Offer)

A response to this RFP is an offer to contract with HCDE based upon the terms, conditions, scope of work, and specifications contained in this RFP. An RFP does not become a contract unless and until it is accepted by HCDE after approval by the HCDE Board of Trustees. A contract is formed when either HCDE's Superintendent or Assistant Superintendent for Business Support Services signs the Signature Form. The Vendor must submit a signed Signature Form, thus eliminating the need for the formal signing of a separate contract.

4.9 Multiple Awards

HCDE reserves the right to award contracts to multiple vendors. The decision to award multiple contracts, award only one contract, or to make no awards rests solely with HCDE. HCDE may make multiple awards; this fact should be taken into consideration by each Vendor.

4.10 Non-Exclusive Contract

Any contract resulting from this RFP is non-exclusive and shall be awarded with the understanding and Contract that it is for the sole convenience of HCDE and CP members. HCDE and CP members are free to have multiple contracts for the awarded products and/or services and may initiate other procurement solicitations or procurement activity with other suppliers at any time, at HCDE's or CP members' sole discretion.

4.11 Disqualification

A Vendor may be disqualified before or after the proposals are opened upon evidence of collusion with the intent to defraud or evidence of intent to perform other illegal activities for the purpose of obtaining an unfair competitive advantage. A Vendor may also be disqualified before or after the proposals are opened in the event Vendor is out of compliance with an existing contract with HCDE.

4.12 Environmental Initiatives

HCDE is committed to reducing waste and promoting energy conservation. Toward that end, Vendors responding to this solicitation are encouraged to provide their company's environmental policy and green initiative.

4.13 Interpretation

This solicitation represents the basis for any award and supersedes all prior offers, negotiations, exceptions and understandings (whether orally or in writing). Submitted proposals should be self-explanatory and should not require any clarification or additional information.

4.14 Funding

HCDE and CP members receive a variety of federal, state, and/or grant funding. Performance by HCDE and CP members under any contract or Supplemental Contract entered into pursuant to this RFP may be dependent upon the appropriation and allotment of state/federal/grant funds (a "Prime Contract") and allocation of funds by HCDE/CP members. If HCDE or a CP member is not appropriated or allocated the necessary federal/state/grant funds or its funding under a Prime Contract is eliminated or decreased, or HCDE or a CP member fails to allocate the necessary funds, then HCDE or a CP member will issue written notice to Vendor and HCDE or the CP member may terminate the Contract or Supplemental Contract without further duty or obligation to Vendor. Vendor acknowledges that appropriation, allotment, and allocation of funds may be beyond the control of HCDE and/or CP members. Vendor shall strictly comply with all applicable Prime Contract requirements and all applicable flow-down, referenced, and incorporated provisions therein and shall cooperate with HCDE and the CP member in fulfillment of HCDE's or the CP member's obligations under the Prime Contract.

4.15 No Return of Proposals

Once submitted, HCDE will not return proposals to Vendor.

4.16 Non-Collusion Statement

Vendors are required to certify a **Non-Collusion Statement.** (See Section 10.0 Attachments) Vendors are required to state the party submitting a proposal or bid, that such proposal or bid is genuine and not collusive or sham; that Vendor has not colluded, conspired, connived or agreed, directly or indirectly, with an entity or person, to put in a sham proposal or bid or to refrain from proposing , and has not in any manner, directly or indirectly, sought by Contract or collusion, or communication or conference, with any person, to fix the proposed price or of any other vendor, or to fix any overhead, profit or cost element of said proposed price, or of that of any other vendor, or to secure any advantage against HCDE or any person interested in the proposed contract, and that all statements in said proposal are true.

4.17 Preferences

HCDE may apply applicable preferences for Texas resident Vendors in the event of a tie bid. Preferences must be explicitly claimed by Vendor and may not be applicable in all procurements and/or contracts, including those involving federal funds unless specifically authorized by federal regulations. *See* TEXAS GOV'T. CODE § 2252.001-.004; 2 C.F.R. § 200.319.

4.18 Responsible Vendor

HCDE may only award contracts to Responsible Vendor(s) who possess the ability to perform successfully under the terms and conditions of a proposed procurement contract. A Responsible Vendor is a vendor who has adequate financial resources (or the ability to obtain such resources), can comply with the delivery requirements, and is a qualified and established firm regularly engaged in the type of business that provides the items listed herein. When determining if a vendor is responsible, HCDE will consider the proposer's integrity, compliance with public policy, record of past performance, and financial and technical resources.

4.19 Responsive Proposal

Proposals shall be deemed responsive if they comply with all material and administrative aspects of this RFP.

4.20 Similar Products or Materials

Whenever product(s) and/or material(s) are referred by HCDE in this solicitation by describing a proprietary product or by using the name of a manufacturer or brand name, the term "or equal" if not inserted shall be implied, as applicable. The specified product(s) and/or material(s) shall be understood as indicating type, function, minimum standard of design, efficiency and quality desired and shall not be construed as to exclude other manufactured products or comparable quality, design and efficiency, as applicable.

4.21 Appeal/Protest Process

Any Vendor who submitted a proposal may appeal HCDE's award, if the appeal is based on deviations from laws, rules, regulations, or HCDE Board policies. HCDE Board Policy GF (Local) applies to any Vendor wishing to appeal a proposal and/or award of a contract. In accordance with Policy GF (Local), a Vendor shall submit a complaint/appeal form by hand-delivery, fax, or U.S. mail, to HCDE's Director of Choice Partners. Complaints/appeals must be received by the close of business on or before the 15th HCDE business day after award of the contract. In the event Vendor is unsure about the award of the contract, it is the Vendor's responsibility to contact Choice Partners on the next business day after the award is announced and verify details concerning the award.

4.22 Evaluation of Proposals

HCDE/CP represents that it has considered each of the criteria in Texas Education Code § 44.031(b), thereby fulfilling Section 44.031(b)'s requirement that it "shall consider" the criteria listed in 44.031(b); in accordance with Module 5 of the TEA FASRG and applicable federal laws, HCDE/CP has determined which criteria should be considered most important and has assigned weights/points to each criterion based on its importance. A committee of HCDE/CP employees and/or CP members will review and evaluate proposals and make a recommendation to the HCDE Board of Trustees. HCDE/CP will base a recommendation for contract award on the following factors with a minimum score of 70 to be considered for award[3]:

Evaluation Criteria	**Point Value**
Price: Overall Cost of Program A. Price list B. Catalog Discount%	40
References	10
Reputation of Vendor and Vendor's goods and/or services: A. Work History B. Accreditations, endorsements C. CP past experience and/or knowledge of vendor performance D. Years in business	15
Quality of Vendor's goods/services and extent to which the goods/services meet HCDE and CP members' needs: A. Management Team (i.e., Staff List, Resumes, Org. Chart, etc.) B. Quality certifications C. Quality Assurance/Quality Control plan and Quote process D. Insurance	25
Impact on ability to comply with laws and rules relating to HUBs	0
For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether Vendor or Vendor's ultimate parent company or majority owner: (A) has its principal place of business in this state; or (B) employs at least 500 persons in this state	0[4]
Financial Capability: A. Financials statements – stamp "CONFIDENTIAL" B. Annual Sales	5
Vendor's past relationship	0
Marketing Plan: The way the vendor will market its good/services to CP members if awarded a contract through: A. Vendor's quotation/proposal process B. Vendor's marketing manager, experience in marketing to CP members on a regional basis; whether the marketing manager is a full-time position; and whether the marketing manager is committed to marketing this contract, if awarded C. Whether the marketing plan will be managed at the Vendor's local project office or corporate office and whether there is a stated corporate commitment D. Vendor's resources committed to the marketing plan, handouts, brochures, conferences to attend, and Vendor's proposed marketing budget E. Same of any advertising used by Vendor	5
Total Points	**100**

[3] HCDE/CP has the option to adjust (increase or decrease) the minimum score to be considered for award in the best interest of HCDE/CP and its members.

[4] HCDE/CP may apply an optional geographic preference in the procurement of unprocessed locally grown or locally raised agricultural products for use in a Child Nutrition Program. *See* 7 C.F.R. §§ 210 (National School Lunch Program), 215 (Special Milk Program for Children), 220 (School Breakfast Program), 225 (Summer Food Service Program), 226 (Child and Adult Care Food Program).

5.0 CONTRACT TERMS AND CONDITIONS

These Contract Terms and Conditions are part of the final contract in each product and/or service contract awarded as a result of this RFP and are part of the terms and conditions of each Supplemental Contract, Purchase Order, or proposal forms issued in connection with this RFP by HCDE or a purchasing CP member. Vendors are responsible for identifying any deviation/exception to these terms and conditions. **ANY DEVIATION/EXCEPTION MUST BE NOTED VIA TRACK CHANGES/REDLINE DIRECTLY BELOW EACH OF THE RESPECTIVE TERMS AND CONDITIONS AND UPLOADED INTO THE RESPONSE ATTACHMENTS SECTION OF THE EBID SUBMISSION.** A general statement that Vendor reserves the right to negotiate terms and conditions of the Contract or similar language is unacceptable and will be rejected. The sole opportunity to submit any deviation/exception to these Contract Terms and Conditions is at the time of submission of a Proposal in response to this RFP; Contract Terms and Conditions will not be negotiated/renegotiated at any other time, including at any renewal term. Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by HCDE and eliminated from further consideration.

CONTRACT BETWEEN
HARRIS COUNTY DEPARTMENT OF EDUCATION AND
("VENDOR")
FOR
WASTE DISPOSAL AND RECYCLING SERVICES

This Contract is entered into between Harris County Department of Education, including its cooperative purchasing division Choice Partners (collectively "HCDE" or "HCDE/CP") and Vendor, having submitted a proposal in response to this RFP issued by HCDE and whose proposal has been accepted and awarded by HCDE. In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, HCDE and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Contract, agree as follows:

5.1 Definitions
The terms used in this Contract shall have the meanings assigned to them in **Section 1.0 Notice of Intent** of the RFP.

5.2 Use of Contract by CP members
Vendor agrees and understands that this RFP and Contract may be used to accomplish work for HCDE, a local governmental entity and/or a purchasing CP member as provided by Section 1.0 – Notice of Intent.

5.3 Contract Terms; Amendment
The terms and conditions of this Contract shall govern all procurements conducted hereunder. No pre-published terms on Vendor's order acknowledgments, invoices, purchase or work orders, invoices, checks, order acknowledgements, forms, contracts, terms of use, online/website/click-through source terms, or similar commercial documents relating hereto and which may be issued by Vendor after the issuance of the RFP shall have any force or effect unless expressly agreed to in writing by the CP member and Vendor via a Supplemental Contract. No amendment of this Contract shall be permitted unless and until first approved in writing by HCDE/CP and, if necessary, the CP member(s), and no such amendment shall have any effect unless and until a written amendment to this Contract is executed by the HCDE Superintendent or his designee after any necessary approvals have been obtained from the HCDE Board of Trustees. In the event that a Vendor has an existing HCDE/CP contract in the same contract title, upon award the new contract will immediately supersede the older contract.

5.4 Term of Contract; Renewal of Contract
The initial term of this Contract is for a period of one (1) year, with automatic renewals for up to four (4) additional one-year renewal terms; either party may elect not to renew the contract by providing written notice at least thirty (30) days prior to expiration of the then-current term, unless otherwise specified in Section 6.0 Scope of Proposal. Consequently, the total term of the Contract may be for a period of five (5) years. At HCDE's option, there may be an additional 90-day transitional period added to the end of the initial term or any renewal term. The phrase "Term" in this Contract shall mean the then-current Term of the Contract, whether an initial term or a renewal term.

5.4.1 Automatic Renewal of Supplemental Contract(s) Prohibited

Any Supplemental Contract between Vendor and a purchasing CP Member shall not incorporate an automatic renewal clause that exceeds month-to-month terms. This Section 5.4.1 is not negotiable at either the purchasing CP member's or Vendor's discretion or authority. Any Supplemental Contract between Vendor and a CP member that conflicts with this automatic renewal prohibition shall be void and unenforceable. This term ensures that a CP member does not inadvertently or unknowingly renew a Supplemental Contract with Vendor.

5.5 Termination of Contract; Survival

This Contract shall remain in effect until (1) the Contract expires by its terms or (2) the Contract is terminated by mutual consent of HCDE and Vendor. All Supplemental Contracts, purchase orders, and/or orders for goods or services issued by HCDE and/or CP members and accepted by Vendor shall survive the expiration or termination of this Contract. During the term of any Supplemental Contract entered into between Vendor and a CP member, all terms of this Contract shall continue to apply to the Supplemental Contract.

In the event of a breach or default of the Contract and/or the RFP by Vendor, HCDE/CP reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of HCDE/CP and/or CP members. HCDE/CP further reserves the right to terminate the Contract immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the RFP, this Contract, and/or a Purchase Order; (2) make any payments owed; or (3) otherwise perform in accordance with this Contract and/or the RFP. HCDE/CP also reserves the right to terminate the Contract immediately, with written notice to Vendor, if HCDE/CP believes, in its sole discretion that it is in the best interest of HCDE/CP and/or CP members to do so.

In the event that a material change to the terms of the Contract occurs, then the Contract shall be allowed to expire and shall not be renewed upon the conclusion of the Contract's term. The phrase "material change" in this paragraph shall mean a modification that substantially exceeds the terms of the original contract between HCDE/CP and Vendor. Upon the expiration of the Contract's term, HCDE/CP may issue a new RFP for the goods or services procured under the previous contract.

If federal funds are used by HCDE under this Contract, HCDE shall provide written notice of termination to Vendor if HCDE terminates this Contract for any reason stated herein.

Vendor agrees that HCDE/CP shall not be liable for damages in the event that HCDE/CP declares Vendor to be in default or breach of this Contract and/or the RFP. Vendor further agrees that upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor.

5.6 Intellectual Property/Work Product

Vendor represents and warrants that it has all intellectual property rights necessary to enter into and perform its obligations in this Contract. All work product, including any concepts, products, software, research, reports, studies, data, photographs, negatives, or other documents, drawings or materials prepared by Vendor in the performance of its obligations under this Contract will be deemed works for hire and the exclusive property of HCDE or the purchasing CP member and/or the grant-awarding agency, as applicable, unless agreed to otherwise in a Supplemental Contract. Vendor shall deliver all such materials to HCDE or the purchasing CP member upon completion, termination, or cancellation of this Contract. Any programs, data, or other materials furnished by HCDE or the purchasing CP member for use by Vendor in connection with any goods/services provided/performed under this Contract will remain HCDE's / the purchasing CP member's property. Any pre-existing programs, data, or other materials furnished and owned by Vendor for use by Vendor in connection with any goods/services provided/performed under this Contract will remain Vendor's property.

5.7 Change Orders

Pursuant to TEX. EDUC. CODE § 44.0411(a), for HCDE and CP members that are Texas school districts), if a change in plans or specifications is necessary after the performance of a Purchase Order has begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, HCDE or the CP member may approve change orders making the changes. The total Purchase Order price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants. HCDE or the CP member

may grant general authority to an administrative official to approve the change orders. A Purchase Order with an original contract price of $1 million or more may not be increased under TEX. EDUC. CODE § 44.0411(a) by more than 25 percent. If a change order for a Purchase Order with an original contract price of less than $1 million increases the contract amount to $1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

5.8 Compliance with Laws

Vendor shall comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws; minimum and maximum salary and wage statutes and regulations; prompt payment and licensing laws and regulations; anti-discrimination statutes and regulations (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 C.F.R. Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement—Nutrition Programs and Activities); the federal Uniform Guidance (2 C.F.R. Part 200); and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights, and those mandated by federal agencies making awards of federal funds to HCDE/CP and/or CP members, including, without limitation, the U.S. Department of Agriculture and/or Texas Department of Agriculture. Vendor understands that Vendor is ineligible to receive a contract award with HCDE/CP if Vendor or its principal(s) is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689) or is 30 days or more delinquent in paying child support (Tex. Fam. Code § 231.006). For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. All permits will be acquired by Vendor and invoiced to the CP member (or HCDE if HCDE is the purchasing entity) at cost as part of the Purchase Order, unless the permits are provided by the CP member or HCDE. For the entire duration of this Contract, Vendor and all subcontractors shall also comply with all requirements pertaining to local, state, or federal health and safety certifications, licensing, or regulations. Vendor must comply with all state and local building code requirements unless otherwise specifically provided in the HCDE's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site. When required or requested by HCDE or a CP member, Vendor shall furnish HCDE and/or the CP member with satisfactory proof of Vendor's compliance with this provision.

The states of individual CP members may have regulations and laws that govern payment retention and progress payments for public projects. Vendor is responsible for being acquainted with and complying with each state's requirements.

5.9 Confidentiality

Vendor and HCDE agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor also acknowledges that HCDE and numerous CP members are subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability HCDE and CP members, their respective officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor, HCDE, or a CP member and determined by HCDE or the CP member, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

5.10 Title and Risk of Loss; Freight, Delivery, Inspection & Acceptance

5.10.1 Whenever HCDE or a CP member is purchasing (and not leasing) a product under this Contract, title and risk of loss shall pass upon the later of HCDE's or the CP member's acceptance of the product or payment of the applicable invoice.

5.10.2 Freight, transportation, delivery, handling, and other charges, as applicable, are to be pre-paid by Vendor. Vendor may collect the actual amount of such charges after delivery and acceptance, provided that the charges (a) were accepted in writing by HCDE/CP member, and in all instances in which the charges exceed ten percent (10%) of the total cost of the order, prior to shipment; (b) are itemized and shown separately on HCDE/CP member's invoice; and (c) are supported by appropriate documentation submitted with the invoice.

Deliveries shall be made during HCDE/CP member's Regular Hours. Vendor shall deliver the conforming products or services to HCDE/CP member within **ten (10) business days** of Vendor's receipt of a Purchase

Order/Supplemental Contract. If delivery is not or cannot be made within this time period, Vendor must receive authorization from HCDE/CP member for the delayed delivery.

If defective or incorrect products are delivered, the CP member may make the determination, at its sole discretion, to return the products to Vendor at no cost to the HCDE or the CP member. Vendor agrees to pay all shipping and handling costs for any such return shipment. Vendor also shall be responsible for arranging the return of the defective or incorrect products. HCDE or the CP member issuing the Purchase Order may request emergency delivery. Vendor must use its best efforts to comply with rush or emergency requested. However, if Vendor is unable to fulfill the emergency delivery request, HCDE or the CP member may procure its needs from alternative sources without penalty.

Unless otherwise approved in advance, in writing by HCDE/CP member, Vendor shall package all tangible goods in containers that are new, appropriately designed for the product, and sturdy enough to protect the product during loading, transit, unloading, and storage, and be suitably packed to secure the lowest transportation costs. Products for which palletizing is appropriate must be delivered on standard 48" 4-way pallets in good, serviceable condition.

5.11 Warranty Conditions

All product(s) and/or service(s) provided by the Vendor under this Contract must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of HCDE's or the CP member's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all products and/or services furnished under this Contract shall conform in all respects to the terms of this Contract, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the RFP and Purchase Order. In addition, Vendor warrants that products and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the Vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Contract, the RFP, or Purchase Order.

5.12 Education Records and Security Breach Notification

5.12.1 Education Records

If Vendor will have access to student personally identifiable information or student education records, Vendor agrees that Vendor and its employees, agents, and/or representatives may receive access to student information for certain students attending HCDE or CP members' schools or programs, pursuant to this Contract, this provision shall apply. Vendor shall secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations, including but not limited to all privacy laws. Vendor understands that the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information, and Vendor agrees to abide by FERPA rules and regulations, as applicable. Pursuant to FERPA, Vendor must protect the confidentiality of student records and shall not release any information without written consent from the student's parent/guardian or eligible student unless required to do so by applicable law. Vendor further acknowledges that to the extent Vendor, including, but not limited to, Vendor's staff, employees, and/or representatives, receives confidential student information during the performance of duties under this Contract, Vendor is considered a "school official" in accordance with FERPA and shall not disclose confidential student information or education records except as otherwise permitted by applicable law. Vendor shall require its employees and other agents to execute written agreements requiring that such information be kept confidential. The Parties agree to abide by FERPA and applicable law regarding the sharing of confidential student information. Vendor and its employees/ representatives shall at all times abide by applicable laws, including FERPA and the Health Insurance Portability and Accountability Act (HIPAA). Vendor shall immediately provide notice to HCDE or the CP member of any violation of the terms of this paragraph. HCDE (students' home LEA/school district), CP members, or any of their designees shall have access to all education records and other documents in the possession of Vendor concerning students served by any of them for purposes of monitoring student progress, conducting evaluations, and making reports. Vendor agrees that student data, including, but not limited to, documents and information concerning any individual student ("student data"), is to be held in strictest confidence and assures that procedures are in place for safeguarding, monitoring, and protecting the confidentiality of student data. Vendor shall keep all media containing student data in a secure area. In addition, Vendor agrees that any data sets or output reports

generated by its employees, agents, and/or representatives with student data are confidential. Vendor shall not disclose to any unauthorized person any data sets or reports with student data. Vendor agrees to monitor and be responsible for any access to student data by tracking access through the use of password(s). Vendor shall provide HCDE / CP member immediate notice of any security and/or data breaches and shall fully cooperate with all HCDE / CP member requests in connection with HCDE's / CP member's notification to users of such security and/or breaches as required by federal law or the laws of the state of Texas. Upon termination of this Agreement or as otherwise requested by HCDE / CP member in writing, Vendor shall transfer to HCDE / purchasing CP member or its designee all student data delivered to or collected by the Vendor during the course of this Contract, in accordance with applicable legal requirements. Vendor shall be responsible for ensuring compliance with the obligations of this section by each of its employees, agents, representatives, and subcontractors providing services pursuant to this Contract, including, but not limited to, informing those persons and entities of these obligations and exercising adequate supervision and oversight over said persons and entities to ensure their compliance. Vendor shall be solely responsible for any breach of the obligations of this section by any of its employees, agents, representatives, or subcontractors.

5.12.2 Security Breach Notification

This provision applies to Vendors that provide goods/services to HCDE and CP members that are Texas governmental entities: If, pursuant to this Contract, Vendor has access to computerized data that contains "sensitive personal information" as defined by Tex. Bus. & Comm. Code § 521.002 or information the disclosure of which is regulated by law, this paragraph shall apply. Vendor agrees to promptly notify HCDE/CP member in the event of a breach of system security or any unauthorized acquisition, access, use, or disclosure of HCDE/CP member data, including any data that is protected under federal or state law (collectively, a "Security Incident"). As required by Tex. Gov't Code § 2054.603, notification shall be made to HCDE's/CP member's designated contact within forty-eight (48) hours of the Vendor becoming aware of such Security Incident, unless a shorter period is required by applicable law. Vendor shall cooperate fully with HCDE/CP member to investigate and respond to the Security Incident. This includes, but is not limited to, providing a detailed written description of the incident, the type of data affected, the number of individuals potentially impacted, steps taken to mitigate the breach, and plans for preventing a recurrence. Notification and response shall be conducted in a manner consistent with applicable laws and regulations, including, but not limited to, Tex. Bus. and Comm. Code § 521.053, and Texas Department of Information Resources (DIR) Security Control Standards Catalog. Where applicable, Vendor shall also comply with guidance issued by DIR and the Texas Education Agency regarding breach response and data privacy. Vendor shall bear all costs associated with the investigation, notification, and remediation of any Security Incident caused in whole or in part by Vendor's acts or omissions, including the cost of required notices to affected individuals and regulatory agencies.

5.13 Customer Support

Vendor shall provide timely and accurate technical advice and sales support to HCDE staff, and CP members. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to HCDE staff and/or CP members regarding products and/or services supplied by Vendor, at no additional charge, if requested by HCDE or a CP member.

5.14 HCDE and/or CP members' Property

In the event of loss, damage, or destruction of any property owned by or loaned by HCDE or a CP member that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify HCDE or the CP member and pay to HCDE or the CP member the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of HCDE's or the CP member's determination of the amount due. If Vendor fails to make timely payment, HCDE or the CP member may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by HCDE or the CP member.

5.15 Tax Exempt Status

HCDE/CP and all CP members that are Texas governmental entities or agencies are exempt from payment of Texas State Sales Taxes under TEXAS TAX CODE§ 151.310 for the purchase of tangible personal property. Laws of other states govern the tax status of CP members in states other than Texas. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, without limitation, any federal, state, or local

income, sales or excise taxes of Vendor or its employees. HCDE and CP members shall not be liable for any taxes resulting from this Contract, except where otherwise required by law.

5.16 Other State Tax Requirements

5.16.1 Payment of Taxes by CP members Outside of Texas
CP members outside of Texas will pay only the rate and/or amount of taxes identified in Vendor's proposal submitted in response to the RFP as appropriate to the specific CP member.

5.16.2 State and Local Transaction Privilege Taxes
The CP member is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sales of products and are the sole responsibility of Vendor, as the seller, to remit. Failure to remit taxes from HCDE and/or the CP member, as the buyer, does not relieve Vendor, as the seller, from its obligation to remit taxes.

5.17 State of Texas Franchise Tax
By submitting a proposal in response to the RFP, Vendor certifies that Vendor is not currently delinquent in Vendor's payment of any franchise taxes or other taxes owed to the State of Texas.

5.18 Tax Responsibilities of Vendor and Indemnification for Taxes
Vendor is responsible for complying with the tax laws of states and the federal government. Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to Vendor's operation, any persons employed by Vendor, and all subcontractors of Vendor. Vendor shall require all subcontractors to hold HCDE and the CP member harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs, including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

5.19 IRS W-9
To receive payment under this Contract, Vendor shall have a current I.R.S. W-9 Form on file with the CP member.

5.20 Assignment of Contract
Vendor may not assign this Contract or any of its rights, duties or obligations hereunder without the prior written approval of HCDE. Any attempted assignment of this Contract by Vendor shall be null and void. Any Purchase Order made as a result of this Contract may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of HCDE and, if applicable, the CP member.

5.21 Notification of Material Change
Vendor is required to notify HCDE when any material change in operations occurs, including changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

5.22 Performance
Vendor agrees to use commercially reasonable best efforts to provide the product(s) and/or service(s) subject to this Contract. Vendor shall furnish all supervision, labor, tools, equipment, permits, licenses, transportation, insurance, material, and supplies necessary to complete any scope of work, Purchase Order under this Contract. Vendor shall use skilled, trained personnel, who shall be supervised by Vendor.

5.23 Subcontractors
If HCDE/CP member gives written permission for Vendor to subcontract any part of the goods or services in the performance of any part of this Contract, Vendor shall be fully responsible to HCDE and CP members for all acts and omissions of the subcontractors. Nothing in this Contract shall create for the benefit of any such subcontractor any contractual relationship between HCDE and any such subcontractor, nor shall it create any obligation on the part of HCDE or CP members to pay or to see to the payment of any monies due any such subcontractor except as may otherwise be required by law. Vendor represents and warrants that it is willing, able, and capable of obtaining,

supervising, and being responsible for any subcontractors who perform and/or provide products and services related to this Contract.

5.24 Non-Appropriation

Renewal of this Contract, if any, will be in accordance with TEX. LOCAL GOV'T. CODE § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Contract or obligation imposed on HCDE or any CP member by this Contract, HCDE and CP members shall have the right to terminate this Contract, any Supplemental Contract, or Purchase Order without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of HCDE or any CP member if it is determined by HCDE or any CP member, at their sole discretion, that there are insufficient funds to extend this Contract, any Supplemental Contract, and/or any Purchase Order. The parties agree that this Contract, any Supplemental Contract, and/or any Purchase Order are commitments of the current revenue of HCDE and CP members only. To the extent that HCDE or CP members will use grant funds to fulfill its obligations under this Contract or a Supplemental Contract, Vendor acknowledges that grant funds will be used to pay for all or a portion of funds due under this Contract or a Supplemental Contract and that this Contract or a Supplemental Contract is only effective upon receipt of the Notice of Grant Award ("NOGA") and receipt of grant funding by HCDE or a CP member from the awarding agency. As such, if HCDE or a CP member does not receive sufficient grant funding for the goods/services provided in this Contract or a Supplemental Contract, HCDE or a CP member may terminate this Contract or a Supplemental Contract without penalty and without further liability, obligation, or duty (monetary or otherwise) to Vendor, at any time upon written notice to Vendor.

5.25 Ordering Procedures

Purchase Orders are issued by HCDE and/or CP members to the Vendor according to this Contract and any Supplemental Contract between HCDE and the CP member. HCDE may request confirmation of receipt of the Purchase Order from Vendor.

5.26 Invoices; Payments

5.26.1 Invoice Submission

Vendor shall submit invoices, in duplicate, directly to HCDE or the CP member at the appropriate location(s) specified by HCDE or the CP member. Each invoice shall include HCDE's or the CP member's Purchase Order number and HCDE Contract Number. All invoices shall be itemized to include the type of product(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during HCDE's or the CP member's fiscal year in which the product(s) and/or service(s) are purchased. The shipment tracking number or pertinent information for verification of HCDE's or the CP member's receipt shall be made available upon request by HCDE or the CP member.

5.26.2 Invoice Payment

HCDE or the CP member will make payments directly to Vendor. HCDE or the CP member placing the Purchase Order with Vendor shall alone be liable and/or responsible for payment for product(s) and/or service(s) ordered and must be invoiced directly by Vendor. If Vendor enters into an agreement with any CP member pursuant to this RFP, HCDE shall not be liable for the indebtedness of any CP member.

5.26.3 Payment Terms

TEX. GOV'T. CODE § 2251.021 shall govern when payments are due to the Vendor. Payments are due to Vendor by HCDE and any CP member whose governing body meets only once a month or less frequently, within forty-five (45) days after the later of the following: (1) the date HCDE or the CP member receives the products and services under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date HCDE or the CP member receives an invoice for the products or service. For CP members whose governing bodies meet more than once a month or more often, payments are due by those CP members within thirty (30) days after the later of the following: (1) the date the CP member receives product(s) under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date the CP member receives an invoice for product(s) or service(s). Vendor agrees to pay any subcontractors the appropriate share of the payment received from HCDE or the CP member not later than the tenth (10th) day after the date the Vendor receives the payment from HCDE or the CP member.

The exceptions to payments made by HCDE, a CP member, and/or Vendor listed in TEX. GOV'T. CODE § 2251.002 shall apply to this Contract.

5.26.4 Remedies

In addition to all other rights and remedies that HCDE may have, HCDE shall have the right to setoff, against any and all amounts due to Vendor by HCDE, whether due under this Contract or any other agreement between HCDE (including any division of HCDE) and Vendor, any sums for which HCDE is entitled to under this Contract, as determined by HCDE in its sole discretion, including, without limitation, sums due by Vendor to HCDE as a result of indemnification obligations, warranty claims, and/or HCDE Administrative Fee(s).

5.27 Reporting/Verification of CP members' Activity Reports

The Vendor shall provide HCDE/CP with a detailed monthly report showing the total dollar volume of all sales under this Contract for the previous month in Microsoft Excel format, in the format and with the information specified by HCDE/CP. Reports are due on the fifteenth (15) day of the month, after the close of the previous month and shall provide information regarding Purchase Orders during the previous month. Vendor is responsible for collecting and compiling all sales under this Contract from all CP members and submitting one (1) consolidated monthly report. The monthly report shall include, at a minimum, the date of each Purchase Order, Purchase Order number, CP member name, city/town, and Purchase Order total dollar amount.

The Vendor shall provide HCDE/CP with velocity/usage reports within five (5) business days of any request by HCDE/CP for such reports.

Reports shall be submitted in an electronic format to Vendor's designated CP contact. CP members must upload activity purchasing reports to the HCDE/CP member rebate portal, unless otherwise stipulated by HCDE. Vendor shall respond to requests by HCDE/CP to verify any CP member's activity report(s) within three (3) business days of any request for such verification and/or documentation. Failure to timely and/or sufficiently respond to such requests may result in termination of this Contract by HCDE/CP.

5.28 Pricing Changes

Except as expressly permitted herein, Vendor has no contractual right to increase prices during the Term of the Contract. No price increases will be accepted during the time of the submission of Vendor's Proposal and Contract award. All price changes shall be presented to HCDE/CP for acceptance or rejection by HCDE/CP, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for products and/or services provided under this Contract must be approved, in writing, by HCDE/CP prior to taking effect. No retroactive price increases will be approved; all price increases shall be prospective and shall be implemented as of the date approved by HCDE/CP. All pricing submitted to HCDE/CP in Vendor's proposal shall include the administrative fee to be remitted to HCDE/CP by Vendor.

5.28.1 All prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. In the event Proposer's prices will be adjusted or escalated upon a renewal of the fixed-price contract awarded pursuant to this RFP, Proposer must indicate such in its proposal. Vendor shall indicate any list price adjustment upon which Vendor intends on relying during the Term of this Contract and on what it is based. For example: name of the independent wholesale index used to adjust prices on contract renewal, CPI,[5] MSRP, Price List, Website Pricing. Vendor agrees to promptly lower the proportionate price of any product/service purchased through this Contract following a reduction in the price the Vendor is paying suppliers. It is Vendor's responsibility to keep all pricing up-to-date and on file with HCDE/CP.

5.28.2 In extraordinary circumstances and for non-child nutrition funded purchases, Vendor may request a price increase at times other than at renewal, but no more frequently than once every 180 days unless otherwise approved in writing by HCDE/CP.

5.28.3 The following documentation shall be provided to support any request for a price change, as applicable, in such format as may reasonably be required by HCDE/CP:

[5] For purchases with child nutrition funds, the Texas Department of Agriculture requires the use of the Consumer Price Index (CPI) Food Away from Home when an index is used to adjust prices. *See* TDA, ARM Section 17, p.41, fn.71.

- justification for change/increase

- market conditions, including, as applicable, tariff charges (identification of the specific tariff, date the tariff is taking or took effect, country of origin, and amount of tariff are required)
- manufacturers'/distributors' price changes

HCDE/CP reserves the right to request additional documentation/information relating to a request for a price change, in its sole discretion, and Vendor agrees to comply with such requests. All price decreases shall be allowed for all products and/or services.

5.29 HCDE/CP Administrative Fee

HCDE/CP will invoice Vendor for the HCDE/CP Administrative Fee of 2%. The invoice for the Administrative Fee will be based on total sales made through this Contract. Vendor shall remit payment of the HCDE/CP Fee to HCDE/CP within **thirty (30)** days from the date of issuance of the invoice (Net 30). Failure to pay the HCDE/CP Administrative Fee in a timely manner may result in Vendor breaching this Contract and may result in HCDE/CP suspending or terminating this Contract. Vendor shall honor and pay HCDE/CP the HCDE/CP Administrative Fee for any sales resulting from this Contract that occurred within **thirty (30) days** of the expiration or termination of this Contract. All rebates, discounts, and other applicable credits granted by Vendor as a result of any Supplemental Contracts entered into between Vendor and CP members shall accrue exclusively to CP member(s). Such rebates, discounts, and/or other applicable credits (collectively, "credits"), including, without limitation, any such credits applied after the initial sale or payment, shall not reduce, offset, or otherwise affect the HCDE/CP Administrative Fee owed by Vendor to HCDE/CP under this Contract.

5.30 Records Retention

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all product(s) and/or service(s) provided by the Vendor to HCDE and/or CP members under this Contract. These records and accounts shall be retained by Vendor and made available for review and copying by HCDE for a period of **not less than three (3) years** from the date of completion of the service(s), receipt of product(s), the date of the receipt by HCDE or the CP member of Vendor's final invoice or claim for payment in connection with this Contract, or the date HCDE or the CP member makes final payments and closes pending matters in connection with a federal grant, whichever is later. If an audit or a compliance review has been announced, the Vendor shall retain its records and accounts until such audit or compliance review has been completed.

When federal funds are expended by HCDE or any CP member pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit their final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed if any litigation, claim, or audit is started before the expiration of the three-year-period.

5.31 Right to Review, Audit and Inspect

HCDE, CP members, any federal agency that has awarded federal funds/grant(s) to HCDE or a CP member, and the Comptroller General of the United States, and/or any of their authorized representatives, shall, upon written notice, have the right to audit and examine all of Vendor's records and accounts relating to this Contract and inspect any project performed by the Vendor relating to this Contract. Records subject to audit/review shall include, but are not limited to, all Purchase Orders resulting from this Contract and records which may have a bearing on matters in connection with the Vendor's work for HCDE and/or CP members, and shall be open to inspection and subject to audit/review and/or reproduction by HCDE, CP member, and/or their authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

5.31.1 Vendor's compliance with this Contract and the requirements of the RFP.
5.31.2 Compliance with procurement laws, policies, and procedures, including, without limitation, reviewing/comparing pricing on invoices for HCDE and/or CP members.
5.31.3 Compliance with provisions for computing billings to HCDE and/or to CP members.
5.31.4 Any other matter related to this Contract.

5.32 Indemnification

VENDOR SHALL INDEMNIFY AND HOLD HARMLESS HCDE AND EACH CP MEMBER, INCLUDING HCDE'S AND CP MEMBERS' TRUSTEES, OFFICERS, ADMINISTRATORS, EMPLOYEES, AND AGENTS, FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, REASONABLE ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS CONTRACT, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY ITEM VENDOR IS REQUIRED TO DELIVER. VENDOR'S OBLIGATIONS UNDER THIS CLAUSE SHALL SURVIVE ACCEPTANCE AND PAYMENT BY HCDE OR THE CP MEMBER.

5.33 Governing Law and Exclusive Venue

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Contract. Any dispute under this Contract involving HCDE must be brought exclusively in the state and federal courts located in Houston, Harris County, Texas. Any dispute not involving HCDE but involving a CP member and Vendor shall be governed by the laws of the state of the CP member, without regard to its provisions on conflicts of laws, and exclusive jurisdiction and venue shall lie in the city, county, and state of the CP member.

5.34 Multiple Contract Awards; Non-Exclusivity

HCDE reserves the right to award multiple contracts under the RFP, including multiple contracts for each product/service category. Product/Service categories are established at the sole discretion of HCDE. HCDE will base a recommendation for contract award, including whether to award a single or multiple contracts, based on the evaluation factors listed in this RFP; contracts will be awarded to proposers with a minimum score of 70 to be considered for award.[6] Nothing in this Contract may be construed to imply that Vendor has the exclusive right to provide products and/or services to HCDE and/or CP members. During the Term of this Contract, HCDE and CP members reserve the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor. If a vendor has an existing HCDE contract in the same contract title, upon award the new contract will immediately supersede the older contract.

5.35 New Products

New products that meet the specifications detailed in the RFP may be added to this Contract, with prior written approval from HCDE. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add products to the contract if: the replacing products are equal to or superior to the original products offered or discounted in a similar degree or to a greater degree and the products meet the requirements of the RFP. No products may be added to avoid competitive procurement procedures. HCDE may reject any proposed additions, without cause, in its sole discretion.

5.36 No Substitution; Product Recall

Any Purchase Order issued pursuant to this Contract shall conform to the specifications and descriptions identified in this Contract and the RFP. Vendor shall not deliver substitutes without prior written authorization from HCDE or the CP member.

If a product recall is instituted on any good that has been furnished and delivered to HCDE or any CP member, Vendor must immediately (i.e., within 24 hours but preferably sooner) notify the purchasing agent of HCDE and the purchasing CP member by e-mail or in writing and must include all pertinent information relating to the recall. If Vendor is unable to contact the purchasing agent, Vendor must contact the Director of Purchasing of HCDE and the purchasing CP member. Vendor will be responsible for all costs associated with replacing the recalled product, including replacement cost, shipping charges, etc. This requirement shall survive payment and acceptance of the goods.

5.37 Penalties

If the Vendor is unable to provide the product(s) or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Contract, the RFP, or a Supplemental Contract, HCDE or

the CP member may take the following action(s), in the sole discretion of HCDE or the CP member, and Vendor agrees to comply with the chosen action(s):

5.37.1 Insist that the Vendor honor the quoted price(s) specified in Vendor's proposal or the Supplemental Contract, as applicable;

5.37.2 Have the Vendor pay the difference between the Vendor's price and the price of the next acceptable proposal, as determined by HCDE or the CP member;

5.37.3 Have the Vendor pay the difference between Vendor's price and the actual purchase price of the product or service on the open market; and/or

5.37.4 Recommend to HCDE Board of Trustees that the Vendor no longer be given the opportunity to submit a proposal to HCDE and/or that this Contract be terminated.

5.38 Promotion of Contract Marketing Plan

The marketing of Vendor's company, product, and/or services shall be the sole responsibility of Vendor. HCDE/CP may only supply Vendor with CP members' contact lists that contain name, address, phone numbers, and/or email addresses. Other items geared toward the joint-marketing of HCDE/CP and Vendor's company, product, and/or services shall be at HCDE/CP's sole discretion. Encouraging CP members to circumvent this Contract by purchasing directly from Vendor may result in suspension or termination of this Contract. For so long as this Contract is valid and enforceable between the parties, Vendor agrees to display the CP seal in its marketing collateral materials, such as Vendor's website and related marketing materials. Vendor shall submit all promotional materials to HCDE/CP and obtain written approval before Vendor finalizes or publishes promotional material bearing the HCDE/CP or HCDE/CP name or seal. Vendor may not release any press release or other publication regarding this Contract or HCDE/CP unless and until HCDE/CP first approves the press release or publication in writing.

5.39 Website Support

Vendor agrees to cooperate with HCDE/CP in publicizing contract particulars on the CP website. Vendor also agrees to work with HCDE/CP in updating and maintaining current information on Vendor activities related to the Contract on the CP website. Vendor agrees to provide an electronic version of its logo for use on the CP website upon Contract award, submit records in a form desired by Vendor to be uploaded to CP's website, and provide other information as reasonably requested by HCDE/CP to help ensure that the CP website is current and consistently updated.

5.40 Safety

Vendor shall take all precautions necessary for the safety of and prevention of damage to HCDE's and CP members' property and for the safety of and prevention of injury to persons, including HCDE's and CP members' employees and students, Vendor's employees, and third parties (including but not limited to guests, invitees, and the like), on HCDE's and CP members' property. All services and delivery of goods are performed entirely at Vendor's risk. Vendor, its subcontractor(s), and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Contract, including, without limitation, those promulgated by HCDE, CP members, and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by HCDE or CP members. Vendor shall indemnify and hold HCDE and/or the CP member harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

5.41 Workforce

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Contract. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on HCDE and CP members' property, nor may such workers be intoxicated or under the influence of alcohol or drugs on HCDE and CP members' property.

5.42 Supplemental Contracts

A CP member and Vendor may enter into a separate, Supplemental Contract. Any Supplemental Contract developed as a result of this Contract and/or the RFP is exclusively between the CP member and Vendor and shall have no effect or impact on HCDE, any other CP member, or this Contract. Any Supplemental Contract between Vendor and a CP member is exclusively between that specific CP member and Vendor and will be subject to immediate cancellation by the CP member (without penalty to the CP member) if, in the opinion of the CP member, the quality, service, and specification requirements, and/or the terms and conditions are not maintained as stated in the Supplemental Contract.

5.43 Insurance

Vendor is required to provide HCDE/CP and/or the CP member with copies of certificates of insurance **within 14 business days of contract award and prior to the commencement of any work under this Contract.** Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to HCDE/CP and/or the CP member prior to commencement of any work under this Contract. The insurance company insuring Vendor shall be licensed in the State of Texas or the state in which the CP member is located, and shall be acceptable to HCDE/CP and/or the CP member. Vendor shall give HCDE/CP or the CP member a **minimum of ten (10) days'** notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Vendor shall, at all times during the Term of this Contract, maintain insurance coverage with not less than the type and requirements shown below. If the CP member has higher insurance requirements than those listed below, such may be added to the Purchase Order. Such insurance is to be provided at the sole cost of the Vendor. These requirements do not establish limits of Vendor's liability.

All policies of insurance shall waive all rights of subrogation against HCDE, CP members, and HCDE/CP and CP members' officers, employees and agents.

Upon request, certified copies of original insurance policies shall be furnished to HCDE/CP and/or to CP members.

HCDE and the CP member, as requested, shall be named as an "additional insured" on insurance policies except workers' compensation.

HCDE and the CP member reserve the right to require additional insurance should HCDE or the CP member deem additional insurance necessary, in their sole discretion.

5.43.1 Workers' Compensation

Workers Compensation (with waiver of subrogation to HCDE and the CP member) Employer's Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements.

5.43.2 Statutory and Bodily Injury by Accident

Statutory and Bodily Injury by Accident $100,000 each employee. Bodily Injury by Disease: $500,000, policy limit $100,000 each employee.

5.43.3 Commercial General Liability

Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse, and explosions, blowout, cratering and underground damage. $300,000 each occurrence Limit Bodily Injury and Property Damage combined. $300,000 Products-Completed Operations Aggregate Limit $500,000 per Job Aggregate. $300,000 Personal and Advertising Injury Limit.

5.43.4 Automobile Liability Coverage

$300,000 Combined Liability Limits Bodily Injury and Property Damage Combined.

5.44 Participation in HCDE/CP

Vendor acknowledges and agrees that continued participation in the HCDE/CP cooperative purchasing program is subject to HCDE/CP's sole discretion and that Vendor may be removed from the HCDE/CP program at any time, with or without cause, in HCDE/CP's sole discretion. All work resulting from this Contract must cease immediately

after completion of the final accepted Purchase Order. Nothing in this Contract or in any other communication between HCDE/CP and Vendor may be construed as a guarantee that HCDE/CP or CP members will submit any Purchase Order to Vendor at any time.

5.44.1 HCDE Participation Requirements

At a minimum, to continue participation in the HCDE/CP cooperative purchasing program, Vendor must:

- **a.** Submit detailed monthly reports of all sales activity, including all sales and contracts where HCDE is the lead agency (such report is required even if there is no sales activity for a given month);
- **b.** Timely remit Administrative Fee(s) to HCDE/CP;
- **c.** Market Choice Partners, including inclusion of CP seal on Vendor's website, development and execution of marketing plan, and participation in at least **3** marketing events (such as trade shows and conferences) annually;
- **d.** Maintain a minimum annual sales activity of $15,000;
- **e.** Completion of all required forms (such as Form 1295, EDGAR Certifications, etc.); and
- **f.** Maintain required insurance and submit updated certificate(s) to CP annually

5.45 No Agency or Endorsements

It is the intention of the parties to this Contract that Vendor is independent of HCDE and CP members, is an independent contractor, and is not an employee, agent, joint venturer, or partner of HCDE or any CP member. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between HCDE and Vendor, any CP member and Vendor, HCDE and any of Vendor's agents, or any CP member and any of Vendor's agents. Vendor has no power or authority to assume or create any obligation or responsibility on behalf of HCDE or any CP member, and HCDE and HCE members have no power or authority to assume or create any obligation or responsibility on behalf of Vendor. This Contract shall not be construed to create or imply any partnership, agency, or joint venture, nor shall it be construed or deemed an endorsement of a specific company or product. Vendor agrees that HCDE and CP members have no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

5.46 Equal Opportunity

It is the policy of HCDE not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

5.47 Force Majeure

Neither HCDE, any CP member, or Vendor shall be deemed to have breached any provision of this Contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond HCDE, any CP member, or Vendor's control.

HCDE, CP members, and Vendor are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other parties in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. HCDE, CP members, and Vendor shall not have any claim for damages against any other party resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Contract, in the event the Vendor's performance of its obligations under this Contract is delayed or stopped by a force majeure event, HCDE shall have

the option to terminate this Contract. This section shall not be interpreted as to limit or otherwise modify any of HCDE's or CP members' contractual, legal, or equitable rights.

5.48 Severability

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

5.49 Waiver

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

5.50 Entire Agreement

The Contract, Vendor's completed HCDE/CP Attachment/Vendor Packet/bid attributes (including all certifications therein), the RFP, the portion(s) of Vendor's proposal submitted in response to the RFP that are accepted by HCDE, the attached and incorporated attachments, addendum, and/or exhibits, if any, and the Supplemental Contract, if any, contain the entire agreement of the parties relative to the purpose(s) of the Contract and supersede any other representations, agreements, arrangements, negotiations, or understandings, oral or written, between the parties to this Contract. In the event of a conflict between or among the documents that form this Contract, the following order of precedence shall apply: (1) Vendor's completed HCDE/CP Attachment/Vendor Packet/bid attributes; (2) this Contract; (3) the RFP; (4) the attached and incorporated addendum or exhibits, if any; and (5) the portion(s) of Vendor's proposal submitted in response to the RFP that are accepted by HCDE. This Contract supersedes any conflicting terms and conditions on any Purchase Order, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Contract.

In addition to this Contract, a Supplemental Contract between Vendor and the CP member may be established to further detail the terms and conditions of the CP member's specific project/purchase. In the event of a conflict between this Contract and the Supplemental Contract, as to HCDE, this Contract shall prevail. In the event of a conflict between this Contract and the Supplemental Contract, as to the CP member, the Supplemental Contract shall prevail unless the Supplemental Contract states otherwise.

5.51 Interpretation

Vendor agrees that the normal rules of construction that requires that any ambiguities in this Contract are to be construed against the drafter shall not be employed in the interpretation of this Contract.

5.52 Notice

Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested.

5.53 Captions

The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

5.54 Authorized Distributors/Order Fulfillers

"Authorized Distributors/Order Fulfillers" means an agent, affiliate, subcontractor, vendor, reseller, manufacturer, publisher, distributor, order fulfiller, franchisee, or other person or entity designated or directed by Vendor to provide products or services in performance of, related to, or in support of the Contract and/or a Supplemental Contract issued pursuant to the Contract. HCDE agrees to permit Vendor to utilize Authorized Distributors/Order Fulfillers designated by Vendor to provide service, sales and support to HCDE and CP members under the Contract.

5.54.1 Vendor Responsibility

Vendor may designate Authorized Distributors/Order Fulfillers to act as the distributors for products and services available under the Contract. Vendor shall provide HCDE with the following Authorized Distributor/Order Fulfiller information: Authorized Distributor/Order Fulfiller's name, business address, and contact person email address and phone number. Vendor may add or delete Authorized Distributors/Order Fulfillers throughout the term of the Contract upon written authorization by HCDE/CP.

5.54.2 HCDE/CP Determination

HCDE reserves the right to require Vendor to rescind any Authorized Distributor/Order Fulfiller's participation relating to the Contract or to request that Vendor name additional Authorized Distributors/Order Fulfillers should HCDE determine either is in the best interest of HCDE and/or CP members.

5.54.3 Compliance

Vendor shall ensure that its Authorized Distributors/Order Fulfillers legally agree to comply with the terms and conditions of the Contract, including, without limitation, the pricing, purchase order, invoice and payment, CP Administrative Fee, and warranty provisions therein. When an Authorized Distributor/Order Fulfiller acts as the distributor for products and services available under the Contract, the Authorized Distributor/Order Fulfiller shall be liable and responsible for the fulfillment of the obligations under the Contract and any Supplemental Contract entered into between the Authorized Distributor/Order Fulfiller and purchasing CP member as well as all other obligations imposed on "Vendor" under the Contract.

5.54.4 Use of Authorized Financing Company

For purposes of this Contract, "Authorized Financing Company" means a financing company or entity designated or directed by Vendor to provide financing services in performance of, related to, or in support of a Supplemental Contract issued pursuant to the Contract. Vendor may utilize one or more Authorized Finance Company(ies) designated by Vendor to provide financing services and support to HCDE and CP members under the Contract. Vendor may designate one or more Authorized Financing Company(ies) to provide financing services to HCDE (if HCDE is purchasing products/services) and to CP members for products and services available under the Contract. Vendor shall provide HCDE with the following information for each Vendor Authorized Financing Company: Financing Company name, business address, and contact person email address and phone number. Vendor may add or delete Authorized Financing Companies throughout the Term of the Contract upon written notice to HCDE/CP. HCDE reserves the right to require Vendor to rescind any Authorized Financing Company's participation relating to the Contract or to request that Vendor name additional Authorized Financing Companies should HCDE determine either is in the best interest of HCDE and/or CP members. Vendor shall be fully liable and responsible for its Authorized Finance Companies' performance under the Contract and its Authorized Finance Companies' compliance with the terms and conditions of the Contract, including, without limitation, the pricing, purchase order, invoice and payment, CP Administrative Fee, and warranty provisions therein. All specific terms and conditions governing the Authorized Finance Company's legal relationship with the purchasing CP member (or HCDE, if HCDE is the purchaser), including terms and conditions of lease agreements, financing arrangements, and the like, shall be detailed in a Supplemental Contract between/among Vendor, the Authorized Finance Company, and the purchasing CP Member (or HCDE, if HCDE is the purchaser).

5.55 USDA/TDA Special Terms and Conditions

The following terms and conditions apply to all procurements and purchases involving federal School Nutrition Program funds. In the event of a conflict or inconsistency between the following terms and conditions and any provision of the Agreement, the procurement solicitation issued by HCDE, or the portion of Vendor's proposal submitted in response to HCDE's procurement solicitation that is satisfactory to HCDE, the following terms and conditions shall control.

5.55.1 Market Basket Analysis

HCDE/CP reserves the right, in its sole discretion, to use a "Market Basket Analysis" method, as that term is defined by applicable USDA/TDA regulations and guidance. The Market Basket Analysis sample is established to represent 75% of the total estimated value of the Contract. The most recent velocity/sales report(s) from HCDE/CP's current supplier(s) was used to project the balance of the year and adjusted for any estimated change in menu and participation for the following year. As a result, this list of [100] goods to be

purchased under this procurement solicitation and any resulting Contract includes the top [60] goods purchased by dollar volume representing the 75% threshold. Prices for the remaining [40] goods listed in this procurement solicitation should also be included, though they will not be a part of the Market Basket Analysis. The Market Basket Analysis shall not be used for service or equipment contracts/procurement solicitations or for Fee-For-Service Processing contracts.

5.55.2 Material Change

If a material change (as the term is defined by TDA rules and regulations) to a contract entered into between HCDE and Vendor occurs, then the contract will not be renewed upon the conclusion of its term. Upon the expiration of the term, HCDE may issue a new RFP for the goods or services procured under the previously-existing contract. Material change for purposes of this Section 5.56.2 means a modification that substantially exceeds the terms of the original contract between HCDE and Vendor.

5.55.3 Supplemental Contracts

Should Supplemental Contracts result in a material change to the Contract, HCDE will proceed under Section 5.56.2 of this RFP.

5.55.4 New Products

During the Term of a Contract awarded under this RFP, additional purchases not included in the original RFP list and resulting awarded contract may become necessary and benefit CP members. Vendor and HCDE agree that the aggregate value of added purchases during each year of the Contract (if renewed) shall not exceed 10% of the estimated total value of the Contract. The total value of the Contract must be agreed upon, and the dollar value listed in the Contract and each renewal term of the Contract (if any). For purposes of this section, the total value of the Contract includes all contracts awarded as a result of the procurement solicitation to all vendors. For the initial Term of a Contract awarded under this RFP, Vendor and HCDE agree that the total value of the Contract shall be $200 million. Additions of new products may be included in the awarded Contract list during the renewal of the Contract through an amendment to the Contract, and the total Contract value adjusted accordingly. For each renewal term of the Contract, the total actual value of the Contract in the preceding year and the additional new product(s) made during that Term will be the basis for determining the maximum dollar amount (not to exceed 10%) of the additional new product(s) that will be allowed during the next Contract renewal term.

5.55.5 Bonds

Vendor shall provide all bonds, including bid guarantee, performance bond, and payment bond, as applicable under U.S. Department of Agriculture and/or Texas Department of Agriculture rules.

5.55.6 Use by Other Governmental Entities/CP members

In the event that HCDE allows other governmental entities to utilize any existing contract between HCDE and Vendor entered into pursuant to this procurement solicitation, Vendor agrees and understands that such other governmental entities may include "school food authorities," as that term is defined by USDA/TDA. Should such utilization by other governmental entities/CP members result in a material change to the Agreement for purposes of USDA/TDA purchases, HCDE will proceed under the foregoing section entitled "Material Changes."

5.55.7 No Guarantee of Quantities

Quantities for purchases paid for with School Nutrition Program funds are subject to change for various reasons, which include, but are not limited to the following: USDA commodity allocation(s), variations in student population, production item substitution(s), changes in consumer taste or expectations, pricing, and nutrition regulatory changes.

5.55.8 Buy American Act

The Buy American Act, set forth in 7 C.F.R. Part 210.21(d), requires that participants in the National School Lunch Program and School Breakfast Program use the federal nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for Program meals. 7 CFR Part 210.21(d) defines a "domestic commodity or product" 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. "Substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

When USDA Foods items are manufactured into processed end products, 51% of resulting food products must be of United States origin.

Because many CP members participate in the National School Lunch Program and School Breakfast Program, CP requires Vendor to certify whether its products are "domestic commodities or products", as defined by 7 C.F.R. Part 210.21(d). Accordingly, Vendor agrees to provide certification and any necessary documentation requested by CP member that food products are domestically sourced and meet the Buy American provision.

Vendor certifies that Vendor shall provide food products that meet the Buy American provision. Vendor further certifies that, in compliance with the Buy American provision, its products are "domestic commodities or products" as defined by 7 C.F.R. § 210.21(d). Vendor further certifies that the food products it supplies are processed in the U.S. and Vendor shall certify the percentage of U.S. content, by weight or volume, in the food component of processed food products supplied to the District.

If Vendor is repetitively unable to provide domestic food products, CP member may require Vendor to provide evidence that Vendor is capable of fulfilling the terms and conditions of the Contract and specifically, the Buy American provision. If CP member determines that Vendor is not capable of fulfilling the terms and conditions of the Contract and/or specifically, the Buy American provision, CP member may terminate its Contract with Vendor.

Vendor shall provide documentation that demonstrates that food products are sourced domestically and meet the Buy American provision. Additionally, when the country of origin for the domestic commodity or product cannot be determined by Vendor based on the product labeling, Vendor must provide the following certification to CP members:

> Vendor certifies that its product(s):***insert product/s name***, were processed in the U.S. and contain at least __ % (insert % of weight or volume) of its agricultural food component(s) from the U.S.

Prior to a delivery, Vendor must notify the District if a delivery contains non-domestic products, so the District may approve delivery as an exception to the Buy American provision. Vendor certifies that it will adhere to the notification requirements for the Buy American provision.

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved by the CP member, upon request, by occurrence (i.e., delivery). Blanket exception approvals are not allowed. The District must determine that the use of a non-domestic food product is appropriate, using the USDA-prescribed questions in making the decision. *See* "Requirements for an Exception," ARM Section 17b Buy American, at p. 10 (May 5, 2025). Vendor agrees to provide information to the District that will assist the District in this determination. The decision to purchase or accept delivery of a non-US product must be made by the District.

CP member's approval of non-domestic commercial food purchases is subject an annual cap. CP member's non-domestic food purchases, which is a percentage of total commercial foods costs, cannot exceed the following annual cap:

- Beginning July 1, 2025, the non-domestic commercial food purchase cap is 10%
- Beginning July 1, 2028, the non-domestic commercial food purchase cap is 8%
- Beginning July 1, 2031, the non-domestic commercial food purchase cap is 5%

Vendor further agrees to provide CP members with documentation verifying that a domestic product is not available and the cost range is reasonable within a reasonable time upon request by CP members.

In the event Vendor or Vendor's supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, CP members may decide not to purchase from Vendor and/or HCDE may terminate the Contract if Vendor is incapable of fulfilling the terms and conditions of the Contract, including the Buy American requirements.

Vendor agrees to comply with all requirements imposed by applicable law, USDA/TDA guidance, and the District concerning Buy American provision exceptions.

5.55.9 Records Retention

When school nutrition program funds are expended by HCDE or any CP member pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements promulgated by USDA/TDA. Vendor further certifies that Vendor will retain all records as required by USDA/TDA for a period of five (5) years after the end of the fiscal year to which the documentation/records pertain. Vendor further certifies that these records must be accessible to appropriate CP member and federal or state reviewers. See TDA ARMS Manual, 17.107.

6.0 SCOPE OF PROPOSAL

6.1 Intent

It is the intention of HCDE/CP to establish one or more contracts to furnish and/or deliver Waste Disposal and Recycling Services.

6.2 Proposal Requirements

Vendors are requested to submit a proposal offering their total line of available products and services that are commonly purchased by governmental entities and school districts. Vendors MUST offer any applicable terms and conditions for any additional product or service. HCDE/CP reserves the right to accept or reject any items included by Vendor in this section.

Awards will be made to the successful Vendor(s) for the total line of products and services submitted. Proposals can be made for any or all services and products described herein. The terms and conditions listed below apply to all categories and lots within the Waste Disposal and Recycling Services. Each category and lot contains additional terms, conditions, and specifications. If there is a conflict between category or lot terms and conditions and those listed below, the category or lot terms and conditions shall take precedence.

6.3 Purchase Order Requirements

Vendor is required to ensure that the Purchase Order includes the following, as applicable:

a. The contract number, lump sum price, start date for services/delivery date for goods, schedule, and notice to proceed.

b. The date for commencing services and/or delivery of products ("work"). Upon commencing work, the Vendor will proceed diligently toward contract completion. Any delay in the work beyond the Vendor's control must be reported to the CP member's authorized representative immediately.

c. Vendor shall ensure all Purchase Orders and Supplemental Contracts include a reference to the Choice Partners contract number.

6.4 Order / Job Guidelines

The Vendor may not refuse to perform any project requested by a CP member unless such project is unlawful.

6.5 Purchase Order Commencement

No work shall be performed until a **written Purchase Order** has been issued by the CP member. Any work performed under a Purchase Order before the Vendor's receipt of the written Purchase Order is at the Vendor's risk.

6.6 Purchase Order Issuance

The CP member also reserves the right not to issue a Purchase Order if in its best interest. The Vendor shall not recover any costs arising out of or related to the development of the Purchase Order/Quote.

6.7 Completion of the Purchase Order

The Vendor shall perform the scope of work within the project/delivery time and for the fixed price(s) of the Purchase Order.

The Vendor is required to perform all work under a Purchase Order which has been issued and received before the expiration date of this Contract. Any Purchase Order issued during the Term of the Contract and not completed before the expiration date of the Contract must be completed within the completion/delivery time stated in the Purchase Order, and the rights and obligations of the Vendor and the CP member with respect to the Purchase Order will be the same as if the Purchase Order were completed during the Term of the Contract.

7.0 SPECIFICATIONS

7.1 Intent

It is the intention of HCDE/CP to establish one or more contract(s) with highly qualified Vendor(s) for Waste and Recycling Services. Vendor(s) shall, at the request of HCDE/CP or any CP member, provide these products and/or covered services under the terms of this RFP and the Contract set forth in Section 5.0 Contract Terms and Conditions. Vendor shall assist the CP member with making a determination of its individual needs, as stated below.

7.2 Scope of Service

The contract will be effective February 17, 2027, through February 16, 2028; depending on contract negotiations, the start and end date of the contract may be modified. The initial base term of the prospective contract is a period of one calendar year, with up to four additional one-year automatic renewal terms; either party may elect not to renew the contract by providing written notice at least thirty (30) days prior to expiration of the then-current term."

7.3 Services

Waste disposal and recycling services sought under this RFP will support the processes of Choice Partners Members (Cities, Counties, State Agencies, Local Governments, School Districts, Private Schools, Universities, and Non-profits) with services including, but not be limited to:

- Work with the member on a plan for initial placement of dumpsters/containers and frequency of service.
- Furnish all labor, materials, vehicles, equipment, supervision, and incidentals necessary to collect, transport, and dispose of waste/debris and recyclables from designated facilities/locations in accordance with all local,
- state, and federal regulations.
- Empty/replace and maintain waste/recycling containers on a temporary or regular scheduled basis in accordance
- with members' needs.
- Render services in a professional manner that does not cause traffic hazards, inconvenience or discomfort to businesses or individuals in the pick-up area.
- Provide alternate scheduling as necessary coordinating with member-communicated needs for holidays, special events, periods of increased or reduced activity, or inclement weather.
- Be responsive to changes in levels or frequency of service as requested by the member.
- Maintain a regular schedule for waste disposal and/or recycling pick up and haul-off.
- Provide industry standard (or better) and appropriately-sized containers and service levels for each need.
- Assist with one-off requests to review and haul materials slated for disposal or recycling.
- Manage cleanup of any spills that occur as a result of vendor loading or container failure.

7.4 Containers and Equipment

All equipment and materials supplied will comply with all applicable codes and industry standards related to the waste and recycling industry. As consideration of the fees for service, clearly-marked and appropriately-sized waste and/or recycling containers shall be maintained in designated areas on the members premises and per members' requirements for the duration of Vendor's supplemental contract (See section on supplemental contracts, 1.2.6 and 5.43) with each member who requests Vendor to use the Choice Partners contract.

Containers proposed may include, but not be limited to:

- Front-load containers
- Side-load containers
- Rear-load containers
- Roll-off containers
- Dumpsters of various sizes and capacities
- Compactors (self-contained and stationary)
- Recycling containers
- Open-top containers
- Receiver boxes and storage containers
- Specialty waste and recycling collection containers
- Organics, compost, and green waste containers

- Automated and semi-automated collection containers
- Any other waste, recycling, or material collection containers customarily used by governmental, educational, or commercial entities.

Trucks or Equipment in service to Members shall be conspicuously-marked with Vendor's company name and phone number, be operated by properly trained personnel, regularly inspected, and maintained in clean, safe, and reliable operating condition. Vehicles transporting waste/recyclables shall follow all applicable local, state, and federal laws, codes, and regulations for disposal and transport of hazardous and non-hazardous waste/recyclables. Any vehicle that has broken down shall be removed from member premises without undue delay and in no cases left overnight.

7.5 Additional Proposed Services

Additional services may be proposed under this agreement including but not limited to:

- Bulk waste, bulky item, and furniture collection and disposal
- Special event waste and recycling services
- Portable toilets, restroom trailers, comfort stations, and handwashing stations
- On-site and off-site document shredding and records destruction services
- Electronics (e-waste) collection, disposal, and recycling
- Battery, lamp, bulb, and universal waste collection and recycling
- Household hazardous waste (HHW) collection events and related services
- Hazardous waste, special waste, and environmental remediation services
- Emergency debris removal and disaster recovery support services
- Construction and demolition debris collection, hauling, and recycling
- Medical, pharmaceutical, and healthcare waste collection and disposal
- Sharps disposal and biohazard waste management services
- Organics, composting, and food waste diversion services
- Recycling consulting, waste audits, and sustainability reporting
- Container cleaning, maintenance, repair, and replacement services
- Temporary waste and recycling services for construction projects, festivals, sporting events, and public gatherings
- Secure destruction and disposal of confidential materials
- Collection and recycling of textiles, tires, mattresses, and other specialty waste streams

7.6 Pricing

Vendor's proposal shall contain pricing that is clearly formatted with adequate detail so that members may easily understand each service offering and its respective cost. Refer to Section 8.1 and 8.2.Vendors shall assure that all components and options of their service offerings to government entities are included and priced in a clear manner where a not-to-exceed price and/or clear benefit over non-cooperative pricing.

Proposed pricing may contain variable cost components such as location, service frequency, type and volume of container(s), distance from recycling facility or landfill, or other variable factors, such that a not-to-exceed amount may be determined by component and total by geographic location, pricing formula, cost matrices, etc.
Pricing may also be proposed by matrices showing type of service and geographic area.

Vendors offering published rates, catalogs, price lists, or commercial pricing schedules may reference such pricing and propose a discount from the published rates.

7.7 Supplemental Contracts

Supplemental contracts are allowable between the vendor and CP Member as outlined in Sections 1.2.6 and 5.42 of this RFP.

8.0 PRICING / DELIVERY INFORMATION

8.1 Pricing

Vendors must provide pricing in the HCDE/CP eBid System (https://www.hcdeebid.ionwave.net) including any additional pricing examples and pricing discount schedules that need to be submitted to provide HCDE/CP with a comprehensive catalog. Vendor agrees to submit records, including pricing information, in a form desired by Vendor to be uploaded to CP's website and provide other information as reasonably requested by HCDE/CP to help ensure that the CP website is current and consistently updated.

The following shall apply when providing pricing for leasing, lease-purchases, and/or financing options: Vendors must indicate pricing for the following categories: Furnish, Install, Repair, and Service. Vendors must also detail the pricing for HCDE and/or HCDE members' Lease, Lease-Purchase, and/or Financing of the items procured via this RFP. For HCDE and CP members located in Texas that are governmental agencies,[7] Vendor(s) must comply with Texas Local Government Code Chapter 271, the Public Property Finance Act, including § 271.005, for leases and lease-purchases of the items procured via this RFP.[8] Vendors shall also comply with similar statutes applicable to CP members and/or Vendors located in states other than Texas.

HCDE/CP members may request the Vendor to provide discounts or other adjustments, on a per-Purchase Order basis. If discounts or quantity prices are offered by the Vendor, the Vendor must also offer the same reductions in pricing for orders of similar size to HCDE/CP and other CP members. HCDE/CP has completed the Independent Estimate Determination (IED) prior to advertising and this document is available upon request to CP members. **Catalog/price lists must be included in the Vendor's proposal.**

8.2 Discounts Provided on Price Lists and Catalogs

Detail the average discount provided by the Vendor on stated prices.

8.2.1 Discount Schedules

Provide discount schedules for all products Vendor intends to offer, shown either by category or code. Use separate discount for any net items with description of these net items.

8.2.2 Labor Notes

Provide labor notes for each category shown that Vendor is proposing. These notes must include Vendor's overhead, profit, and HCDE/CP fees. Provide Vendor's miscellaneous material markups. If Vendor does not provide this labor classification, mark "NA" (Not Available).

8.2.3 Performance Guarantee

Provide a description on how Vendor intends to guarantee the performance of Vendor's labor, and what benchmark will be used to determine the labor hours for each project.

8.2.4 Price Adjustment

Per Section 5.28.1, all prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. In the event Proposer's prices will be adjusted or escalated upon a renewal of the fixed-price contract awarded pursuant to this RFP, Proposer must indicate such in its proposal. **Vendor shall indicate any list price adjustment upon which Vendor intends**

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[7] "Governmental agency" includes a "municipality, county, school district, conservation and reclamation district, hospital organization, or other political subdivision" of the state of Texas. *See* TEX. LOCAL GOV'T CODE § 271.003(4).

[8] Pursuant to Texas Local Government Code § 271.005, the governing body of HCDE or a CP member located in Texas that is a governmental agency may "execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof." Personal property includes electricity. *See* TEX. LOCAL GOV'T CODE § 271.003(8). HCDE or a CP member may contract under Section 271.005 for materials and labor incident to the installation of personal property. *See* TEX. LOCAL GOV'T CODE § 271.005(b).

on relying during the Term of this Contract and on what it is based. For example: name of the independent wholesale index used to adjust prices on contract renewal, CPI,[9] MSRP, Price List, Website Pricing.

8.3 Freight, Delivery, Inspection & Acceptance

Vendor will **not** include freight, transportation, and delivery charges or costs or sales tax in its pricing submitted in response to this RFP. Freight, transportation, delivery, handling, and other charges, as applicable, are to be pre-paid by Vendor. Vendor may collect the actual amount of such charges after delivery and acceptance, provided that the charges (a) were accepted in writing by HCDE/CP member, and in all instances in which the charges exceed ten percent (10%) of the total cost of the order, prior to shipment; (b) are itemized and shown separately on HCDE/CP member's invoice; and (c) are supported by appropriate documentation submitted with the invoice. See additional terms relating to freight, delivery, etc. in Section 5.10.

8.3.1 Service Procedure / Timeframe

Describe Vendor's service procedure and state the proposed time frame from customer request to product or service delivery and completed.

8.3.2 Shipping Delays

Describe how Vendor deals with shipping delays. How does Vendor notify its customers of delays?

8.3.3 Shipping Schedule

Provide Vendor's shipping schedule reporting form. Detail how often Vendor updates the form.

8.3.4 On-Time Delivery

Detail Vendor's average percentage of on-time delivery.

[9] For purchases with child nutrition funds, the Texas Department of Agriculture requires the use of the Consumer Price Index (CPI) Food Away from Home when an index is used to adjust prices. *See* TDA, ARM Section 17, p.41, fn.71.

9.0 VENDOR QUESTIONNAIRE

9.1 Vendor Questionnaire Location (HCDE eBid)
Please complete the Vendor Questionnaire included in the HCDE eBid Attributes Section online located at

https://hcdeebid.ionwave.net.

10.0 ATTACHMENTS

10.1 HCDE eBid Attachments

Please complete the Attachment Packet attached to the proposal in the HCDE/CP eBid System

https://hcdeebid.ionwave.net

This will be known as the Vendor Packet to HCDE/CP.